

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED
May 08 2023
SC Court of Appeals

Appeal from Cherokee County

Honorable J. Derham Cole, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

DIANTE JERMAINE WILLIS,

APPELLANT.

APPELLATE CASE NO. 2021-001466

RECORD ON APPEAL

ROBERT M. DUDEK
Chief Appellate Defender

ALAN WILSON
Attorney General

South Carolina Commission on Indigent
Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

W. JOSEPH MAYE
Assistant Attorney General
Rembert Dennis Building
1000 Assembly Street, Room 519
Columbia, SC 29201
(803)734-3727

ATTORNEY FOR APPELLANT

BARRY BARNETTE
Solicitor, Seventh Judicial Circuit
125 East Floyd Baker Boulevard
Gaffney, SC 29340
(864) 487-2576

ATTORNEYS FOR RESPONDENT

INDEX

INDEX	i
TRIAL TRANSCRIPT DATED NOVEMBER 30, 2021- DECEMBER 2, 2021	1
DEFENSE MOTION TO SUPPRESS IN-COURT IDENTIFICATION OF DEFENDANT MADE BY WITNESS HARLEY SCALF	3
REPLY BY MR. KENDALL	5
TESTIMONY	
HARLEY SCALF (<i>IN-CAMERA</i>) Direct Examination by Mr. Kendall.....	10
DEFENSE OBJECTION TO LINE OF QUESTIONING.....	28
REPLY BY MR. KENDALL	28
TESTIMONY	
HARLEY SCALF (<i>IN-CAMERA</i>) Continued Direct Examination by Mr. Kendall.....	29
DEFENSE OBJECTION TO THE PROSECUTION ASKING THE DEFENDANT TO STAND AND SPEAK.....	32
TESTIMONY	
HARLEY SCALF (<i>IN-CAMERA</i>) Continued Direct Examination by Mr. Kendall.....	34
CONTINUED DEFENSE OBJECTION TO THE PROSECUTION ASKING THE DEFENDANT TO STAND AND SPEAK.....	32
COURT OVERRULES DEFENSE OBJECTION	36
TESTIMONY	
HARLEY SCALF (<i>IN-CAMERA</i>) Cross-Examination by Mr. Morin	37
Redirect Examination by Mr. Kendall	44
Recross-Examination by Mr. Morin.....	45

CHRISTOPHER KENON PARNELL (<i>IN-CAMERA</i>)	
Direct Examination by Mr. Kendall	47
Cross-Examination by Mr. Morin	51
CONTINUED DEFENSE MOTION TO SUPPRESS IN-COURT IDENTIFICATION OF DEFENDANT MADE BY WITNESS HARLEY SCALF	57
REPLY BY MR. KENDALL	60
CONTINUED DEFENSE MOTION TO SUPPRESS IN-COURT IDENTIFICATION OF DEFENDANT MADE BY WITNESS HARLEY SCALF	63
CONTINUED REPLY BY MR. KENDALL	69
COURT’S RULING DENYING DEFENSE MOTION TO SUPPRESS IN-COURT IDENTIFICATION OF THE DEFENDANT BY WITNESS HARLEY SCALF	73
OPENING STATEMENT BY MR. KENDALL	87
OPENING STATEMENT BY MR. MORIN	91
TESTIMONY	
HARLEY SCALF	
Direct Examination by Mr. Kendall	94
Cross-Examination by Mr. Morin	110
Redirect Examination by Mr. Kendall	120
Recross-Examination by Mr. Morin	124
Further Redirect Examination by Mr. Kendall	126
KYLA SCALF	
Direct Examination by Mr. Kendall	128
Cross-Examination by Mr. Morin	135
Redirect Examination by Mr. Kendall	141
JOHN EARLS	
Direct Examination by Mr. Kendall	142
Cross-Examination by Mr. Morin	151
Redirect Examination by Mr. Kendall	154
Recross-Examination by Mr. Morin	155
Further Redirect Examination by Mr. Kendall	159
RASHOD DAVIDSON	
Direct Examination by Mr. Kendall	161
Cross-Examination by Mr. Morin	165
Redirect Examination by Mr. Kendall	166

HEATHER VINESETT	
Direct Examination by Mr. Kendall	167
Cross-Examination by Mr. Morin	173
JEFFERY COLE	
Direct Examination by Mr. Kendall	176
Cross-Examination by Mr. Morin	194
Redirect Examination by Mr. Kendall	204
JOSEPH BENJAMIN PETERSON	
Direct Examination by Mr. Kendall	210
DEFENSE MOTION FOR A MISTRIAL BY MR. MORIN	223
TESTIMONY	
JOSEPH BENJAMIN PETERSON (<i>IN-CAMERA</i>)	
Cross-Examination by Mr. Morin	225
Redirect Examination by Mr. Kendall	226
COURT’S RULING DENYING MOTION FOR MISTRIAL	229
TESTIMONY	
JOSEPH BENJAMIN PETERSON	
Cross Examination by Mr. Morin.....	229
Redirect Examination by Mr. Kendall	235
Recross-Examination by Mr. Morin.....	238
DOCTOR KELLY ROSE	
Direct Examination by Mr. Kendall	240
JACOB MULLINAX	
Direct Examination by Mr. Kendall	254
Cross-Examination by Mr. Morin	287
Redirect Examination by Mr. Kendall	296
STEVEN MANNING	
Direct Examination by Mr. Kendall	297
Cross-Examination by Mr. Morin	308
Redirect Examination by Mr. Kendall	311
BILLY ANTHONY	
Direct Examination by Mr. Kendall	313
Cross-Examination by Mr. Morin	318

SUZANN CROMER	
Direct Examination by Mr. Kendall	320
Cross-Examination by Mr. Morin	332
JAMIE HALL	
Direct Examination by Mr. Kendall	334
Cross-Examination by Mr. Morin	337
MEGAN FLETCHER	
Direct Examination by Mr. Kendall	340
Cross-Examination by Mr. Morin	349
Redirect Examination by Mr. Kendall	355
SARA GOODMAN	
Direct Examination by Mr. Kendall	362
Cross-Examination by Mr. Morin	366
CHRISTOPHER KENON PARNELL	
Direct Examination by Mr. Kendall	366
Cross-Examination by Mr. Morin	369
Redirect Examination by Mr. Kendall	377
STATE RESTS	381
CLOSING ARGUMENT BY MR. KENDALL	382
CLOSING ARGUMENT BY MR. MORIN	393
VERDICT	434
SENTENCING	435
INDICTMENTS	436
CERTIFICATE OF COUNSEL	438
[STATE’S EXHIBIT NO. 53 (DIANTE’ WILLIS INTERVIEW) IS ON FILE WITH THIS COURT]	

State of South Carolina	)	
	)	
County of Cherokee	)	
 The State of SC,	)	2019-GS-11-1436;
	)	2019-GS-11-1436A
Plaintiff,	)	
	)	
v.	)	
	)	Transcript
Diante' Jermaine Willis,	)	
	)	of
Defendant.	)	
	)	Trial
	)	
	)	
	)	
	)	
	)	
	)	
	)	

Date: November 30, 2021 - December 2, 2021

Time: 10:22 a.m. - Nov. 30, 2021

Location: Cherokee County Circuit Courthouse

125 East Floyd Baker Blvd., Ste. 101, Gaffney, SC 29340

Reported by
Amber Payne, CVR

APPEARANCES

Presiding: The Honorable J. Derham Cole

For the Plaintiff: Matt Kendall, Esq.
Seventh Circuit Solicitor's Office
Cherokee County Courthouse
125 Floyd Baker Blvd.
Gaffney, SC 29340

For the Plaintiff: Kim Leskanic, Esq.
Seventh Circuit Solicitor's Office
Cherokee County Courthouse
125 Floyd Baker Blvd.
Gaffney, SC 29340

For the Defendant: Michael Morin, Esq.
Seventh Circuit Public Defender
P.O. Box 5666
Spartanburg, SC 29303

For the Defendant: Christopher Lee Allen, Esq.
366 North Church St.
Spartanburg, SC 29306

Also Present: Clerk of Court: The Honorable
Brandy W. McBee
Law Clerk: Matt Henderson
Members of the Jury

1 DAY 1 OF TRIAL

2 PRETRIAL MOTIONS

3 THE COURT: All right. State v. Willis.

4 Defense has some pretrial motions?

5 MR. MORIN: Yes, Your Honor. Defense is going
6 to make a -- a motion to suppress in-court
7 identification made by Harley Scalf -- I think
8 I'm pronouncing that right -- due to improper
9 State procedures that were overly suggestive
10 regarding my client's identity.

11 THE COURT: All right. Do you have a witness,
12 Harley Scalf?

13 MR. KENDALL: Yes, sir, Your Honor.

14 THE COURT: Spell the last name.

15 MR. KENDALL: S-c-a-l-f, I believe.

16 THE COURT: All right. And is the witness
17 going to make an in-court identification of
18 the defendant at this trial?

19 MR. KENDALL: Yes, sir, Your Honor.

20 THE COURT: Okay.

21 MR. KENDALL: I absolutely hope so.

22 THE COURT: All right. And then we'll proceed
23 with the -- you contend that the
24 identification is based upon what improper
25 conduct?

1 MR. MORIN: It's two things, actually, Your
2 Honor. The first one is, is when she was
3 shown the lineup, before she could answer --
4 and it appears from the body camera video, she
5 intended to say, "I don't see him."

6 The officer interjected, "Now, wait. You
7 understand that some of these pictures might
8 be older," which is not permitted to say about
9 the ages, much less interrupt the witness
10 while they're about to make a -- an
11 identification.

12 After that was said, that person then --
13 the -- Ms. Scalf then said, "Well, maybe the
14 eyes of this one," which was my client.

15 Now, I was just told this morning that
16 the State also has played a video of my
17 client's statement to police -- if you'll bear
18 with me -- and showed it to Ms. Scalf. The
19 State, in this case, intends to have Ms. Scalf
20 say, "I recognized his voice." Essentially,
21 what the State has done, is they've done a
22 one-person lineup for hearing rather than
23 seeing and said, "Does this -- is this the
24 voice you heard," and played it for her, while
25 she could see it was my client being

1 interviewed by the police.

2 Now, my position is, if Ms. Scalf wants
3 to testify that she remembers his voice from
4 what was said, I can't do anything with that.
5 However, I would argue that the State has
6 tainted that -- that by showing her an
7 interview of my client and going, "Is this the
8 voice you heard?"

9 Essentially, creating a one-person lineup
10 to which she says, "Yes." And now they want
11 her to come in and say, "Yeah. I heard his
12 voice," and they want to -- at trial, play the
13 video of my client being interviewed so she
14 can say, "Yeah. That's the voice I heard."

15 I submit that's just a violation of
16 Biggers, of Trainer, of Liverman, that they
17 basically created a one-person lineup, which
18 is completely -- in -- in a custodial setting
19 video that they showed her. So that's --
20 that's my argument on the -- on the audio.

21 THE COURT: Mr. Kendall?

22 MR. KENDALL: She didn't see the video, Your
23 Honor, she just heard it. She had identified
24 him. We asked how she knew it was the same
25 person, and she had said she had recognized

1 his voice from a prior altercation that,
2 basically, happened down the street; and
3 that's how she knew it was the same person. I
4 played that audio for her to confirm that, and
5 she did indicate it was the same person.
6 Audio is not the same thing as a -- a photo
7 lineup. I think that that's -- there's no
8 specialized expertise needed to make an audio
9 identification. There's no requirement of a
10 lineup for that. It goes to credibility of
11 that, not the sufficiency of the evidence.

12 With regards to the -- the photo lineup,
13 we will put her up here to offer some
14 testimony, but I do think it's important to
15 note ahead of time that she had identified
16 which house and where the perpetrator was
17 prior to talking to Detective Parnell. So
18 even if the Court were to find that the lineup
19 overly suggestive, she -- she still identified
20 the resident at that house, prior to her
21 talking to him.

22 So, I -- I guess, the State would call at
23 this time Harley Scalf.

24 THE COURT: All right. Am I understanding the
25 State's position is that the defendant and

1 Harley Scalf were not strangers to one
2 another?

3 MR. KENDALL: That -- that --

4 THE COURT: They knew --

5 MR. KENDALL: That is correct, Your Honor.

6 The State's position -- what -- they -- they
7 were not friends. I mean, she did not know
8 his name. He was a resident in the
9 neighborhood that lived a short ways away.

10 Basically, around the corner, and they had
11 prior incidents -- I -- I can't remember what
12 we decided to call "altercations and argument
13 within the past"; and she had the opportunity
14 to observe him and to hear him. He also
15 regularly walked down the street multiple
16 times, just -- just back and forth across the
17 street. So she was able to determine his --
18 his mannerisms and size and race and -- and
19 gender and -- and everything like that.

20 THE COURT: All right. So is it the State's
21 position that while she did not know the
22 defendant personally, she knew who he was
23 by --

24 MR. KENDALL: Yes, sir.

25 THE COURT: -- seeing him in her neighborhood?

1 MR. KENDALL: Yes, sir.

2 THE COURT: And that's how she's basing her
3 identification?

4 MR. KENDALL: Yes, sir. It's the same person
5 that who was then involved in the shooting.

6 THE COURT: Okay. All right. Now, about the
7 -- the video and audio that Mr. Morin was
8 referencing, you -- you -- you're saying that
9 she did not watch a video?

10 MR. KENDALL: No.

11 THE COURT: She heard an audio of a voice that
12 was the defendant's, but when she heard it,
13 she wasn't aware that it was the defendant's
14 voice?

15 MR. KENDALL: I -- I don't believe . . .

16 (Mr. Kendall addressed the witness's family in
17 the courtroom.)

18 I -- I think we just played his -- his
19 interview and just asked if that was the same
20 voice. She said she had recognized --

21 THE COURT: When you said "we" --

22 MR. KENDALL: -- the voice.

23 THE COURT: -- who's -- who's doing this --
24 you're turning around asking someone?

25 MR. KENDALL: I just -- I just wanted to make

1 that was correct. I -- I don't believe that
2 the --

3 THE COURT: Well, who is -- who participated
4 in the -- in the procedure by which Harley
5 Scalf listened to an audio?

6 MR. KENDALL: Myself, Ms. Leskanic, and Ms.
7 Scalf.

8 THE COURT: Okay. So you were in the room
9 when it happened?

10 MR. KENDALL: And -- and I -- I don't believe
11 -- we were using it kind of just for
12 confrontory -- confirmatory purposes. So I
13 don't -- I don't believe she knew what it was.
14 I don't know if we said it was -- we just had
15 her listen to it and see if she --

16 THE COURT: Well, I guess we'll find out here
17 in minute during the testimony. Okay. Do you
18 want to call your first witness?

19 MR. KENDALL: Yes, sir, Your Honor. The State
20 would call Harley Scalf.

21 THE COURT: Okay.

22 (WHEREUPON, the witness was sworn.)

23 THE COURT: And your name is Harley Scalf. Is
24 it H-a-r-l-e-y?

25 THE WITNESS: That's correct.

1 THE COURT: S-c-a-l-f?

2 THE WITNESS: Yes, sir.

3 THE COURT: Okay.

4 CLERK OF COURT: (To The Witness) If you want
5 to leave it connected, just make sure it's
6 under your chin, so the court reporter can see
7 your mouth at all times.

8 THE WITNESS: Thank you.

9 DIRECT EXAMINATION

10 BY MR. KENDALL:

11 Q Ms. Scalf, could you please state your name again
12 for the record?

13 A Harley Scalf.

14 Q And -- and, Ms. Scalf, where are you from?

15 A Gaffney.

16 Q All right. And where do you reside?

17 A Coach Hill Drive.

18 Q Okay.

19 THE COURT: I'm sorry. Where?

20 THE WITNESS: Coach Hill Drive.

21 THE COURT: Well, some reason I'm not getting
22 that. What is it?

23 THE WITNESS: [REDACTED] Coach Hill Drive.

24 THE COURT: Coach Hill?

25 THE WITNESS: Uh-huh.

1 THE COURT: Okay.

2 Q And what is your relationship to the deceased in
3 this case?

4 A He's my twin brother.

5 Q Okay. And were you present when your brother was
6 killed on May 3rd, 2019?

7 A Yes.

8 Q All right. Immediately, prior to the shooting,
9 could you explain to the jury what you were doing?

10 A I was in the back putting up a swimming pool with
11 Steven and my wife.

12 Q Okay. And where was your brother?

13 A He was in the house at the time.

14 Q Okay. Did he stay in the house?

15 A Yes. Until he left, when he stuck his head out the
16 window and said, "I'm going home."

17 Q Okay. And did he make -- go home?

18 A No, sir.

19 Q All right. What was the next thing that you heard?

20 A I heard some yelling from the backyard. And I
21 heard my brother spoke (verbatim) around the front.
22 When I went around there, my brother was arguing.

23 Q Okay. Did you hear who he was arguing with? Could
24 you describe the individual?

25 A Tall. Skinny.

1 Q All right. Was he old or young?

2 A He was young.

3 Q He was -- I'm sorry?

4 A He was young.

5 Q Okay. And could you tell his race or ethnicity?

6 A Can you say that again?

7 Q His race or ethnicity?

8 A Yes.

9 Q All right. And -- and what race or ethnicity was

10 he?

11 A African American.

12 Q Okay. And, while this was going on, approximately

13 how far away was he -- were you from the individual

14 who shot your brother?

15 A Prior to the shooting?

16 Q Yeah.

17 A Twelve feet.

18 Q How many?

19 A About 10 to 12.

20 Q Okay. And during that time, did you have the

21 opportunity to see his face?

22 A (No response.)

23 Q Okay.

24 THE COURT: (To the witness) Excuse me. Can

25 you answer that again?

1 THE COURT REPORTER: (To the witness) I'm
2 having trouble hearing you too.

3 THE WITNESS: No, sir.

4 THE COURT: You've got to speak up,
5 articulate. Use the microphone. (To Mr.
6 Kendall) Ask your question again, please.

7 Q Did you have an opportunity to see his face?

8 A No, sir.

9 Q Did you see any of his face?

10 A Just the eyes.

11 Q Okay. Is that all you recognized, or did you
12 see -- did you see -- I'm going to make it very
13 clear with my question.

14 Were you able to see -- was there anything
15 obstructing his face?

16 A Say that again.

17 Q Was there -- was there anything covering his face?
18 Did he have a mask on, anything like that?

19 A Not that I recall.

20 Q Okay. So you had the ability to see his face; is
21 that fair to say?

22 A I mean, yes.

23 Q Okay. All right. And you saw that this was the
24 individual responsible for shooting your brother?
25 Did you witness the shooting?

1 A Yes.

2 Q Okay. Had you seen this individual before?

3 A Yes. I'd see him walk up and down the road and

4 stuff?

5 Q Okay. Where had you see him before?

6 A There was a prior incident.

7 Q Okay. All right. Well, let's go back to him

8 walking up and down the road. How often would this

9 individual walk up and down your street, in

10 about -- let's say a month immediately prior to

11 this?

12 A About six times a day.

13 Q Okay. So he was regularly walking by and you'd

14 regularly see him?

15 A Uh-huh.

16 Q Okay. And what would he typically be wearing?

17 A Dark clothes --

18 Q Okay.

19 A -- and his -- his face would always be covered in

20 something.

21 Q Okay. And had you had -- so he -- six times a day;

22 is that -- is that fair to say?

23 A Yes.

24 Q All right. And during this time, were you able to

25 observe his -- his walk? his gait? like how he

1 walked?

2 A Yes.

3 Q Were you able to observe his mannerisms?

4 A Yes.

5 Q Okay. And had you had any -- do you know where

6 this individual lived?

7 A Yes.

8 Q All right. How did you know where this individual

9 lived?

10 A Because when he would walk by the house that's

11 where he would go.

12 Q Okay.

13 A I mean --

14 Q And where would he go?

15 A A two-story house; it's on -- I think it's

16 Raintree. It's a two-story, white house.

17 Q Okay. And how far, approximately, is that from

18 your house? I mean, can you see it from your

19 house?

20 A Yes. If you stand on my front porch, you can see

21 it.

22 Q Okay. So is it fair to say it's around the corner?

23 A Yes.

24 Q Okay. And had you had any prior incidents with

25 this individual?

1 A Not me personally, but --

2 Q Okay. Had you ever been involved in anything with

3 this individual?

4 A Yes. I went down there.

5 Q Okay. And was -- explain to me sort of what

6 happened?

7 A My brother got a call from his friend, Michael. He

8 was stuck in front of the boy's house. He needed

9 help, so my brother went down there and was going

10 to help him.

11 Q Okay. And then there was an argument that ensued;

12 is that fair to say?

13 A Say that one more time?

14 Q Was there an argument that ensued; is that fair to

15 say?

16 A Yes.

17 Q All right. And who was the argument primarily

18 between?

19 A Michael Guyton and the boy that lived in the

20 two-story house.

21 Q Okay. And where were you standing when this took

22 place?

23 A I was, like, behind my brother -- like a few feet

24 behind my brother.

25 Q All right. And how far away was he from the person

1 in the two-story house?

2 A About 10 feet, I would say.

3 Q About 10 feet?

4 A Yeah.

5 Q All right. And how long did this -- this argument
6 last?

7 A About ten minutes.

8 Q Okay. During that time, did you have any
9 opportunity to -- to view the person involved in
10 the argument?

11 A Not face-wise, no. I didn't.

12 Q Okay. Well, let me ask you this: Did you have the
13 opportunity to? In other words, did he have
14 something covering his face?

15 A No. Not at the time.

16 Q Okay. Were you -- did you have the opportunity to
17 observe his mannerisms and things like that?

18 A Yes.

19 Q All right. And -- and did you have the opportunity
20 to hear his voice?

21 A Yes.

22 Q Okay. And did -- did you recognize -- let me go
23 back.

24 Was the person who was involved in that
25 altercation the same person who was involved in the

1 shooting?

2 A Yes. He is.

3 Q Okay. And what lead you to that conclusion?

4 A It's the same guy that would come out of that
5 two-story house.

6 Q Okay.

7 A And would walk up and down, you know, in the back,
8 and it's the same guy that Michael Guyton had a
9 altercation with and drug my brother in it.

10 Q Okay. And what would lead you to -- well, why do
11 you think that?

12 A From my --

13 Q Well, how did their physical characteristics
14 relate?

15 A Back then it was the same hair, like, kinda like
16 the same hair, the same height, dress, and
17 everything. Like the same style, I guess, you
18 would say.

19 Q All right. How did his voice compare to the person
20 that you had the altercation with -- that there was
21 the argument with? The person who did the
22 shooting, did you have the opportunity to hear the
23 person that did the shooting?

24 A Yes.

25 Q Okay. And how did his voice compare to the voice

1 of the person you had the altercation with?

2 A It was the same.

3 Q Okay. And did you have the opportunity to observe
4 any of his mannerisms? any of his behaviors? his
5 walk? anything like that?

6 A Yes.

7 Q All right. How did those compare?

8 A They were the same.

9 Q All right. What was similar about them?

10 A The way he wore his pants, and it was like his hand
11 was in the -- in the front in his pants --

12 Q Okay.

13 A -- as if he was holding them up.

14 Q And was it -- was it common for him to walk around
15 in this way, in this fashion?

16 A Yeah.

17 Q Okay. Would you describe it as a fairly distinct
18 walk?

19 A Yes.

20 Q Okay. And how did you know this was his house,
21 that third one on the left -- the two-story house?

22 A Say that one more time?

23 Q How did you know it was his house?

24 A We would see him walk back and forth to it, you
25 know, and he would always go there. The incident

1 that took place with Guyton, that night, his mother
2 actually had come out and apologized.

3 Q Okay. So you're familiar that was the home that he
4 was living in; is that fair to say?

5 A Yes.

6 Q Okay. Do you recall what the defendant said -- did
7 the defendant say anything immediately prior to the
8 shooting? What were they arguing about?

9 A Something about false accusations.

10 Q Okay. And who was -- who was making the claim that
11 someone's making false accusations?

12 A What do you mean?

13 Q Was your brother saying the other guy's making
14 false accusations?

15 A No, sir. It was the other guy said that we were
16 making false accusations.

17 Q Okay. All right. And how far, prior to the -- the
18 shooting, did this incident occur -- the down --
19 down -- outside of his house on Raintree Lane?

20 A It was about a year.

21 Q Okay.

22 A A year before the . . .

23 Q Okay. And that's approximate; is that --

24 A Yes. That's correct.

25 Q Following the shooting, could you describe the

1 night that -- what happened immediately following
2 the shooting?

3 A The night of the shooting, can I?

4 Q Yes.

5 A Yes.

6 Q What -- what happened right after he -- after your
7 brother was shot?

8 A The person who shot him took off running.

9 Q Okay. And which direction did he head to?

10 A Towards Raintree.

11 Q All right. Did he -- how did he run? In other
12 words, was he running just generally towards
13 Raintree or was he running, like in squares or how
14 -- what was he --

15 A Oh, no. He was just running straight towards --
16 towards Raintree -- just took off running.

17 Q Straight towards Raintree Road or straight
18 towards --

19 A To --

20 Q -- any specific spot?

21 A -- his house on Raintree Lane.

22 Q All right. Did you see him actually get to his
23 house?

24 A No.

25 Q Okay. And what happened after that, just generally

1 speaking? Was law enforcement called to the scene?

2 A Yes.

3 Q Okay. And I know you were shown a photo lineup

4 prior to this. Did you talk to any officers prior

5 to seeing the photo lineup?

6 A Yes.

7 Q All right. And who did you tell them had been

8 involved in the shooting? Who did you identify as

9 -- as -- as the one involved in that shooting?

10 A The guy that lived in the two-story house.

11 Q Okay. And -- and did you tell them -- tell them

12 where that was?

13 A Yes. I did.

14 Q Okay. So, initially, before seeing any photo

15 lineups, you identified this individual as the --

16 as the -- the shooter; is that --

17 A Yes.

18 Q -- fair to say? Okay. You were then subsequently

19 shown a photo lineup; is that correct?

20 A That's correct.

21 Q All right. And where were you shown that lineup?

22 A At my front door.

23 Q Okay. Was it day or nighttime at that time?

24 A Nighttime.

25 Q All right. And who showed you that lineup? Do you

1 recall?

2 A I'm not sure of the officer's name, but I do
3 remember one of them was, I think, Jeff Cole, but
4 I'm not sure who the other one was.

5 Q Okay. So Jeff was standing there?

6 A Yes. He --

7 Q And did you take a look at that lineup?

8 A Yes.

9 Q Do you recall what was told to you before,
10 immediately prior to looking at the lineup?

11 A Say that again.

12 Q Do you recall what was told to you immediately
13 prior to looking at the lineup?

14 A Said that the person may not be in the picture.

15 Q Okay. All right. And -- and I'm going to show you
16 what's been marked as for exhibit purposes.

17 MR. MORIN: (To the Court) I assume he means
18 for purposes of this hearing?

19 MR. KENDALL: Yes.

20 THE COURT: Well, everything right now is for
21 the purposes of --

22 MR. MORIN: I understand.

23 THE COURT: -- of this hearing.

24 MR. MORIN: I wasn't sure what "exhibit
25 purposes" was.

1 THE COURT: It's the lineup.

2 MR. MORIN: Yes, sir.

3 THE COURT REPORTER: (To Mr. Kendall) Okay.

4 So Exhibit 1 on this one?

5 MR. KENDALL: Yes, please.

6 THE COURT REPORTER: Okay.

7 (WHEREUPON, the photo lineup, it is marked for
8 identification as State's Exhibit No. 1.)

9 Q And is this the lineup that you saw?

10 A Yes.

11 Q Okay. And from this, what was told to you? I kind
12 of want to go over this stuff again.

13 A I don't quite understand what you're saying.

14 Q The -- the -- what did the officers say about the
15 lineup?

16 A He said, "The person may not be pictured" --

17 Q Okay.

18 A -- "in this lineup."

19 Q Do -- do you recall if he said anything else?

20 A I don't recall.

21 Q All right. Do you remember him -- him saying that
22 these were old jail photos?

23 A Oh, yes. Yes.

24 Q All right. And when you looked at this lineup,
25 were you able to definitively, absolutely say who

1 you selected? In other words, did -- did you say,
2 "That's the guy. That's it a hundred percent"?

3 A Unh-unh.

4 Q No? You -- you have to speak.

5 A No. I did not.

6 Q You have to actually articulate. Okay.

7 So you did not say, "That's him. That's the
8 guy. That's absolutely correct"; is that right?

9 A That's correct.

10 Q All right. What information did you provide about
11 that lineup, about what you saw?

12 A The eyes.

13 Q Okay. And what did you say about the eyes?

14 A That, that looks like his eyes.

15 Q Okay. All right.

16 THE COURT: (To the witness) I'm sorry. You
17 -- you said what?

18 THE WITNESS: Say that again?

19 THE COURT: I'm asking a question. What was
20 your last response to his question about --

21 THE WITNESS: That it was the eyes.

22 THE COURT: The what?

23 THE WITNESS: I saw his eyes.

24 THE COURT: You saw his eyes?

25 THE WITNESS: Uh-huh.

1 THE COURT: Okay.

2 Q Is it fair to say that you -- you classified -- you
3 qualified that by saying that you could not be
4 certain, but the eyes looked familiar; is that
5 correct?

6 A That's correct.

7 Q Okay. And do you see the person that did the
8 shooting in the courtroom today?

9 A Yes.

10 Q All right. Who is the person that did the
11 shooting? Could you point him out, please?

12 A (Indicating.)

13 Q All right.

14 THE COURT: (To Mr. Kendall) Well, there are
15 a lot of people --

16 THE WITNESS: The one over there with the
17 blue --

18 THE COURT: -- in the courtroom.

19 THE WITNESS: -- shirt on.

20 Q The blue sweater?

21 THE COURT REPORTER: (To the witness) Can you
22 repeat that, please?

23 A Blue sweater. Like, the one with the blue -- blue
24 sweater.

25 Q Okay. And does he look different in anyway,

1 anything different, physically characteristic about
2 him from the day you saw him?

3 A He -- he has no hair now.

4 Q He has -- he has what?

5 A He has no hair now.

6 Q Okay. What did his hair look like that day?

7 A I'm not sure -- sure how to word it. It was like a
8 "box cut" kind of. Does that make sense?

9 Q Okay. What -- what -- was it short or long?

10 A It was short, stub.

11 Q Okay. Was it as short as it is today?

12 A No.

13 Q Okay. All right. And was it -- how did the sides
14 compare to the top?

15 A Like --

16 Q Like were the sides and the top all the same
17 length? Was the top bigger? Was the top smaller?

18 MR. MORIN: Your Honor, I'm going to object.

19 We're here to decide if she was -- if the
20 State did some action that caused her to do --
21 make these identifications. The State seems
22 to be wanting to testify now that she can do
23 it. Well, I understand he wants her to do it
24 now, but what's the -- I don't understand what
25 he's doing. He's asking her if she can

1 identify him now, if he's changed -- the
2 question is: What did the State do that
3 caused her to make this identification? Not
4 that she can make it.

5 THE COURT: Well, what do you want me to do
6 with that? Did you -- are you making an
7 objection, or are you stating --

8 MR. MORIN: I'm objecting to --

9 THE COURT: -- that the State --

10 MR. MORIN: -- this line of questioning.

11 THE COURT: -- decipher this line of
12 questioning?

13 MR. MORIN: I'm objecting to this line of
14 questioning.

15 THE COURT: Okay. Mister --

16 MR. KENDALL: I thought I would just -- I
17 think part of the hearing is that she actually
18 can pick him out in court, and that's why
19 we're going down that road. It's not
20 something I need to kind of dwell on, but --
21 but for an in-court identification, that's one
22 element that would be that she actually needs
23 to pick him out and be able to do that. So
24 we're trying to establish that she was able to
25 and what differences that -- that existed.

1 THE COURT: Okay. Overrule the objection.

2 MR. KENDALL: But I can move on.

3 Q Did you have the opportunity to listen to his voice
4 prior to the shooting?

5 A Yes.

6 Q All right. And when did that happen?

7 A It was about five minutes before he actually shot
8 him.

9 Q Okay. And -- and what was -- five minutes?

10 A Like before he shot him, they had a argument.

11 Q Okay. All right. Had you heard his voice prior to
12 that?

13 A Just at the altercation we had before.

14 Q Okay. So you had heard it before then? And
15 then --

16 A Uh-huh.

17 Q -- how did the voice that you heard, during that
18 argument, relate to the voice you heard the night
19 of the shooting?

20 A It was the same one; same tone and everything.

21 Q Okay. And during the altercation, what was -- can
22 you describe his demeanor, like how was it -- was
23 this a civil conversation about -- like what --
24 what were they talking about? Was he -- what was
25 he doing? The defendant -- I'm sorry.

1 A At the time, they were yelling. He said -- excuse
2 me. He said, "You're the ones that wants to makes"
3 -- excuse me -- "You're the one that makes false
4 accusations."
5 Q Okay. And this was the time of the shooting?
6 A Yes. That was day of the shooting.
7 Q Okay. And how would you describe -- was this a
8 calm conversation, or was this --
9 A No. This was not a calm conversation.
10 Q Okay. What about the prior time you had heard him
11 down on Raintree Lane? What was that conversation
12 like?
13 A That wasn't a calm conversation, either.
14 Q All right. What was that?
15 A They were arguing. I'm not sure what they were
16 arguing over, but there was a lot of yelling.
17 Q Okay. So what we're talking about is -- is similar
18 situations, as far as arguments going immediately
19 prior to the shooting and -- and at the prior
20 altercation?
21 A Yes.
22 Q Okay. And are -- are you certain the same voice
23 was the same person you heard on both occasions?
24 A Yes.
25 Q And this was the person that lived at that third

1 house on Raintree Lane?

2 A Yes. The two-story house.

3 Q The two-story house?

4 A Uh-huh.

5 Q Okay. All right. And have you had the opportunity

6 to hear his voice since then -- the defendant's?

7 A Since the shooting?

8 Q Yes.

9 A No, sir.

10 Q Okay. Did you -- did you -- this morning, did --

11 did you hear a -- a portion and ask if you could

12 identify that?

13 A Yes. It was a small clip.

14 Q Okay. And what was told to you about what that

15 was? Do you recall?

16 A I do not.

17 Q All right. Did you know what it was that you

18 listened to?

19 A No.

20 Q Okay. And did you recognize the voice?

21 A Yes.

22 Q Okay. Were you able to see who was -- who was the

23 speaker?

24 A No, sir.

25 Q Okay. And -- and were you aware of what it was

1 that you were listening to at all?

2 A No, sir. Just a voice.

3 Q Okay. And how did that voice relate to the -- the
4 voices you heard from the altercation and the --
5 the altercation and the shooting?

6 A It was the same kind of deep tone.

7 Q Okay. Was it the same person?

8 A What do you mean?

9 Q Was the same person talking in all those three
10 times?

11 A Yes. Yes.

12 Q All right. How certain are you of that?

13 A A thousand percent.

14 Q Okay.

15 THE COURT REPORTER: (To the witness) I'm
16 sorry.

17 THE WITNESS: A thousand percent.

18 THE COURT REPORTER: Okay.

19 MR. KENDALL: All right. (To the Court) At
20 this time, I think that the State would just
21 ask the defendant to get up and speak. It
22 doesn't have to be anything specific, just --

23 MR. MORIN: No.

24 MR. KENDALL: -- say his --

25 MR. MORIN: (To Mr. Kendall) No. No. No.

1 No.

2 THE COURT REPORTER: (To Mr. Morin) Was that
3 an objection?

4 MR. MORIN: (To the Court) The objection is
5 he now wants my client to give a voice
6 recognition that he's gonna later use to say,
7 "Well, you heard it earlier." She's already
8 identified him, so they're, basically, now
9 trying to use this hearing as another State
10 action to try and --

11 THE COURT: Well, that's different. He's in
12 court. It's no different than him standing up
13 and -- and her seeing him and identifying,
14 looking at a tattoo or looking at a scar.

15 But what I'm trying to sort out here, is
16 -- is from what I understood, the witness was
17 not able to ever see the defendant's face on
18 these other occasions. She made an
19 identification based upon his mannerisms, his
20 voice, his gait, his appearance, his physical
21 attributes, his race, his height, his weight,
22 his hair style, and I think she did say that
23 she did, at some point, saw his eyes. So what
24 I need, Mr. Kendall, for you to -- to get from
25 the witness, if you can, is how is it today

1 she can look over there and say, "That's the
2 person," because he's done none of those
3 things today.

4 Now, I'm talking about -- I'm not -- I'm
5 not talking about her making an identification
6 based upon all those factors that have just
7 been described, but, today, you've asked her
8 if she sees that person in the courtroom and
9 she said, "Yes," and she identified the
10 defendant. But I'm not certain, in my mind,
11 how she was able to do that, because he's not
12 stood; he's not walked; he's not said
13 anything; he's not exhibited any mannerisms;
14 So -- and as I say, she just testified she
15 never saw his face before. So I want to know
16 what is it today, in this courtroom, that
17 she's basing her identification of this
18 defendant on.

19 Q I guess, Ms. Scalf, had you seen his face at all
20 prior to this?

21 A Unh-unh. No, sir.

22 (Loud photo copier sound.)

23 THE COURT: Repeat your answer

24 THE WITNESS: No, sir.

25 Q Not being able to identify it, just seeing it at

1 all?

2 A Say it again?

3 Q Had you seen it at all?

4 A His face?

5 Q Yeah.

6 A Just the eyes.

7 Q Okay. But it wasn't covered up at the prior
8 altercation or this time; is that correct?

9 A No, sir. No, sir.

10 Q Okay. And, I guess, what leads you to believe this
11 defendant is the same one that you saw that night?
12 In other words, how do you know today that he is
13 the same individual?

14 A He's got the -- just those eyes.

15 Q It's the eyes? Okay. And have you had any
16 opportunities to observe the defendant anywhere
17 else? bond hearings? Schmerber hearings? anything
18 like that?

19 A No, sir.

20 Q Okay. All right.

21 MR. KENDALL: (To the witness) Please answer
22 any questions the defense may have. (To the
23 Court) Or, I guess, do we need to do the
24 voice identification? I mean -- or -- or I
25 don't know if that's -- I would have liked --

1 I would like to do that. Have him speak and
2 have her identify it.

3 THE COURT: All right. What would like for
4 him to say?

5 MR. KENDALL: I -- I would like him to say,
6 "Stop making false allegations against me."

7 THE COURT: All right.

8 MR. MORIN: If -- if Your Honor is going to
9 order that, we're going to object and --

10 THE COURT: Okay. I'm going -- well, I'm
11 going to overrule your objection.

12 MR. MORIN: Okay.

13 THE COURT: All right. Mr. Willis, if you'll
14 stand, and you may make -- well, you better
15 take it off. And -- and the -- the statement
16 is, "Stop making false accusations against
17 me."

18 MR. KENDALL: Yes, sir.

19 DEFENDANT WILLIS: Stop making false
20 allegations against me (verbatim.)

21 THE COURT: All right. Thank you.

22 Q Do you recognize that voice?

23 A Yes.

24 Q All right. Was that the same person who spoke that
25 night?

1 A It is.

2 Q Okay.

3 MR. KENDALL: (To the witness) Please answer
4 any questions Mr. Morin may have.

5 MR. MORIN: I'm up?

6 CROSS-EXAMINATION

7 BY MR. MORIN:

8 Q Ms. Scalf, when you came around the house, when you
9 heard the -- the yelling, did you come around from
10 that carport side or from the other side? Do you
11 know what I'm talking about? If I'm looking at
12 your house, you've got a carport on this side,
13 and --

14 A I came around from the carport side.

15 Q The carport side. And when you came around from
16 the carport side, were you -- did you see your
17 brother's back, or did you see the person --
18 shooter's -- the shooter's back?

19 A I saw their -- I saw the sides of them.

20 Q Okay. So they were facing each other --

21 A Yes.

22 Q -- like that? (Indicating.) Okay. Now, when you
23 -- back in 2018, that's when that first -- that
24 first argument occurred?

25 A Yes, sir.

1 Q You -- they were yelling at each other then, Mr.
2 Guyton and my client?

3 A Yes.

4 Q And this time they were yelling at each other?
5 When you saw your brother and what you say is Mr.
6 Willis, they were yelling at each other?

7 A Yes.

8 Q And -- now, when you came up here -- is it my
9 understanding you came up here this morning? Why
10 are you here at the courthouse today?

11 A To testify.

12 Q Correct. On this case, correct?

13 A That's correct.

14 Q And Mr. Kendall asked you to come up here, correct?

15 A Called my sister.

16 Q Sure.

17 A Yeah.

18 Q And this is about a trial for -- where Mr. Willis
19 is on trial for doing it, correct?

20 A That's correct.

21 Q Now, tell me about this process that occurred when
22 they played this video for you? You were sitting
23 out here in their waiting room?

24 A He said they needed to speak to us.

25 Q Needed to speak to you, okay.

1 A I come up, went in there.

2 Q Okay. Wait. You went into Mr. Kendall's office;
3 the one on the corner?

4 A Yes.

5 Q You've got a copier right here, and there's an
6 office here? (Indicating.)

7 A Yes. It's the one in the back on the left.

8 Q Okay. So you were in Mr. Kendall's office. Mr.
9 Kendall was in there?

10 A Yes.

11 Q Ms. Leskanic was in there?

12 A That's correct.

13 Q How about Officer Parnell, was he in there?

14 A No.

15 Q He wasn't? Just -- just the two lawyers?

16 A Yes.

17 Q And they said -- what did they say they were --
18 they -- did they just go "click" and push a button?
19 What happened next?

20 A No. They asked me could I, you know, give
21 identification.

22 Q Give identification, okay.

23 A Yes. And I said I could identify his voice and the
24 way he stands and all.

25 Q All right. You can identify his voice, that's

1 what --

2 A Yes.

3 Q -- you told them?

4 A So they played a clip and said, "Can you identify?"

5 Q I see. That's the only thing that happened? Now,

6 on this video that they played for you, was the

7 person yelling?

8 A No.

9 Q But in 2018 he was yelling, correct?

10 A That's correct.

11 Q In 2019, when this happened, the person was

12 yelling?

13 A That's correct.

14 Q And then the two lawyers asked you to come in and

15 ask if you can identify him. Now, you said this

16 about identifying his voice. When is the first

17 time you said that to anyone?

18 A What -- I'm not understanding what you're asking

19 me.

20 Q All right. Did you tell Officer Clark -- remember

21 Officer Clark said a prayer with you, out there on

22 the scene? Remember that?

23 A Yes. I remember him.

24 Q Okay. Did you tell him, "I know this person's

25 voice"?

1 A Not that I recall.

2 Q All right. How about Officer Cole, did you tell
3 him?

4 A Not that I can recall.

5 Q How about Officer Parnell, did you ever talk to
6 him?

7 A I may have. Like I said, I didn't know their
8 names.

9 Q Right. But there at the scene, they were showing
10 you a video, they were showing you a lineup, and
11 you said, "Eyes."

12 A Uh-huh.

13 Q At any time, for any officer out there, did you
14 ever say, "I can identify his voice"?

15 A Not that I recall.

16 Q All right. So, at some point, you talked to the
17 State and you said, "I can identify his voice,"
18 right?

19 A That's correct.

20 Q All right. Well, was that in 2019? long time ago?
21 after COVID started? when -- last week? When was
22 the first time -- you've been talking to Mr.
23 Kendall about the case?

24 A Yes, sir.

25 Q All right. When was the first time you told Mr.

1 Kendall, "I can identify his voice"?
2 A I'm not sure when it was. I can't give you the
3 exact day.
4 Q Well, I understand. How many times would you
5 say -- estimate, that you've talked to Mr. Kendall?
6 A Personally?
7 Q Yes.
8 A Let's see. It was one time here. I think I've met
9 with him twice in this room.
10 Q Twice in this room, okay.
11 A Uh-huh. And then in the conference room this
12 morning.
13 Q All right. So three?
14 A Give or take.
15 Q Give or take? And those were in preparation to
16 come into court, because it can be stressful and
17 people are asking a bunch of questions; so that's
18 why you met with Mr. Kendall?
19 A Yes.
20 Q And it was during one of those three meetings you
21 told him you could identify the voice?
22 A Yes.
23 Q That was the first time you had told anybody on the
24 State's side about this voice thing?
25 A That I recall, yes.

1 Q Okay. And then after that -- now, when you say you
2 met with him three times, are you counting the time
3 that you just did this morning?

4 A No, sir. No, sir.

5 Q Okay. So we'll make that four. So, out of those
6 four times, he never played a -- an audio for you,
7 except for today?

8 A That's correct.

9 Q And asked you if you could make an identification?

10 A Yes.

11 Q And then he played an audio clip for you?

12 A That's correct.

13 Q And that was the only audio clip he's played for
14 you the entire four times you've met with him?

15 A Other than mine.

16 Q What do you mean "other than yours"?

17 A My clip.

18 Q Oh, he's played you -- the statements that you've
19 made?

20 A The -- of the identification process.

21 Q Sure. The video -- the body camera video of you
22 talking to the police officer?

23 A Yes.

24 Q Okay. So you -- you saw -- you saw the video clip
25 of yourself at the time, but, other than that, this

1 audio that you heard this morning is the only other
2 thing that Mr. Kendall has played for you?

3 A That's correct.

4 Q And he preceded that by saying, "Can you make an
5 identification"?

6 A He said, "Can you identify his voice."

7 Q All right. "Can you identify his voice," and then
8 you said?

9 A Yes.

10 Q And then he played the audio, and then you said?

11 A Yes. That was him.

12 Q Okay.

13 THE COURT: Matt?

14 MR. MORIN: That's all the questions I have,
15 Your Honor.

16 REDIRECT EXAMINATION

17 BY MR. KENDALL:

18 Q And just to be clear, that night, you -- you did
19 not talk about his voice or anything like that, but
20 you were immediately picked -- said that it was the
21 person down at 20 -- or down at the third house on
22 the left; is that fair to say?

23 A That's correct. I actually said it was the two-
24 story white house.

25 Q Okay. A two-story white house?

1 A His house was -- yes, sir.

2 Q Okay. All right.

3 MR. KENDALL: (To the Court) Nothing further.

4 MR. MORIN: (To the Court) I have one
5 question.

6 RECROSS-EXAMINATION

7 BY MR. MORIN:

8 Q Now, Officers Cole and Pennington -- Pennington --
9 Parnell --

10 MR. MORIN: (To Mr. Willis) Who's the other
11 "P"?

12 MR. WILLIS: Peterson.

13 Q -- Peterson -- I'm trying to keep my "Ps" straight.
14 Those officers spoke to you at the scene, on the
15 video clip you saw, correct?

16 A That's correct.

17 Q And didn't you tell them that the person who did
18 this cut through the yard, but didn't know where he
19 went from there?

20 A Yes. He cut through the -- the house is directly
21 in front of ours.

22 Q Uh-huh.

23 A He cut directly through there and was headed
24 towards his house.

25 Q That's that burned down house, right?

1 A Yes, sir. The burned down house.

2 Q Okay. So -- but -- but your statement to them was,
3 you saw him run through that yard --

4 A Yes. But he's --

5 Q -- but you don't know where he went from there?

6 A No. He was headed towards the two-story white
7 house; where he went, I don't know, because I ran
8 to my brother.

9 Q Certainly, and then -- and I -- I certainly can
10 understand that that's what you did, and there were
11 other family members who came rushing up at that
12 time, too, correct? And you were looking at them,
13 and it was -- I -- I'm sorry -- it was very
14 emotional.

15 MR. MORIN: (To the witness) Thank you.

16 THE COURT: Okay. (To the witness) You may
17 step down. You can step down.

18 (WHEREUPON, the witness was excused.)

19 MR. KENDALL: (To the Court) The State would
20 call Kenon (as spoken) Parnell.

21 THE COURT REPORTER: Mr. Kendall, can you
22 spell his name on the record, please?

23 (WHEREUPON, the witness was sworn.)

24 THE COURT: When you sit down, state your name
25 and spell it for the benefit of the Court.

1 THE WITNESS: Christopher Parnell. Last name,
2 P-a-r-n-e-l-l.

3 DIRECT EXAMINATION

4 BY MR. KENDALL:

5 Q All right. Mr. Parnell, what is your occupation?

6 A Captain of Criminal Investigations at the sheriff's
7 office.

8 Q All right. And were you involved in a -- or were
9 you present -- or investigating a shooting that
10 occurred on Coach Hill Drive on May 3rd, 2019?

11 A Yes, sir.

12 Q And where did -- or what was your involvement?
13 When did you get on the scene? Were you the first
14 one to respond?

15 A No, sir. I was not the first one to respond. I
16 was notified along with another investigator, and
17 we responded after primary deputies controlled and
18 secured the crime scene.

19 Q All right. And did you interview and show photo
20 lineups to witnesses out there?

21 A Yes, sir.

22 Q All right. And was one of those showed photo
23 lineups shown to Ms. Scalf?

24 A It was.

25 Q All right. And State's Exhibit 1 is sitting right

1 in front of you? Is that the lineup that was shown
2 to her?

3 A It is, yes, sir.

4 Q All right. And what was -- what was told to her?

5 A What was told to her that night, I explained that I
6 have a visual photo lineup that consisted of six
7 photos on one sheet of paper. And in that lineup,
8 the person who was involved in the incident that
9 occurred that night may or may not be shown. To
10 look at each -- each photo carefully and not to
11 circle -- because typically we would have someone
12 circle the number or that photo if, in fact, they
13 identify someone. But in the event that she could
14 not -- or I advised her -- or informed her that she
15 needed to be a hundred percent certain before she
16 ever circled any number. And then I provided her
17 with the photo lineup.

18 Q Okay. And how did she act when she was looking at
19 the photo lineup?

20 A She -- how did she react?

21 Q Yeah. Did -- did she -- what did she say when she
22 was looking at the lineup?

23 A She looked at each -- what appeared to be looked at
24 each -- each photo pretty carefully. Initially,
25 after looking at each one, she wasn't certain.

1 Q Okay. And when you say "initially," what did you
2 do -- did you say anything to her?

3 A After that I did -- I did explain to her that, you
4 know, these photos may be -- they may not be
5 current photos of the people that are pictured in
6 them; they may be a little bit dated.

7 Q Okay. And was she able to identify anyone?

8 A Number 3.

9 Q Okay. And who -- who was Number 3?

10 A Number 3 is the defendant sitting here today.

11 Q Mr. Willis?

12 A Yes, sir.

13 Q Do you recall about how old that photo was?

14 A 2019 -- I believe that photo was taken earlier that
15 year.

16 Q Okay.

17 A If I remember correctly.

18 Q And -- and when you say "she identified her," could
19 you sort of expound on that -- that "she identified
20 him"? I mean, what did she say about it?

21 A She -- she explained that Number 3 had similar eyes
22 to what she had saw previously, during the
23 incident.

24 Q Okay. Okay. So that is -- that is, in fact, who
25 she selected was Mr. Willis?

1 A Yes, sir.

2 Q Did she discuss her degree of certainty? I mean,
3 was she absolutely certain or anything like that?

4 A She was not absolutely certain, no.

5 Q Is it fair to say -- and I think she actually says
6 something to the effect of, "It looks like him but
7 I just don't know"? Something along those -- is
8 it --

9 A Correct.

10 Q -- fair to say that it was not, you know, a hundred
11 percent slam dunk identification --

12 A Correct.

13 Q -- is that -- is that --

14 A Yes. That's fair to say.

15 Q That -- that there -- there was significant
16 wavering; is that --

17 A Right.

18 Q But that is who she selected; is that --

19 A Yes, sir.

20 Q Okay. This might make things easier. This might
21 make things easier. Do it more quickly. Have you
22 had the opportunity to view Detective Cole's body
23 camera from that night?

24 A I have.

25 Q All right. With -- with regards just to a portion

1 -- just the portion of the photo lineup?

2 A Yes, sir.

3 Q And was that a fair and accurate representation of
4 -- of what happened?

5 A Yes, sir.

6 Q All right.

7 MR. KENDALL: (To the Court) We're gonna -- I
8 think this will be just easier.

9 (WHEREUPON, the attempt to play a body
10 camera video failed.)

11 MR. KENDALL: (To the witness) All right.
12 That -- that's fine. We'll get that.

13 Please answer any questions Mr. Morin may
14 have.

15 THE WITNESS: Okay.

16 MR. MORIN: I'm sorry, Your Honor. It was my
17 intention to play this video, which
18 apparently, they can't play --

19 THE COURT: I'm not sure --

20 MR. MORIN: -- but I'll -- I'll try to work
21 through it.

22 CROSS-EXAMINATION

23 BY MR. MORIN:

24 Q Now, Officer Parnell, how long have you been a
25 detective in the sheriff's department?

1 A Currently?

2 Q Uh-huh.

3 A Three years/three and a half years, give or take.

4 Q Okay. And what is the procedure that the sheriff's
5 office policy, I guess, on how a lineup is to be
6 conducted?

7 A So if we have access to the photos of the person
8 we're trying to center the lineup around, we would
9 use our system, which is an assortment of jail
10 photos.

11 Q Uh-huh.

12 A Okay. Get similar photos through that software.
13 Put all those photos in what is a called a "six
14 pack," a six-person lineup. We'd print off a copy
15 that has the six people, as well as their name and
16 date of birth. Print off a copy with no name --
17 name -- no name or date of birth. At that time,
18 take it to whoever it is we were trying to show the
19 lineup and advise them what I advised Ms. Scalf and
20 have them look at the lineup.

21 Q Okay. Is the -- is the person who is showing the
22 lineup -- the officer showing the lineup to the
23 defendant, is that -- does that officer know if the
24 defendant is in the list or does he know if the --
25 or the suspect is on that page or does he know

1 which number is the suspect? Does that make sense?

2 A Yes.

3 Q Okay.

4 A The person showing the lineup -- can't say for
5 every time. Every time I've ever done one would
6 know who the person is. That would be the lineup
7 photos involved.

8 Q I see. So the person that's asking the witness
9 already knows which one of the people is actually
10 the suspect?

11 A Correct.

12 Q And is that policy here in Cherokee County for that
13 to occur? There's no double-blind? There's no --
14 anything like that?

15 A Not as far as I know. That's typically how we've
16 done it.

17 Q Okay. Now, you've said that you told the witness
18 that the person may or may not be in the lineup?

19 A Correct.

20 Q Now, is there any policy about interrupting the
21 witness when they're attempting to make any
22 statement regarding it?

23 A At the sheriff's office, I'm not aware of a policy
24 to not interrupt.

25 Q All right. So in this particular instance, you

1 knew that the suspect was Number 3?

2 A Correct.

3 Q And you interrupted the witness when they were

4 attempting to give an answer?

5 A That's fair.

6 Q Okay. And you made a statement regarding the age

7 and the location from which the case -- the photos

8 came from?

9 A Correct.

10 Q And you don't know if the Cherokee County Sheriff's

11 Office has any policy regarding that procedure? I

12 understand how you gathered it and -- and that sort

13 of thing, but you're saying that it's perfectly

14 fine for the officer who's conducting it to know

15 that the suspect's on the page and to know which

16 one it is and it's perfectly fine when a witness is

17 about to say -- give a answer to, "Do -- do you see

18 the person," it's okay to interrupt them? That's

19 okay, too, right? Is that what your testimony is?

20 A Is your question if there's -- is there a policy on

21 that?

22 Q Yes. First, is there a policy? You're saying,

23 "No"?

24 A Not that I'm aware of, there's not.

25 Q And you did do those things in this case?

1 A Correct.

2 Q And when you interrupted her, isn't it true that
3 the two -- she said, "I don't," before you -- and
4 then you injected yourself with the, "Now, keep in
5 mind, these are old"? Isn't that the way that
6 happened?

7 A That is how it happened.

8 Q And then -- and then she said, "Those eyes are kind
9 of look like him"? Does that sound about right?

10 A Without reviewing the video again, I couldn't say
11 for sure, but it sounds about right.

12 Q Right. And followed that with, "But I don't know
13 that is him"?

14 A Yes, sir.

15 Q And your testimony today is that's an
16 identification?

17 A That coupled with other things, I guess.

18 Q Well, I'm not talking about your whole
19 investigation, there will be time for that.

20 A Right.

21 Q What I'm talking about is this -- this witness'
22 identification of this suspect, that's what you're
23 saying is an identification?

24 A Sure. Yes.

25 Q And it is your office's policy that in the event

1 she hadn't (verbatim) said that's the person, you
2 would have had her circle it, correct?

3 A Correct.

4 Q And you would have had her sign it, correct?

5 A Yes, sir.

6 Q But in this case, that didn't happen, did it?

7 A Correct.

8 Q The only thing that's on this is your handwriting
9 that says, "Eyes"?

10 A That's right.

11 MR. MORIN: (To the Court) That's all the
12 questions I have.

13 MR. KENDALL: Nothing further, Your Honor.

14 THE COURT: (To the Witness) Okay. Step
15 down.

16 (WHEREUPON, the witness was excused.)

17 MR. KENDALL: (To the Court) I -- I guess,
18 starting first with the identification, Ms.
19 Scalf's identification was based on --

20 THE COURT: Do you have -- are you not going
21 to present any other evidence?

22 MR. KENDALL: No, sir.

23 MR. MORIN: Your Honor?

24 THE COURT: Do you have anything you want to
25 present?

1 MR. MORIN: I do not.

2 THE COURT: Okay.

3 MR. MORIN: Do you want to hear from me?

4 THE COURT: Of course.

5 MR. MORIN: Okay.

6 THE COURT: It's your motion.

7 MR. MORIN: Yes, sir. Your Honor, with regard
8 to the in-court identification by Ms. Scalf of
9 Mr. Willis, I would argue, based on the
10 testimony you've heard, that the State has
11 attempted to say, "She could see him -- she
12 could identify him based on" -- okay -- let me
13 get my mind together for this.

14 She said she'd never seen his face. The
15 officer says that he interrupted her when she
16 was saying, "I don't."

17 She's -- the State is saying, "Oh, that's
18 an identification." I would argue that's not.
19 Not only is that not an identification, but
20 it's the State interfering with the proper
21 lineup by -- interjecting the, "These might be
22 older files -- older photographs." And I
23 believe in the case law -- and there is a
24 specific reference that they are not to say
25 that. I understand that Officer Parnell says

1 that there's not really any policies in the
2 sheriff's office about how to conduct this,
3 but I -- I believe the case law supports that
4 he's not even supposed to talk about the age
5 of the photographs. That's not supposed to be
6 in there, and he admits he did that. That's a
7 State action that interfered with her ability
8 -- or suggested that she knew who he was.

9 In addition to that, earlier I had -- it
10 became -- I -- I was informed that there was a
11 "Listen to this audio," that was played," and
12 I apologize earlier for saying that she had
13 seen it, because the procedure I wasn't
14 certain of, turns out it happened today.
15 However, first, her testimony is that he --
16 she heard my client -- if you believe what she
17 says -- shouting. They didn't play him
18 shouting; they played him at normal -- in a
19 normal voice.

20 Second, okay, this is really important.
21 She's up here for this trial against him.
22 They say, "Come and listen to" -- or they say,
23 "Come in there," and they say, "Can you
24 identify his voice?"

25 She says, "Yes." And then they play an

1 audio tape of my client, all by itself. If
2 that's not State action -- if that's not
3 overly suggestive -- the idea that she -- they
4 would play a voice on anybody else, is
5 ridiculous. It's ridiculous. And, now, they
6 want to come in, in front of this jury, and
7 say, "Well, listen to this. That's what you
8 identified, wasn't it?" Well, that's the only
9 thing she's ever heard. They gave it to her
10 today, on the day of his trial. It's
11 completely improper.

12 And for him to say, "Well, hearing is
13 different than -- than seeing," they're going
14 to use that to do the same thing, for her to
15 sit there and say, "That's the guy." If
16 they're going to use it for the same thing,
17 then it is same thing. They didn't ask her to
18 listen to his video -- his voice so they could
19 go, "Oh, okay." They used it so they could
20 come in here and use that as evidence for her
21 to point at him. And for her to even suggest,
22 in front of the jury that, "I know it's his
23 voice," after that. That's the State action
24 I'm objecting to. That's the violation that's
25 occurred here.

1 And I apologize for raising my voice; I
2 just realized I was. But that's my -- that's
3 my position. She shouldn't be able to say, "I
4 know his face." She's testified to never seen
5 it (verbatim.) She shouldn't be able to say,
6 "I recognize his voice." Now, if she -- those
7 two things should not be -- she shouldn't be
8 allowed to testify to, and they certainly
9 shouldn't be allowed to play the same -- audio
10 for the jury that she heard this morning.

11 Thank you.

12 THE COURT: Mr. Kendall?

13 MR. KENDALL: With the voice identification,
14 Your Honor, I -- I find that a voice
15 identification is treated differently than
16 photo lineups or in-court identification. I
17 think the analogy of this would be something
18 like a tattoo or something like that, where
19 it's a -- it's a physical thing that he can
20 actually do. I find it significantly less --
21 it's suggested that he could say it from the
22 defense table and she could identify it versus
23 her listening to it on something else.
24 Certainly, if she can do that from the defense
25 table, she -- he should be able to -- to do

1 that -- listen ahead of time so the State can
2 determine if the voice was, in fact, proper.
3 That's all she did, so I think to the extent
4 that she can identify it, these are all things
5 that she can -- the -- the defense can bring
6 up at trial, and they can challenge the
7 veracity of it.

8 I, also, think at trial what we would
9 have him do is speak. We're not going to play
10 a clip before. We would actually have him
11 speak, and -- and she would identify that.
12 Which I think is an appropriate way of going
13 about doing this.

14 With regard to identification, the
15 State's contention is not it's standing alone.
16 The -- the eyes from the -- the lineup
17 constitute a -- a positive identification.
18 But it is the State's contention that, that
19 coupled with numerous other factors provides a
20 substantial basis for her to be able to
21 identify him in court. She was familiar with
22 him. She saw him walking around the
23 neighborhood. There had been a prior
24 altercation with him. She recognizes his
25 voice. She's able to describe his mannerisms,

1 and -- and was able to identify changes in his
2 physical appearance that have taken place
3 since this took place.

4 I would also point out that -- that prior
5 to this photo lineup, she did identify him as
6 living in that house. It was -- it's the male
7 that lives in that house. So I don't think
8 that any -- even if this Court were to find
9 that -- that the lineup was tainted, which
10 I -- I don't think that it -- I don't think
11 you can simultaneously take the position the
12 lineup was tainted, she doesn't pick him out,
13 and, also, take the position that this taints
14 further identification. I -- I don't know how
15 those -- those are significantly inconsistent
16 ideas.

17 But -- but based on that, I think she
18 should be allowed to identify him in court.
19 Should the Court not allow identification, I
20 think she should absolutely be allowed to
21 identify him as the man that lives at that
22 Raintree -- the two-story house on Raintree
23 Lane and had a prior altercation, which she
24 was aware of and saw. I -- that's -- that
25 happens immediately on the scene. But would

1 ask for her to be able to identify him in
2 court, Your Honor.

3 MR. MORIN: If I at trial, am going to attack
4 the credibility regarding gait or mannerisms
5 or what have you, I would agree with the
6 State. However, if the State's going to say
7 that, that -- present that as a positive
8 identification of my client, which it is not,
9 which it is in violation of the procedures set
10 down by the Supreme Court, that is a
11 violation. And if he wants to say, "There's
12 other things," then he has to rely on those
13 other things, because they have tainted that -
14 - that photo lineup with the conduct of the
15 officer; and they have tainted this audio
16 thing with their conduct this morning.

17 And that's what my -- that's what my
18 objection is. For her to stood up (as spoken)
19 there and say, "That's the face I know," which
20 she's never done it, except for their -- I
21 don't think we're splitting hairs. That's not
22 an identification. If for her to sit up there
23 and say, "I recognized his voice," when they
24 played the voice for him -- her this morning,
25 that's a violation. I submit that that's a

1 violation. That's basically a single-person
2 lineup, and for them to say, "Well, we didn't
3 tell her who it was," that's why she's here.
4 Common sense, that's why she's here. When
5 they said, "Listen, is this it?" or "Listen to
6 this," she didn't think they were going to
7 play Stevie Wonder. She thought they were
8 going play his voice, and that's improper.
9 THE COURT: I don't know what she was
10 thinking, because she wasn't asked that
11 question.

12 Will somebody hand me that exhibit,
13 please? All right. Mr. Morin, what I need to
14 know from you specifically, I -- I'm looking
15 at the lineup --

16 MR. MORIN: Yes, Your Honor.

17 THE COURT: -- which I know you've said you
18 have a copy of it. There's nothing about the
19 lineup itself, is there, that is unduly
20 suggestive?

21 MR. MORIN: No, sir.

22 THE COURT: Okay. Your contention as to
23 the -- the suggestiveness of the lineup is the
24 procedure employed by which Detective Parnell
25 stopped her in midsentence?

1 MR. MORIN: Correct.

2 THE COURT: And made the statement that, "Keep
3 in mind the photographs in the lineup could
4 be" --

5 MR. MORIN: Older.

6 THE COURT: -- "not current"?

7 MR. MORIN: Correct.

8 THE COURT: Or whatever he said.

9 MR. MORIN: That's -- that's -- yes. That's
10 the first part, Your Honor.

11 THE COURT: Okay. What's the second?

12 MR. MORIN: Well, just to be clear. And
13 the -- the witness said, "I was about to say,
14 I" -- she said, "I don't," and so did Officer
15 -- "I don't" was the first words before he cut
16 her off. Then he cut her off.

17 Then their own policy is that if she has
18 an identification, she would have signed it,
19 and she would have circled the thing, which
20 they did not do. And they are now saying --

21 THE COURT: That's not suggestiveness, right?

22 MR. MORIN: No. Now, they're going to come in
23 here and they're gonna say this is an
24 identification.

25 THE COURT: Well -- well, we're going to get

1 to that.

2 MR. MORIN: All right.

3 THE COURT: We're going to get to that in a
4 minute. I don't think that's what they're
5 saying. But --

6 MR. MORIN: Okay.

7 THE COURT: -- we're -- we're going to find
8 out in a minute.

9 MR. MORIN: Okay.

10 THE COURT: All right. So the suggestiveness
11 that you're referring to is when he stopped
12 her in midsentence and made the comment that
13 the photographs could be --

14 MR. MORIN: -- older.

15 THE COURT: -- older?

16 MR. MORIN: Yes, sir.

17 THE COURT: Of course, I don't -- you know,
18 you're -- you're speculating in your own mind
19 as to what she was gonna say. I don't know
20 what she was gonna say, and she wasn't asked
21 what she was gonna say, was she?

22 MR. MORIN: I -- I asked Officer Parnell, and
23 he said --

24 THE COURT: No. No. No. No. I'm talking
25 about the witness.

1 MR. MORIN: -- and --

2 THE COURT: Was the witness asked what --

3 MR. MORIN: I can't remember if I asked her or
4 not, Your Honor.

5 THE COURT: Okay. Well, I thought I
6 remembered you -- does anybody think that
7 question was asked?

8 MR. MORIN: That statement, no.

9 MR. KENDALL: I don't recall, sir?

10 THE COURT: It's kind of obvious. Anyway, I
11 don't think it was ever -- if we -- if we need
12 to review it, we can, but I -- I don't think
13 that question was asked. But I don't think it
14 matters either by the way. Because even if
15 she was going to say, "I don't" -- well, I
16 don't know what she was going to say. I mean,
17 it's -- but if it was that, "I don't see the
18 person," we're speculating about that. The
19 fact that somebody says, "Well, the thing to
20 keep in mind the pictures might be older or --
21 or wouldn't be current photo," I don't -- you
22 know, that might be giving some guidance, but
23 I don't see how that's suggesting, "Well, wait
24 a minute now, the person's in there, so you
25 keep looking and keep thinking about it."

1 I -- I understand that's what your belief
2 is, but I don't see that as being that
3 suggestive. In fact, I don't see it as being
4 suggestive at all. In fact, it could -- it
5 could have been said before she said anything.
6 And if it had been, it's just giving guidance.
7 In fact, it could have been -- that
8 instruction could be given before you even
9 pull out the -- the six pack. You could say,
10 "Now, keep in mind these are photographs, but,
11 you know, we don't know when they're taken.
12 They could be older than -- than the current
13 today." And that's just guidance about the
14 photos just to give the person an
15 understanding that they -- they need to be
16 careful and look closely in order to make a --
17 any identification, or -- or for that matter,
18 if they can't make one.

19 So I don't see that as being suggestive,
20 but even if it was, it doesn't -- there is no
21 suggestion that the -- in -- in this case,
22 there's no evidence or testimony to indicate
23 that there was -- that there's any suggestion
24 that the person the police suspect of having
25 been the shooter is in this lineup. And she

1 was simply asked to -- to keep -- basically,
2 to -- to -- you know, the scenario, to make
3 sure to keep looking at it.

4 Anyway, a -- a photograph was identified
5 -- or was selected, and that selection was
6 based upon the fact that the witness
7 indicated, "The eyes looked similar." Okay.
8 There's no question that the witness did not
9 pick out Number 3 as being the shooter. The
10 witness only said, "The eyes look similar."

11 Now, Mr. Kendall, as Mr. Morin said
12 earlier, he -- he believes that you're
13 intending for this lineup to be admitted as
14 evidence, that she picked out the defendant;
15 is that -- you're not doing that are you?
16 MR. KENDALL: No. We're not gonna -- I'm not
17 going to put the lineup in. I think she would
18 say, "His eyes look similar," as she said on
19 the -- on the -- during her testimony. The
20 lineup -- we wouldn't put the lineup in there.
21 THE COURT: Well, my understanding that, that
22 testimony would only come in, when and if, her
23 identification of the defendant is attacked?
24 MR. KENDALL: Yes, sir.
25 THE COURT: In other words, her prior

1 statement consistent with testimony today, you
2 -- you'd admit it for that purpose, but only
3 if her identification has been attacked by the
4 defendant? So you don't intend to offer this
5 as your case in chief?

6 MR. KENDALL: No, sir.

7 THE COURT: Okay.

8 MR. KENDALL: Not the -- not the paper itself,
9 no, sir.

10 THE COURT: Well, what about the -- what about
11 -- well, anything?

12 MR. KENDALL: Well, I mean, if she -- she can
13 say --

14 THE COURT: Are you trying to -- you want to
15 introduce a prior consistent statement to --
16 to corroborate her testimony?

17 MR. KENDALL: No, sir. No, sir. No.

18 THE COURT: Well, that's what you'd be doing.

19 MR. KENDALL: No. We -- we don't want to do
20 that. I mean, if she says, "That's him," and
21 that's -- that's what we would -- that's what
22 we would go with.

23 THE COURT: All right. And if -- and if
24 her -- if the credibility is attacked then --
25 then perhaps you'd be able to introduce

1 evidence that the witness previously
2 identified a photograph that she claimed had
3 the same eyes -- or similar eyes as to -- as
4 to the defendant. Of course, the jury will be
5 able to make that determination.

6 At any event, based upon the testimony
7 here, there -- there's nothing that I have
8 seen or heard that would lead me to believe
9 that the witness is not sincere in her belief
10 that the defendant was the person who
11 committed the crime. And, therefore, I can't
12 find that she's totally not credible or that
13 she's intentionally provided false
14 information. And so I couldn't exclude her
15 testimony based upon that reason.

16 So then the only other reason would be
17 that her identification is based upon conduct
18 not permitted by the Constitution that was
19 employed by the State in getting her to make
20 an identification. And, as we've discussed,
21 that's not happening here. The -- the lineup
22 procedure I do -- I do not find was
23 suggestive, but even if you were to find that
24 it was, she hasn't identified the defendant
25 from the lineup. She only said that those

1 eyes look familiar. So because there's no
2 suggestive or impermissible suggestivity --
3 suggestiveness -- excuse me -- on the part of
4 the police, that, that constitutional argument
5 is not appropriate in this case; it is not
6 supported by the facts.

7 Whether or not her identification of the
8 defendant is based upon sufficient experience,
9 knowledge, observation, familiarity, whatever,
10 with the defendant is ordinarily -- and I
11 think in this case, is -- is subject to tests
12 by examination. The jury may not believe that
13 she had an opportunity or had the ability
14 or -- or is credible, in her identification of
15 the defendant, but, that's for the jury to
16 determine. And then that's tested through
17 examination of the witness. And -- but in
18 this case, obviously, you can have
19 identification aside from just picking a
20 photograph out of a lineup.

21 You -- you can have an identification
22 based upon being familiar with the person in
23 the community; having seen that person before,
24 having some interaction with that person, and
25 be familiar with that person. And identifying

1 that person through other means by simply
2 picking a photograph out of a lineup, so --
3 and that's what's been done here. This
4 witness has testified that she was familiar
5 with the defendant. She's seen him before.
6 She believed the person doing the shooting was
7 the same person she seen before and was
8 familiar with. And it may be correct and it
9 may be inaccurate, but that's the purpose of
10 examination and that's why we have a jury to
11 make that determination. They'll have to
12 determine whether or not the witness is
13 credible and whether or not the information
14 provided is reliant. And -- but I think it is
15 a question for the jury.

16 And, therefore, your motion to suppress
17 the identification is denied.

18 MR. MORIN: Your Honor, you have ruled that
19 the ID -- if I attack her credibility, then
20 they'd be able to talk about this "eyes" on
21 this lineup. With regard to them doing the
22 voice identification, is that going to be
23 permissible as well?

24 THE COURT: Well, do y'all want to address the
25 voice identification? I know Mr. Kendall said

1 earlier that's a lot different than a photo
2 lineup or whatever, being that -- admitted.
3 So do y'all want to address that particular
4 issue on how that was done, or whether or not
5 it should be admitted or do you have case law
6 you want me to look at on that issue? You may
7 not have it since you didn't know it till this
8 morning, but . . .

9 MR. MORIN: That's all, I -- I -- that would
10 have been my response. I don't -- I don't
11 have any case law, it happening this morning.

12 THE COURT: Well, I mean, do you think there's
13 some that exists out there? I mean, I'll give
14 you time to look at it. I've got to the
15 qualify the jury, so --

16 MR. MORIN: Yes, sir.

17 THE COURT: -- I mean, I can provide you an
18 opportunity to --

19 MR. MORIN: Thank you, Your Honor. I'd -- I'd
20 -- if I --

21 THE COURT: You -- you likely won't be able to
22 select a jury till after lunch, anyway.

23 MR. MORIN: Okay.

24 THE COURT: So we just --

25 MR. MORIN: Yes, sir.

1 MR. KENDALL: (To Mr. Morin) Do you know if
2 you have any other?

3 MR. MORIN: Huh?

4 MR. KENDALL: Do you guys have any other
5 motions or anything?

6 MR. MORIN: No. I don't have any other
7 motions. There is some -- there was a DNA
8 that they're --

9 MR. KENDALL: It is --

10 MR. MORIN: -- not going to use. I would have
11 had a motion, but they're saying they're not.

12 MR. KENDALL: We -- we are not going to use
13 it. That -- there -- there's DNA that was
14 taken as a result of Schmerber hearing, Your
15 Honor. Her testimony with regards to the
16 photo lineup, how the Schmerber was written,
17 more information needed to be given in by
18 them. So we're just -- we're not going to use
19 it. I think that's a fair way of dealing with
20 that. I don't think it's --

21 THE COURT: Well, if it's not an issue,
22 there's no point in addressing it?

23 MR. KENDALL: Yes, sir.

24 THE COURT: All right.

25 MR. KENDALL: We, also, had a -- a standard

1 third-party guilt motion for the defense not
2 to bring up evidence of third-party guilt.
3 Just to -- me and Mister -- Mr. Morin talked
4 about this. I don't think he's in
5 disagreement with this. When I say "third-
6 party guilt," I mean the naming of another
7 individual or selection of an individual who
8 committed the crime.

9 There will be testimony --

10 THE COURT: Well, that is what third-party
11 means.

12 MR. KENDALL: Yes, sir. There -- there is
13 going to be testimony, I -- I'm quite certain
14 based on the --

15 MR. MORIN: I agree. The third-party guilt, I
16 don't have any issue anyway.

17 THE COURT: All right.

18 MR. MORIN: Thank you, Your Honor.

19 THE COURT: All right. Any other issues?

20 MR. KENDALL: The other -- I guess, the other
21 thing we had to put on the record was with
22 regards to Jeff Cole. Officer Cole was
23 originally with the sheriff's office. He was
24 terminated, went through a diversionary
25 program for domestic violence. We could get

1 o'clock this evening. And when you call that
2 number, you'll receive a recorded message.
3 That message is going to tell you one of two
4 things: It will either say come back or
5 report or give a day or give a time, or
6 likely, it will ask you to call back at a
7 particular time or a particular day to receive
8 further reporting information. So just be
9 sure that you call that number this evening
10 after six o'clock, and follow the instructions
11 provided by way of the recorded message, okay?
12 Have a good afternoon. Thank you for your
13 participation.

14 (WHEREUPON, the main jury pool leaves the
15 courtroom at 3:28 p.m.)

16 (Off the record from 3:29 p.m. until
17 3:31 p.m.)

18 THE COURT: (To Mr. Kendall) Do we have any
19 matters to address before the jury is sworn?

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

21 MR. MORIN: Are we straight on this issue that
22 we discussed?

23 MR. KENDALL: Yes. Back in chambers, we
24 discussed her identifying his voice in court
25 from a recording. We are not going to do

1 that. My understanding is what she'll be
2 permitted to say -- the person they had the --
3 I just to make sure I get my terms right, the
4 argument with; is that what -- or -- or
5 altercation --

6 MR. MORIN: Yeah. Argument.

7 MR. KENDALL: -- with down the street is the
8 same person -- it's the same person who did
9 the shooting, is my understanding. Recognized
10 their voice as those two people are the same.
11 But he's not going to make an in-court
12 identification or reference any sort of
13 recordings or anything like that. I do --
14 when she comes up, I need to make sure she
15 understands that before she testifies, so if I
16 can have a minute prior to her testimony just
17 to make she is completely understanding as she
18 is not to --

19 THE COURT: All right. Well, why don't we
20 take that time right now. Let's take ten
21 minutes, and y'all be sure that the witness is
22 clear on what the limitation is.

23 MR. KENDALL: Yes, sir.

24 THE COURT: We'll be at ease for ten minutes.

25 (Off the record from 3:32 p.m. until

1 THE COURT: Okay.

2 MR. KENDALL: -- of the videos. We're --
3 we're kind of working on that now to -- to --

4 THE COURT: Well, y'all will have that
5 resolved this afternoon, won't you?

6 MR. MORIN: Yes, sir.

7 THE COURT: Okay. And these are the videos of
8 what?

9 MR. KENDALL: The defendant's statement to law
10 enforcement, as well as I've got two -- I
11 don't if I'll use them both -- but of the
12 chase and the detention.

13 THE COURT: Okay.

14 MR. KENDALL: And before we put his statement
15 in -- and I don't want to speak for Mr. Morin,
16 but I -- I think that's something that is not
17 being objected to. For strategic reasons,
18 there's things that both parties might like in
19 there, so I did want to -- so -- but we'll
20 probably just need to address that at the
21 appropriate time if they're not going to raise
22 a --

23 MR. MORIN: I think the State's concern about
24 my lack of a "Jackson v. Denno" here and it's
25 a conversation that I've had with my client

1 and we agree that we're not requesting one.

2 THE COURT: Well, is there any question about
3 the --

4 MR. MORIN: I do not believe --

5 THE COURT: -- voluntariness with the State?

6 MR. MORIN: Not only do I not believe there
7 is, but that leads me to one other issues I
8 should probably bring to the Court. Right
9 before I took over the case in 2020, he had a
10 mental -- he had a competency exam, and he was
11 found competent then. We have been meeting
12 with him weekly, for the last almost three
13 months, and discussed all aspects of the case.
14 We have no concern about that whatsoever.

15 THE COURT: Do you have a copy of the --

16 MR. MORIN: I do.

17 THE COURT: -- the evaluation?

18 MR. MORIN: I do.

19 THE COURT: Has it been filed?

20 MR. MORIN: I don't know if it's be filed or
21 not.

22 THE COURT: (To Mr. Kendall) Do you have it,
23 Mister --

24 MR. KENDALL: Yes, sir.

25 THE COURT: Who -- who got the original?

1 MR. MORIN: I have the six-page -- a copy of
2 it. I don't --

3 THE COURT: That's not the original?

4 MR. MORIN: It -- this does not appear to
5 be -- it doesn't look like the original.

6 MR. KENDALL: Well, I don't think I got the
7 original. I think that I got the one --

8 MR. MORIN: This is the one that I have from
9 the file as it existed when I got it.

10 MR. KENDALL: I don't think -- I can double-
11 check, but I don't think I received an
12 original, either. I think I got an email that
13 had --

14 MR. MORIN: It's usually how we get them,
15 though, is through email.

16 MS. LESKANIC: Yeah.

17 THE COURT: Well, does the clerk have one?

18 We've got a -- is there an exhibit
19 sticker on there?

20 MR. KENDALL: No, sir. It just says -- has
21 not been scanned in, and it has not been sent
22 as supplemental discovery.

23 CLERK OF COURT: It was never filed with the
24 court, Your Honor.

25 THE COURT: All right. Let me ask y'all to --

1 we need a copy and I need one.

2 MR. KENDALL: Do you want to scan this?

3 MR. MORIN: Yeah.

4 MR. KENDALL: I'd like to see --

5 MR. MORIN: Mine is six pages long.

6 MR. KENDALL: Oh, so just a copy of it.

7 MR. MORIN: Yeah. That's -- I don't know.

8 Yeah.

9 MR. KENDALL: I think that's fine.

10 MR. MORIN: I'm sorry. I didn't have the
11 original, but that was right when I was taking
12 over and trying to get stuff together.

13 THE COURT: While she's making that copy, let
14 me ask: You have a video of the interview
15 with the defendant by law enforcement? You
16 have an in-car video?

17 MR. KENDALL: It ISs a body camera video of
18 the chase, Your Honor. It's a foot chase,
19 though.

20 THE COURT: Oh, foot chase, okay.

21 MR. KENDALL: Yes, Your Honor.

22 THE COURT: So you have -- you have a -- a
23 video of the statement provided by the
24 defendant after his arrest?

25 MR. KENDALL: Yes, sir.

1 THE COURT: And you have a body camera video
2 leading up to the arrest, or --

3 MR. KENDALL: Yes, sir. Up till the --

4 THE COURT: -- or an --

5 MR. KENDALL: -- arrest.

6 THE COURT: -- attempted arrest?

7 MR. KENDALL: The -- they -- they arrested him
8 at that time, or took him -- they referred to
9 it as "custodial interrogation" or
10 "detention", but it's -- it's, basically, an
11 arrest, I think that would be.

12 MR. MORIN: It's a foot chase that lasts
13 approximately 90 seconds. Now, after how long
14 after he was in cuffs and standing there, how
15 long he's going to go beyond it, but it's only
16 a few minutes, I would think.

17 MR. KENDALL: I think it's about seven. I --
18 I have - --

19 MR. MORIN: Seven.

20 MR. KENDALL: -- him walking down the -- the
21 street.

22 MR. MORIN: Yeah.

23 THE COURT: Well, the body camera video just
24 shows him being taken into custody?

25 MR. KENDALL: Yes, sir.

1 THE COURT: And then there's another video
2 showing an interview with him by law
3 enforcement?

4 MR. MORIN: Correct.

5 THE COURT: Okay.

6 MR. KENDALL: I think the interview with him
7 is going to be around 47 minutes, about that.

8 MR. MORIN: Something like that, yeah.

9 THE COURT: All right. Anything else we need
10 to address before we recess?

11 MR. KENDALL: Not from the State, Your Honor.

12 (WHEREUPON, a bench conference was held.)

13 THE COURT: All right. Court is in recess
14 until nine-thirty in the morning.

15 END OF DAY 1

16 START OF DAY 2

17 THE BAILIFF: All rise and come to order.
18 Please be seated.

19 THE COURT: All right. When we recessed
20 yesterday, I had been provided a copy of a
21 report regarding an evaluation of the
22 defendant by personnel at the Department of
23 Mental Health. Pursuant to court order, Mr.
24 Willis was committed (inaudible) to the
25 Department of Mental Health for competency

1 evaluation and a report has been generated,
2 and that report will be made part of the
3 record. Matthew E. Gaskins, MD, was one of
4 the examiners, and according to the report,
5 which is about five pages, the defendant was
6 found to be competent to stand trial.

7 Is there any other information or any
8 other evidence that either side wishes to
9 present on the issue?

10 MR. MORIN: Your Honor, just for the
11 record, I think I first met with Mr. Willis
12 within the first month of my becoming a
13 Circuit Public Defender, which would have been
14 July of 2020, or August -- early August; at
15 that time he was in jail. He's -- I met with
16 him numerous times, more than 20, talking
17 about all the aspects of this case, and at no
18 time was I concerned about his competency.
19 He's always been able to follow what I'm
20 saying and ask questions that shows he was
21 following what we were talking about, so
22 that's what I can add to that.

23 THE COURT: All right. So you -- you concur
24 the results of the evaluation, and you see no
25 reason to question its validity?

1 MR. MORIN: No, sir.

2 THE COURT: Okay. Mr. Kendall, anything you
3 want to add?

4 MR. KENDALL: No, sir, Your Honor.

5 THE COURT: All right. The report will be
6 made a part of -- a part of the record and
7 based upon the report I find that the
8 defendant is competent to stand trial.

9 (WHEREUPON, Court's Exhibit No. 1 was
10 marked into evidence.)

11 THE COURT: Could I see the lawyers for a few
12 minutes?

13 (WHEREUPON, a bench conference was held.)

14 THE COURT: All right. Any matters to address
15 before the jury is called in?

16 MR. KENDALL: No, sir, Your Honor.

17 MR. MORIN: No, sir.

18 THE COURT: All right. Bring the jury in, and
19 ask Ms. Rice to take the foreperson's seat.

20 (WHEREUPON, the jury came into open court
21 at 9:41 a.m.)

22 THE COURT: Good morning, ladies and
23 gentlemen. We are now ready to begin with the
24 trial of the case for which each of you have
25 been selected.

1 deliberations in the case. That is the
2 process that has been designed over the last
3 240-some-odd years to ensure that you can
4 arrive at a fair and impartial decision in any
5 case that you're called upon to participate
6 in.

7 So I do want to thank you in advance for
8 your participation, as well as for your
9 careful attention. I will ask that you please
10 give the lawyers your attention now as they
11 give you their opening statements.

12 OPENING STATEMENTS

13 BY MR. KENDALL:

14 MR. KENDALL: Good morning, ladies and
15 gentlemen. My name is Matt Kendall, I
16 represent the State of South Carolina.

17 Ladies and gentlemen, we are here this
18 morning, because on May 3rd, 2019, the
19 defendant, Diante' Willis, murdered Jerry Lee
20 Scalf, Jr., using a firearm.

21 May 3rd should have been a fun night.
22 Harley Scalf, Lee's twin, was in the backyard
23 of her family home putting up a pool. Lee
24 stuck his head out the window and told her he
25 was headed home and walked to where his car

1 was parked out front. A few moments later,
2 Harley heard what sounded like an argument
3 coming from in front of the house. She, along
4 with a few others, ran around the house and
5 observed her brother arguing with a tall,
6 slender, young, African American male.

7 The man was accusing her brother of
8 making false allegations against him. Lee
9 asked him to leave multiple times, and when
10 finally, the man pushed him, Lee pushed back.
11 Harley heard Lee yell that, "He had a gun,"
12 and then saw the man shoot her brother
13 multiple times. He then turned and fled down
14 Raintree Lane.

15 Harley was familiar with this man, as
16 he'd been pacing by the house multiple times a
17 day. And she knew him to live at the two-
18 story house on Raintree Lane, right around the
19 corner.

20 Law enforcement arrived on scene, shortly
21 thereafter, as did the paramedics, but sadly
22 Mr. Scalf had passed, killed by bullets fired
23 by the defendant. Law enforcement briefly
24 checked the defendant's house to find he was
25 not there, while securing the crime scene.

1 And then they went and sought to control and
2 cordon off the area.

3 Meanwhile, at the other end of Raintree
4 Lane, John Earls was making dinner. He heard
5 a suspicious sound that he thought could be
6 gunfire. He looked outside and didn't see
7 anything, went back to the microwave, and then
8 saw a young -- or a black male wearing a
9 football jersey at the cul-de-sac at the end
10 of Raintree. He hollered to see if the man
11 was okay, at which time, the man took off
12 running up Maplewood towards Filter Plant
13 Road.

14 A little while later, he heard what
15 sounded like more what -- gunshots. He walked
16 downstairs to the front porch and saw a man
17 with the same build and complexion running
18 towards Raintree Lane from Maplewood. This
19 time, when he saw him, he was wearing only
20 pants; the football jersey was gone.

21 Once the scene was secured, Officers Jeff
22 Cole and Benji Peterson walked back to the
23 defendant's house at [REDACTED] Raintree Lane. They
24 checked around the back of the house, where
25 the defendant sometimes hung out and a car in

1 the driveway and then proceeded to just knock
2 on the front door. Getting no response, they
3 waited, hoping someone would come to the door.
4 It was then, standing in the dark, they heard
5 something. They flashed their lights and
6 discovered the defendant, Diante' Willis,
7 coming back to the house; no shirt, no shoes.
8 They ordered him to stop and asked to see his
9 hands, but he ran around the house and back
10 into the street. It was there they were able
11 to detain him.

12 They took him into custody at that time
13 and called other officers for assistance.
14 Officer Mullinax came out to the scene, and
15 performed a gunshot residue test, a test which
16 later came back positive for gunshot residue
17 after being tested at the South Carolina Law
18 Enforcement Division. Law enforcement also
19 executed a search warrant on the defendant's
20 home and car where they found his ID and some
21 personal effects. This included a black
22 earbud case. The same type of earbud that had
23 been found at the crime scene a little while
24 earlier.

25 Now, at the end of this trial, ladies and

1 gentlemen, I'm most likely going to ask you to
2 return a verdict of guilty, but, for now, I'm
3 only to ask of you three things. First, you
4 listen carefully to the directions given to
5 you by the judge, that will ensure a fair
6 trial. Second, please listen to all the
7 evidence that's presented here in the next few
8 days. And, finally, ladies and gentlemen,
9 don't be afraid to use common sense; you'll
10 find it will go a long way. Thank you.

11 THE COURT: Mr. Morin?

12 OPENING STATEMENT

13 BY MR. MORIN:

14 MR. MORIN: Ladies and gentlemen, my name is
15 Michael Morin. I grew up in Boling Springs,
16 I've been in South Carolina for over 45 years.
17 And the reason I bring that up is because the
18 people in Ohio, where my wife's from, like to
19 listen to my southern accent. but you native
20 South Carolinians are going to hear, from time
21 to time, that Yankee crack in my voice, but
22 I'm from here.

23 And this case is about a whisper game on
24 steroids. Now, what I mean by that is, when
25 you're in school you might have had some -- in

1 my school we called a "telephone game," where
2 they lineup a bunch people and the teacher
3 says something at one end and you go all the
4 way to the end and what comes out the other
5 side is not where it started, because people
6 are changing things as they go.

7 I'll agree with the Government's position
8 that Mr. Scalf was shot and killed on May 3rd
9 of 2019. I completely disagree that it was
10 Mr. Willis. And I, too, would like you to
11 listen to the evidence that goes on in this
12 case regarding the identity of the shooter in
13 this case.

14 There are things that are going to come
15 up in this case, and as you may have heard
16 before, there's a difference between believing
17 and knowing. There's a lot of believing going
18 on in here, but not much knowing. And you're
19 also going to hear evidence from the State
20 where sometimes the evidence didn't quite fit.
21 Like a round peg in a square hole, they
22 smashed it down in there. And other times
23 they couldn't get it smashed down in there, so
24 they just ignored it.

25 Now, I'm not going to go through every

1 detail, because the State has the burden of
2 proof. When I come back up at the end, I'm
3 going to point to those places where you will
4 have seen they have smashed it down or
5 completely ignored certain issues, certain
6 evidence. And at the end of the day, the
7 State's not going to be able to carry the
8 burden, and I'm going to say they haven't
9 carried the burden and these are the facts
10 that you heard that lead to that conclusion.

11 So I agree with Mr. Kendall in the sense
12 that I would also ask that you listen to the
13 witnesses. There are some family members that
14 are witnesses in this case and it's an
15 emotional case and I certainly understand
16 that. But the issue in this case is, can the
17 State prove beyond a reasonable doubt the
18 identity of the shooter in this case; that's
19 what it comes down to. There's going to be
20 other evidence, tangential, what have you.
21 But can they prove beyond a reasonable doubt
22 the identity of the shooter? Thank you.

23 THE COURT: Mr. Kendall?

24 MR. KENDALL: The State would call Harley
25 Scalf, Your Honor.

1 (WHEREUPON, the witness was sworn.)

2 CLERK OF COURT: (To the witness) And we're
3 going to ask you to remove your mask while you
4 testify, okay?

5 THE WITNESS: Okay.

6 THE COURT: (To the witness) Make sure you
7 speak up and articulate.

8 DIRECT EXAMINATION

9 BY MR. KENDALL:

10 Q Could you please state your name for the record,
11 please?

12 A Harley Scalf.

13 Q And, Ms. Scalf, where are you from?

14 A Gaffney.

15 Q And where do you currently reside?

16 A [REDACTED] Coach Hill Drive.

17 Q And how long have you lived at [REDACTED] Coach Hill
18 Drive?

19 A All my life.

20 Q And what county and state is that located in?

21 A Cherokee County in South Carolina.

22 Q Okay. And is that where your brother was shot on
23 May 3rd, 2019?

24 A Yes. It is.

25 Q All right. And what is your relationship -- or

1 what was your relationship to Lee Scalf -- Jerry
2 Lee Scalf, Jr.?

3 A He was my twin brother.

4 Q Okay. And what did you all call him?

5 A "Dee-boo."

6 Q Dee-boo? All right. Did he also go by "Lee" --

7 A Uh-huh.

8 Q -- a fair amount? Okay. I'm going to show you
9 what is marked State's Exhibit 2. All right. Do
10 you recognize this?

11 A Yes. I do.

12 Q Okay. And what is this?

13 A It's a map.

14 Q All right. And what is it a map of?

15 A The houses in the area.

16 Q Okay. All right. Is it a fair and accurate
17 representation of -- of the neighborhood?

18 A Yes. It is.

19 Q All right. And what streets does this include?

20 A Coach Hill and Raintree and, I think, Maplewood.

21 Q Okay.

22 MR. KENDALL: All right. We would offer
23 State's Exhibit 2 into evidence, Your Honor.

24 MR. MORIN: (To the Court) No objection.

25 THE COURT: All right. For the record

1 clarity, I believe that that's actually an
2 arial photo of the area --

3 MR. KENDALL: Yes, sir. Yes, sir. I'm sorry.

4 THE COURT: -- as opposed to a map?

5 MR. KENDALL: Yes, sir. All right. We can
6 come back to that.

7 DIRECT EXAMINATION CONTINUES

8 BY MR. KENDALL:

9 Q Are you able to see that okay?

10 A (No response.)

11 Q Okay. Are you able to see -- you know what --

12 MR. KENDALL: (To the Court) We request
13 permission for the witness to step down if she
14 needs to take a look at it.

15 A I can see it.

16 Q Okay.

17 THE COURT: (To Mr. Kendall) Do you -- do you
18 have an extra copy of that exhibit that she
19 could hold?

20 MR. KENDALL: I -- I don't, Your Honor.

21 THE COURT: Well, you might want to think
22 about that.

23 MR. KENDALL: Yes, sir.

24 Q Could you show us on -- on the map where your house
25 was, using this laser pointer?

1 THE COURT: Ms. Scalf, let me say this: Ms.
2 Scalf, while you're away from the witness
3 stand, don't provide any testimony. Just
4 respond by showing what he's asking you to
5 show. But if you're gonna speak, come back to
6 the microphone, okay?

7 A (Indicates.)

8 Q Right there? Okay. All right. All right. And
9 immediately prior -- do you recall what you were
10 doing, around nine o'clock on May 3rd, 2019?

11 A Yes.

12 Q And what were you doing?

13 A We were putting up a swimming pool.

14 Q Okay. And where you putting up the swimming pool?

15 A In the back of our house.

16 Q Okay. And -- and was your brother there?

17 A Can you say that again?

18 Q Was your brother there?

19 A Yes.

20 Q All right. And was he out back as well?

21 A He was actually inside.

22 Q Okay. All right. And was he living there at the
23 time?

24 A No, sir.

25 Q Was he frequently over there?

- 1 A Yes, sir.
- 2 Q Okay. And did he stay over there that night -- or
- 3 was he intending to stay over there that night?
- 4 A No. He was just coming to visit.
- 5 Q Okay. And how much longer was he gonna stay right
- 6 before all this happened?
- 7 A He had mentioned he was gonna go home and then come
- 8 straight back.
- 9 Q Okay. All right. How are you aware that he was
- 10 going to go home?
- 11 A He stuck his head out the window. He was like,
- 12 "I'm gonna go home; I'll be back later."
- 13 Q Okay. All right. What happened after that?
- 14 A He stuck his head out the window and said, "I love
- 15 you; I'll be back later."
- 16 Q Okay.
- 17 A And then --
- 18 Q What was the next thing you heard -- or next
- 19 significant thing you heard?
- 20 A I heard arguing around front.
- 21 Q Okay. And what did you do?
- 22 A I immediately stopped what I was doing, and I ran
- 23 around the front.
- 24 Q Okay. And what was going on?
- 25 A My brother was arguing with a tall man.

1 Q Okay. And could you tell what his approximate age
2 was?

3 A He was young.

4 Q Okay. And was -- can you describe his build?

5 A He was tall and kind of skinny.

6 Q Okay. And what about his race or ethnicity?

7 A He was an African American.

8 Q African American?

9 THE COURT REPORTER: (To the witness) Can you
10 repeat that, please?

11 THE WITNESS: African American.

12 Q Okay. How far away for -- from him were you
13 standing at this time?

14 A About six to ten feet away.

15 Q Okay. And is that an exact answer, or is that --

16 A No.

17 Q -- sort of --

18 A It's not --

19 Q -- an approximation?

20 A -- an exact.

21 Q Okay. So not right up on him; is that fair to say?

22 A No, sir. Not at the time.

23 Q Okay. And what did this individual do?

24 A He was yelling at my brother.

25 Q Do you know what he was yelling about?

- 1 A He kept saying, "You're the one that wants to make
2 false accusations."
- 3 Q Okay. So he -- you referenced "false accusation";
4 is that correct?
- 5 A That's correct.
- 6 Q All right. And how did your brother respond?
- 7 A He kept telling him he had the wrong person, to go
8 home.
- 9 Q Okay. And do you know about how many times he said
10 to do that?
- 11 A I don't recall how many times.
- 12 Q Okay. All right. And what happened after that?
- 13 A They started arguing and he kept pushing my
14 brother.
- 15 Q Okay. What did your brother do?
- 16 A My brother kept telling him to go home. He had the
17 wrong people. When my brother finally pushed him
18 back, that's when -- that's when he turned around
19 and shot him.
- 20 Q Okay. Did he shoot him just once?
- 21 A No, sir.
- 22 Q All right. Did your brother say anything while it
23 was happening?
- 24 A He yelled at me and said, "He's got a gun. Run."
- 25 Q Okay. What did you do after that?

1 A Could you repeat that?

2 Q What did you do after -- after the shooting?

3 A I took off and ran around his car. By the time I
4 got to his car and went to duck down, that's when I
5 heard the first gunshot.

6 Q Okay. And what kind of car did your -- your
7 brother have?

8 A It was a red Camaro.

9 Q Okay. The person who did the shooting -- or after
10 that, did you see where the defendant went --
11 excuse me. I'm sorry. Did you see where the
12 shooter went?

13 A He took off through the neighbor's yard that was in
14 front of us and ran towards Raintree.

15 Q Okay.

16 A His home.

17 Q His home? Okay. So let me ask you this: Were you
18 familiar with the individual who was -- the
19 individual who did this, did this resemble anybody
20 in the neighborhood?

21 A Yes, sir.

22 Q Okay. And who did that resemble -- or -- or who
23 did -- who did that resemble?

24 MR. MORIN: Objection: no foundation.

25 MR. KENDALL: Okay.

1 Q How did you -- were you familiar with the
2 individual who did the shooting?
3 A I've seen him around the neighborhood.
4 Q Okay.
5 MR. MORIN: Objection: no foundation.
6 THE COURT: Overruled.
7 Q And how would you typically see him around the
8 neighborhood?
9 A He was always in -- in dark colored clothes --
10 Q Uh-huh.
11 A -- and would always have something like covering
12 his face, but from here down. (Indicates.)
13 Q Okay. And what was he doing in the neighborhood?
14 A He would go to the house; he would walk like he was
15 going to the house on Raintree.
16 Q All right. Which house on Raintree?
17 A The two-story white house.
18 Q Okay.
19 THE COURT: (To the witness) Excuse me. Can
20 you repeat that?
21 THE WITNESS: The two-story white house.
22 THE COURT: Thank you.
23 Q All right. Do you remember how many houses down it
24 was on Raintree?
25 A Three.

1 Q Okay. And who lived there?

2 A It was the gunshot killer.

3 Q Okay. How often would you see him -- him walking

4 around?

5 A About six times a day.

6 Q Okay. For like the entire time or --

7 A It was --

8 Q -- more --

9 A -- about a month prior.

10 Q Okay. And what would he be doing?

11 A He'd just walk back and forth.

12 Q Okay. All right. And had you all had any prior

13 arguments with the person at [REDACTED] Raintree Lane?

14 A Yes, sir.

15 Q I'm sorry. Not [REDACTED] -- strike that.

16 The prior arguments with the individual at the

17 two-story white house on Raintree Lane?

18 A Yes, sir.

19 Q And did you have an opportunity to review those --

20 to -- to hear those arguments?

21 A I did.

22 Q All right. And who was -- who was -- well, during

23 that time, how much did you get the chance to - to

24 see him and to hear the person involved in the

25 arguments?

1 A I could hear him really well, but I -- I couldn't
2 see him.

3 Q Okay. And was the argument with you?

4 A No, sir.

5 Q Okay. Was it -- okay. And did you recognize
6 anything about the person that -- where did that
7 argument take place?

8 A This argument was actually in front of his home on
9 Raintree.

10 Q Okay. And that's the two-story white house, the
11 third one down?

12 A That's correct.

13 Q All right. Could you -- I'll just ask you to go
14 ahead and show me with that pointer which -- which
15 house we're talking about?

16 A (Indicates.)

17 Q Okay. And I'm going to show you what is State's
18 Exhibit 24. Do you recognize this?

19 A Yes. I do.

20 Q All right. And what is that?

21 A That's the two-story white house.

22 Q Okay. Do you recognize it from the neighborhood?

23 A I do.

24 Q All right. And -- and what is significant about
25 that two-story white house?

1 A That's where he would stay.

2 Q All right.

3 THE COURT: Mr. Kendall, would you like --

4 MR. KENDALL: I'm sorry. All right. So, Your
5 Honor, we would offer State's Exhibit 24 into
6 evidence.

7 MR. MORIN: No objection.

8 THE COURT: Admitted.

9 (WHEREUPON, State's Exhibit No. 24 was
10 marked into evidence.)

11 Q And how far away are the two of y'all's houses?

12 A I could see it from my front porch.

13 Q Okay. And -- all right. You had the opportunity
14 to -- you said to -- to hear the individual's voice
15 during that argument. Did you ever hear that voice
16 again?

17 A I did.

18 Q All right. When did you hear that person's voice
19 again?

20 A The night my brother was shot.

21 Q Okay. And who was the person -- who's voice did
22 you hear -- not -- and was the person whose voice
23 you heard the shooter?

24 A That's correct.

25 Q Okay. All right. Let's talk for a second about

1 the individual you seen walking around that you
2 said was the shooter. Could you please describe
3 him? How -- how did he look?

4 A He was a tall, skinny African American; at the time
5 he did have hair.

6 Q When you say, "He did have hair" --

7 A It was like a -- like a -- a box cut kind of
8 haircut, I'd say.

9 Q Okay. Well, how were the sides compared to the
10 top?

11 A The sides were, like cut and it would like stand
12 up.

13 Q Okay. All right. And do you recall, you know, how
14 tall he was? Was he -- are we talking like six-
15 ten, are we talking --

16 A He was taller than me.

17 Q Okay. All right. And did he have any
18 distinguishing traits or mannerisms or anything
19 like that?

20 A Just the way he walked.

21 Q All right. And how -- how was that? What -- what
22 was the similarity you saw?

23 A Just, you know, dressed the same, you know, hand
24 was always in the front of his pants.

25 Q Okay. All right. Okay. And did he have any other

1 distinguishing physical characteristics that you
2 recognize?

3 A Just his eyes.

4 Q His eyes?

5 MR. KENDALL: Your Honor, at this time, the --
6 the State would ask the defendant to stand up
7 and remove his mask and -- and look towards
8 the -- the witness, please.

9 THE COURT REPORTER: (To the Witness) Ma'am,
10 can you speak up?

11 DEFENDANT WILLIS: (Complies.)

12 Q All right. Ms. Scalf can you take an opportunity
13 to look at the individual who's --

14 MR. KENDALL: If you could stand up again,
15 sir? I'm sorry.

16 DEFENDANT WILLIS: (Complies.)

17 Q And do you see the individual who shot your brother
18 in the courtroom?

19 A I do.

20 Q And who is that individual?

21 A It was the man over there. (Indicates.)

22 Q All right.

23 MR. KENDALL: All right. Your Honor, can we
24 let the record reflect that she identified the
25 defendant?

1 THE COURT: It shall.

2 Q Okay. Now, when the shooting was taking place,
3 where were you?

4 A In front of the home.

5 Q In front of the home? And do you recall how far
6 away you were from your brother?

7 A I was right there beside him.

8 Q Okay. And were you involved in the -- the back and
9 forth on May 3rd with -- with the shooter?

10 A I was not.

11 Q Okay. What were you doing?

12 A I was simply trying to get my brother back in the
13 house.

14 Q Okay. And did you have any interaction with the
15 shooter at all?

16 A The only interaction I had was when I first went
17 around front. I approached both of them, and my
18 exact words was, "I'm a female. I'm not gonna hurt
19 you. I'm just trying to get my brother."

20 Q Okay. All right. And do you recall what he was
21 wearing that night?

22 A It was long sleeves and long pants is all I recall.

23 Q Okay. All right. Was it -- was it light clothes?
24 dark clothes?

25 A It was dark clothes.

1 Q All right. Can you say for certain if you've ever
2 seen him wearing those exact clothes ever before?

3 A Not the exact clothes, no, I can't.

4 Q Okay. And how certain are you that the person who
5 shot your brother is the person you pointed out in
6 the courtroom?

7 A I'm a thousand percent sure.

8 Q A thousand?

9 THE COURT: Do you need her to repeat it?

10 THE COURT REPORTER: (To the witness) Can --
11 can you repeat that?

12 THE WITNESS: I'm a thousand percent sure.

13 THE COURT REPORTER: Thank you.

14 Q All right. All right. I'm sorry. Leskanic just
15 informed me that some of the jurors might have a
16 hard time seeing the laser pointer. Could you
17 describe the location of your house as it relates
18 to Raintree Lane?

19 A Let's see. My house is the second one like from
20 Raintree. There's a house directly in front of
21 Raintree, and then mine is right there beside it.

22 Q Okay. Okay. So it's -- it's not directly across
23 from Raintree, it's right next to that (indicates)?

24 A Yes, sir.

25 Q Okay. If you -- if you wouldn't mind stepping down

1 again, if you could sort of step back this way, and
2 we'll see if we can this laser pointer working a
3 little bit better from --

4 A (Complies.)

5 Q -- to do that. If you could just stand over here
6 and just -- just point?

7 THE COURT: (To the witness) Now, be careful
8 with the laser there, because you can't hit
9 the jurors with it.

10 A Just --

11 Q This is just -- if you'll just point at the
12 diagram.

13 A (Indicates.)

14 Q Okay. And where was the house that the defendant
15 lived?

16 A (Indicates.)

17 Q Okay.

18 MR. KENDALL: (To the Witness) Please answer
19 -- please answer any questions Mr. Morin may
20 have.

21 CROSS-EXAMINATION

22 BY MR. MORIN:

23 Q Ms. Scalf, when this incident occurred, it was a
24 little after nine o'clock at night, wasn't it?

25 A Yes, sir.

- 1 Q And it was dark, wasn't it?
- 2 A Yes, sir.
- 3 Q When you tell the jury that you can see [REDACTED]
- 4 Raintree from your house, from your front porch,
- 5 you can't see that at nine o'clock at night when
- 6 it's dark out, can you?
- 7 A Yes. You can.
- 8 Q Okay. When you went around the front of this --
- 9 well, let's start out with that.
- 10 Your brother said he's going home; your
- 11 brother left the house. You didn't see him leave,
- 12 but you know he left, because he was in the front
- 13 yard?
- 14 A Yes, sir.
- 15 Q The person that did the shooting, you didn't see
- 16 them arrive or which way they came from or how they
- 17 arrived; all you know is when you got there -- or
- 18 did you? Did you see this shooter arrive at the
- 19 house?
- 20 A No, sir.
- 21 Q And when you say, "He was there," you heard
- 22 arguing, you're in the back of the house? What
- 23 time did you start working on this pool?
- 24 A I believe it was like six o'clock.
- 25 Q Okay.

- 1 A It was dark.
- 2 Q And when you said "we," that's you -- Steven
- 3 Manning, I believe, was there?
- 4 A That's correct.
- 5 Q And there was another person there?
- 6 A It was my wife, Kyla.
- 7 Q Okay. That's -- I think her name is or -- I don't
- 8 remember, Pennington, right -- Kyla?
- 9 A Yes. It was Pennington.
- 10 Q Okay. So you hear the arguing, the yelling, and
- 11 you decide that you're going to go to the front of
- 12 the house to see what's going on?
- 13 A That's correct.
- 14 Q And did you -- and your house has -- if you're
- 15 facing it, there's a carport on the left, and then
- 16 the end of the house on the right -- for lack of a
- 17 better term?
- 18 A That's correct.
- 19 Q Which way did you run around the house?
- 20 A Through the carport.
- 21 Q Through the carport? Now, the house has a fence
- 22 around it, as well, right? Does it have a fence?
- 23 A No, sir. Our house doesn't have a fence.
- 24 Q Okay. Mr. Manning, did he remain in the backyard?
- 25 A No, sir.

- 1 Q Did he run to the front yard?
- 2 A Yes, sir.
- 3 Q Did he get to the front yard before or after you?
- 4 A He got there before me.
- 5 Q Okay. So -- now, I want to be clear. In answering
- 6 Mr. Kendall, he asked how close you were, and
- 7 initially you said 6 to 10 feet, but then he asked
- 8 you again, later, and then you said, "Right beside
- 9 my brother"?
- 10 A Yes. I was right beside my brother right before he
- 11 got shot.
- 12 Q I see. And when you came around, he's sort of by
- 13 his Camaro, or there near --
- 14 A When I first came around?
- 15 Q Right.
- 16 A No. They were directly in front of the driveway.
- 17 Q Okay. They were in front of the driveway?
- 18 A Uh-huh.
- 19 Q And when you see them, they're facing each other?
- 20 A That's correct.
- 21 Q And you run to where your brother is?
- 22 A That's correct.
- 23 Q That side of him?
- 24 A Yeah.
- 25 Q Your brother said, "He has a gun," correct?

1 A That's correct.

2 Q Did you see the gun?

3 A I did not see it until he did pull it out.

4 Q But you were right beside your brother?

5 A Yes.

6 Q Were you still in front of the driveway?

7 A No, sir. Not at that time.

8 Q You all had moved?

9 A Yes.

10 Q You were trying to get your brother back in the

11 house?

12 A That's correct.

13 Q Did you move closer to the house?

14 A No, sir. It was, like, towards his Camaro.

15 Q Moved towards the Camaro? The Camaro was parked in

16 the road?

17 A That's correct.

18 Q You were, I think -- and correct me, you said, "I'm

19 -- I -- I was behind the Camaro when the shot was

20 fired"?

21 A No, sir. The -- like the Camaro was facing down

22 Coach Hill --

23 Q Right.

24 A -- so I'm standing kind of near the backend of it,

25 but I wasn't directly behind it.

- 1 Q Okay. And then you -- you ducked down? When that
2 was occurring, do you remember where Mr. Manning
3 was?
- 4 A No, sir. I do not recall.
- 5 Q Okay. Now, after the shooting, the person that did
6 the shooting ran toward Raintree?
- 7 A That's correct.
- 8 Q Did anybody else run towards Raintree?
- 9 A No, sir. Not that I recall, no, sir.
- 10 Q So you don't know where Mr. Manning went?
- 11 A No, sir.
- 12 Q Okay. And, of course, you were on the driver's
13 side of the vehicle when the shooting occurred and
14 the person ran?
- 15 A Yes. I just --
- 16 Q And then --
- 17 A -- went down.
- 18 Q -- immediately after that you got up and went to
19 your brother? You were looking at him, correct?
- 20 A That's correct.
- 21 Q Now, was there anybody else out there in front
22 besides you and Mr. Manning that you are aware of?
- 23 A My wife.
- 24 Q Ms. Pennington -- or Kyla, which -- was she there
25 at the car?

1 A She was at the mailbox the whole time.

2 Q The mailbox? So you -- you saw her, okay. And how
3 far from the -- from the car to the mailbox is it
4 about?

5 A From where his car was parked, approximately, give
6 or take, maybe 4 or 5 feet.

7 Q Okay. So --

8 A I'm not sure.

9 MR. MORIN: (To the Court) Permission to
10 approach the witness?

11 Q She was this close? (Indicates.)

12 A That's correct.

13 Q Now, you've testified that he walked up and down
14 the road about six times a day?

15 A That's correct.

16 Q Do you work?

17 A I do now.

18 Q You weren't working then?

19 A I was working with the senior healthcare.

20 Q Uh-huh.

21 A I would sit with the elderly, so most of the time I
22 wasn't home --

23 Q Okay.

24 A -- unless I had a client that day.

25 Q Sure. And when you at home you watched the road?

1 A We would always sit on the front porch.

2 Q Okay. Now, it's my understanding now, and correct

3 me if I'm wrong, that there's a problem with your

4 hearing now; is that correct?

5 A Yes. That's correct.

6 Q And is -- did you have that problem in 2018?

7 A That's correct.

8 Q And did you -- you had problems with it in 2019?

9 A That's correct.

10 Q Has this been a lifelong problem with your hearing?

11 A It's something that just occurred.

12 Q It did? Okay. Is that both ears or just one?

13 A No, sir. Just one.

14 Q Okay. Now, Mr. Kendall asked you about this other

15 argument that occurred prior to this; is that

16 right?

17 A That's correct.

18 Q Now, that argument was with a man named "Mr.

19 Guyton"; isn't that correct?

20 A That's correct.

21 Q And that argument occurred in front of Mr. Willis'

22 home; is that correct?

23 A That is correct.

24 Q Mr. Guyton was not at your house on the time -- at

25 the time that this occurred; is that correct?

1 A That's correct.

2 Q And Mr. Guyton didn't live at your house?

3 A No, sir.

4 Q Okay. Now, when the police got there, it was kind
5 of chaotic. There was a lot of -- obviously, it
6 was -- within -- certainly understand. They asked
7 what the name of the person of the -- who did the
8 shooting, correct? Did they ask you what his name
9 -- what -- what the name of the person was?

10 A Asked me if I knew his name.

11 Q Yes. And your answer was?

12 A No. I did not.

13 Q Did they ask if you had seen his face?

14 A Yes.

15 Q And you said you had not seen his face?

16 A That is correct.

17 Q And, in 2018, during this other argument, isn't it
18 true you didn't see his face at that time either?

19 A That is correct, I was not paying attention.

20 Q Okay. That's -- so you -- you didn't see his face
21 in 2018, right?

22 A Not his face, no.

23 Q You didn't see his face in 2019 when this happened;
24 is that correct?

25 A That's correct.

- 1 Q So when the State asked you to identify someone and
2 you pointed to the defendant, I'm curious, what is
3 it -- I think you said "eyes"; is that -- is that
4 the extent of your ability to identify him today?
- 5 A That is correct.
- 6 Q His eyes?
- 7 A His eyes.
- 8 Q Now, you told police, when you gave the
9 description, that the man was wearing a -- a black
10 -- seemed to have some sort of black top with long
11 sleeves, correct?
- 12 A Black top -- you mean?
- 13 Q Shirt, sweatshirt --
- 14 A Yes.
- 15 Q -- whatever.
- 16 A It was long sleeves, yes.
- 17 Q Long sleeves. The -- you said that your -- you
18 were trying to get your brother back in the house?
- 19 A That's correct.
- 20 Q Is there a reason he couldn't get in his car; you
21 weren't trying to just get him to leave?
- 22 A Trying to get who to leave?
- 23 Q Your brother, I mean.
- 24 A No. I was trying to get him back in the house.
- 25 Q I see. Now, this argument, did it all occur there

1 in the street on Coach Hill?

2 A Say that one more time, please?

3 Q All of this was in the street there in Coach Hill?

4 A That's correct.

5 Q Okay.

6 MR. MORIN: If I may have a moment, Your

7 Honor? That's all the questions I have, Your

8 Honor.

9 REDIRECT EXAMINATION

10 By MR. KENDALL:

11 Q Just a couple things. The first is -- but where --

12 you've kind of explained how this is and where you

13 are at the time of the shooting. Was there any

14 time the defendant was -- was closer to you?

15 A When he came around me.

16 Q Okay. When -- when did he come around you?

17 A Right after he pulled the gun, he come around me.

18 Q Okay. So when he pulled out the gun, where were

19 you standing?

20 A It was probably the same spot; I maybe took like

21 two or three steps up.

22 Q Okay. So he had to kind of come around you to get

23 to Lee or step -- or something like that?

24 A Yeah. He did. As soon as -- he had to come around

25 me to get to him.

1 Q Okay. Okay. And when the first shot was fired,
2 where were you?

3 A The -- right at the front of the car.

4 Q Okay. What did you do once the first shot was
5 fired?

6 A I turned around and looked, and then I went beside
7 the car.

8 Q Okay. So to be clear, did you see him do the
9 shooting? I mean, did you see him shoot him?

10 A Yes. I did.

11 Q Okay. All right. Now, Mr. Morin asked you about
12 the defendant in the courtroom today, identifying
13 him. You said "the eyes." Did he have any other
14 similarities?

15 A Tall and skinny, you know, and African American.

16 Q Okay. All right. What about not in the courtroom
17 today, right? What -- what about -- I think Mr.
18 Morin asked you about this -- about him at that
19 house on Raintree. What -- what similarities were
20 there to the individual you saw on -- at -- how --
21 how did you know where this guy was?

22 A Oh, because he had the same haircut.

23 Q Okay.

24 A It was the same haircut as -- you know --

25 Q Okay.

1 A -- to the prior.

2 Q Okay. And was this somebody you just saw one time

3 in an argument or something like that?

4 A No, sir.

5 Q All right. How -- how often would you see this

6 person?

7 A Pretty often. He would, you know, walk past the

8 house.

9 Q Okay. All right. And -- and you described -

10 is -- is there anything else with -- familiar with

11 this person on that third house on Raintree Lane --

12 the two-story house -- that was similar to the

13 person you saw doing the shooting?

14 A Yeah. Just the build and the hair.

15 Q Okay. I think you testified earlier, was there

16 anything else about how he moved or anything like

17 that?

18 A He had the same walk.

19 Q Okay.

20 A And that was -- you know.

21 Q Okay. So -- and what made you think he lived at

22 that address?

23 A That's where he would go, like when he would walk

24 past our house, he would always go to that two-

25 story, white house.

1 Q Okay. So this is somebody from the neighborhood;
2 is that fair to say?

3 A Yes. That's fair to say.

4 Q All right. This isn't some, you know, stranger
5 from -- a random person. This is somebody you had
6 the -- that you saw around the neighborhood on a
7 regular basis?

8 A Yes.

9 Q Okay. And you're able to just -- so if you don't
10 know your neighbors, know who your neighbors are;
11 is that fair to say?

12 A Say that one more time?

13 Q Even if you don't know your neighbors, you didn't
14 know his name or hang out with him; is that
15 accurate?

16 A That's accurate, I did not.

17 Q All right. But you knew -- know who he was and --
18 and where he lived; is -- is that fair to say?

19 A That's fair to say.

20 Q All right. You knew who his mom was?

21 A I did not until she introduced herself.

22 Q Okay. But that wasn't that night, right? That
23 wasn't the night of the shooting, that was -- that
24 was before?

25 A No, sir.

1 Q Okay.

2 A That was before.

3 Q All right.

4 MR. KENDALL: (To the witness) All right.

5 Please answer -- (To Mr. Morin) Do you have
6 any further questions?

7 MR. MORIN: Just very quick.

8 RECROSS-EXAMINATION

9 BY MR. MORIN:

10 Q The police asked you what you saw that night,
11 correct?

12 A That's correct.

13 Q You told them, "A tall black man, a black shirt,
14 long pants," and you weren't sure if he had a
15 bandana?

16 A The bandana was in his pocket; I did not see it on
17 his face or anything.

18 Q All right. You didn't tell them that you saw the
19 gun, correct?

20 A Say that again?

21 Q Did you tell them you saw the gun?

22 A No, sir.

23 Q Did they ask?

24 A Not that I recall.

25 Q You told Mr. Kendall -- now, your brother and this

1 other person are arguing in the street right there
2 in front of the house?

3 A That's correct.

4 Q And you -- when did you have an -- the opportunity
5 -- I -- I must have missed it -- the whole argument
6 was going on right there at the front of the house,
7 correct?

8 A That's correct.

9 Q And after the shooting, the person who did the
10 shooting ran away; is that correct?

11 A That's correct.

12 Q And in 2018, during that argument that Mr. Willis
13 had with Mr. Guyton, it was in front of his
14 house -- Willis' house, [REDACTED] Raintree?

15 A Yes. It was in front of his house.

16 Q And all of this on May 3rd was happening in the
17 dark; there's no street lights out there?

18 A Yes. There's street lights. Well, one.

19 Q Okay. And his car lights weren't on. I mean, he
20 hadn't started his car. He hadn't got into his
21 car, correct?

22 A My brother?

23 Q Yes.

24 A No, sir.

25 MR. MORIN: That's all I have, Your Honor.

1 MR. KENDALL: I just -- I need to do one
2 question to correct (inaudible) Your Honor.

3 FURTHER REDIRECT EXAMINATION

4 BY MR. KENDALL:

5 Q Mr. Morin asked you if you had -- if you told
6 police you had seen the gun that night. Would
7 looking at your statement help you remember that?

8 A Yes.

9 Q Okay.

10 A (Complies.)

11 THE COURT: And, Solicitor, you just provided
12 the witness with what?

13 MR. KENDALL: I'm sorry. This is a copy of
14 her written statement from that evening.

15 THE COURT: All right.

16 MR. KENDALL: To refresh her memory.

17 Q Did you, in fact, tell the police you had seen the
18 gun that night?

19 A Not the description of the gun, but he did pull
20 a -- you know, a gun from his pants. But I did not
21 see the description of the gun.

22 Q Okay. But you did -- you did tell them that he
23 pulled a gun out that -- that night?

24 A Yes. I thought he was asking if saw the
25 description --

1 Q Okay.

2 A -- the description.

3 Q Okay.

4 A I do apologize.

5 Q All right. No. No.

6 MR. KENDALL: (To the Witness) Thank you very
7 much.

8 THE COURT: (To the Witness) All right. You
9 may step down.

10 (WHEREUPON, the witness was excused.)

11 THE COURT: We'll take a short break. I'll
12 ask the jury to please go to your jury room.
13 Do not discuss the case in any fashion. I'll
14 bring you back after the break.

15 (WHEREUPON, the jury left the courtroom
16 at 10:50 a.m.)

17 THE COURT: We'll recess for 15 minutes.

18 (Off the record from 10:51 a.m.
19 until 11:11 a.m.)

20 THE BAILIFF: Remain seated. Come to order.
21 Remain seated.

22 THE COURT: Are we ready for the jury?

23 MR. KENDALL: Yes, Your Honor.

24 MR. MORIN: Yes, Your Honor.

25 THE COURT: (To the Bailiff) Send them in.

1 (WHEREUPON, the jury came into open court
2 at 11:12 a.m.)

3 THE COURT: All right. The jury is present.
4 We'll continue with the State's presentation.

5 MR. KENDALL: The State would call Kyla Scalf,
6 Your Honor.

7 (WHEREUPON, the witness was sworn.)

8 CLERK OF COURT: (To the witness) I'm going
9 to ask that you remove your mask while you
10 testify, okay?

11 THE WITNESS: Okay.

12 DIRECT EXAMINATION

13 BY MR. KENDALL:

14 Q Could you please state your name for the record?

15 A Kyla Scalf.

16 Q And, Ms. Scalf --

17 THE COURT: (To the witness) You're gonna
18 need to speak up a lot louder than that.

19 THE WITNESS: Kyla Scalf. I'm sorry.

20 Q If you could just pull that microphone towards you
21 a little bit, it'll -- it'll help. Okay. And back
22 in May of 2019, what was your -- your maiden name?

23 A Pennington.

24 Q Okay. And what is your relationship to the
25 deceased? The victim in the case?

1 A He's my brother-in-law.

2 Q Okay. So you're married to Harley; is that

3 correct?

4 A Yes.

5 Q Okay. And back in May of 2019, where were you

6 living?

7 A At [REDACTED] Coach Hill.

8 Q Okay. And do you recall what you were doing around

9 nine o'clock that night?

10 A Yes. We were in the backyard about to put up a

11 pool.

12 Q Okay. And who was back there with you?

13 A Harley and Steven.

14 Q All right. And what did you hear?

15 A The arguing from the front yard.

16 Q Okay. Do you know who was arguing, or could you

17 hear who was arguing?

18 A No. We could tell it was Lee, but we didn't know

19 who else it was.

20 Q Okay. So what did you do?

21 A We ran around the front to see what was going on.

22 Q Okay. And when you got around the front, who

23 was around front with you?

24 A Lee, Steven, Harley, the man in the road with Lee,

25 and that was all I remember.

1 Q Okay. And had you seen this person before? I'm
2 not asking you pick him out, but had you see him
3 before anywhere around in life?
4 A Just walking around the neighborhood.
5 Q All right. So you'd seen him walking the
6 neighborhood?
7 A Yes.
8 Q How often would you see him walking around?
9 A I would see him a few times a week; a couple times.
10 Q All right. So you see him a couple times a week,
11 maybe?
12 A Yeah. Just the one week.
13 Q I'm sorry.
14 A Just the week of or the week before. I'm sorry.
15 Q It's okay. Just calm down. Just think about what
16 you're saying. There's no rush, all right? Had
17 you seen him around the neighborhood before?
18 A Yes. Walking around the neighborhood.
19 Q Okay. How often would you see him?
20 A I've seen him a couple times the week of.
21 Q The week that this happened?
22 A Yes.
23 Q Okay. Do you know where he lived?
24 A At the third house on Raintree.
25 Q All right. Can you describe that house?

1 A It's white, two-story.

2 Q How are -- how are most the houses on that part of

3 Raintree?

4 A Brown brick, maybe . . .

5 Q Okay. That's all right.

6 All right. And how did you know that was --

7 that was his house?

8 A That's where he would come and go from.

9 Q Okay. So he would come and go from that house?

10 A Yes.

11 Q All right. Had you ever seen this guy's face at

12 all?

13 A No.

14 Q And had you personally ever spoken to him or

15 anything like that?

16 A No.

17 Q Well, would say you saw him fairly regularly?

18 A Just the week of.

19 Q Okay. All right. And you said you saw him come

20 back and forth to that address?

21 A Yes.

22 Q Okay. And what made you think it was the same

23 person that you saw out there that night that lived

24 at that address?

25 A The same body type, the same height, build, skin

1 tone, mannerism, like the way he was standing, and,
2 like, walking.

3 Q Okay. All right. Did you review any -- did you
4 see his haircut?

5 A No. Not that night.

6 Q All right. And when this took place -- all
7 right -- when the actual shooting took place, let's
8 go back to that; all right? Where were you at that
9 time?

10 A I was standing at the mailbox.

11 Q Okay. And how far is the mailbox from where the
12 shooting took place?

13 A A few feet.

14 Q Okay. Were you kind of right up in the mix of it?

15 A Kind of off to the side, but, like, behind them --
16 a few feet behind.

17 Q Okay. All right. Now, on that occasion, could you
18 really get a good look at the defendant's face?

19 A No.

20 Q Okay. All right. And what happened during that
21 altercation?

22 A We ran around the front, and we seen Lee in the
23 driveway arguing. And Harley and Steven went up
24 over there, and they tried to get him to come in
25 the house, telling him, "Just leave it alone." I

1 remember Harley saying, "I'm a female, I'm not
2 trying to hurt you. I just want to get my brother
3 in the house."

4 Okay. The guy pushed Lee and then turned
5 around and when Lee pushed him back, he turned back
6 around. He stepped around Harley, and he went to
7 go pull his gun out. When Lee hollered, "He's got
8 a gun," Harley kind of moved, like -- she took off
9 running, and he squatted down and started shooting
10 Lee.

11 Q Okay. All right. Now, what does he do after that?

12 A The guy?

13 Q The guy that was shooting?

14 A He took off running.

15 Q All right. Where was he headed?

16 A Like back towards the house --

17 MR. MORIN: Objection: calls for a conclusion
18 by the witness.

19 MR. KENDALL: All right.

20 THE COURT: (To Mr. Kendall) Rephrase.

21 Q In what direction -- or towards what structure was
22 he -- was he running?

23 A His home on Raintree.

24 Q Okay. And what did you after that?

25 A I tried to console Harley. I tried to help Lee.

1 Q Okay. All right. And bearing in mind you could
2 not see his face; all right? And -- and what makes
3 you think that the person who did the shooting was
4 the person that lived at the two-story house? I
5 think it's the third house on Raintree.

6 A It was the same guy that had been walking up and
7 down the road, the same guy that the argument years
8 before was with. They physically looked the same.
9 I didn't see the face, but everything else was the
10 same. And after the shooting, he ran back towards
11 his home. I didn't watch him. I should have paid
12 more attention, but I do remember seeing a car at
13 that house crank up. I remember seeing the brake
14 lights light up the side of the white house. And
15 then I just kind of got lost in the confusion.

16 Q Okay. Did you see if he ever got in the car or
17 anything like that?

18 A I did not.

19 Q Okay. And with the caveat, you couldn't see his
20 face, all right, with that I believe you -- you
21 told police that you --

22 A Yes.

23 Q -- that -- with that in mind, how certain are you
24 the person who you saw walking around back to that
25 house was the same person that you saw that night

1 that did the shooting?

2 A I'm completely certain.

3 Q Okay. With the caveat you couldn't see his face;
4 is that fair to say?

5 A Yes.

6 Q All right. So as certain as you could be, not
7 looking at his face?

8 A Yes.

9 Q Okay.

10 THE COURT REPORTER: (To the Witness) Can you
11 speak up, please?

12 THE WITNESS: Yes. Sorry.

13 MR. KENDALL: (To the Witness) Please answer
14 any questions Mr. Morin may have.

15 CROSS-EXAMINATION

16 BY MR. MORIN:

17 Q Ms. Scalf, the person that you saw -- let's start
18 at the beginning.

19 You -- you called 911?

20 A Yeah.

21 Q You did? Yeah. All right. When the police got
22 there, you told them about this car had cranked up
23 and gone down the road towards Maplewood, correct?

24 A Yes.

25 Q And did you tell them what kind of car that was,

1 that you remember?

2 A I don't remember the make and model, I just --

3 Q Uh-huh.

4 A -- remember it was big, four-door SUV.

5 Q Okay. And when -- did -- you came around the side

6 of the house along with Harley, on the carport

7 side?

8 A Yes.

9 Q Is that the way Mr. Manning came as well?

10 A No.

11 Q Okay. He came from the other side of the house?

12 A I believe so.

13 Q Okay. And how long did the argument last that you

14 saw? I mean, obviously, there was some you heard,

15 but that you saw before the shooting?

16 A Just a few minutes.

17 Q A few minutes?

18 A Yes. I wasn't around there long; they got there

19 before me.

20 Q Yes. And, I guess, my question is: You came

21 around and you could see the man who did the

22 shooting and you could see Lee?

23 A Yes.

24 Q And I'm asking: Could you tell me what time passed

25 from that point, when you first saw him. till the

- 1 shooting? Less than a minute?
- 2 A No.
- 3 Q More than a minute?
- 4 A Yes.
- 5 Q Okay. More than a minute. All right. After the
- 6 shooting, did you hear Lee say -- ask his sister
- 7 for help?
- 8 A Yes.
- 9 Q Did his sister go directly to him?
- 10 A Yes.
- 11 Q Okay. You were watching that occur?
- 12 A Yes.
- 13 Q The man you saw that did the shooting ran toward
- 14 Raintree?
- 15 A Yes.
- 16 Q I heard you say you could tell the way he walked;
- 17 is that right?
- 18 A Yes.
- 19 Q But he was -- the shooter was standing with Lee
- 20 arguing --
- 21 A Uh-huh.
- 22 Q -- in front of the house. And after the shooting,
- 23 he ran, correct?
- 24 A Yes.
- 25 Q Now, there's been testimony about another incident

1 in 2018 between a man named "Mr. Guyton" and Mr.
2 Willis. Are you saying that you were present at
3 that as well?

4 A Not close enough. I was in the yard of Harley's
5 home, and they were at his home.

6 Q Right. Which is three houses down and around the
7 corner a little more. Because right across the
8 street from y'all's house, there's another house
9 and that's burnt; it's been burnt up for a while.
10 It's got -- there apparently was a fire, correct?

11 A Yes.

12 Q It's been that was for a while?

13 A Yes.

14 Q Several years?

15 A (No response.)

16 Q And you -- this 2018, was that at night as well?

17 A No.

18 Q Okay. And you -- you were there at the front
19 porch, and they were down there at the other house?

20 A Yes.

21 Q So, at that time, someone went ahead and tell (as
22 spoken) you he was arguing with Mr. Guyton?

23 A You could tell that they were arguing.

24 Q I understand that part. I'm talking about, you
25 could -- could you -- are you testifying you could

1 tell from your porch, all the way down there, who
2 the two people were that were arguing?

3 A Now, who?

4 Q Okay.

5 A I'm -- I'm confused.

6 Q You were on your porch in 2018, correct? There's
7 an argument going on down there at [REDACTED] Raintree?

8 A Yes.

9 Q When that occurred, are you testifying that you
10 knew who the two people arguing were?

11 A Yes.

12 Q You could tell?

13 A Yes. It was the guy that lived in the third house
14 on Raintree and Michael Guyton, who was previously
15 in the yard before the argument.

16 Q Okay. And then you've also testified that prior to
17 this, you had seen him walking about a week before
18 this happened?

19 A Yes.

20 Q Mr. Manning -- when the shooting occurred, did you
21 see Mr. Manning chase after the person that did the
22 shooting?

23 A I seen him run in that direction --

24 Q Uh-huh.

25 A -- but they stopped.

1 Q Okay. Did he go to the house across the street?

2 A No, ma'am.

3 Q No?

4 A I mean, sir.

5 Q That's okay.

6 A No. No.

7 Q He got across the street?

8 A Wait. I'm sorry. Say that again?

9 Q He didn't get all the way -- you're saying he

10 didn't get in -- my question is: Did he get into

11 the yard across the street where the burned down

12 house was?

13 A Oh, yes.

14 Q Okay. And, certainly, from there, you could see

15 down Raintree?

16 A Yes.

17 Q And I'm not saying this specifically from where you

18 were, but if you're on the far -- if you were in

19 the driveway of [REDACTED] on the far -- at some point

20 that house is gonna cut off your view down

21 Raintree, right?

22 A Yes.

23 Q Okay. And, of course, it was dark, completely dark

24 when this happened, right?

25 A It was -- yes -- it was getting -- other than the

1 streetlight, it was dark, yes.

2 Q Dark? Okay.

3 MR. MORIN: One moment, Your Honor. That's

4 all the questions I have, Your Honor.

5 MR. KENDALL: (To the Court) Just -- just a

6 couple of very quick questions.

7 REDIRECT EXAMINATION

8 BY MR. KENDALL:

9 Q You talked about the car cranking up down there at
10 that house?

11 A Yes.

12 Q Did you -- could you see who went in and out of
13 that car or anything like that?

14 A I did not.

15 Q Could you even tell if that car was associated with
16 the house in any kind of . . .

17 A What do you mean?

18 Q Well, could you -- could you tell the make and
19 model of the car?

20 A Oh, no. Just that it was a big white SUV.

21 Q Okay.

22 A Four-door.

23 Q Okay. And did you go down Raintree Lane that
24 night?

25 A No.

1 Q Okay. So did you have any idea how dark it would
2 have been down Raintree Lane --

3 A No.

4 Q -- on that particular night? Okay.

5 MR. KENDALL: I have nothing further, Your
6 Honor.

7 THE COURT: (To the witness) You may step
8 down.

9 (WHEREUPON, the witness was excused.)

10 MR. KENDALL: (To Mr. Earls) So you can have
11 a seat up right there in the stand.

12 (WHEREUPON, the witness was sworn.)

13 CLERK OF COURT: (To the witness) Watch your
14 step. I'm going to ask that you'll remove
15 your mask while you testify.

16 THE WITNESS: Yes, ma'am.

17 DIRECT EXAMINATION

18 BY MR. KENDALL:

19 Q Mr. Earls, could you please state your name for the
20 record?

21 A John Earls.

22 Q All right. And Mr. Earls, back in May of 2019,
23 where were you residing at that time?

24 A [REDACTED] Raintree Lane.

25 Q All right. If -- if you wouldn't mind, with the

1 Court's permission, if you could come down here
2 and, on this map, just point -- point out where [REDACTED]
3 Raintree Lane is?

4 A Yes, sir.

5 Q If you wouldn't mind putting that back on?

6 A Yeah. Okay.

7 Q Okay. Just on the -- on the picture there? I'm
8 sorry.

9 A Sorry. (Indicates.)

10 Q All right. If you would turn that back up. What
11 roads did -- was your house in the intersection of?

12 A Maplewood and Raintree.

13 THE COURT REPORTER: (To Mr. Kendall) I -- I
14 can't hear him.

15 MR. KENDALL: Oh, I'm sorry. Okay.

16 THE COURT: He can't testify in the audience.
17 He's got to be on the stand.

18 MR. KENDALL: Yes, sir. Okay. All right.

19 DIRECT EXAMINATION CONTINUES

20 BY MR. KENDALL:

21 A Maplewood and Raintree.

22 Q Okay. And do you recall what you were doing the
23 night of May 3rd, 2019, a little before 9 p.m.?

24 A I had something in the microwave, popcorn, or -- or
25 something like that.

1 THE COURT: (To the witness) Pull that
2 microphone towards you, please.

3 A I was cooking something in the microwave, AND I
4 heard some noise outside.

5 Q All right. And did -- what did you do?

6 A I went out on the porch, and I looked to see if I
7 seen anything.

8 Q Okay. The first time you went out to the porch,
9 did you see anything?

10 A No, sir.

11 Q Okay. What did you do after that?

12 A Went and got whatever I had in the microwave out,
13 and then took another look out there and I saw the
14 -- a guy near the -- my car. It was parked on the
15 -- on the side of Raintree there.

16 Q All right. And -- and how -- where are you in
17 relation -- does Raintree keep going after you?

18 A No, sir.

19 Q All right. What's at the end of Raintree?

20 A (Inaudible) property, woods and stuff.

21 Q Okay. And when you saw the individual there, what
22 was he doing?

23 A He just looked confused a little bit.

24 Q Okay. Could you please describe that?

25 A Just he looked -- just hectic or something. I mean

1 just, I don't know, kind of scared looking. I
2 asked was he all right. He -- he ignored me and
3 everything.

4 Q Okay. Prior to this, had you heard anything?

5 A Yeah. I heard some -- what I thought might've been
6 gunshots or -- or something out there.

7 Q Okay.

8 A A couple pops.

9 Q Did the individual you saw down there by the cars,
10 did he have anything on him to luminate things, or
11 was -- was he shining a flashlight or anything?

12 A I didn't see anything flashing.

13 Q Okay. All right. And you said you asked if he was
14 okay; is that right?

15 A Yes, sir.

16 Q All right. Do you recall what that individual
17 looked like?

18 A It was dark, I mean, he had a -- a jersey on,
19 and -- and, I think, some jogging pants and a hat
20 or something. I couldn't really make it out,
21 because you don't have lights down that way.

22 Q Okay. And could you tell his build? In other
23 words, was he -- was he --

24 A Athletic. I mean, just tall.

25 Q Okay.

1 A I mean --

2 Q Okay. Could you tell his race?

3 A Dark complexion, yes, sir.

4 Q Okay. And once you made contact with him, and he

5 was -- you said he was wearing a dark jersey; is

6 that right?

7 A Yes, sir.

8 Q And then right -- you -- or what -- what did he do

9 once you made contact with him?

10 A He kind of started jogging up toward Maplewood,

11 kind of cutting off. He wasn't going back up

12 Raintree, and then he just kind of used my yard to

13 cut through a little bit --

14 Q Okay.

15 A -- to Maplewood.

16 Q All right. And what did you do after that?

17 A Went inside and called the 911.

18 Q Okay. And when you called 911, do you recall what

19 you told them?

20 A Not really. I mean, not -- I mean, not -- I

21 couldn't, no, sir.

22 Q Okay.

23 A Just there was somebody in the yard.

24 Q Okay.

25 A Something like that.

1 Q All right. Do you remember saying you thought it
2 was Steeler's jersey?

3 A Yes, sir.

4 Q All right. What -- what made you think that that
5 might have been what it was?

6 A The it was dark -- a dark color.

7 Q And what -- what colors are the Steelers,
8 typically?

9 A Black.

10 Q Okay. So that was just your initial impression; is
11 that fair to say?

12 A Yes, sir.

13 Q Okay. Did you see anything on there, other than it
14 being dark and being the same?

15 A I could -- seen a one -- a one on it.

16 Q Okay. All right. So going back to the individual
17 running up the road, what happened after that?

18 A A few minutes passed and I thought I heard
19 something out there again, so I went out there and
20 looked; and I looked up towards Maplewood.

21 Q All right. When you say you said you thought
22 you -- you thought you heard something, what did it
23 sound like?

24 A Like more pops, like --

25 Q Like gunshots?

1 A Yes. Something like that.

2 Q Okay. And what did you see this time when you went
3 out there?

4 A Well, I thought it was the same guy with his shirt
5 off this time.

6 Q Okay. And what led you to believe it was the same
7 person?

8 A Just the build and the way -- I don't know, the way
9 he ran, or --

10 Q Okay.

11 A -- just -- I don't know.

12 Q All right.

13 A His build more than -- more than anything else.

14 Q All right. And the second time he came back -- so
15 the first time when he ran, which way was he headed
16 towards?

17 A Towards Filter Plant.

18 Q Okay. And Filter Plant's the main road that runs
19 along there?

20 A Yes, sir.

21 Q All right. The second time he came back, where was
22 he running then?

23 A He -- I can't say he was actually running anywhere.
24 He's kind of like in the middle between Filter
25 Plant and Maplewood there. And he was pointed

1 toward -- back towards my way, you know --

2 Q Back towards Raintree?

3 A Yeah.

4 Q Okay. All right. So he was headed back towards

5 Raintree --

6 A I assume that's where he was headed, yeah. I mean,

7 I don't -- I can't remember if he was -- I just --

8 I can't remember if he was running or just standing

9 or . . .

10 Q You said a moment ago that -- that you didn't

11 remember if he was running or standing or anything?

12 A Yes, sir.

13 Q As a result of this, were you talked to by police?

14 A Yes, sir.

15 Q Did you -- did you give them a statement?

16 A Oh, yes, sir.

17 Q All right. Do you think looking at that statement

18 would help reflect your -- your memory, at all?

19 A Yes, sir. I would like to look at it.

20 MR. KENDALL: (To Mr. Morin) I'm sorry, Mike,

21 I'm showing this --

22 MR. MORIN: That one.

23 MR. KENDALL: Thank you. (To the Court) And

24 I'm -- I'm showing him a copy of his -- his

25 previous statement.

1 THE WITNESS: Okay. It says, "Running towards
2 Raintree."

3 THE COURT REPORTER: (To the witness) Can you
4 speak up, please?

5 THE WITNESS: It says, "Running towards
6 Raintree."

7 Q Having seen that, do you believe that to be
8 accurate?

9 A Yeah. Yes, sir.

10 Q Okay. And the second time that he came back, did
11 he have any lights or anything on at that point?

12 A No, sir. I didn't see any -- see any.

13 Q Okay. So he's not waiving a flashlight around or a
14 lighter --

15 A No, sir.

16 Q -- or a torch or anything like that?

17 A No, sir.

18 Q Okay. Was he looking for anything?

19 A Sir?

20 Q Was he looking for anything?

21 A I didn't -- no, sir. I can't recall.

22 Q Okay.

23 MR. KENDALL: (To the witness) Please answer
24 any questions Mr. Morin may have.

25 THE WITNESS: Yes, sir.

1 CROSS-EXAMINATION

2 BY MR. MORIN:

3 Q Mr. Earls --

4 A Yes, sir.

5 Q -- your house is at one end of Raintree?

6 A Yes, sir.

7 Q Raintree is about a quarter of a mile long; is that
8 correct?

9 A I assume, yes. It seems about right.

10 Q Seems about right? Okay.

11 A Yes, sir.

12 Q Now, you've got your -- your statement up there --

13 A Yes, sir.

14 Q -- that you gave the police? And you told the
15 police at the time -- and this is on May 6th, so
16 this like three days later. Do you remember where
17 this was when you told the police this?

18 A Yes, sir.

19 Q Where you were?

20 A Yes, sir.

21 Q Did they come to --

22 A I was at home; they was checking the woods.

23 Q All right. And they came out to your house --

24 A Yes, sir.

25 Q -- and talked to you about what had happened?

- 1 A Yes, sir.
- 2 Q And this was, probably, 72 hours or less from when
3 it happened?
- 4 A Yes, sir.
- 5 Q And you told the police that you had just gotten
6 something out of the refrigerator?
- 7 A Yes, sir.
- 8 Q And you told them that you heard some shots?
- 9 A Yes, sir.
- 10 Q And you said that you walked outside onto the
11 porch?
- 12 A Yes, sir.
- 13 Q And you saw this person?
- 14 A Right.
- 15 Q Okay. But, now, you -- you think maybe it was the
16 microwave?
- 17 A Perhaps.
- 18 Q Okay. But how long did that take from the time
19 that you heard the shot and you walked out on your
20 porch?
- 21 A Probably a minute/two minutes, maybe.
- 22 Q Well, is your kitchen near the porch?
- 23 A Yes, sir.
- 24 Q And you walked directly out onto the porch?
- 25 A Yes, sir.

1 Q So when you say "minutes," are you using that term
2 in the sense that we say that to mean it's quick,
3 or do you mean --

4 A No.

5 Q -- I mean, how many steps was it?

6 A It's, probably, about ten steps --

7 Q All right.

8 A -- to the door.

9 Q All right. So it's --

10 A Ten steps.

11 Q -- it's a lot quicker than a minute I assume you
12 can cover --

13 A Right.

14 Q -- ten steps, right?

15 A Yes, sir.

16 Q And when you -- you told the police, "When I went
17 out, I saw this person"?

18 A Right.

19 Q All right. You have an air conditioner at your
20 house, sir?

21 A Yes, sir.

22 Q Was it running that night?

23 A Yes, sir. But it probably cooled off and was shut
24 off for a second.

25 Q Okay. Yeah. It was hot that day --

1 A Yeah.

2 Q -- is my point, wasn't it?

3 A Yeah. Yes, sir.

4 Q Okay. And you saw this person with the jersey?

5 A Uh-huh.

6 Q And then a little while later, you heard some more
7 pops?

8 A Uh-huh.

9 Q Again, you go out and you see what you believe to
10 be the same person?

11 A That's right.

12 Q And you called 911 both times?

13 A Yes, sir.

14 Q And as Mr. Kendall pointed out, you initially
15 thought Pittsburgh Steelers, because it was dark
16 colored?

17 A Yes, sir.

18 Q Okay. And you told 911 that?

19 A Yes, sir.

20 MR. MORIN: Just a moment, Your Honor.

21 THE WITNESS: Yes, sir.

22 MR. MORIN: That's all I have, Your Honor.

23 REDIRECT EXAMINATION

24 BY MR. KENDALL:

25 Q Just to clarify something very quickly. The first

1 time you went out to the porch and looked, did you
2 see anything?

3 A No, sir.

4 Q Okay. So then you went back inside?

5 A Yes, sir.

6 Q All right. So it was the second time you actually
7 saw something --

8 A Yes, sir.

9 Q -- is that fair to say?

10 A Yes, sir.

11 MR. KENDALL: Nothing further, Your Honor.

12 RE CROSS-EXAMINATION

13 BY MR. MORIN:

14 Q Mr. Earls.

15 A Yes, sir.

16 Q My -- my initial question was, within two days of
17 this, the police came to your house --

18 A Yes, sir.

19 Q -- and you told them then that it was one time.
20 Now, you're saying that you went in and came back
21 out; is that right?

22 A Right. It was like two or three minutes --

23 THE COURT: (To the witness) You -- you need
24 to speak up, please.

25 THE COURT REPORTER: Yeah.

1 THE WITNESS: I heard it again --

2 THE COURT: There's a microphone there if
3 you'll just use that.

4 A I heard it and didn't see nothing. Went and got
5 something out of my refrigerator and went back out
6 there and that's -- that's when I seen him.

7 Q All right. So you're testifying today that what
8 you said back then wasn't accurate?

9 A It says I -- it says, "I got something out of the
10 refrigerator and heard the gunshot."

11 THE COURT: (To the witness) Are you talking
12 to yourself, or what?

13 THE WITNESS: I'm going -- I'm going with this
14 -- this --

15 Q Well, you don't have to read it. My question --

16 A Okay.

17 Q -- just basically is: Is when the police came out
18 there and told you this was a serious -- they
19 wanted to make sure they got every information.

20 A Right.

21 Q You wanted to make sure that you were accurate to
22 help the police, right?

23 A Right. Yes, sir.

24 Q And when you wrote that, you said, "Went from
25 refrigerator to porch"?

1 A Yes, sir.

2 Q But, now, you're saying, actually went to the
3 refrigerator, went to porch, came back in. There's
4 a second time --

5 A Yes, sir.

6 Q -- correct?

7 A Correct.

8 Q Now, here's my question: At some point, you -- you
9 remembered this new fact of going back in?

10 A Yes, sir.

11 Q When was that? When did you first tell police
12 about this second came out, went back in?

13 A Well, I -- I didn't -- I -- I should have put it on
14 the stand when I heard the gunshots -- or what I
15 thought was shots I went out there and just checked
16 real fast and didn't see nobody --

17 Q Uh-huh.

18 A -- and then went to the refrigerator, got something
19 out --

20 Q Yeah.

21 A -- or the microwave was what I thought, but --

22 Q Okay.

23 A -- went back to the porch, and I saw somebody out
24 there by my car.

25 Q All right. I understand.

1 A And that's when I --

2 Q You're -- and -- and I'm perfectly -- I'm not

3 trying to argue you with you --

4 A Yes, sir.

5 Q -- I'm just trying to find out.

6 A Yes, sir.

7 Q You're saying that now you remember doing something

8 different than what you wrote --

9 A Yes, sir.

10 Q -- when it happened?

11 A Yes, sir. That's my testimony.

12 Q All right. And did you meet with Mr. Kendall prior

13 to coming in here?

14 A Yes, sir.

15 Q And did you tell him about this part that you now

16 remember?

17 A I don't recall.

18 Q Well, when did you meet with him?

19 A Before here, but I don't -- I can't remember if I

20 told him that or not.

21 Q Okay. Well, then let me back up a little further.

22 How many times have you met with Mr. Kendall?

23 A Twice.

24 Q Twice?

25 A Twice, yes, sir.

1 Q And the last time you met with him was within a
2 week or two of this trial?

3 A Yes, sir.

4 Q Okay. And Mr. Kendall asked you what happened?

5 A Yes, sir.

6 Q Are you saying you can't remember if you told Mr.
7 Kendall?

8 A I think we just didn't make a -- if -- if I did, we
9 didn't make a big deal about it. I didn't -- I
10 just don't remember.

11 Q You don't remember?

12 A No, sir.

13 Q Okay.

14 MR. MORIN: That's all the questions I have,
15 Your Honor.

16 MR. KENDALL: (To the Court) Can -- can we
17 approach, real fast?

18 (WHEREUPON, a bench conference was held.)

19 FURTHER REDIRECT EXAMINATION

20 BY MR. KENDALL:

21 Q Just to be clear. I mean, are you -- are you
22 changing what happened that night or adding?

23 A No, sir. No, sir. It seems like I just picked up
24 on that statement.

25 Q Okay. So you just -- you looked at the time. You

1 wrote down what --

2 A Yeah.

3 Q -- the time or something actually happened when you
4 looked outside of your house?

5 A Yes, sir.

6 Q Okay.

7 MR. KENDALL: Nothing further, Your Honor.

8 THE WITNESS: When I actually saw somebody.

9 It was like (Inaudible.)

10 THE COURT REPORTER: (To the witness) Can you
11 speak up, please?

12 THE WITNESS: Yes, sir. Yes, ma'am.

13 THE COURT: (To the witness) Well, what's the
14 last thing that you said?

15 THE WITNESS: It was like I just started the
16 statement when I actually saw somebody on --
17 on that statement there.

18 THE COURT: All right. Anything else?

19 MR. KENDALL: No, sir, Your Honor.

20 THE COURT: You can step down.

21 THE WITNESS: Yes, sir.

22 (WHEREUPON, the witness was excused.)

23 MR. KENDALL: Your Honor, at this time, the
24 State would call Rashod Davidson.

25 (WHEREUPON, the witness was sworn.)

1 CLERK OF COURT: I'm going to ask that you
2 remove your mask when you testify.

3 THE WITNESS: Okay.

4 DIRECT EXAMINATION

5 BY MR. KENDALL:

6 Q All right. Could you please state your name for
7 the record?

8 A Rashod Davidson.

9 Q All right. And, Mr. Davidson, the night where --
10 of May 3rd of 2019 -- or actually -- back up.

11 Where do you live?

12 A [REDACTED] Merrifield Court.

13 Q All right. And were you living there back in May
14 of 2019?

15 A Yes, sir.

16 Q And how does that relate to the neighborhood, like
17 off Filter Plant Road with Coach Hill and Maplewood
18 and -- and Raintree Lane?

19 A It's in -- it's a part of the neighborhood.

20 Q Okay. So that -- that's part of the same
21 neighborhood?

22 A Yes, sir.

23 Q Okay. And do you remember what you were doing on
24 the night of the shooting? So May 3rd, 2019?

25 A I was at work.

1 Q Okay. And where do you work, or where did you
2 work?

3 A I worked at Nestle.

4 Q Okay. And so you weren't on-scene; is that fair to
5 say?

6 A Yes, sir.

7 Q Okay. And that night, did you receive a call from
8 your dad?

9 A Yes, sir.

10 Q All right. And, in that call, what did he ask you?

11 A He asked me what was his name?

12 Q Okay. And -- and did you know Mr. Willis prior to
13 this?

14 A Yeah. I knew him a little bit, but not really.

15 Q Okay. When you say you "knew him a little bit" --

16 A We speak when we see each other.

17 Q Okay. So y'all -- y'all are friendly? Did you
18 what his actual name was?

19 A Diante'.

20 Q Okay. And where did he live?

21 A I used to live beside him.

22 Q Okay. And where -- where did you live?

23 A [REDACTED] Raintree Lane.

24 Q Okay. And could you describe his house?

25 A It was white and big.

1 Q All right. It was white and what -- I'm sorry?

2 A Big.

3 Q Big? Was it one-story or two-story?

4 A Two.

5 Q All right. I'm going to show you what is marked

6 State's Exhibit 24. Can you look at that?

7 A (Complies.)

8 Q Is that the house?

9 A Yes, sir.

10 Q Okay. All right. Okay. And who did Mr. Willis

11 live there with?

12 A His mom and his sisters, to my knowledge, when I

13 lived down there.

14 Q Okay.

15 A It was like over five years ago when I lived down

16 there.

17 Q Okay. All right. Did you ever see anybody else

18 that was living there full-time or anything like

19 that?

20 A No, sir.

21 Q Okay. But he didn't have any like brothers the

22 same age living there or anything like that?

23 A None that I know of.

24 Q Okay. Okay. And in addition to his name, did you

25 know his nickname?

1 A "Tay."

2 Q Tay?

3 A Yeah. That's what I called him.

4 Q Okay. All right. And if you could -- if you could

5 just sort of step down here.

6 A (Complies.)

7 Q All right. Do you see him in the courtroom today?

8 A Yes, sir.

9 Q All right. Could you please point him out?

10 A (Indicates.)

11 MR. KENDALL: (To the Court) All right. And

12 so that's -- that's the individual. Let the

13 record reflect, he's -- he's pointing to the

14 defendant.

15 THE COURT: Well, he might be. (To the

16 witness) Can you describe what he's wearing?

17 THE WITNESS: A green shirt. A green button-

18 up shirt.

19 THE COURT: Okay. Does it have a stripe or a

20 plaid?

21 THE WITNESS: A green -- yeah, a plaid.

22 THE COURT: A green-plaid shirt. All right.

23 Let the record reflect he's identified the

24 defendant, Mr. Willis.

25 Q And that's the person you know as Diante' Willis?

1 A Yes.

2 Q That lives at that two-story house, the -- like
3 it's the third house on -- next to [REDACTED] or on the --
4 on -- that was identified in that picture?

5 A Yeah.

6 Q Okay. And he lives there with his mom and sisters?

7 A As far as I know, but that was over five years ago
8 when I lived down there.

9 Q Okay. And you still live in the same neighborhood,
10 correct?

11 A Yeah.

12 Q Have you seen anything to suggest otherwise since
13 then?

14 A I don't go down that way really.

15 Q Okay. Okay. But -- so you haven't seen anything
16 that would suggest otherwise?

17 A No, sir.

18 Q Okay.

19 MR. KENDALL: (To the witness) Please answer
20 any questions Mr. Morin may have.

21 CROSS-EXAMINATION

22 BY MR. MORIN:

23 Q You weren't there that night?

24 A No, sir.

25 Q You don't know what happened?

1 A No, sir.

2 Q You know that at some point Mr. Willis lived at [REDACTED]
3 Raintree?

4 A Yes, sir.

5 Q And you haven't been -- when's the last time you
6 went down Raintree?

7 A It was last week.

8 Q Okay. And before -- is that a regular route you
9 take?

10 A No.

11 Q Is there a reason why you went down there special
12 last week?

13 A I went and visited my mama.

14 Q So you go down there kind of regularly to see your
15 mama, right?

16 A Yeah. About once a week.

17 Q Okay. And when was the last time you saw Mr.
18 Willis at [REDACTED] Raintree?

19 A Years ago.

20 Q Okay.

21 MR. MORIN: (To the witness) That's all I
22 have. Thank you.

23 REDIRECT EXAMINATION

24 BY MR. KENDALL:

25 Q All right. Just to be clear. In May of 2019,

1 that's where he was living; is that correct?

2 A Yes, sir. To my knowledge.

3 Q Okay.

4 MR. KENDALL: Nothing further, Your Honor.

5 THE COURT: (To the witness) All right. You
6 can step down.

7 (WHEREUPON, the witness was excused.)

8 MR. KENDALL: All right. Your Honor, at this
9 time, the State would call Heather Vinesett.

10 (WHEREUPON, the witness was sworn.)

11 CLERK OF COURT: Watch your step. I'm going
12 to ask that you remove your mask while you're
13 testifying.

14 DIRECT EXAMINATION

15 BY MR. KENDALL:

16 Q Could you please state your name for the record?

17 A Heather Vinesett.

18 Q And, Ms. Vinesett, where do you reside?

19 A ████ Stephenson Street.

20 Q All right. Where do you spend most of your time
21 during the day?

22 A ████ Coach Hill Drive.

23 Q Okay. And why do you spend so much time there?

24 A It's my mother's house --

25 Q Okay.

- 1 A -- and I take care of her.
- 2 Q All right. And was this the case back in May of
3 2019?
- 4 A I wasn't taking care of her then, because she still
5 had both her legs, but I went there regularly.
- 6 Q Okay. So fairly often; is that fair to say?
- 7 A Uh-huh.
- 8 Q All right. And before we get kind of into your
9 testimony, you do have some criminal convictions,
10 correct?
- 11 A Yes, sir.
- 12 Q Dishonesty for a fraudulent check under \$500; is
13 that right?
- 14 A Yes, sir.
- 15 Q Okay. What was your relationship to the victim,
16 Mr. Scalf?
- 17 A He's my brother.
- 18 Q He's your brother? Okay. And did he -- how much
19 time did he spend at -- at the Coach Hill Drive
20 address?
- 21 A Just about every day like I did when he got off
22 work.
- 23 Q All right. So you're a family that regularly met
24 together at that --
- 25 A Yes.

1 Q -- address; is that fair to say?

2 A Yes, sir.

3 Q And what sort of stuff would you do at that

4 address?

5 A We'd have cookouts and just hang out with family

6 and play cards and --

7 Q Okay. Inside at that time, outside at that time, a

8 little bit of both at that time?

9 A A little bit of both.

10 Q All right. When the weather was nice, it was

11 summertime, and stuff like that, were you outside a

12 fair amount?

13 A When the kids was playing outside and we was --

14 they was playing cornhole and everything.

15 Q All right. And were you familiar with the other --

16 did you ever live at the [REDACTED] Maplewood Drive

17 address?

18 A Yes, sir.

19 Q Okay. And how long did you live there when you

20 lived there?

21 A Thirty years.

22 Q Okay. And were you generally familiar, based on

23 being there a fair amount and everything, with the

24 folks that lived in the neighborhood?

25 A Yes, sir.

1 Q Did you see, you know, people walking around and --
2 and doing things and everything like that?

3 A Yes, sir.

4 Q All right. Do you know who lived at that two-story
5 house on Raintree Lane, near -- near -- like about
6 three houses down from -- from where y'all would
7 be?

8 A I didn't know him prior to the --

9 Q Okay.

10 A -- involvement with my brother and Michael.

11 Q All right. Do you know who lived in that house,
12 though?

13 A I mean, I seen him, but I didn't know him.

14 Q Okay. All right. You weren't -- you weren't close
15 friends; is that fair --

16 A Yes.

17 Q -- to say? Did you -- were you familiar with who
18 was there? I mean, did you see a bunch of people?
19 Do you know the kind of ages and sexes of the
20 residence of the house?

21 A Yes, sir.

22 Q All right. What -- what were those?

23 A The mother, the son, and some daughters.

24 Q Okay. All right. Prior to this happening, did you
25 see any of the -- the residents of that house --

1 that two-story house, walking up and down -- or did
2 you just see them in the --

3 A Yes.

4 Q -- weeks prior to this?

5 A Yes, sir.

6 Q All right. And -- and who -- I think you
7 identified some daughters, a son, and mom, who
8 would you typically see out there doing stuff?

9 A The son.

10 Q All right. And what was he doing?

11 A Walking up and down the street.

12 Q Okay. And how often would you see him?

13 A Quite often.

14 Q Quite often? Does that mean once a week? Does
15 that mean, you know, everyday? Does that mean
16 multiple times a day?

17 A Multiple times a day.

18 Q Okay. And what would he be doing?

19 A Walking up the street, hollering, "I got you when
20 you would least expect it."

21 Q Okay. So let me -- let me get back to that. What
22 did he look like?

23 A Tall, skinny African American.

24 Q Okay. And you said a while ago "he was hollering"?

25 A Yes, sir.

1 Q When did that happen in relation to the shooting?

2 A A week prior to my brother's shooting.

3 Q Okay. And where were you when that happened?

4 A In the front yard.

5 Q Okay. Do you remember who there with you?

6 A Not right offhand, I don't.

7 Q Okay. Were there other people out there?

8 A Yes, sir.

9 Q All right. And who were those people? I mean, I

10 know you don't remember who, specifically, but what

11 group of people was it?

12 A Family and friends.

13 Q Family and friends?

14 A Yes, sir.

15 Q Okay. So it was kind of the group that associates

16 at that house?

17 A Yes, sir.

18 Q Okay. And what did he do as he walked by at that

19 point?

20 A He'd just holler, "I got you when you least expect

21 it." Go up to the stop sign -- well, to the

22 circle, then turn around and go back to his house

23 on Raintree.

24 Q Okay. All right. And did he just yell it once,

25 or --

1 A He yelled it quite a few times.

2 Q Okay. And where did he walk back to?

3 A His house on Raintree Lane.

4 Q All right. And which house was that?

5 A The white, two-story house.

6 Q Okay. And how many doors down Raintree was that?

7 A Three.

8 Q Okay.

9 MR. KENDALL: (To the witness) Please answer
10 any questions Mr. Morin may have.

11 MR. MORIN: One moment, Your Honor.

12 CROSS-EXAMINATION

13 BY MR. MORIN:

14 Q Ms. Vinesett --

15 A Yes, sir.

16 Q -- were you out there the day that this happened?

17 A Not when it happened, no, sir.

18 Q Did you come out there later?

19 A I was there earlier that day.

20 Q Okay.

21 A I didn't back till after I got the phone call.

22 Q Okay. What did you tell the police this occurred?

23 A Do what?

24 Q When did you tell the police about him saying this
25 threat?

- 1 A When it happened.
- 2 Q Do you remember which police officer you told?
- 3 A No, sir.
- 4 Q Was it that night? So you went out there that
- 5 night and told them that?
- 6 A When I got there.
- 7 Q Sure. Now, you said that you -- that things
- 8 happened and there'd be other people in the yard.
- 9 Was your sister out there?
- 10 A My sister, my brother, the family.
- 11 Q Harley was out there?
- 12 A Yes, sir.
- 13 Q Okay. Now, there's a lot of cars, because you have
- 14 a lot of family?
- 15 A Yes, sir.
- 16 Q You drove over there, right?
- 17 A Yes, sir.
- 18 Q And this particular day, your brother drove over
- 19 there, and it's not uncommon at [REDACTED] Coach Hill to
- 20 have three or four cars in the front yard, is it?
- 21 A No, sir.
- 22 Q In fact, one regularly parks on the road, you can
- 23 see where it's parked there?
- 24 A Yes, sir.
- 25 Q Okay. So when y'all were -- when the kids were

1 playing or when y'all were playing cornhole, was
2 that in the backyard or in the front yard?

3 A Front yard.

4 Q Front yard?

5 A Yes, sir.

6 Q So they -- you were doing this around the cars that
7 were parked out there?

8 A (No response.)

9 Q Okay.

10 THE COURT REPORTER: (To the witness) I
11 didn't hear your answer.

12 THE WITNESS: Yes.

13 MR. MORIN: Just a brief moment, Your Honor.

14 That's all I have, Your Honor.

15 MR. KENDALL: Oh, nothing further, Your Honor.

16 THE COURT: You may step down.

17 (WHEREUPON, the witness was excused.)

18 THE COURT REPORTER: (To Mr. Kendall) I'm
19 sorry? Matt, what -- what did you say?

20 MR. KENDALL: Sorry. I just want to mark
21 that.

22 THE COURT REPORTER: Okay. It'll be 42, I
23 believe.

24 MR. KENDALL: I think so.

25 THE COURT REPORTER: Okay.

1 (WHEREUPON, the witness was sworn.)

2 THE COURT REPORTER: (To Mr. Kendall) Can you
3 give me just a minute to mark this? Okay.

4 DIRECT EXAMINATION

5 BY MR. KENDALL:

6 Q Could you please state your name for the record?

7 A Jeffery Cole.

8 Q Mr. Cole, where you employed back in May of 2019?

9 A Cherokee County Sheriff's Office.

10 Q And, during that time, what were your job
11 responsibilities?

12 A Patrol the county. Enforce laws.

13 Q Okay. And so you were basically a patrol officer at
14 that time?

15 A Yes, sir.

16 Q Okay. Now, do you have any special relationship to
17 this neighborhood?

18 A Yes. I -- I grew up in that neighborhood.

19 Q Okay. And where did you grow up?

20 A [REDACTED] Coach Hill Drive.

21 Q Okay. And where is that in relation to the -- the
22 victim's house?

23 A It's directly next door.

24 Q Okay. And -- and how far for you -- far from
25 you -- were from the defendant's house?

1 A It was the third house on the left --

2 Q Okay.

3 A -- from the house where I grew up.

4 Q Okay. And can you describe that house?

5 A Yes. It's a white house, two-story.

6 Q Can you remember the address on it by chance?

7 A I believe it's [REDACTED] Raintree.

8 Q Okay. And can you describe this house, just --

9 just briefly?

10 A It's a white house. I think maybe black shutters.

11 I know it's two-story.

12 Q Okay.

13 A Driveway's to the left of the house, a building in

14 the back.

15 Q Okay. I'm going to show you what is State's

16 Exhibit 24. Do you recognize that?

17 A Yes, sir.

18 Q And what is that?

19 A That's the house at [REDACTED], I believe.

20 Q Okay. How busy is this area?

21 A I'm mean, it's -- it's an area that's pretty busy.

22 Cars are always coming in and out.

23 Q Okay. So it's not -- you know, Cherokee County has

24 all types of areas from, you know, roads that

25 somebody might go down once a week to, you know,

1 crossing intersections like Floyd Baker. How would
2 you -- I guess, how would you describe that kind of
3 the -- the flow of traffic around and stuff like
4 that?

5 A There's always a car going up and down the road. I
6 mean, I would say at least one every hour --

7 Q Okay.

8 A -- at least.

9 Q All right. And you testified you kind of knew the
10 -- the folks in the neighborhood. Did you know the
11 defendant, personally?

12 A Yeah. I grew up next door.

13 Q Not --

14 A No. I'm sorry. No. I didn't know him.

15 Q Okay.

16 A I was speaking of the victim.

17 Q Were you familiar with him? I mean, did you --

18 A I had just seen him when I'd go to my mom's. I
19 went to her house just about every day that I
20 worked. I would go over there. I'd seen the --
21 seen him out. I didn't know him personally, just
22 seen him.

23 Q Okay. And were you familiar with what house he
24 lived in?

25 A Yeah. I'd always see him in the driveway, usually

1 listening to -- he had headphones in, going back
2 and forth in the driveway and stuff.

3 Q All right. And did you know what -- what -- who
4 all lived there?

5 A I know that he did, a younger sister -- I'm pretty
6 sure, it was his sister -- and a -- his mom.

7 Q Okay. Did you ever see any other men around his,
8 even approximate, age?

9 A I did not.

10 Q Okay. And when you say you're familiar with it,
11 tell me this: What door did they use? Right.
12 Everybody's got doors in their house, sometimes
13 more than one. Some use the front door; some use
14 the back door.

15 A Yeah. They would use the side door. The -- when
16 they would pull into the driveway, there's a door
17 to your right. That's the door they used; they
18 didn't use the front door or the back door.

19 Q Okay. All right. Now, when you responded -- let's
20 go back to the night this happened, May 3rd, 2019.
21 Were you on duty that night?

22 A Yes, sir. I was.

23 Q And once you -- did you receive a call to -- to
24 come to Coach Hill Drive that evening?

25 A Yes, sir. I did.

1 Q All right. And when you got there, where did you
2 come in from?

3 A I come in off of Cherokee Avenue and come down
4 Filter Plant Road and then I turned onto Coach
5 Hill.

6 Q Okay. And when you went to Coach Hill, did you
7 stop there immediately?

8 A I believe I drove to the suspect's house.

9 Q Okay.

10 A From -- I believe I got out and then asked
11 Lieutenant Peterson what he needed from me and went
12 to the suspect's house.

13 Q Okay. And what did you do once you got there?

14 A I tried to make contact. I was unable to get
15 anybody to come to the door. I observed a -- a
16 phone outside, so I took it and went back to the
17 scene and asked Lieutenant Peterson what he needed
18 for me to do; and then I started roping off the
19 scene.

20 Q Okay. And did you stay up there at the crime scene
21 the rest of the night?

22 A No, sir. I stayed there until -- the same time I
23 started getting cleared up, closer to the end of it
24 and then went, again, with Lieutenant Peterson this
25 time down to the suspect's house, again, and tried

1 to make contact again.

2 Q Okay. Well, let's kind of go through that. What
3 happened when you got to the suspect's house? Like
4 did you just walk up and knock on the front door?
5 What -- what did you do at that point?

6 A The first time or the second time?

7 Q Second time.

8 A Second time. So I knocked on every door, tried to
9 look in the windows to see if we could see anybody,
10 checked the back building, looked inside the car
11 that was parked there, still didn't see anyone.

12 Q Okay. All right. And what did y'all do then?

13 A After that, we stood on the front porch with our
14 flashlights off, and we walked down there -- so
15 there was, you know, no lights. And we were
16 standing there, and I was telling Lieutenant
17 Peterson what had -- I had done to this point. And
18 as I was telling him that, we heard like a
19 scuffling --

20 Q When you say a "scuffling," like what do you mean
21 by that?

22 A Kind of like you could tell someone's moving in the
23 grass or leaves or whatever, you know, so it gets
24 your attention, you turn and look -- you turn and
25 look and shined my light and observe somebody

1 running.

2 Q Okay. And prior to that, had you seen any, like,
3 lights flickering over there, like, people look --
4 like they were looking for something or anything?

5 A No, sir.

6 Q Okay. So what did you do once you shined the
7 lights?

8 A When I shined the lights, I told -- I said, "Sir,
9 stop." The guy was running, so after he didn't
10 stop, he continued to run; I took up after him,
11 chasing him.

12 Q All right. Where did he run?

13 A He ran around the backside of the house, circling
14 around the house coming back out towards the
15 driveway and back towards Raintree Lane.

16 Q All right. And this is Mr. Willis' house; is that
17 correct -- or the -- this was the house that --
18 that -- of the defendant or Mr. Willis' house?

19 A Yes, sir.

20 Q Okay. And were you ultimately able to catch up
21 with him?

22 A Yes, sir.

23 Q Okay. I'm going to show you what is State's
24 Exhibit 42. Have you had the opportunity to watch
25 the section of your body camera from that night?

1 A Yes, sir.

2 Q All right. Was it a fair and accurate
3 representation of what happened?

4 A Yes, sir.

5 Q All right.

6 MR. KENDALL: We would offer State's Exhibit
7 42 into evidence, Your Honor.

8 MR. MORIN: No objection.

9 THE COURT: What number is it?

10 MR. KENDALL: Forty-two, Your Honor.

11 THE COURT: Thank you.

12 (WHEREUPON, State's Exhibit No. 42 was marked
13 into evidence.)

14 (WHEREUPON, State's Exhibit No. 42 is
15 played in open court.)

16 Q Just so the jury understands, where are you at this
17 point? Where are -- where are you running from?
18 Is that the chase itself?

19 A No, sir. I was --

20 Q What is this?

21 A I'm moving down towards the house.

22 Q Okay.

23 (WHEREUPON, State's Exhibit No. 42
24 continued to be played in open court.)

25 Q So as you were walking down there, what were y'all

1 doing?

2 A So there was more cars, because the road was roped
3 off, there was more cars parked on the side of the
4 road, so they could get to their house. And it
5 was, basically, clearing the cars, making sure
6 nobody that was hiding inside the cars or --

7 Q Okay.

8 A -- anything like that.

9 Q Did you see with the -- with the kind of road
10 blocked there on Coach Hill, how -- what kind of
11 traffic situation did this create?

12 A There was -- it was a mess, because there was a lot
13 of people trying to get home, and it -- you know,
14 there was no other way to get to the bottom of the
15 hill. So there's a lot of people parked alongside
16 the road on the back side.

17 Q Okay. Were vehicles turning around?

18 A Yeah. Yes, sir.

19 Q Okay. So it was -- it's a situation where you have
20 kind of a road that a lot of people lived on, so
21 you had people stopping and turning around and
22 things like that --

23 A Yes, sir.

24 Q -- on Coach Hill?

25 A That's right.

1 Q Okay.

2 (WHEREUPON, State's Exhibit No. 42

3 continued to be played in open court.)

4 Q Do you recall what that was in his pants?

5 A A flashlight.

6 Q Okay. Did you see him using the flashlight before
7 he came up or anything?

8 A No, sir.

9 Q Okay.

10 (WHEREUPON, State's Exhibit No. 42

11 continued to be played in open court.)

12 Q Did you give your name and badge number eventually?

13 A Yes, sir. I did.

14 Q All right. Once you got it kind of contained?

15 A (No response.)

16 Q You mentioned on that video a "white Crown Vic."

17 Can you describe what that vehicle was doing?

18 What's your --

19 A It pulled to the edge of the driveway; it didn't go
20 all the way down the driveway. It stayed right
21 there and --

22 Q Was this before or after the shooting?

23 A This was after.

24 Q Okay.

25 A Yeah. It was after.

1 Q All right. And what did the -- what did the
2 vehicle do?

3 A It sat there for maybe a minute, not -- not very
4 long at all, and then it backed out and left.

5 Q Okay. Were -- the night of the shooting, were
6 there any bystanders around?

7 A Yes. There were several.

8 Q Okay. Do you know if the individual from the Crown
9 Vic ever went to the house or did anything like
10 that?

11 A I do not.

12 Q Okay. Were there other cars that were kind of,
13 basically, looking and then turning around?

14 A Yes, sir.

15 Q All right. Parked in weird places?

16 A Yes, sir.

17 Q Okay. So did you have any specific reason to think
18 that this -- this Crown Vic was, like, involved in
19 any way?

20 A Not necessarily.

21 Q Okay. All right. After doing -- after he was
22 taken into custody, what did you do after that?

23 A After he was taken into custody, I stayed with him
24 until we cleared up. I -- I just kind of just
25 stood with him until Crime Scene come down there to

1 test him for GSR.

2 Q Okay. And what -- what is GSR?

3 A Gun residue.

4 Q Okay. Let me ask you this too: Do you remember if
5 in the -- like, you know, right before this, you
6 had fired a weapon or anything like that?

7 A No, sir. I hadn't.

8 Q Okay. Do you remember when if -- you don't have to
9 give me -- I understand this was a long time ago,
10 but do you recall firing one, you know, recently,
11 when this took place?

12 A No, sir.

13 Q Okay. And -- and 00 so had you bathed and washed
14 your hands since the last time you fired a weapon?

15 A Yes, sir.

16 Q Would you say -- how many times, if you had to
17 guess? Was it like once? You weren't at like a
18 range that day or something; is that fair to say?

19 A No. I was not.

20 Q Okay. And what about your -- once you -- when you
21 guys do go to ranges, what sort of -- what do you
22 do with regards to the weapon once you're done
23 shooting?

24 A If we have a range day, we are required to clean
25 our weapon afterwards.

1 Q Okay. And does the include the interior and
2 exterior? What does -- what does that involve?

3 A Yes, sir. We break it down -- break the weapon
4 down and clean it inside and out.

5 Q Okay. So when you use it -- it's cleaned?

6 A Yes, sir.

7 Q During this time, were you shooting, like,
8 recreationally all the time or anything like that?

9 A No, sir.

10 Q Okay. So is -- is it fair to say, on this night,
11 you had not -- you know, in the couple days before
12 or anything like that -- or fired a -- fired a
13 weapon?

14 A No, sir. I hadn't.

15 Q Okay. And you feel pretty confident you bathed
16 many times since the last time you fired one?

17 A Yes, sir.

18 Q Okay. What about your handcuffs? What do y'all do
19 in-between using your handcuffs? Like, if you were
20 to, you know, take someone to jail or detain them,
21 what happens -- what do you do with that? Do you
22 just keep using the same ones, or how does that
23 work?

24 A We use the same handcuffs, I always carried two
25 sets on me. And anytime I took someone to jail or

1 anytime they went on anybody, as soon as took them
2 off I had disinfectant spray inside the jail that I
3 would use, and, also, in my car that I would spray
4 them with.

5 Q Okay. And would you just spray them down and --

6 A Yeah. I'd spray them down till they was
7 dripping --

8 Q Okay.

9 A -- and usually wipe them off before I put them back
10 in my pouch.

11 Q Okay. And would you always spray them off?

12 A I always sprayed them off.

13 Q Okay. And would you always necessarily wipe them
14 down, or is that just the usual thing?

15 A Depending on if they was, you know, really dirty.
16 Depending on what --

17 Q Okay.

18 A -- the case was.

19 Q All right. All right. But spraying them down good
20 was something you did every time?

21 A Spraying down was always.

22 Q And is it a fair to say --

23 A I didn't want to take anything home.

24 THE COURT REPORTER: (To Mr. Kendall) Can
25 y'all speak one at a time, please? Thank you.

1 Q And you'd wipe them down frequently; is that fair
2 to say?

3 A Yes, sir.

4 Q Okay. All right. Okay. So after you kind of
5 dealt with the defendant, where did you go after
6 that? After you had -- the defendant was taken;
7 you said he was up the street. What did y'all
8 after that?

9 A I don't -- I don't understand what you're asking
10 me.

11 Q Okay. Let me back up a little bit. Did you
12 actually -- are you the one that actually put the
13 handcuffs on the defendant?

14 A Yes, sir.

15 Q Okay. Where -- where did you go after that? Like,
16 what did you -- was your part of the case done, or
17 where -- where did you go?

18 A Like I said, I -- I stood with him until the
19 detective got there and the crime scene came and
20 tested him -- his hands.

21 Q Okay. And what -- what did you do after that?

22 A Eventually, we cleared up and, you know, I believe
23 that he was transported --

24 Q Okay.

25 A -- to the sheriff's office.

1 Q Did you leave the scene at that point?

2 A I believe so. Yes, sir.

3 Q Okay. Were you there for the execution of a search
4 warrant?

5 A Oh, yes, sir. Yes, sir. I was. I'm sorry.

6 Q That's okay. And where did you -- where was that
7 search warrant executed? Excuse me.

8 A It was executed at the suspect's house, the [REDACTED].

9 Q Okay. All right. And were you the only officer
10 there or anything like that?

11 A No, sir.

12 Q Okay. So when you all do your search warrants, how
13 do you -- how do you typically do them?

14 A We usually have several guys with us, and we will
15 search everything.

16 Q Okay. And do you recall what you searched on this
17 night?

18 A We searched the house, and the car is what I
19 searched.

20 Q Okay. All right. And do you remember looking in
21 the shed at all?

22 A I want to say yes.

23 Q Okay. All right. And how -- how do these search
24 warrants work? I mean, do y'all -- if you see
25 something, like what do you do?

1 A So we've got to get a signature from the judge,
2 and --

3 Q Not the process of getting the search --

4 A Oh, I'm sorry.

5 Q -- warrant, I'm talking about how you execute it,
6 typically?

7 A Knock on the door and try to get someone to come to
8 the door. If not, then if there's an open door, we
9 enter then.

10 Q Okay. And -- and with regard to his car, did
11 you -- did you search through his car as well?

12 A Yes, sir.

13 Q Did you find anything of interest in his car?

14 A I found a headphone set.

15 Q A headphone set? What -- what do you mean by that?

16 A It was a set of headphones that -- you know, like,
17 Bluetooth headphones.

18 Q Were the headphones actually there?

19 A I believe it was a case. I --

20 Q Okay.

21 A I can't recall.

22 Q Okay. Okay. And so you said a -- a case and --

23 A And I believe a notebook or notepad, maybe.

24 Q Okay. And was -- who was with you when you were
25 doing this?

1 A I remember -- I believe, Hutchins. Heflin was out
2 there; I remember speaking to him. I want to say
3 Lieutenant Peterson was also there.

4 Q What about the crime scene? Were any of the crime
5 scene guys there?

6 A I want to say, maybe, Jacob Mullinax.

7 Q Okay. All right. And was Jacob, basically, right
8 there with you guys inventorying and collecting and
9 stuff like that?

10 A Yeah. I want to say he was doing all the
11 inventorying of everything we found.

12 Q Okay. All right. Okay.

13 MR. KENDALL: If I could just have one moment,
14 Your Honor?

15 Q I'm going to show you what are marked State's
16 Exhibits 20 -- it looks like 9 and 26. Well --
17 scratch that.

18 What -- what did you do once you found things?
19 Did you just -- did you turn those over to crime
20 scene, or what did you -- what do y'all do when --
21 when you are executing a search warrant?

22 A They're usually turned over to crime scene, they
23 inventory them, they go into a envelope.

24 Q Okay.

25 MR. KENDALL: (To the witness) Please answer

1 any questions Mr. Morin may have.

2 THE WITNESS: Okay.

3 CROSS-EXAMINATION

4 BY MR. MORIN:

5 Q Mr. Cole, the video that we've seen, is that an
6 accurate description or representation of the
7 conditions out there when you were out there?

8 A I don't -- I don't understand your question.

9 Q The video shows it being completely dark, correct?

10 A Yes, sir.

11 Q Is that the condition it was the entire time from
12 when you turned onto Coach Hill?

13 A I mean, it was -- it was dark in that area, on that
14 road, on Raintree; not where our cars was parked,
15 it wasn't.

16 Q Well, I mean, assuming that the cars -- because,
17 obviously, what you mean, I assume, is your blue
18 lights, your -- your headlights, and all that lit
19 up Coach Hill, right?

20 A Yes, sir.

21 Q But it was certainly completely dark out?

22 A It was dark.

23 Q Uh-huh. Well, can you show me anywhere on this
24 video when you were at [REDACTED] Raintree where you can
25 see [REDACTED] Coach Hill?

1 A I mean, you can -- are you asking me if I can see
2 that house from that house?

3 Q Uh-huh.

4 A Yes, sir.

5 Q In the dark?

6 A There was lights on at -- you could see the lights
7 inside the house on.

8 Q Inside the house? Okay.

9 A Uh-huh.

10 Q And there's some houses -- in fact, I think the --
11 the next door -- the house next door, you can
12 barely see it on this video, or are you saying this
13 video is not accurate?

14 A No, sir.

15 Q All right. Now -- and, in fact, when you see Mr.
16 Willis, you -- you don't see him until your light
17 comes on -- on him, correct?

18 A Yes, sir.

19 Q And he is, at that point, 30 feet? 20 feet away?
20 Ten feet away? He's pretty close, correct?

21 A I would say he was at the edge of the road, running
22 into the yard.

23 Q Right. From where you are with this video to where
24 he is at that moment, it is -- I'll let you say.
25 How -- how far away from him? Where you this far

1 away? (Indicates.)

2 A I would say a little bit more than that?

3 Q A little bit more? Well, I mean --

4 A Yeah.

5 Q -- back here, maybe in the front row?

6 A Okay. Yeah.

7 Q Okay. At no time, while you were chasing him, did

8 you -- I noticed you never said "sheriff's office,"

9 did you?

10 A No, sir.

11 Q You never said "police"?

12 A No, sir.

13 Q You never said you -- in fact, it was just a few

14 times you said, "Stop." Most of it was, "Get on

15 the ground," correct?

16 A Yes, sir.

17 Q And you had a flashlight on him. He didn't have a

18 flashlight pointed to you, correct?

19 A Yes, sir.

20 Q And then after you arrested him, he had a

21 flashlight in his pocket, correct?

22 A Yes, sir.

23 Q Now, when you conducted this search of the house

24 and the car and the building in the back -- and

25 this applies to you, because as you've said,

1 there's many officers out there. So I don't want
2 you to have to guess about what other people did.
3 But while you were there, did you find any gun?
4 A No, sir.
5 Q Did you find any ammunition?
6 A No, sir.
7 Q You did find a cell phone?
8 A Yes, sir.
9 Q Charging on the hood of the car?
10 A Yes, sir.
11 Q And the Bluetooth speaker to which -- or headphone
12 case that you refer to, obviously, works off of a
13 phone. You can't -- the -- the phones are a
14 requirement for the Bluetooth to work, right?
15 A Yes, sir.
16 Q There's also another --
17 MR. MORIN: (To Mr. Kendall) Did you enter
18 the picture from the car or not? I can't
19 remember.
20 MR. KENDALL: No.
21 Q Okay. You -- there was also a small -- if you
22 remember, a small like Panda-type speaker in there,
23 as well; is that correct?
24 A I -- maybe. I -- I don't -- I don't recall.
25 Q Okay. Now --

1 MR. MORIN: (To Mr. Kendall) Where's the
2 picture of that house?

3 THE COURT: Right there.

4 MR. MORIN: Right here? Yes. Thank you.

5 Q I'm going to show you State's Exhibit No. 24. It's
6 been -- it's been testified to that this is the REDACTED
7 Raintree; is that correct?

8 A Yes, sir.

9 Q Now, it appears that this photo was taken at night?

10 A Uh-huh.

11 Q In the dark about the same conditions as you were,
12 correct?

13 A Yes, sir.

14 Q I notice the house is lit up on one side; is
15 that -- do -- were you aware -- or were you present
16 when this picture was taken?

17 A I don't know when it was taken.

18 Q Would you agree that there's a spotlight on one end
19 of the house?

20 A Yes.

21 Q Okay. Now, if I understand, when you started
22 chasing him, you took your firearm that was riding
23 right here? (Indicates.)

24 A No, sir.

25 Q No?

1 A It was on my side.

2 Q Right there?

3 THE COURT REPORTER: (To Mr. Morin) I'm

4 sorry. Can you indicate --

5 Q By your chest, is what I'm referring to, for the
6 sake of the court reporter. I indicated the chest.
7 You say?

8 A It was on my side.

9 Q You pulled it out, and you were chasing him the
10 whole time with -- you can even see in there a
11 couple times your gun as you're running, correct?

12 A Yes, sir.

13 Q And then Mr. Willis gets on the ground and you get
14 on top of him and you use your handcuffs and put on
15 him?

16 A Yes, sir.

17 Q Who is it that says, "You're not under arrest"; is
18 that you or Lieutenant Peterson?

19 A I believe it's Lieutenant Peterson.

20 Q Okay. Now, y'all were in the front of the house at
21 the time, knocking on the door, when you heard the
22 rustling in the yard, correct?

23 A Correct.

24 Q But y'all never saw him coming up the road, did
25 you?

- 1 A No, sir.
- 2 Q And he's coming up the road from the direction of
3 Maplewood, or is it -- that's the way it looked,
4 but you correct me if I'm wrong?
- 5 A I would say he's coming from the side of Coach
6 Hill.
- 7 Q You -- you're saying he's coming from Coach Hill?
- 8 A I believe -- the way he was running through the
9 yard, yes.
- 10 Q All right. Because if we want to look at it if we
11 need to (verbatim.) But it's my -- the house is --
12 if you're looking at the house, the driveway is on
13 the left, correct?
- 14 A Correct.
- 15 Q Y'all had just called in the number and were
16 talking about the white Crown Vic?
- 17 A Correct.
- 18 Q You walked around the front of the house and you
19 were standing there in front of the house and he
20 ran up from your right or from your left?
- 21 A From my right. If I'm looking back at the road, he
22 comes from the right.
- 23 Q So you're saying he ran up from Coach Hill, he went
24 past Coach Hill and came --
- 25 A I would say he might have cut through the backway

1 through -- between houses. I mean, I -- I wouldn't
2 say he walked on Coach Hill past all of -- a bunch
3 of patrol cars.

4 Q Okay. He ran around the house?

5 A Uh-huh.

6 Q And when he's running around the house, he starts
7 on one side and runs around and we see him run
8 through the driveway?

9 A Yes, sir.

10 Q And you saw him at that corner of the house,
11 correct?

12 A (Nods head up and down.)

13 Q At that corner of the house, if you were going to
14 say is this the house, one side goes to Maplewood
15 and one side goes to Coach Hill, correct?

16 A Correct.

17 Q And the driveway's closer to Coach Hill than it is
18 to Maplewood?

19 A Correct.

20 Q And the chase ended after you passed that circle,
21 correct?

22 A (Nods head up and down.)

23 THE COURT REPORTER: Can you answer out loud?

24 THE WITNESS: Yes, sir.

25 Q And you certainly aren't saying that y'all were

1 standing in the driveway and he came up from Coach
2 Hill and walked down the road and you didn't see
3 him till he got over there, because I heard
4 Lieutenant Peterson say, "You're watching me,
5 right?" Because y'all were watching, correct?
6 A Yes, sir.
7 Q Now, when you got there, I think you said,
8 "Lieutenant Peterson was out and you sort of drove
9 past and he sent you down to [REDACTED]"; is that right?
10 A Correct.
11 Q And the witnesses that were at the scene, you
12 didn't speak to?
13 A I try not to speak to any victims to get involved
14 in . . .
15 Q Okay. I understand. On your way to the scene --
16 okay. Because you got the call and you were on
17 your way to the scene. Did you stop someone?
18 A I got out for the two people walking on Filter
19 Plant Road.
20 Q Uh-huh. Shortly before you get to Coach Hill?
21 A Correct.
22 Q I believe a man and woman?
23 A Correct.
24 Q You made that stop because your call -- because of
25 what you learn as part of your job?

- 1 A (Nods head up and down.)
- 2 Q Yes?
- 3 A Correct.
- 4 Q And as part of your job, did you become aware that
- 5 there may be a vehicle leaving the scene?
- 6 A Correct. They gave out on the radio that the
- 7 suspect was -- I want to say they said first on
- 8 foot and possibly in a vehicle on Filter Plant
- 9 Road.
- 10 Q Uh-huh. And that would have been a different
- 11 vehicle than the vehicle to which Mr. Kendall asked
- 12 you about that was in the driveway for a short
- 13 time?
- 14 A They didn't give a description on the vehicle. I
- 15 don't recall.
- 16 Q So it could have been the same vehicle?
- 17 A It could have been.
- 18 Q All right.
- 19 A I had no description. All I was doing was making
- 20 contact with anybody I seen in the area.
- 21 Q Okay. So at that point, they hadn't said whether
- 22 or not -- what the person was wearing? what the
- 23 race was? what the gender was? nothing?
- 24 A I don't recall --
- 25 Q Well, keep in --

1 A -- at that point.

2 Q Like I said, you stopped a man and a woman?

3 A Correct.

4 MR. MORIN: One moment, Your Honor. (To the
5 witness) That's all the questions that I have
6 for you, sir.

7 MR. KENDALL: Sir, give me just a second. Let
8 me get this set up again. I'd like to kind of
9 go through the orientation of where everything
10 is and where we are on this, if that's okay?

11 REDIRECT EXAMINATION

12 BY MR. KENDALL:

13 Q All right. Can you tell where you guys are? Are
14 you able to see that from there?

15 A Yes, sir.

16 Q All right. I just want to make we sure get the --

17 (WHEREUPON, State's Exhibit No. 42 was
18 played in open court.)

19 Q All right. Where -- where are you at this point?

20 A I'm in the driveway.

21 Q Okay. Which side is the driveway on?

22 A Facing the house, it's to your left.

23 Q Okay. Is it on the Coach Hill side or the
24 Maplewood side?

25 A It's closer to Coach Hill.

1 Q Okay. All right.

2 (WHEREUPON, State's Exhibit No. 42
3 continued to be played in open court.)

4 Q Now, is the same true for the -- that sidewalk?

5 THE COURT REPORTER: (To Mr. Kendall) I -- I
6 can't hear.

7 MR. KENDALL: I'm sorry.

8 Q Is the same true for that sidewalk?

9 A Yes, sir. It's on the Coach Hill side.

10 (WHEREUPON, State's Exhibit No. 42
11 continued to be played in open court.)

12 Q All right. So that guy walking there, what side is
13 he coming from?

14 A Do what, now?

15 Q The gentleman right there you said, "Well, that's
16 Calvin." Where -- where was he walking from, like
17 up the street, or were you able to tell?

18 A I wasn't able to tell.

19 Q All right.

20 (WHEREUPON, State's Exhibit No. 42
21 continued to be played in open court.)

22 Q All right. So just to be -- just to be clear. I
23 don't know if you were able to see that.

24 (WHEREUPON, State's Exhibit No. 42
25 continued to be played in open court.)

1 Q All right. When -- when he shows up, is he on the
2 same side as the driveway or the far side?

3 A He's on the far side.

4 Q Okay.

5 A He's closer to Maplewood.

6 Q Okay. I think that's what -- I think that's what
7 Mr. Morin was asking about. So when he comes up to
8 the house, he -- he's on the Maplewood side of the
9 house; is that -- is that fair to say?

10 A Correct.

11 Q Okay. Okay. And then he runs around the house?

12 A Correct.

13 Q All right. Okay. And where the driveway would be
14 would be the Coach Hill side; is that right?

15 A Correct.

16 Q Okay. I just want to make sure we understand now.
17 Is -- he shows up on the -- on the Maplewood side
18 and then runs towards the Coach Hill side; is that
19 -- is that accurate?

20 A Correct.

21 Q And he kind of moves around and then -- is that --
22 okay.

23 A Yes, sir.

24 Q All right. Mr. Morin talked about you making
25 initial contact with individuals you saw on the

1 street. Was there anything to those individuals at
2 all?

3 A No, sir.

4 Q Do you remember who they were or anything or just
5 they --

6 A I do not.

7 Q Okay. But did you go pretty easily -- pretty
8 quickly, like running away or anything like that?

9 A No, sir. They just stood there and answered any
10 question I had, which I didn't ask them much. I
11 just kept listening to what the radio was giving
12 out.

13 Q Okay. All right. And is it pretty common when you
14 have just sort of like "shooter on the loose"
15 situations to get a fair amount of information
16 coming in at one time?

17 A Usually, it comes in in pieces. It's as they get
18 it.

19 Q Okay. Okay. So it's in kind of -- you're getting
20 real-time information when somebody says to
21 somebody else, and then it just gets relayed out;
22 is that a fair way to --

23 A Correct. It's --

24 Q -- describe it?

25 A They don't give us everything all at one time.

1 Q Okay. All right. So it's kind of coming in pieces
2 what, basically, somebody is telling to somebody
3 else and gets -- gets put out there; is that fair
4 to say?

5 A Yes, sir.

6 Q All right.

7 MR. KENDALL: All right. Nothing further,
8 Your Honor.

9 MR. MORIN: (To the Court) No questions.

10 THE COURT: (To the witness) You may step
11 down.

12 (WHEREUPON, the witness was excused.)

13 THE COURT: We're going to recess for lunch.

14 (To the jurors) I'm going to caution you,
15 again, that during lunch recess there are to
16 be no discussions, no conversations about any
17 aspect of the case in any fashion, even among
18 yourselves. Do have a good lunch. Please
19 report to your jury room this afternoon at
20 two-thirty -- two-thirty this afternoon. Have
21 a good lunch.

22 (WHEREUPON, the jury left at 12:54 p.m.)

23 THE COURT: May I see the lawyers a minute?

24 (WHEREUPON, a bench conference was held.)

25 THE COURT: All right. Court is in recess

1 until two-thirty.

2 (WHEREUPON, a lunch break was taken from
3 12:56 p.m. until 2:32 p.m.)

4 AFTERNOON SESSION

5 THE BAILIFF: All rise. Come to order.

6 Please be seated.

7 THE COURT: Any matters to address before the
8 jury is brought in?

9 MR. MORIN: No.

10 MR. KENDALL: No.

11 THE COURT: (To The Bailiff) Bring them in.

12 THE BAILIFF: Okay.

13 (WHEREUPON, the jury came into open court
14 at 2:32 p.m.)

15 THE COURT: Good afternoon, ladies and
16 gentlemen. We're going to continue with the
17 State's presentation of evidence this
18 afternoon.

19 MR. KENDALL: Thank you, Your Honor. The
20 State would call Benji Peterson, please.

21 (WHEREUPON, the witness was sworn.)

22 CLERK OF COURT: I need you to remove your
23 mask before you testify.

24 DIRECT EXAMINATION

25 BY MR. KENDALL:

1 Q Could you please state your name for the record?

2 A Joseph Benjamin Peterson.

3 Q All right. Mr. Peterson, back in May of 2019,

4 where were you employed?

5 A Cherokee County Sheriff's Office.

6 Q And what were your responsibilities there at --

7 and what -- what did your job entail?

8 A Patrol lieutenant. I was over a crew of deputies

9 and a sergeant. Answered calls and service.

10 Q All right. So is it fair to say you were kind of a

11 responding unit?

12 A Yes, sir.

13 Q Okay. And at a little before 9 p.m. on May 3rd,

14 2019, did you respond to a shooting at Coach Hill

15 Drive?

16 A Yes, sir.

17 Q Do you recall what county and state that's located

18 in?

19 A Cherokee County, South Carolina.

20 Q All right. And when you responded on-scene, what

21 did you find?

22 A As I arrived there was a good many people in the --

23 in the roadway as well as, like, a white male

24 laying in the roadway. As I got out of my vehicle,

25 several people were saying that the -- the male had

1 been shot, and he was laying on the ground; no
2 signs of life that I could see. At that time,
3 everyone was saying that the shooter had taken off
4 back down toward Raintree Lane.

5 Q Okay. And how would you describe the -- the people
6 out there that night? Was this a calm, collected
7 situation?

8 A No, sir. It was chaotic. It was --

9 Q All right.

10 A -- a lot of hollering, a lot going on.

11 Q So when you said "people were saying," is that
12 based on like a formal interview at the initial
13 stages?

14 A No, sir. That was just, basically, people
15 hollering or -- or, basically, hollering and
16 yelling, "The shooter went that way." No type of
17 formal interview for --

18 Q Okay. All right. And you indicated that the --you
19 -- you came across Mr. Scalf; is that correct?

20 A Yes.

21 Q All right. And -- and how did he appear? Were you
22 able to take a pulse?

23 A Yes, sir. I did take a pulse on his wrist, but as
24 I -- as I was looking at him, there was no signs of
25 life at all.

1 Q Okay.

2 A No breathing and no pulse when I did check it.

3 Q All right. And did you call EMTs at that time?

4 A Yes, sir. I did. EMS was already on-scene, but
5 when we get there, we secured the scene, and -- and
6 I had asked them to come as quick as they could --

7 Q Okay.

8 A -- prior to checking.

9 Q All right. And when you say "contain the scene,"
10 what do you mean by that?

11 A Basically, we want to make sure the -- the shooter
12 did not return to injure anyone else. We want to
13 preserve the crime scene as best we can, preserve
14 any evidence around the victim, and get crime scene
15 tape up that -- to preserve all that we can.

16 Q Okay. And, in this case, did you do that?

17 A Yes, sir. Yes, sir. We put up the crime scene
18 tape, it took several minutes to do so, but for
19 several minutes there I was just trying to get
20 people away from the victim, waiting on -- waiting
21 on the EMS to get there, making sure they -- they
22 were safe, and making sure the shooter did not
23 return.

24 Q Okay. So there were a few minutes where really it
25 was -- it was extremely chaotic, and you were just

1 trying to get control of it so you could --

2 A Yes, sir.

3 Q -- block it off; is that correct?

4 A Yes, sir.

5 Q All right. Once you all got control of it -- got
6 control of the scene, how did that affect the
7 traffic flow? What was going on -- on the street
8 and stuff like that?

9 A It had shut down. We had put crime scene tape
10 across Coach Hill Drive, so the traffic could not
11 come in and out of Coach Hill. They had to come in
12 the lower road and come up Raintree Lane. So,
13 basically, there was a lot of cars sitting around
14 trying to see -- trying to get through Coach Hill
15 and/or wanting to know what was going on.

16 Q Okay. And did you leave the body on-scene?

17 A No, sir. EMS arrived on-scene and then they loaded
18 him into the ambulance.

19 Q Okay. And why was that decision made? Why did
20 y'all want -- want to do that?

21 A Well, I wanted -- wanted to preserve the -- the
22 crime scene best I could, because if -- if he was
23 in the ambulance, then I knew I could keep everyone
24 out of the crime scene better. I had a better
25 sense of doing that, so I was -- I was good with an

1 ambulance loading him into their unit, and --

2 Q Okay. And based on your initial arriving on scene,
3 was there any house of interest or -- or area of
4 interest that the alleged shooter would have come
5 from?

6 A Well, they were saying that the shooter lived on
7 Raintree Lane; the two-story house on Lane --
8 Raintree Lane.

9 Q Okay.

10 A I wasn't -- I wasn't very familiar with the area at
11 the time, but --

12 Q Okay.

13 A -- I knew the general direction of where everyone
14 was pointing saying that the suspect had ran.

15 Q Okay. And during the course of that, people were
16 also yelling out all sorts of things; is that fair
17 to say?

18 A Yes, sir.

19 Q And at that stage of the investigation -- at that
20 stage early on; is it -- is it fair to say that
21 you're basically relaying information in real time?
22 Like somebody would say something and -- and you
23 were trying to just sift through things to find out
24 where you are?

25 A Yes, sir. That's true.

1 Q Okay. All right. Once the scene was secured, what
2 did you do at that point?

3 A We had another -- Captain Clark arrived on scene
4 and he was actually watching the crime scene once
5 it was taped off and we were keeping people out of
6 it. Myself and Deputy Cole walked down to the
7 suspect's house or who we assumed to be the suspect
8 at that time. We -- we walked around the house,
9 looked at the back building where several people
10 had said that he could have been staying. We
11 checked the building, knocked on the door twice, I
12 believe, and we were standing under the -- right at
13 the front door when we saw the suspect run across
14 the road -- or best I could tell -- across the road
15 back toward behind his house.

16 Q Okay. When did you first get flashlight on him?
17 Was he in the road or the yard? Do you recall?

18 A The -- right -- in the yard, right there at the
19 road or --

20 Q Okay.

21 A -- from that way.

22 Q All right. And what side of the house was that on?
23 Was it the side you guys had just come from, or was
24 it the side down -- down the hill?

25 A The lower side. If you're looking at the front of

1 the house, to the right. On the right side.

2 Q All right. So -- so towards Maplewood; is that --

3 A Yes, sir.

4 Q -- is that right? Okay.

5 A Yes, sir.

6 Q All right. And what did he do -- what did you do

7 when you -- when he had arrived when you saw this

8 and he returned to the scene?

9 A We -- I said, "Sir, sir." And he took off running

10 when he saw us. Myself and Deputy Cole started

11 chasing him around the house, and he gave up in the

12 road a few minutes. I mean, we had just --

13 probably a ten-second foot chase -- fifteen-second

14 foot chase. We chased him around the house and

15 then he was crossing the road; then, he put his

16 hands up.

17 Q Okay. And was he taken into custody at that time?

18 A Yes. He was detained at that time, yes, sir.

19 Q Okay. But to be fair, he was -- he was handcuffed;

20 is that correct?

21 A Yes, sir. He was.

22 Q Would he have been free to leave if he had wanted

23 to?

24 A No, sir.

25 Q Okay. So for all intents and purposes he wasn't

1 under a formal arrest, but he was -- he was not
2 permitted to -- to -- go anywhere; is that fair to
3 say?

4 A Yes, sir.

5 Q All right. And what was the basis of doing that?

6 A He was -- he matched the description to the best of
7 the information that we had at the time for the
8 shooter.

9 Q Okay.

10 A And he was coming back toward the house that we --
11 at that time, we were told was the suspect's house.

12 Q Okay. And how did he act when he saw -- saw you
13 all?

14 A He was -- he was very standoffish. He -- he wanted
15 to know --

16 Q Oh. Oh. I'm sorry. Immediately, entering the
17 yard, how did he -- how did he -- how did he react
18 when you all turn the flashlights on him?

19 A Well, he -- he took off running faster. He was
20 already jogging or pretty quick walking. I
21 couldn't tell. As soon as I shined my flashlight
22 on him, he took off running around the house --

23 Q Okay.

24 A -- and there was -- he knew we were chasing him,
25 but there was no stopping him --

1 Q Okay.

2 A -- he wasn't going to stop.

3 Q All right. And who actually took him in -- who

4 actually caught him and put the -- put the cuffs on

5 him?

6 A Deputy Cole.

7 Q Okay. But you were there as well; is that correct?

8 A Yes, sir. I was 15-20 foot (verbatim) behind him.

9 Q Okay. And what did y'all do at that point?

10 A I called other -- as we were running around the

11 house, I called other units to let them know that

12 we were in foot pursuit. Once we caught him, I let

13 other units know that we had him custody, and I had

14 let Captain Clark, as well as investigators -- or

15 anyone that was listening on the radio to let them

16 know that we had him in custody so we could extend

17 the investigation to a possible suspect -- with a

18 possible suspect.

19 Q Okay. And did you remain with him -- with the

20 suspect? And who was the suspect? I'm sorry. Was

21 it Mr. Willis?

22 A Yes, sir. It was Mr. Willis.

23 Q All right. And did you remain with the suspect?

24 A Yes, sir.

25 Q Okay. And did you place him in any vehicles or any

1 -- at -- at that point in time, was -- was -- is he
2 immediately put in a vehicle and taken away?

3 A No, sir. We actually walked away from the -- the
4 victim's house down the road toward Maplewood
5 Drive.

6 Q And why did you do that?

7 A We didn't want anyone else to know that we had
8 caught the possible suspect, for the family. We
9 didn't -- we wanted to create a bigger buffer so
10 that would give us time to interview him to try to
11 figure out if this was our true suspect at that
12 time.

13 Q Okay. All right. And was he compliant with you as
14 you --

15 A No, sir. He was not compliant.

16 Q Okay.

17 MR. MORIN: Objection, Your Honor. I have a
18 motion. I need to approach.

19 THE COURT: Okay.

20 (WHEREUPON, a bench conference was held.)

21 Q So once he was taken into custody, was he
22 immediately taken back to the station?

23 A No, sir.

24 Q Okay. And was he placed in any vehicles prior to
25 gunshot residue test being issued -- being

1 administered?

2 A No, sir.

3 Q Okay. And to be clear, you weren't the officer
4 that -- that handcuffed him and used your handcuffs
5 and stuff like that; is that correct?

6 A No, sir.

7 Q Okay.

8 A It's not my cuffs.

9 Q Had you, you know, immediately prior to this, fired
10 any firearms or anything like that?

11 A No. Just immediately, no, sir.

12 Q Okay. And -- and what do you do after you shoot
13 weapons? Like what is the standard kind of
14 procedure where you -- standard procedure, what do
15 you do with regard, first off, to your weapons, and
16 then with regards to yourself?

17 A As soon as range day or training day is over, we
18 clean our weapons. And if -- and then after
19 training day, before shift, at four o'clock, I
20 would have went home, taken a shower, and then come
21 back to work.

22 Q All right. Do you remember if you had a range day
23 that day?

24 A No, sir. I don't remember.

25 Q Okay. Do you think you did, or do you remember

1 going to the range and coming immediately to work?

2 A No, sir. I don't remember to be honest with you.

3 Q Okay. But even if you had, had a range day, would
4 you have cleaned your weapon and washed your hands?

5 A Yes, sir.

6 Q Okay. And, again, were you the one that actually
7 had your hands, then handcuffing him, stuff like
8 that?

9 A No, sir.

10 Q Okay. So you weren't the one that had the primary
11 contact with him at the time of his detention; is
12 that -- is that right?

13 A Yes, sir. That's right.

14 Q Okay. And do you always clean them that day or can
15 it sometimes be the next day or . . .

16 A Very seldom it's the next day.

17 Q Okay.

18 A Usually, that day.

19 Q Okay. And -- but, in any event, do you wipe them
20 down?

21 A Yes, sir.

22 Q Okay. So even if it's not that day, you're not
23 just like --

24 A Yeah. The whole weapon is cleaned.

25 Q Okay.

1 A Yeah.

2 Q All right. And what did you ultimately do with --
3 with Mr. Willis?

4 A As soon as we took custody of Mr. Willis, we walked
5 probably a hundred feet/200 feet down Raintree Lane
6 toward Maplewood Drive. That is where
7 detectives -- two detectives, Detective Ward and
8 Parnell, met us there; talked with me and then, I
9 believe, talked with the suspect for probably 30
10 minutes or something.

11 Q Okay. And don't -- don't go into anything like
12 that. But where did you ultimately take him?

13 A To the sheriff's office.

14 Q Okay. All right. Is that the last time -- it was
15 the end of your involvement that night with the
16 case?

17 A Yes, sir. It is.

18 Q Okay. Well, did you go back at any point and look
19 for stuff, later?

20 A Yes. During a search warrant.

21 Q Okay. Okay.

22 MR. KENDALL: (To the witness) Please answer
23 any questions Mr. Morin may have.

24 THE WITNESS: Yes, sir.

25 THE COURT: Ladies and gentlemen, I've got one

1 matter I'm going to need to address. I'll ask
2 you to please go to your jury room. Don't
3 talk about the case. I'll bring you back in
4 just a few minutes.

5 (WHEREUPON, the jury left at 2:49 p.m.)

6 THE COURT: All right. Mr. Morin?

7 MR. MORIN: Your Honor, the State asked Mr.
8 Peterson what happened after he got -- if he
9 was -- I'm trying to remember the question.
10 "Was he compliant after he was handcuffed?"
11 The answer was, "He was not." This jury has
12 already seen a video of my client laying on
13 the ground asking about why he's being
14 arrested. I submit that his saying Mr. Willis
15 was not compliant is a comment on his right to
16 remain silent, because he didn't say anything
17 other than delegation of authority and some
18 other things. But you can see at the end of
19 the video that the State has already played.
20 And, at this time, I'm moving for a mistrial
21 based on that statement, "He was not compliant
22 after he was handcuffed."

23 THE COURT: Let me make sure I'm clear on what
24 you're saying. All right. Was he asked to
25 provide a statement? Was he asked about -- if

1 he knew anything about the event? Was he
2 asked anything about the crime?

3 MR. MORIN: My client was the question that
4 the State asked.

5 THE COURT: On the video?

6 MR. MORIN: He --

7 THE COURT: Did this officer ever ask him to
8 give a statement, or -- or ask him
9 questions -- if he intended to receive a
10 response?

11 MR. MORIN: He was asking him -- he was
12 reading him his rights, and my client was not
13 answering the questions that he was wanting.

14 THE COURT: Well --

15 MR. MORIN: But he's not --

16 THE COURT: -- what question was that?

17 MR. MORIN: If I may. I think I can answer it
18 if I can ask the officer --

19 THE COURT: I'm gonna let you do that, but
20 what question was he asking him?

21 MR. MORIN: He was -- they were shouting --
22 they were talking while my client was in a
23 delegation of authority and the officer was
24 trying to read him his rights and do some
25 other things.

1 THE COURT: Well, that's what I would
2 interpret being noncompliant was. I didn't
3 hear -- I didn't hear this officer ask your
4 client any questions that he refused to
5 respond to, which would make him noncompliant
6 in the context of not answering questions or
7 providing a statement. So that's what I'm
8 trying to find out. Are you asserting that
9 there was such a conversation?

10 MR. MORIN: I don't know that there was.

11 THE COURT: Okay. Let's do this. You ask him
12 what he means by noncompliant.

13 MR. MORIN: Officer Peterson, earlier 6you
14 said "noncompliant," can you expand on what
15 you mean by that?

16 THE WITNESS: Most of the time when we read
17 someone their rights, they would at least let
18 us read them their rights. Mr. Willis, he
19 would -- he would not just let us read his --
20 him his -- read him his rights. He kept
21 interrupting us with telling us we didn't have
22 delegation of authority. The only question
23 that I -- that I remember asking was his name,
24 and I may have asked him where he lived. I
25 don't even know that I said -- but I tried to

1 ask him his name, I believe, once. But, other
2 than that, it was just -- he kept talking,
3 kept interrupting me while we was trying to
4 read him his rights.

5 MR. MORIN: All right. Your Honor, I'm --

6 THE COURT: (To the witness) Well, is it fair
7 to say that what you mean by "noncompliant,"
8 is that he was not being cooperative in the
9 detention?

10 THE WITNESS: Yes, sir. As far as resisting,
11 no, sir. He was not resisting, just not
12 compliant with letting us read him his rights
13 so we could talk to him.

14 THE COURT: Okay. So that's -- that's
15 basically it.

16 MR. MORIN: Okay.

17 MR. KENDALL: (To the witness) I was -- I was
18 going to say, did y'all have any time getting
19 him further down the street?

20 THE WITNESS: Well, we -- we both -- myself
21 and Deputy Cole both grabbed one arm and
22 walked him down there, so . . .

23 MR. KENDALL: But he didn't -- he didn't get
24 up voluntarily and walking with you?

25 THE WITNESS: No.

1 MR. KENDALL: Like that --

2 THE WITNESS: No.

3 MR. KENDALL: -- or anything? And throughout
4 this entire thing, was he -- I mean he was --
5 Deputy Cole read him his rights. And did he
6 stop talking? I mean, was this something
7 where he -- he said, "I don't want to talk,"
8 or did he just, I mean, continue for -- I
9 mean, and -- and I'm not -- I wasn't going to
10 go into this, but, you know, what is -- what
11 is he doing the majority of the detention?

12 THE WITNESS: Just interrupting us. Telling
13 us we don't have the delegation of authority
14 to talk to him.

15 MR. KENDALL: Okay. And this goes on for --
16 for quite some time, right? He -- he's not --
17 and -- and we -- this was not on any record or
18 anything. I just want to make sure that -- I
19 kind of stopped questioning, because Mr. Morin
20 raised an objection. But to say that he's --
21 he -- he's -- I mean, we're not commenting on
22 his right to remain silent; he's not remaining
23 silent. He's basically yelling the -- for the
24 next, you know --

25 THE COURT: Are you asking a question or are

1 you arguing?

2 MR. KENDALL: No. I -- I just -- I mean, I
3 just -- I -- I hope there's not a -- we didn't
4 elicit any testimony of him not talking. We
5 hadn't asked if he had talked, and --

6 THE COURT: Well, I told Mr. Morin, I -- I
7 didn't interpret anything he said to be a
8 comment upon the defendant's right to remain
9 silent. And I don't think it can be
10 interpreted that way. Now, Mr. Morin, out of
11 an abundance of caution, thought being
12 noncompliant was he wasn't responding and
13 wasn't giving information, but I didn't see it
14 that way, and I don't think that's the way
15 that --

16 MR. MORIN: I'm --

17 THE COURT: -- it was -- was --

18 MR. MORIN: I'm satisfied. I understand what
19 he was talking about now.

20 THE COURT: Okay.

21 MR. MORIN: (Inaudible.)

22 THE COURT: All right. And -- and let me
23 caution the witness now that this has all been
24 brought up. You do understand that you cannot
25 in any way make any comment upon the

1 defendant's refusal to answer any questions?

2 THE WITNESS: Yes, sir.

3 THE COURT: Okay. After you advised him of
4 his rights, okay?

5 THE WITNESS: Yes, sir.

6 THE COURT: You -- you can talk about what
7 happened during that course of events, but
8 once he was advised, you can't talk about him
9 not providing information.

10 THE WITNESS: All right. Yes, sir.

11 THE COURT: All right.

12 THE WITNESS: Yes, sir.

13 THE COURT: Is that fair enough?

14 MR. MORIN: Yes, sir.

15 MR. KENDALL: Yes, sir.

16 THE COURT: Okay. (To the bailiff) Bring the
17 jury back.

18 (WHEREUPON, the jury came into open court
19 at 2:56 p.m.)

20 THE COURT: All right. Mr. Morin?

21 CROSS-EXAMINATION

22 BY MR. MORIN:

23 Q Lieutenant Peterson, you essentially were the first
24 person on the scene --

25 A Yes, sir.

1 Q -- correct? And, certainly, you agree it was chaos
2 out there. It's -- in fact, if I recall correctly,
3 you at least twice -- maybe three times, had to get
4 people to stop touching or move away from Mr. Scalf
5 while you were trying to organize other things?

6 A Yes, sir.

7 Q Now, Mr. Kendall asked you about formal interviews,
8 but when you arrived on the scene -- and we've had
9 testimony regarding this sort of -- when you're
10 working these kind of things, the information is
11 coming in and you're putting it out and some
12 information is coming in and you're rejecting it
13 based on other things you were learning as you go
14 through the investigation. Does that make sense?

15 A Yes.

16 Q I'm sorry it's so long. So when you get to the
17 scene, you talked to several of the witnesses that
18 kind of come up to you?

19 A Yes, sir.

20 Q And your initial information is that the shooter
21 ran down Raintree Lane, correct?

22 A Yes, sir.

23 Q And, of course, there's two things going on here.
24 Isn't it true that many of the witnesses said, "Mr.
25 Willis lives at -- on Raintree Lane"?

1 A Yes, sir. That's correct.

2 Q But when -- but none of the witnesses could say
3 they saw the face of the person who did the
4 shooting?

5 A Yes, sir.

6 Q Did any of the witnesses that you saw say anything
7 about a football jersey?

8 A No, sir. Not to my knowledge.

9 Q In fact, football jersey came out over the radio,
10 and I believe it's your voice that says, "That's
11 not the information I have"; isn't that correct?

12 A I don't recall talking about a football jersey. I
13 don't --

14 Q I don't think you talked about it, but I think it
15 came out about a 911 call regarding a football
16 jersey. And you didn't say anything other than,
17 "Not consistent -- or that's not the information I
18 have," which would have been true, right?

19 A To the best of my knowledge, yes, sir.

20 Q Right. Because nobody at the scene had said
21 anything about a football jersey to you?

22 A No, sir.

23 Q And you were the first officer to speak to Harley,
24 to speak to Mr. Manning, Ms. Pennington. You --
25 they're the ones that you were -- they were coming

1 up telling you what they saw?

2 A Yes, sir.

3 Q Now, Mr. Willis is on the ground. He's handcuffed
4 behind his back, and he says, "Why are you
5 arresting me?" And I believe it's you who says,
6 "You're not under arrest, you're under
7 investigative detention," correct?

8 A Yes, sir.

9 Q Now, what is the difference that you're giving
10 between those two? What is "investigative
11 detention"?

12 A Arrest is when you have a charge and you're --
13 they're on -- they -- you're fixing to take them to
14 jail.

15 Q Okay.

16 A All right. Investigative detention is: I'm out
17 with a suspect, who matches the description of
18 something -- of a -- of a shooting that just
19 occurred right up the road. I'm out with a suspect
20 who matches that matches that description.

21 Q Okay.

22 A They're not free to go --

23 Q Right.

24 A -- and it's my job, at that point, to further the
25 investigation to see if this is my true suspect or

1 not.

2 Q So an arrest, you have a charge and you're getting

3 ready to take him to jail?

4 A Yes, sir.

5 Q And he was handcuffed, and he was taken to the

6 sheriff's office?

7 A Yes, sir.

8 Q And he was detained there, as far as you know?

9 A Yes. He was not free to go.

10 Q Correct. So your definition between investigative

11 detention and arrest is basically the charge?

12 A Yes.

13 Q Now, Captain Ward was out there, correct?

14 A Yes, sir.

15 Q And he asked you a question about, "Why is this the

16 guy?"

17 A Yes, sir.

18 Q "Did somebody see him?"

19 A Repeat that.

20 Q He asked, "Did somebody ID him," correct?

21 A Yes.

22 Q And your response was, "Actually, it was somebody

23 else, Jomo, who ID'd him," correct?

24 A Jomo --

25 Q Jomo Davidson, the gentleman on the phone, came up.

- 1 A Yeah. He -- as far as, like, you know, ID'ing him
2 in a lineup?
- 3 Q No. That he's the one who named --
- 4 A Yes.
- 5 Q -- Willis and that kind of thing. But he hadn't
6 seen him; he didn't see it?
- 7 A That's right.
- 8 Q Because nobody else knew who that person was?
- 9 A Yes, sir.
- 10 Q And the witnesses -- did you ever speak to Ms.
11 Vinesett? Do you recall?
- 12 A No, sir. I don't recall Ms. Vinesett.
- 13 Q Okay. When you were out at [REDACTED] Coach Hill, could
14 you see that house from where you were?
- 15 A Yes. If I shined my light, you couldn't see it
16 good, but you could see it.
- 17 Q If you shined the light?
- 18 A Yes.
- 19 Q Okay.
- 20 MR. MORIN: One moment, Your Honor.
- 21 Q When -- isn't it true that when you were -- you and
22 Officer Cole were chasing after Mr. Willis, there
23 was a lot of shouting of, "Get down, get down, get
24 on the ground"?
- 25 A Yes, sir.

1 Q "We'll shoot you if you don't get on the ground."

2 There was nobody who said, "Sheriff's office.

3 Stop," or anything like that?

4 A No, sir.

5 Q Okay. And it was quite dark out there --

6 A Yes, sir.

7 Q -- without the light?

8 A Yes, sir.

9 Q Okay.

10 MR. MORIN: (To the Court) That's all the

11 questions I have.

12 REDIRECT EXAMINATION

13 BY MR. KENDALL:

14 Q When you got to his house on Raintree Lane, what

15 was going on up the street?

16 A Well, we -- we had other deputies out there

17 securing the crime scene. I think crime scene had

18 actually arrived on-scene when we walked down

19 there.

20 Q Okay.

21 A So most of the family and everyone remained up

22 there at the -- at the -- where it happened at.

23 Q And were there like lights and everything on?

24 A Yes, sir. There were blue lights.

25 Q Were there -- you said an ambulance had -- had come

1 through there?

2 A Yes. The ambulance was there. I don't recall if
3 they were still there when I walked down the
4 street, but there was several police vehicles still
5 there.

6 Q So there -- it was packed; is that fair to say?

7 A Yes, sir. There was crime scene tape everywhere.
8 On the ground as well.

9 Q So there was a lot going on in -- in that area?

10 A Yes, sir.

11 Q Okay. And when y'all were knocking on his door,
12 how were you dressed? Like what were you wearing?

13 A Our patrol uniform. Our black vest and --

14 Q Okay.

15 A -- black pants, khaki shirt.

16 Q All right. So --

17 THE COURT REPORTER: (To the witness) Can you
18 speak up just a little bit, please?

19 THE WITNESS: Yes, ma'am.

20 Q So up the street, like within viewing of -- of this
21 house, you've got a whole bunch of police cars and
22 stuff like that, then you've got you guys here on
23 the porch, wearing police uniforms; is that
24 correct?

25 A Yes, sir.

1 Q All right. Jomo Davidson -- let me just kind of
2 back up. When you got on the scene, did anybody
3 give you the defendant's name initially? Were they
4 like, "It's Diante' Willis," from the get-go?

5 A No, sir.

6 Q Okay. So you weren't -- you were -- you -- you
7 were not given a name. How did Mr. Davidson factor
8 into that?

9 A I believe he spoke with Captain Clark, or either
10 Deputy Cole, and he -- he gave them the name, and
11 then Deputy Cole had looked Mr. Willis up on his
12 tablet and brought his picture up.

13 Q Okay. So did -- was Mr. Davidson -- I mean, did
14 you -- did he ever tell you he witnessed the
15 shooting or anything like that?

16 A No, sir.

17 Q Okay. So you were just using him, literally, to --
18 to find out what the name was?

19 A Yes, sir.

20 Q Okay. And Mr. Morin asked you about what people
21 were saying initially when you arrived on the
22 scene. Were these, you know, formal interviews
23 where somebody's sitting down writing a statement
24 or anything like that?

25 A No, sir.

1 Q All right. What -- what were they? What was --
2 what was going on?

3 A Mostly hollering and crying and that type of thing,
4 saying that the shooter had run back down toward
5 Raintree; no formal interview.

6 Q Okay. And when you all took him into custody, you
7 didn't have an arrest warrant at that time; is that
8 fair to say?

9 A Yes, sir. That's fair.

10 Q Okay.

11 MR. KENDALL: Nothing further, Your Honor.

12 MR. MORIN: I need the -- to play the video.

13 THE BAILIFF: When?

14 MR. MORIN: Right now.

15 THE BAILIFF: Will have to find a player.

16 MR. MORIN: Okay. If I may have just a
17 moment, Your Honor?

18 THE BAILIFF: Try this one. This . . .

19 MR. MORIN: Thank you. Thank you for that.

20 THE BAILIFF: You're welcome.

21 RECROSS-EXAMINATION

22 BY MR. MORIN:

23 Q From the time that you arrived, how long did it
24 take you on that call to get there?

25 A It was less than a couple minutes.

1 Q Okay. And from the time you arrived, is it fair to
2 say that 30 to 40 minutes after your arrival is
3 when Mr. Willis was taken into investigative
4 detention?

5 A Yes, sir.

6 Q Okay.

7 CLERK OF COURT: It's back up and playing.

8 MR. MORIN: Thank you.

9 Q What I'm going to do is, I -- I want you to come
10 down -- this is State's Exhibit Number --

11 THE COURT REPORTER: (To Mr. Morin) Forty-
12 two.

13 Q -- 42. So what I would like for you to do -- and I
14 understand he's not on the stand. I'm not going to
15 ask him a question, but I'm looking for these blue
16 lights that you say were visible.

17 A (Complies.)

18 (WHEREUPON, State's Exhibit No. 42 was
19 played in open court.)

20 Q That car -- you did -- I did see that car. At this
21 point, I think you're having to run around there?

22 A Yes, sir.

23 Q You can return to your seat, so we -- we can get
24 you on the microphone.

25 A All right.

1 Q All right. So we saw that one car that had the
2 blue lights going on this video?

3 A Yes, sir. On -- on this video.

4 Q All right.

5 MR. MORIN: (To the witness) Thank you very
6 much.

7 THE WITNESS: Yes, sir.

8 MR. KENDALL: Nothing further, Your Honor.

9 THE COURT: (To the witness) You may step
10 down.

11 THE WITNESS: Thank you, Your Honor.

12 THE COURT: Thank you.

13 (WHEREUPON, the witness was excused.)

14 (WHEREUPON, the next witness was sworn.)

15 DIRECT EXAMINATION

16 BY MR. KENDALL:

17 Q Good afternoon.

18 A Good afternoon.

19 Q Could you please state your name for the record?

20 A Kelly Rose, like the flower.

21 Q And what is your current occupation?

22 A I'm a forensic pathologist in Newberry, South
23 Carolina.

24 Q All right. And are you licensed in pathology?

25 A I am.

1 Q And what sort of education did you have to go
2 through to -- to obtain that licensing?

3 A So a pathologist is a type of medical doctor, so
4 you go to college, and you go to medical school. I
5 went to the Medical University of South Carolina.
6 Then after -- I started my -- then you have to do a
7 residency in pathology, so I started that at MUSC
8 as well, and then I finished that at Emory. And
9 then to do forensics, you have to do another,
10 additional year. And I did that in Fulton County,
11 Georgia, Atlanta, at the medical examiner's office
12 there.

13 Q Okay. And are you licensed with the -- as a
14 pathologist?

15 A I am. You have to take several tests to become a
16 licensed doctor and then after that you have to
17 take more tests to become a licensed pathologist
18 and then after that you have to take another test
19 to become a licensed forensic pathologist. And
20 then every year, you have to do so many continuing
21 hours of education and take tests now online every
22 three months to stay, like, board certified.

23 Q Okay. And are you currently employed as a forensic
24 pathologist?

25 A I am.

1 Q And where do you currently work?

2 A Newberry Pathology Group; it's in Newberry, South
3 Carolina. We rent there more. We're not part of
4 the hospital, but we work in the hospital there.

5 Q All right. And what are your duties as they relate
6 to Cherokee County?

7 A I am the -- he contracts with me. The coroner in
8 Cherokee County has decided to use Newberry for his
9 autopsies. So when he needs an autopsy performed,
10 he will call us and schedule it and we will perform
11 it for him.

12 Q And over the course of your career, approximately
13 how many -- excuse me -- autopsies have you
14 performed?

15 A Over 3,000, now.

16 Q Wow. And are you licensed to do this in --
17 specifically, in South Carolina?

18 A Yes.

19 Q Okay. And do you have a -- and I may have covered
20 this -- a board certification?

21 A Yes. I'm board certified in anatomic pathology,
22 clinical pathology, and forensic pathology.

23 Q Okay. And what does "board certification" mean?

24 A Basically, that you have to sit through a horrible
25 two-day test and they ask you the -- every question

1 that you might ever need to know in those fields
2 and then you pass it and then they're satisfied
3 that you know the material.

4 Q Okay. I'm going to show you State's Exhibit 43.

5 MR. MORIN: Your Honor, I -- I believe the
6 State wants her to be qualified as a forensic
7 pathologist, which we do not object to.

8 THE COURT: Okay. If that's what you're
9 testifying about?

10 MR. KENDALL: I -- I -- yeah. I was gonna --
11 I'd like to enter in her resumé -- her CV into
12 evidence, as well.

13 MR. MORIN: No objection.

14 THE COURT: What number is that?

15 MR. KENDALL: Number 43, Your Honor.

16 (WHEREUPON, State's Exhibit No. 43 was marked
17 into evidence.)

18 Q If you could just take a look at this and just --
19 just make sure it's accurate. And then I'm
20 gonna . . .

21 A (Complies.) It is my CV.

22 Q All right. Thank you very much.

23 A Okay.

24 MR. KENDALL: And am I understanding that the
25 Defense is going to agree that she's an expert

1 in forensic pathology?

2 MR. MORIN: That is correct.

3 MR. KENDALL: Okay.

4 Q In May of 2019, were you performing autopsies at
5 that time?

6 A Yes. I was.

7 Q And on May 5th, 2019, did you perform an autopsy on
8 one Jerry Lee Scalf, Jr.?

9 A I did.

10 Q All right. I'm going to show what is marked
11 State's Exhibit 44. Could you please take a look
12 at that?

13 A (Complies.) Yes.

14 Q And is that a fair and accurate representation of
15 Mr. Scalf?

16 A That is. We always take what we call "head shots
17 or face shots" for identification purposes.

18 MR. KENDALL: We would offer State's Exhibit
19 44 into evidence, Your Honor.

20 MR. MORIN: I have no objection.

21 THE COURT: It's admitted.

22 (WHEREUPON, State's Exhibit No. 44 was marked
23 into evidence.)

24 Q And so to be clear, you were conducting an autopsy
25 on Jerry Lee Scalf, Jr.?

1 A Yes.

2 Q And where did this autopsy occur?

3 A In the morgue at Newberry Memorial Hospital in
4 Newberry, South Carolina.

5 Q Okay. And based on this particular autopsy, within
6 the bounds of medical certainty, were you able to
7 form an opinion as to his cause of death?

8 A I was.

9 Q And what was that opinion?

10 A I determined that Mr. Scalf died from
11 exsanguination due to perforation of the aorta due
12 to gunshot wound of chest.

13 Q Okay. And what was the basis of that opinion? How
14 did you reach that determination?

15 A So I performed a forensic autopsy. Basically,
16 we -- I can just describe the process if that's
17 okay?

18 Basically, we take a picture of the body, how
19 the body is received. We then open the body bag,
20 we photograph the body, we document everything, any
21 evidence of natural disease, and then, of course,
22 injuries. And then we X-ray the body to see if any
23 projectiles have been left behind; bullets. Then I
24 examine each wound individually, and then we open
25 the body and see what has happened on the inside.

1 And after we did that on Mr. Scalf, that's how I
2 determined that he died from exsanguination, which
3 is just a fancy word for bleeding out, because a
4 bullet -- the gunshot to his chest had actually
5 gone through his aorta, which is the largest artery
6 in your body. It's about the size of a garden
7 hose, even a little bigger, actually, and it's --
8 pumps -- the heart pumps blood through the aorta to
9 the whole body. So it's the main artery and a
10 bullet had gone through it, and so when the heart
11 would pump, he was just bleeding out through the
12 hole in the aorta.

13 And then I looked at the other wounds and
14 determined that they had not caused fatal injury,
15 so I determined his cause of death to be
16 exsanguination due to perforation of that artery
17 from the gunshot wound of his chest.

18 Q Okay. And what were the other injuries that --
19 that he did suffer?

20 A He had an additional -- two additional gunshot
21 wounds. He had one on his side, like the side of
22 his stomach that went through some intestines, but
23 that was it and came out. And then he another
24 gunshot to his right upper leg, and that went in.
25 It went through just skeletal muscle and hit the

1 big bone in your leg, but it didn't go through the
2 bone, and it didn't break that bone.

3 Q Okay. And I'm going to show you what is marked
4 State's Exhibit 41. Do you recognize this?

5 A I do. This is a body diagram that I made -- that I
6 used in my autopsy to document the injuries.

7 Q All right. And was that a fair and accurate
8 representation of -- of the injuries you saw?

9 A It is, yes.

10 MR. KENDALL: (To the Court) The State would
11 ask State's Exhibit 41 to be -- I believe it's
12 41 -- 41 to be entered into evidence.

13 MR. MORIN: No objection.

14 THE COURT: Admitted.

15 (WHEREUPON, State's Exhibit No. 41 was marked
16 into evidence.)

17 MR. KENDALL: And request permission to
18 publish.

19 THE COURT: All right.

20 Q All right. So using this laser pointer -- excuse
21 me. I'm sorry. All right. Using this laser
22 pointer, could you please show us where the -- the
23 wound would have been that would have been fatal?

24 THE WITNESS: (To the Court) May I step down,
25 so I can see it better?

1 THE COURT: Yes. But you can't answer
2 questions. You've got to do it from the
3 microphone.

4 THE WITNESS: Okay.

5 THE COURT: You can step down to show them.

6 THE WITNESS: Okay. (Complies.) It doesn't
7 want to show -- it doesn't want to show up
8 there.

9 Q Okay. If you just want to step back here and show
10 us on the actual --

11 A Oh.

12 Q -- hard copy of the diagram.

13 THE COURT REPORTER: (To Mr. Kendall) Also, I
14 didn't hear what you said at the end?

15 MR. KENDALL: Hard copy of the diagram. I'm
16 sorry. (To the witness) Oh, in that zipper
17 right next to it.

18 A Okay. All right. This is right --

19 Q Okay.

20 A That one right there.

21 Q Okay. Okay. And what letter did you -- did you
22 point to on the diagram?

23 A I pointed to Letter "A." That's just a way that I
24 make -- kind of distinguish the way I'm showing the
25 autopsy to make it easier for myself. So "A" is

1 the entrance wound.

2 Q Okay. And did that particular round come out?

3 A It did not. We were able to recover the bullet.

4 It's -- you can see on the diagram up there, on the

5 back, near his right -- kind of his armpit on the

6 back, there's an "A," there's a box, and then

7 there's a little hyphen; "A prime" is what I call

8 that. In -- in the box, that's where I recovered

9 the bullet; it was right here. (Indicates.) And

10 there was a big bruise, so I could tell that it

11 was --

12 Q All right.

13 A -- there was something under it.

14 Q And could you just physically describe where that

15 would be?

16 A Physically describe. It was in the tissue under

17 the skin right here. (Indicates.)

18 Q Okay. Let the record reflect that the witness is

19 pointing to her side beneath the armpit.

20 Okay. And you said that, that was the -- the

21 round that was fatal; is that correct?

22 A That is.

23 Q All right. So what -- what was the direction of

24 travel on that?

25 A It was traveling from left to right, downward, and

1 backward.

2 Q Okay. And in that process, it -- it hit his aorta;
3 is that correct?

4 A It did. It hit a rib on the left; it went through
5 his aorta right above his heart; it went through
6 his right lung; then it went through another rib,
7 and was under the skin here.

8 Q Okay. And where were the other rounds hidden? I
9 see there'e numerous markings on that -- on that
10 chart.

11 A Yes. A lot of the writing are measurements, like I
12 describe from top of head, how far away the wound
13 is and how -- which is "TOH" and "LOM" would be
14 left of midline and I measure all of that. Then if
15 you go to the Letter "B," which is right here.
16 (Indicates.) It was actually a little bit further
17 on his side here.

18 Q I'm sorry. If you could sort of just describe
19 using -- using words. The court reporter is -- is
20 -- can't -- can't type down with -- with motions
21 and showing. So if you -- if you wouldn't mind --

22 A Oh --

23 Q -- just --

24 A -- sure.

25 Q -- physically said --

1 A Of course.

2 Q -- verbally explain --

3 A Of course.

4 Q -- where you're talking to. I'm sorry.

5 A It was on his -- the side of his abdomen, B.

6 Q Okay.

7 A And it came out; this one actually came out and

8 came out below his belly button. It traveled

9 through the skin and the muscles and the -- some of

10 the intestines and then came out through the skin

11 below the belly button.

12 Q Okay. And were there any other shots or just the

13 two?

14 A There was another one to the right leg and it was

15 up high and that one I recovered the bullet from.

16 And that one went through the skin and then the

17 muscle and then struck the bone and then came to

18 rest beside the bone.

19 Q Okay. And I'm going to show you what is marked --

20 it's not marked. I'm sorry.

21 MR. KENDALL: (To the court reporter) Can you

22 go ahead and get this one marked?

23 THE COURT REPORTER: So what number are we on

24 at this point? This is 45.

25 Q I'm going to show you what is marked State's

1 Exhibit 45.

2 A Okay.

3 Q Do -- do you recognize that?

4 A I do. These are the bullets that I recovered
5 during autopsy.

6 Q Okay. And did you have any markings on there
7 indicating that they --

8 A I label -- I seal the projectiles -- or the bullets
9 in clear plastic and then I have labels on them to
10 say what they are and then I initial over the seal
11 with the date. I don't mark the bullet, because
12 that can mess up when they go to look at the
13 bullets to figure out what kind of gun it was shot
14 from.

15 Q Okay.

16 MR. KENDALL: Your Honor, the State would
17 offer State's Exhibit 45 into evidence.

18 MR. MORIN: (To Mr. Kendall) May I see it?

19 MR. KENDALL: Okay. Are you okay with that
20 going into evidence?

21 MR. MORIN: Yeah. No objection.

22 MR. KENDALL: All right. Your Honor, we would
23 offer State's Exhibit 45 into evidence.

24 THE COURT: It's admitted.

25 (WHEREUPON, State's Exhibit No. 45 was marked

1 into evidence.)

2 Q And just to be clear, did you recover all three
3 bullets or only two?

4 A Two.

5 Q Okay. So one of them had broken up a little bit?

6 A One -- the one that was near the leg, when it
7 probably struck the bone, the jacket, which is the
8 -- usually the copper thing around the lead bullet,
9 they broke apart. That happens often.

10 Q Okay. And so in summary, what was your determined
11 cause of death?

12 A Exsanguination due to perforation of the aorta due
13 to gunshot of chest.

14 MR. KENDALL: Nothing further, Your Honor.

15 MR. MORIN: (To the Court) I have no
16 questions of this witness.

17 THE COURT: (To the witness) Thank you. You
18 may step down.

19 THE WITNESS: Thank you.

20 (WHEREUPON, the witness was excused.)

21 MR. KENDALL: Your Honor, may I approach?

22 (WHEREUPON, a bench conference was held.)

23 THE COURT: All right. Ladies and gentlemen,
24 we're gonna take a short break, and so I'll
25 ask you to go to your jury room. Don't

1 discuss the case. I'll bring you back after
2 that break.

3 (WHEREUPON, the jury left at 3:35 p.m.)

4 THE COURT: We'll be at ease for 15
5 minutes.

6 (Off the record from 3:35 p.m. until
7 3:58 p.m.)

8 THE BAILIFF: Remain seated. Come to order,
9 please.

10 THE COURT: All right. We're ready for the
11 jury?

12 MR. MORIN: Yes, Your Honor.

13 MR. KENDALL: Yes, sir, Your Honor.

14 THE COURT: (To the bailiff) Bring them in.

15 (WHEREUPON, the jury came into open court
16 at 3:59 p.m.)

17 THE COURT: All right. Mr. Kendall?

18 MR. KENDALL: The State would call Jacob
19 Mullinax at that this time.

20 (WHEREUPON, the witness was sworn.)

21 DIRECT EXAMINATION

22 BY MR. KENDALL:

23 Q Could you please state your name for the record?

24 A Yes, sir. It's Steven Jacob Mullinax.

25 Q And, Mr. Mullinax, where are you currently

1 employed?

2 A I am currently employed as a Deputy State Fire
3 Marshall with the South Carolina State Fire
4 Marshall's Office.

5 Q All right. And back in -- excuse me -- May of
6 2019, were you -- where were you employed at that
7 time?

8 A I was employed at the Cherokee County Sheriff's
9 Office.

10 Q And what were your responsibilities at the
11 sheriff's office?

12 A I was a crime scene investigator.

13 Q Okay. And -- and what sort of things would crime
14 scene investigators do?

15 A Sure. Crime scene investigators would respond to
16 the -- any type of incident that requested to;
17 photograph the scene, document the scene, process
18 it for any evidence, and collect any evidence from
19 there if need be.

20 Q Okay. So, basically, you all deal with things
21 after the initial -- the initial contact; is that
22 fair to say?

23 A Yes, sir. That would be correct.

24 Q Okay. And how long had you worked with the -- with
25 the sheriff's office investigations -- crime scene

1 investigations unit?

2 A I still remain part-time there, but I've been there

3 for approximately six years --

4 Q Okay.

5 A -- in crime scene.

6 Q And on May 3rd of 2019, did you respond to the area

7 of [REDACTED] Coach Hill Drive, here in Cherokee County,

8 South Carolina?

9 A Yes, sir. I did.

10 Q And what purpose did you show up there for?

11 A I was requested to the scene by investigators to

12 process a crime scene that had been -- that

13 occurred there at that location.

14 Q All right. And when you arrived on-scene, did you

15 see the body?

16 A No, sir. I did not.

17 Q All right. What -- what had happened to that?

18 A I had been informed that the body had been removed

19 prior to my arrival due to scene issues, and it had

20 been -- the body had been transported to the

21 coroner's office.

22 Q Okay. And was the first place you went, to the

23 crime scene?

24 A No, sir. It was not.

25 Q Where did you go initially?

1 A I, initially -- when I arrived on the scene, I had
2 -- had to come in a -- a different way because
3 Coach Hill was blocked off due to the traffic flow.
4 I met with investigators who had the defendant
5 there on -- I believe it was on Raintree Lane, and
6 I met with there first.

7 Q Okay. And, at that time, did you conduct any
8 tests?

9 A Yes, sir. I performed a gunshot residue kit on the
10 -- on the suspect, and -- and obtained it there on
11 the scene.

12 Q And what is a gunshot residue test?

13 A So a gunshot residue test will basically pick up
14 any particles of what's considered gunshot residue
15 on --

16 MR. MORIN: Your Honor --

17 A -- your hands.

18 MR. MORIN: Your Honor, I don't believe this
19 witness has been qualified as an expert in
20 gunshot residue to testify and then --

21 MR. KENDALL: I'm -- I'm just trying to get
22 him to just very generally explain what he's
23 doing.

24 All right. Without -- I guess I can
25 restructure the question, Your Honor.

1 THE COURT: Are you going to qualify him as an
2 expert in it?

3 MR. KENDALL: No, sir. I was just going to
4 have him explain, basically, what he's -- what
5 he's getting off -- what the process is of
6 getting GSR.

7 THE COURT: You're just going to have him
8 explain why he did what he did?

9 MR. KENDALL: Yes, sir.

10 THE COURT: Okay. Go ahead.

11 DIRECT EXAMINATION CONTINUES

12 BY MR. KENDALL:

13 Q So what are -- what are you trying to get from
14 that? Like what are -- are you seeking to
15 preserve?

16 A I'm seeking to get any type of gunshot residue that
17 may be on the surface, whether it be hands or what
18 have you, that we are collecting from.

19 Q All right. And what procedure do you go through to
20 get that?

21 A Well, the -- we obtain kits from the South Carolina
22 Law Enforcement Division. they give them to us,
23 and we use those kits that are provided by them to
24 obtain the gunshot residue.

25 Q Okay. And as a practical matter, what do -- what

1 do you do for gunshot residue? Like how do you
2 preserve it? What --

3 A So --

4 Q -- I'm not an expert.

5 A So when I receive the sealed package, open the
6 sealed package, it has paperwork inside of it. It,
7 also, has two small vials that have a -- basically,
8 well, it's almost like a little nub with a -- with
9 -- with a adhesive on it that will pick up anything
10 that's there. It also comes with gloves and, of
11 course, we put the gloves on that -- that come in
12 the sealed package, prior to performing the test.

13 Q Okay.

14 A And then we use the provided collection agents
15 to -- to collect the gunshot residue.

16 Q All right. And, in this case, where did you
17 collect the gunshot residue? I guess I mean more
18 broadly, was this like in the -- at the sheriff's
19 office, or was this on --

20 A No, sir. It was there in the area of, I believe,
21 again, Raintree Lane.

22 Q Okay. And what area did you swab for gunshot
23 residue?

24 A I swabbed the -- the defendant's hands.

25 Q Okay. And the defendant in this case we're talking

1 about is Mr. Diante' Willis?

2 A Yes, sir. That would be correct.

3 Q Okay. And that is the individual whose hands you
4 swabbed; is that --

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

6 Q It's very difficult to see, but I'm going to show
7 you what is marked State's Exhibit 50. It looks
8 like --

9 THE COURT REPORTER: Fifty-one.

10 Q -- State's Exhibit 51, which is the gunshot -- I
11 believe the gunshot residue kit. Do you recognize
12 this? I mean, you may to manipulate it some.

13 A Yes, sir.

14 Q And -- and what is that?

15 A This is the gunshot residue kit that I collected
16 from Mr. Diante' Willis.

17 Q Okay. Is that -- does that appear to be in the --
18 you know -- the -- once you get it, what do you do
19 with -- once you take the gunshot residue, what do
20 you do with it?

21 A Once we complete the gunshot residue test, we -- we
22 place it back in the packaging that's provided by
23 SLED and then we seal it with their provided piece
24 of tape to seal it with and initial -- initial that
25 tape.

1 Q All right. And is that what you did in this case?

2 A It is, yes, sir.

3 Q Okay. And once it's sealed, is it able to be
4 opened and unsealed and messed with and stuff like
5 that?

6 A No, sir. Not -- not without breaking that seal.

7 Q Okay. All right. And so that was the gunshot
8 residue test you took off Mr. Willis?

9 A Yes, sir.

10 Q All right. And what did you do with that?

11 A After -- after it's collected, we -- we take it
12 back to the sheriff's office where it is
13 transferred into the evidence vault and,
14 ultimately, taken to SLED to be analyzed.

15 Q Okay. All right. And so the last time you saw
16 this, was it sealed or unsealed?

17 A It was sealed.

18 Q All right. And did it -- and what did you do with
19 it?

20 A Placed it into the evidence vault to be taken to
21 SLED.

22 Q Okay. How many GSRs -- GSR kits have you done over
23 the course of your career?

24 A I'm -- I'm not really sure. It's been a
25 significant amount, but I couldn't -- I couldn't

1 fairly give you an amount -- a correct number.

2 Q Okay. And when you -- and when you did it in this
3 case, what did you do with the -- with the swab?

4 A So with the -- with the swab, whenever -- whenever
5 we do the test, it -- again, it has an adhesive top
6 on it; it's in a small vial. We take -- take it
7 off of -- or take it -- take it apart, and then
8 swab the -- the hands individually; there's one for
9 the left hand and one for the right hand. And we
10 do the entire surface of the hand as much -- as
11 much as -- as visible, you know.

12 Q Okay. All right. Is that what you did in this
13 case?

14 A Yes, sir.

15 Q And were you wearing gloves at the time?

16 A Yes, sir. I was.

17 Q Okay. And after you took that GSR kit from Mr.
18 Willis, what did you do then?

19 A After I completed the GSR kit, I then moved up to
20 the scene there on Coach Hill.

21 Q Okay. And if you wouldn't mind, with the Court's
22 permission, stepping down and stepping back here to
23 the -- to the desk here, to the left of me, okay?

24 THE COURT: Go ahead.

25 A (Complies.)

1 Q All right. And, if you could, please try to speak
2 loudly. There's some paneling up in front of us
3 that makes it difficult for the jury to hear, for
4 the court reporter to hear, and for the Defense to
5 hear. So make sure you sound off as best you can.

6 A Yes, sir.

7 Q I'm going to show you some photographs; if you
8 would explain to me what they were. Do not put
9 them underneath the thing until you've explained
10 and they've been moved into evidence, okay?

11 A Okay.

12 Q All right. I'm going to show State's Exhibit 3,
13 State's Exhibit 4, State's Exhibit 6. If you could
14 please take a look at these?

15 A (Complies.)

16 Q And what were those?

17 A These photographs are -- as I was taking initial
18 photographs, approaching the scene from -- I
19 believe, it's Raintree Lane that's there,
20 approaching the scene back toward the area where
21 the victim's body had been located.

22 Q Okay.

23 MR. KENDALL: If we could show Mr. Morin?

24 Your Honor, we would offer State's Exhibit 3,
25 4, and 6 into evidence at this time.

1 MR. MORIN: No objection.

2 THE COURT: They're admitted.

3 (WHEREUPON, State's Exhibit Nos. 3, 4, and 6
4 were marked into evidence.)

5 MR. KENDALL: All right. And permission to
6 publish?

7 THE COURT: You may.

8 Q All right. So what are we -- what are we looking
9 at here.

10 A This is the scene as -- as I was approaching it
11 from where -- where my vehicle was parked at,
12 looking toward the vehicle where the -- beside
13 which the victim's body had been found.

14 Q Okay. And this?

15 A Again, it's just a closer angle, a little bit
16 canted to the left of the area where the victim's
17 body had been located.

18 Q Okay. And this?

19 A Just a closer area of where the victim's body had
20 been located and the car that had been identified
21 as the victim's.

22 Q Now, I'm going to show you State's Exhibit 10, 8,
23 and 7. If you would please take a look at those
24 and explain what those are?

25 A (Complies.) Yes, sir. This is the area where I

1 was informed that the victim's body had been found.
2 Just close-ups of -- of that area prior to putting
3 down any markers or anything.

4 Q And there's -- well -- and is that a fair and
5 accurate representation of what you found?

6 A Yes, sir. It is.

7 Q All right.

8 MR. MORIN: No objection.

9 MR. KENDALL: All right. The State would
10 offer 10, 8, and 7 into evidence, Your Honor.

11 THE COURT: They're admitted.

12 (WHEREUPON, State's Exhibit Nos. 10, 8, and 7
13 were marked into evidence.)

14 MR. KENDALL: All right.

15 Q All right. And so, again, what was this?

16 A This was just the area where the victim's body was
17 said to have been located prior to my arrival.

18 Q And -- and what is State's -- there's -- there
19 appears to some like "white" something?

20 A Yeah. I believe it's a towel, I'd have to look
21 back at my notes to -- to tell you for sure, but
22 it's -- it's a towel or -- or clothing in -- in
23 that area.

24 Q Okay. And State's Exhibit 8?

25 A Again, it's just a close-up of that area from a

1 different angle, pointing back toward the victim's
2 vehicle.

3 Q All right. And State's Exhibit 7?

4 A Just panning over from the area where those --
5 those initial pictures were taken, more toward the
6 front of the vehicle to show the area -- just to
7 document the area as it was found.

8 Q Okay.

9 THE COURT REPORTER: Mr. Kendall, did you say
10 State's Exhibit 7 for this one?

11 MR. KENDALL: Yes, ma'am.

12 THE COURT REPORTER: Okay. Thank you.

13 Q All right. And State's Exhibit 5, do you recognize
14 this?

15 A Yes, sir.

16 Q And what is that?

17 A It's just, again, an overall area of the -- the
18 area that was identified as the crime scene; that
19 was taken of the crime scene, pointing back toward
20 the front of the victim's vehicle.

21 MR. KENDALL: All right. (To the Court) The
22 State would offer State's Exhibit 5 into
23 evidence.

24 MR. MORIN: No objection.

25 THE COURT: Admitted.

1 (WHEREUPON, State's Exhibit No. 5 was marked
2 into evidence.)

3 MR. KENDALL: Okay.

4 Q All right. Now, I'm going to show you State's
5 Exhibits 11 and 18. If you would take a look at
6 those?

7 A (Complies.) Yes, sir.

8 Q All right. And -- and what are those?

9 A Number 11 is the area where the -- it has the
10 blood-like stains there on the ground as well as a
11 -- a white towel there appears and a hat. And
12 State's Exhibit 18 shows the -- the blood-like
13 stains there with the photo markers in place
14 marking evidence in the area.

15 Q Okay.

16 MR. KENDALL: (To the Court) The State would
17 offer State's Exhibit 11 and 18 into evidence.

18 MR. MORIN: No objection.

19 THE COURT: They're admitted.

20 (WHEREUPON, State's Exhibit Nos. 11 and 18
21 were marked into evidence.)

22 Q And so what did you say this was, again?

23 A It's the blood-like stains there on the ground, as
24 well as -- I believe it's a towel. Again, I'd have
25 to go back and check my -- my notes there at the

1 stand. And a hat that is there as well.

2 Q Okay. And then State's Exhibit 18?

3 A Exhibit 18 is showing the evidence that was marked
4 in the area there with the photo markers in place.

5 Q All right. And -- and what are -- what are photo
6 markers?

7 A Photo markers are placed in -- into the crime scene
8 once we've documented to show where evidence is
9 located, and that we can use for reference points
10 to show where that evidence was actually found at.

11 Q Okay. All right. And I'm going to show you --
12 excuse me. If you could, do you recall what each
13 one of these markers means? Where each -- each --
14 each thing was? Do you have to look at your report
15 for that?

16 A No. But I -- I would need to look at my report to
17 -- to accurately --

18 Q Okay.

19 A -- tell you.

20 Q If you could -- if you could go ahead and grab
21 that --

22 A Yes, sir.

23 Q -- if that would assist you --

24 A Yes, sir.

25 Q -- in remembering.

1 A (Complies.)

2 Q Okay. All right. So could you sort of walk

3 through for the jury what Number 1 was?

4 A Yes, sir. Evidence Number 1 was a Winchester 9mm

5 Luger cartridge case that was found there on the

6 ground.

7 Q Okay. And Number 3?

8 A Number 3 is an additional 9mm Luger cartridge case

9 that was found, as well.

10 Q All right.

11 THE COURT REPORTER: (To the witness) Can you

12 -- is Luger what --

13 THE WITNESS: Yes.

14 THE COURT REPORTER: -- type of cartridge?

15 THE WITNESS: Luger, L --

16 THE COURT REPORTER: Can you spell that?

17 THE WITNESS: L-u-g-e-r.

18 Q All right. And Number 3?

19 A Was the 9mm Luger cartridge case.

20 Q All right. Number 4?

21 A Number 4 is a marking of a blood-like stain.

22 Q Number 5?

23 A Also, marking of blood-like stains.

24 Q And Number 6?

25 A Marking of blood-like stain.

1 Q Okay. How many, in this case, shell casings did
2 you recover?

3 A From here, it appears that it was only two.

4 Q Okay. All right. And so that was Marker Number 1
5 and Marker Number 3?

6 A Yes, sir. That is correct.

7 Q Okay. Now, could you take a look at State's
8 Exhibit 17 and 14?

9 A (Complies.) Yes, sir.

10 Q All right. And what do those depict?

11 A Those are depicting the scene, again, there in that
12 -- in that same area, more of a broader area of --
13 of coverage on Number 17. And also showing the
14 Evidence Marker Number 2, which was on the back of
15 the red car that's there. And Number 14 is showing
16 from a different angle the photo markers that were
17 in place there.

18 Q Okay. All right.

19 MR. KENDALL: The State would --

20 Q Are those fair and accurate representations of what
21 you saw?

22 A Yes, sir.

23 Q All right.

24 MR. KENDALL: (To the Court) The State would
25 offer State's Exhibit 17 and 14 into evidence.

1 MR. MORIN: No objection.

2 MR. KENDALL: Okay.

3 THE COURT: They're admitted.

4 (WHEREUPON, State's Exhibit Nos. 17 and 14
5 were marked into evidence.)

6 Q All right. So looking at your report, again --
7 now, we have some additional markers?

8 A Yes, sir.

9 Q All right. What was Number 2?

10 A Number 2 was a Aeropostale-brand T-shirt that was
11 on the back of the --

12 Q Okay.

13 A -- vehicle there.

14 Q And I guess that's all you can see. And then
15 State's Exhibit -- I need you to flip to 14 to your
16 right?

17 A Yes.

18 Q State's Exhibit 14, walk me through what -- what
19 each of those was?

20 A Okay. Again, one and three were the cartridge
21 cases that were there. Four, five, and six
22 represent the blood-like stains that were there.
23 Seven is a -- right there (indicates) -- it is a
24 piece of a belt buckle. Eight is a Wild Deer hat,
25 and nine is a white towel.

1 Q Okay. And there's one kind of off in the distance.
2 What is that? Can you see what number that is?
3 A That is Evidence Marker Number 11.
4 Q And what was Evidence Marker Number 11?
5 A It was a black earbud.
6 Q I'm going to show you what is marked State's
7 Exhibit 47. Do you recognize this?
8 A Yes, sir.
9 Q And -- and what is this?
10 A It's the earbud that was collected there on the
11 scene. It is marked as Evidence Number 11.
12 Q All right.
13 MR. KENDALL: (To the Court) The State would
14 offer 47 into evidence.
15 MR. MORIN: No objection.
16 THE COURT: It's admitted.
17 (WHEREUPON, State's Exhibit No. 47 was marked
18 into evidence.)
19 MR. KENDALL: All right. If I could display
20 this to the jury.
21 Q And what condition did you find this in? Was this
22 largely intact as you found it?
23 A Yes, sir.
24 Q Okay. So it hadn't been crushed or anything like
25 that?

1 A Not that I'm aware of.

2 Q Obstructed or anything? Okay. All right. And,

3 likewise, I'm going to show you State's Exhibit 52.

4 A Yes, sir.

5 Q Do you recognize those?

6 A Yes, sir.

7 Q And what are those?

8 A These are the cartridge cases that I collected from

9 the scene there on Coach Hill.

10 Q Okay.

11 MR. KENDALL: (To the Court) We would

12 offer -- the State would offer State's Exhibit

13 52 into evidence, Your Honor.

14 MR. MORIN: No objection.

15 THE COURT: It's admitted.

16 (WHEREUPON, State's Exhibit No. 52 was marked

17 into evidence.)

18 Q All right. I'm going to show you what is marked

19 State's Exhibit 15.

20 A Yes, sir.

21 Q And what is that?

22 A It is a closer photograph of the evidence marked as

23 Number 1, which was a cartridge case that was found

24 there at the scene.

25 Q Okay. And State's Exhibit 13?

1 A It's a wider area of that general area there
2 showing the evidence markers as they were found on
3 the scene.

4 MR. KENDALL: (To Mr. Morin) And do you have
5 any objection to 13 and 15?

6 MR. MORIN: No objection.

7 THE COURT: (To Mr. Kendall) What's the
8 number?

9 MR. KENDALL: Thirteen and fifteen, Your
10 Honor.

11 THE COURT: All right. They're admitted.
12 (WHEREUPON, State's Exhibit Nos. 13 and 15
13 were marked into evidence.)

14 Q Okay. Now, what did you do after you left the
15 scene?

16 A After we cleared from the scene there -- the
17 initial scene, I was given a search warrant for the
18 residence there on Raintree.

19 Q All right. I'm going to show you State's Exhibit
20 24, previously admitted. Do you recognize this?

21 A Yes, sir.

22 Q And do you recall the address of this?

23 A [REDACTED] Raintree Lane.

24 Q Okay. And I'm going to show you State's Exhibit
25 25. Do you recognize that?

1 A Yes, sir.

2 Q And what is that?

3 A It's a photograph I -- I obtained of a vehicle
4 there beside the residence on Raintree Lane.

5 Q Okay.

6 MR. KENDALL: (To the Court) And we would
7 offer State's Exhibit 25 into evidence.

8 MR. MORIN: No objection.

9 THE COURT: Admitted.

10 (WHEREUPON, State's Exhibit No. 25 was marked
11 into evidence.)

12 Q All right. And did you search the interior of that
13 vehicle?

14 A Yes, sir. I did.

15 Q Okay. And just to be clear, were other officers
16 assisting you at that time?

17 A Yes, sir. There were.

18 Q And how does that -- how does that work?

19 A We -- I -- I would go and obtain the photographs
20 and then we have several officers that would come
21 in and assist, because it's -- you know, it's
22 difficult for one person and, you know, you always
23 want to have another set of eyes there as well. So
24 other officers come in to help assist in the
25 search.

1 Q Okay. But you're the one that ultimately secures
2 the evidence and puts it --

3 A Yes, sir. That is correct.

4 Q Okay. I'm going to show you State's Exhibit 27.

5 A Yes, sir.

6 Q Do you know what that is?

7 A It appears to be the interior rear floorboard of
8 the vehicle there that was on the scene.

9 Q All right. And what is located on -- I'm sorry.

10 MR. KENDALL: (To the Court) We'd offer that
11 into evidence as State's Exhibit 27.

12 MR. MORIN: No objection.

13 THE COURT: Admitted.

14 (WHEREUPON, State's Exhibit No. 27 was marked
15 into evidence.)

16 Q All right. And what did you find on the floor
17 of -- of that vehicle?

18 A It appears to be a pair of shoes and a gallon jug
19 there.

20 Q All right. And State's Exhibit 26 and 29. Do you
21 recognize these?

22 A Yes, sir.

23 Q And what --

24 MR. KENDALL: (To the Court) And we would
25 offer State's Exhibit 26 and 29 into evidence.

1 MR. MORIN: No objection.

2 THE COURT: They're admitted.

3 (WHEREUPON, State's Exhibit Nos. 26 and 29
4 were marked into evidence.)

5 Q And State's Exhibit 26, what is found inside here?

6 A That is a -- the -- the -- appears to be the rear
7 seat of -- of the vehicle there with the center
8 console there.

9 Q And State's Exhibit 29?

10 A It's a close-up of the top of that center console.

11 Q All right. Do you recall what that black thing is,
12 to the far right?

13 A To the far right? That is the case that was for
14 earbuds.

15 Q Okay. I'm going to -- I'm going to show you what
16 is marked State's Exhibit 46. Do you recognize
17 that?

18 A Yes, sir.

19 Q Okay. What is that?

20 A It's a black JLab -- or package for a -- for
21 earbuds -- a holder.

22 Q And was this the one you located in the vehicle?

23 A Yes, sir.

24 MR. KENDALL: (To the Court) We would offer
25 State's Exhibit --

1 THE COURT REPORTER: (To the witness) Excuse
2 me. Did you say "JLab"?
3 THE WITNESS: JLab.
4 THE COURT REPORTER: Can you spell that,
5 please?
6 THE WITNESS: It's J-l-a-b.
7 MR. KENDALL: (To the Court) We would offer
8 State's Exhibit 46 into evidence.
9 MR. MORIN: No objection.
10 THE COURT: Admitted.
11 (WHEREUPON, State's Exhibit No. 46 was marked
12 into evidence.)
13 Q All right. And what -- what is this? What is the
14 earbud case?
15 A It is what holds the earbuds in it that has a way
16 that you can charge the earbuds while there.
17 Q All right. And what brand is that?
18 A It's JLab.
19 Q Okay. All right. And, now, I'm going to -- excuse
20 me -- show you State's Exhibits 30 and 31.
21 A Yes, sir.
22 Q Do you recognize these?
23 A Yes, sir. I do.
24 Q And what is that?
25 A State's Exhibit 30 is a black jacket that was found

1 in the rear of the vehicle, and 31 is some books
2 that were found in the rear of the vehicle as well.

3 Q All right.

4 MR. MORIN: No objection.

5 MR. KENDALL: (To the Court) The State would
6 offer 30 and 31 into evidence.

7 THE COURT: They're admitted.

8 (WHEREUPON, State's Exhibit Nos. 30 and 31
9 were marked into evidence.)

10 Q And I'm going to show you State's Exhibit 50. Do
11 you recognize this?

12 A Yes, sir.

13 Q And what is this -- I'm sorry. What -- what is
14 this?

15 A It's the black jacket that was found in the
16 vehicle.

17 Q Okay.

18 MR. KENDALL: (To the Court) The State would
19 offer State's Exhibit 50 into evidence.

20 MR. MORIN: No objection.

21 THE COURT: Admitted.

22 (WHEREUPON, State's Exhibit No. 50 was marked
23 into evidence.)

24 Q Following the search of the vehicle, what did you
25 do after that?

1 A We moved to the interior of the house and
2 photographed the interior there and searched the
3 interior of the house as well.

4 Q Okay. And I'm going to show you -- excuse me. I'm
5 going to show you State's Exhibits 32, 33, 34, and
6 35. Do you recognize those?

7 A Yes, sir.

8 MR. KENDALL: (To the Court) The State would
9 offer 32 -- State's Exhibit 32, 33, 34, and 35
10 into evidence?

11 MR. MORIN: No objection.

12 THE COURT: Admitted.

13 (WHEREUPON, State's Exhibit Nos. 32, 33, 34,
14 and 35 were marked into evidence.)

15 Q All right. Thank you. And could please describe
16 to the jury what these are?

17 A Yes, sir. State's Exhibit 32 depicts a photograph
18 of a South Carolina high school diploma from
19 Blacksburg High School for Mr. Diante' Jermaine
20 Willis.

21 Q Okay. All right. What about 33 through 35?

22 A Thirty-three shows a wallet as it was found with a
23 Social Security card and South Carolina driver's
24 license. Thirty-four and thirty-five are close-ups
25 of the driver's license.

1 Q Okay. Do you recall where these were located,
2 generally?

3 A Yes, sir. They were found inside the house; I
4 believe they were found in a upstairs room.

5 Q Okay. All right. Now, I'm going to show you
6 State's Exhibit 36, 37. All right. And what were
7 -- what were these? What is the significance of --
8 of these two photographs?

9 A Thirty-six and thirty-seven were showing the
10 location of a trash can there on Maplewood in front
11 of 130 that --

12 Q I'm sorry. I -- are those fair and accurate
13 representation of what you saw?

14 A Yes, sir.

15 MR. KENDALL: All right. (To the Court) The
16 State would offer State's Exhibit 36 and 37
17 into evidence.

18 MR. MORIN: No objection.

19 THE COURT: They're admitted.

20 (WHEREUPON, State's Exhibit Nos. 36 and 37
21 were marked into evidence.)

22 Q All right. So if you could explain to the jury
23 what these were?

24 A Yes, sir. That's the photograph of the residence
25 there and the trash can as where evidence was

1 located, and that's a residence there on Maplewood.

2 Q All right. And what is this?

3 A Showing the address there on Maplewood, as [REDACTED],
4 where the trash can is located.

5 Q Okay. All right. And then State's Exhibit 38, 39,
6 and 40. Do you recognize this?

7 A Yes, sir.

8 Q And what is this?

9 A They're photographs of a --

10 Q I'm sorry. I'm sorry. I apologize. Are those a
11 fair and accurate representation of what you found?

12 A Yes, sir.

13 Q All right.

14 MR. KENDALL: (To the Court) The State would
15 offer State's Exhibit 38 through 40 into
16 evidence at this time.

17 MR. MORIN: No objection.

18 THE COURT: They're admitted.

19 (WHEREUPON, State's Exhibit Nos. 38, 39, and
20 40 were marked into evidence.)

21 Q All right. All right. Could please describe to
22 the jury what this is?

23 A Yes. So that is the interior of the trash can
24 there showing the items there within.

25 Q All right. And State's Exhibit 39?

1 A It's a close-up there; it shows the jersey there,
2 and if you slide it up just a little bit, it shows
3 the hat as well.

4 Q All right. And State's Exhibit 40?

5 A It's after they -- after the jersey and hat were
6 removed from the trash can, they were photographed
7 there to show where they had come from.

8 Q All right. And do you recall when these were
9 located?

10 A It's on the 6th of May.

11 Q All right. And were you the one that found them,
12 or were you called out to collect them?

13 A No, sir. I was called out to collect those items.

14 Q Okay.

15 MR. KENDALL: (To the Court) The State would
16 offer -- excuse me.

17 Q I'm going to show you what's marked State's Exhibit
18 48. Do you recognize this?

19 A Yes, sir.

20 Q And is that what you recovered?

21 A Yes, sir. It is.

22 Q All right.

23 MR. KENDALL: (To the Court) The State would
24 offer State's Exhibit 48 into evidence.

25 MR. MORIN: No objection.

1 THE COURT: Admitted.

2 (WHEREUPON, State's Exhibit No. 48 was marked
3 into evidence.)

4 MR. KENDALL: I request permission to publish
5 to the jury.

6 Q Looking at this exhibit -- State's Exhibit Number
7 48, can you tell what size this is?

8 A It's a men's 2XL.

9 Q Okay. And I'm going to show you what's marked
10 State's Exhibit 49. Do you recognize this?

11 A Yes, sir.

12 MR. KENDALL: (To the Court) The State would
13 offer State's Exhibit 49 into evidence.

14 MR. MORIN: No objection.

15 THE COURT: Admitted.

16 (WHEREUPON, State's Exhibit No. 49 was marked
17 into evidence.)

18 Q And what is this?

19 A It's a Clemson hat that was recovered there in the
20 trash can.

21 Q I'm going to show you this: State's Exhibit 12.
22 Do you recognize that?

23 A Yes, sir.

24 Q And what is that?

25 A It's just a photograph showing the photo markers in

1 place of the -- the scene there.

2 Q Okay.

3 MR. KENDALL: (To the Court) The State would
4 offer State's Exhibit 12 into evidence.

5 MR. MORIN: No objection.

6 THE COURT: Admitted.

7 (WHEREUPON, State's Exhibit No. 12 was marked
8 into evidence.)

9 Q All right. And State's Exhibit 19?

10 A Yes, sir.

11 Q And what is that?

12 A It's a closer up (verbatim) of the Evidence Markers
13 9 and 8, it's showing Number 11 in the -- in the
14 photograph, as well.

15 Q Okay. Is that a fair and accurate representation
16 of -- of --

17 A Yes, sir.

18 Q All right.

19 MR. KENDALL: (To the Court) The State would
20 offer State's Exhibit 19 into evidence?

21 MR. MORIN: No objection.

22 THE COURT: Admitted.

23 (WHEREUPON, State's Exhibit No. 19 was marked
24 into evidence.)

25 Q And State's Exhibit 20?

1 A Yes, sir.

2 Q And what is that?

3 A It's Evidence Marker Number 11.

4 Q Okay. Is that a fair and accurate representation
5 of -- of --

6 A Yes, sir.

7 MR. KENDALL: (To the Court) State's Exhibit
8 20 into evidence.

9 MR. MORIN: No objection.

10 THE COURT: Admitted.

11 (WHEREUPON, State's Exhibit No. 20 was marked
12 into evidence.)

13 Q All right. And State's Exhibit 21 through 23,
14 these are very difficult to see. But if you could
15 take a look at these and tell us what those are.

16 A (Complies.) Yes, sir.

17 Q Is that a fair and accurate representation of what
18 you found at -- at Marker 11?

19 A Yes, sir. It is.

20 MR. KENDALL: (To the Court) We would offer
21 State's Exhibit 21 through 23 into evidence.

22 MR. MORIN: No objection.

23 Q All right. And could you --

24 THE COURT: Admitted.

25 (WHEREUPON, State's Exhibit Nos. 21, 22, and

1 23 were marked into evidence.)

2 Q -- explain the jury, it's very difficult to see,
3 but what that is?

4 A Yes, sir. That is the earbud that's there inside
5 the right angle there.

6 Q Okay.

7 A See it a little bit better there and there.

8 (Indicates.)

9 MR. KENDALL: (To the witness) Please answer
10 any questions Mr. Morin may have.

11 CROSS-EXAMINATION

12 BY MR. MORIN:

13 Q Officer Mullinax, Mr. Kendall referred to you as
14 the person who executed the search warrant.
15 Sometimes that designation is sort of -- if one
16 officer goes and gets it, another officer is in
17 charge of doing one thing or another, but you were
18 familiar with the search warrant; is that correct?

19 A Yes, sir.

20 Q With regard to the search warrant for Raintree
21 Lane, do you have a copy of it?

22 A I do not.

23 Q If -- if I were to show you the search warrant,
24 you've had it before.

25 A Yes.

1 Q It's regularly kept. Would it refresh your memory
2 about what was being searched for out there?

3 A I'm sorry. Could you repeat that?

4 Q Would seeing the search warrant refresh your memory
5 as to what evidence you were searching for at the
6 time?

7 A Yes.

8 Q Okay. So, if I understand, you were out there
9 searching for these things and -- this ones a
10 little different. I should've written it
11 down . . .

12 THE COURT REPORTER: Can you speak up a little
13 bit, Mr. Morin?

14 Q Okay. One of the things that -- that's listed on
15 the search warrant is for gunshot residue; is that
16 right?

17 A Yes, sir. It is.

18 Q And for in the house?

19 A I'm sorry?

20 Q For in the house?

21 A It's for the property --

22 Q Right.

23 A -- to be searched, yes.

24 Q So -- and then inspect ammunition, correct?

25 A Yes, sir. That is correct.

1 Q And ammunition?

2 A Yes, sir.

3 Q And, I think it says "DNA for blood," or what have
4 you?

5 A Yes, sir.

6 Q DNA, hair, spent firings, shell casings, correct?

7 A Yes, sir. It has DNA on there.

8 Q All right. There at the house, did you find any --
9 any of those items at all? spent shell casings?
10 ammunition? Did you take anything that was -- you
11 requested DNA, anything at all in the house?

12 A Not that I recall, sir.

13 Q Okay. Now, you also had a search warrant for the
14 red Camaro that we've seen here in -- in the
15 photographs that was parked in front of 213 Coach
16 Hill? Do you remember that?

17 A Yes, sir.

18 Q Did you do that one as well?

19 A Yes, sir. I did.

20 Q And I'm just going to ask you because I haven't
21 seen it, and if it is -- but it was basically for
22 the same thing, gunshot residue, DNA, that type of
23 thing; is that correct?

24 A I can't -- I can't really recall without -- without
25 saying for sure.

1 Q Well, did you find anything?

2 A Collected a cell phone out of the vehicle, sir.

3 Q Okay. Do you know if any exams were requested of

4 that?

5 A I'm not sure.

6 Q And just -- just so that I can be clear and make

7 sure that I've got this straight, after you collect

8 these items, some of the items are requested to be

9 tested by SLED; is that correct?

10 A Yes, sir. That is correct.

11 Q And it could be for gunshot residue, correct?

12 A Yes, sir.

13 Q It could be for blood?

14 A Yes, sir.

15 Q It could be for DNA?

16 A Yes, sir.

17 Q Okay. I'm showing you what's been marked as

18 State's Exhibit Number 48. And I'm turning this

19 jersey back inside out. Can you tell me -- if

20 you'll notice, and I'll just use one . . . All

21 Right. Here we go. Right here in the neck. Do

22 you see those arrows?

23 A Yes, sir. I do.

24 Q Were those arrows on there -- on the neckline of

25 this jersey when you recovered it?

1 A No, sir.

2 Q All right. And can you tell me what those arrows
3 might be or who might have done that?

4 MR. KENDALL: Objection.

5 THE COURT: (To Mr. Morin) Don't stand in
6 front of the --

7 MR. MORIN: I'm sorry.

8 THE COURT: -- jury.

9 MR. KENDALL: Objection: Calls for
10 speculation.

11 THE COURT: Well, he said "Can you tell?" If
12 he knows, he can. If he doesn't know, he
13 can't speculate. (To the witness) Do you
14 know of your own knowledge how those arrows
15 got on that jersey?

16 THE WITNESS: Not of my own personal
17 knowledge.

18 THE COURT: Okay.

19 THE WITNESS: I was not there when they
20 were --

21 THE COURT: Okay.

22 Q Did you make a request regarding this jersey to
23 State Law Enforcement?

24 A Yes, sir.

25 Q And was that request for DNA?

1 A Yes, sir. It was.

2 Q I'm gonna -- okay. This is State's Exhibit Number

3 20. Now -- can you see it, or do you need to step

4 down? If you'll step down --

5 A Yeah.

6 THE COURT: Yeah.

7 A (Complies.) Yes, sir.

8 Q Number 11 is the earbuds we're talking about -- you

9 -- you referred to, correct?

10 A Yes, sir. That is correct.

11 Q And is this your vehicle or another sheriff's

12 vehicle or can you tell right there?

13 A I -- I can't tell from -- from that angle of the

14 picture.

15 Q Okay. Well, more importantly, this appears to be

16 the corner of Raintree and Coach Hill; is that

17 correct?

18 A Yes, sir.

19 Q Okay. Now, with regard to the Clemson Jersey that

20 I've asked you about a minute ago, and I want to

21 make sure I'm straight. These pictures of what was

22 in the road at Coach Hill was -- were taken on May

23 3rd or May 4th, depending on if it went past

24 midnight, 2019, right?

25 A Yeah. Yes, sir. That is correct.

1 Q The jersey wasn't collected until May 6th; is that
2 correct?

3 A Yes, sir. That is correct.

4 Q And with regard to -- you did some measurements as
5 far as where, how far things were apart; is that
6 correct?

7 A I did measurements to reference points.

8 Q Right.

9 A Yes, sir.

10 Q So, for instance, in this photograph, Number 1,
11 which is a shell casing, I believe, you said how
12 far away from what? the curb? the car?

13 A I used the corners of the house.

14 Q Okay.

15 A The corners of the house at [REDACTED] Coach Hill.

16 Q All right. Well, I'm just gonna ask you about Item
17 Number 10 and Item Number 11. Can you tell me how
18 far from the corner of the house ten is?

19 A Number 10, from the corner of the house -- if
20 you're looking at the front of the house, the left-
21 hand corner of the house, Number 10, would have
22 been 71 feet away from it. And, Number 11, to that
23 same corner, would have been 87 feet.

24 Q Okay. And I understand what -- you're using an
25 angle. So I was going to say it wouldn't be fair

1 to say ten is 16 feet farther, because you've used
2 an angle, correct?

3 A Correct. There's triangulation.

4 Q May be a -- that's right. So it may be a little
5 further or closer. I don't know. My geometry's
6 not so good anymore.

7 But we can say -- I think -- all right.

8 I'll . . .

9 Now, the only thing that was found in the
10 trash can was the jersey and the hat, correct?

11 A Yes, sir.

12 Q Did you find a bandana in the car?

13 A In the --

14 Q The car next to the house at Raintree.

15 A Not that I recall.

16 Q Or in the house?

17 A Not that I recall.

18 Q Or in the trash can?

19 A Not that I recall, sir.

20 Q All right. This is State's Exhibit 24 of the
21 house. You took this photograph?

22 A Yes, sir. I did.

23 Q What did you use -- or did you use something to
24 illuminate the front of the house?

25 A The flash on the camera and -- and possibly a

1 flashlight, I -- I don't know for sure, but
2 certainly the flash of the camera.

3 Q Okay.

4 MR. MORIN: If I can have just a moment, Your
5 Honor?

6 Q Do you have a list -- or can you tell us the items
7 that you sent to be tested for gunshot residue?

8 A Give me just a second to look.

9 Q Uh-huh.

10 A The only item that I believe that was tested for
11 gunshot residue was the gunshot residue kit that
12 was obtained from Mr. Willis.

13 Q Okay. So not the Clemson jersey?

14 A No, sir.

15 Q Not the black jacket?

16 A Not that I recall.

17 Q Okay. Not the hat?

18 A Not that I recall, sir.

19 Q Now, you're, also, aware -- or maybe you're not.

20 Are you aware of what this crime scene would look
21 like when the original -- the -- not the original,
22 the first responding officer got there?

23 A As far as?

24 Q Were you informed that the crime scene had multiple
25 people walking through it?

1 A I was informed that -- that it was -- it was an
2 active scene that they had, had to take the body
3 prior to my arrival.

4 Q Well, I understand that, but even before that, were
5 you aware that there were other people walking
6 through, and, in fact, having to be told to move
7 away from Mr. Scalf's body?

8 A Not that I recall.

9 Q You've been doing evidence work for how long?

10 A I've been in crime scene for six years.

11 Q Okay. And, obviously, things -- never mind. I'll
12 withdraw the question.

13 MR. MORIN: That's all the questions that I
14 have, Your Honor.

15 REDIRECT EXAMINATION

16 BY MR. KENDALL:

17 Q When you submit things to SLED -- and here I'm
18 talking exclusively about the -- just generally,
19 don't describe anything specific. Are they always
20 able to develop a profile for you?

21 A No, sir.

22 Q So just because you request it, doesn't mean they
23 necessarily are able to -- to get a DNA profile; is
24 that fair to say?

25 A That's correct.

1 MR. KENDALL: Yes, sir. I believe so, Your
2 Honor.

3 MR. MORIN: Yes, sir.

4 THE COURT: (To the bailiff) Bring them in.

5 (WHEREUPON, the jury came into open court
6 at 9:44 a.m.)

7 THE COURT: Good morning, ladies and
8 gentlemen. As you know, when we recessed
9 yesterday, the State was still in the midst of
10 their presentation of evidence. So we'll
11 continue with that presentation this morning.

12 MR. KENDALL: Thank you, Your Honor. The
13 State would call Steven Manning.

14 (WHEREUPON, the witness was sworn.)

15 CLERK OF COURT: Watch your step. I'm going
16 to ask that you remove your mask while you
17 testify.

18 THE WITNESS: Yes, ma'am.

19 DIRECT EXAMINATION

20 BY MR. KENDALL:

21 Q Good morning, sir.

22 A Good morning.

23 Q Could you please state your name for the record?

24 A Steven Manning.

25 Q And, Mr. Manning, where are you from?

1 A Gaffney, South Carolina.

2 Q All right. How long have you lived in Gaffney,

3 South Carolina?

4 A My whole life.

5 Q All right. And are you currently employed?

6 A Yes, sir.

7 Q Where do you work?

8 A I work at Little Caesars.

9 Q Okay. And back in May of 2019, where were you

10 living at that time?

11 A [REDACTED] Coach Hill Drive.

12 Q Okay. Was that the event -- the location of a

13 shooting that took place on May 3rd?

14 A Yes, sir. It is.

15 Q Were you there for that?

16 A Yes, sir. I was.

17 Q Okay. And do you recall who was shot that evening?

18 A Jerry Lee Scalf, Jr.

19 Q All right. I'm going to show you what is marked

20 State's Exhibit 44, and it's been previously

21 admitted into evidence, a photograph of -- of Mr.

22 Scalf, Jr.'s autopsy photo. Is this Jerry Lee

23 Scalf, Jr.?

24 A Yes, sir. It is.

25 Q Okay. Now, do you recall what you were doing on

1 May 3rd of 2019, around nine o'clock?

2 A Yes, sir. I do. We was in the backyard putting up
3 a swimming pool.

4 Q Okay. And did you hear anything?

5 A Yes, sir. We heard Mr. Scalf arguing with someone.
6 We weren't sure who. I jumped the fence and run
7 around to the front of the house, and he was
8 sitting out there arguing with a African American
9 male, tall, skinny. And all he was trying to do
10 was get the gentleman to leave.

11 Q Okay. All right. Well, let's -- let's get back to
12 that. And could you describe what the individual
13 was wearing?

14 A Dark colored clothing; he had a white bandana.

15 Q Okay. When you say "dark colored clothing," could
16 you be more descriptive?

17 A A black -- maybe black jacket. I didn't really get
18 a good look at his pants, so I can't say for that,
19 for sure.

20 Q And is it fair to say that -- that on the night
21 this took place, you kind of gave multiple accounts
22 of his pants; is that -- is that fair to say?

23 A Yes, sir.

24 Q All right. So this is not something you feel
25 confident testifying as to what his pants looked

1 like?

2 A No, sir.

3 Q Okay. All right. Did you get a good look at this

4 individual's face?

5 A No, sir. I couldn't really see it.

6 Q Okay. All right. What, physically, did he look

7 like?

8 A All I could really tell is he was tall, maybe about

9 6-foot/five-eleven-ish. Athletic, fit-wise. I

10 mean --

11 Q Okay. And do you remember anything about his

12 clothing or hair -- sorry about that -- his haircut

13 or anything like that?

14 A No, sir. I really didn't pay --

15 Q Okay.

16 A -- that close attention to his haircut.

17 Q All right. And had you seen this individual around

18 the neighborhood before?

19 A Yes, sir. I have.

20 Q All right. And what would he typically be doing?

21 A He would either pace in -- right there in front of

22 Mr. Scalf's mom's house, or he would walk to

23 Raintree Lane.

24 Q Okay. When you say "pace in front of his mom's

25 house," what do you mean by that?

1 A He would pace from the corner of where Raintree
2 begins to where Mrs. Scalf's trash cans are.

3 Q Okay. And when you say "pace," what was -- was he
4 just walking there one time to the trash can and
5 turn around, or did he do it --

6 A He'd walk back and forth between the two areas --
7 right there at those areas.

8 Q Okay. Was it one time or more than one time? In
9 other words, would he just walk to the trash can --

10 A It'd be more than once.

11 Q Okay. So you'd describe it as "pacing"; is that
12 correct?

13 A Yes, sir.

14 Q Okay. And this individual who was pacing, do you
15 know where he lived?

16 A I'd seen him come out -- come from down the way of
17 the white, two-story home.

18 Q Okay. So you had seen him coming out from -- from
19 -- did you see him go in and out of the two-story
20 home?

21 A I didn't see him come out, but I would see him walk
22 from that driveway.

23 Q Okay. So you saw him coming from the driveway to
24 the -- to -- to -- pacing back and forth --

25 A Yes, sir.

1 Q -- right? So you were familiar with -- had ever --
2 had you ever personally had a conversation with
3 this individual or anything?

4 A No, sir. I did not.

5 Q Okay. So you hadn't, like, seen his mail, where he
6 lived, or anything like that; is that fair to say?

7 A Yes, sir.

8 Q And -- but you had seen him coming from -- from
9 that house, that driveway, I guess is --

10 A Yes, sir.

11 Q Okay. All right. And what made you believe this
12 was the individual that was arguing with Mr. Scalf?

13 A He had the same body build and same height and
14 everything.

15 Q Okay. As the same person that was coming out of
16 that two-story house on -- on Raintree?

17 A Yes, sir.

18 Q Okay. All right. And how often would he be pacing
19 back and forth?

20 A He'd do it about -- he'd come up there about once a
21 day. It would be everyday around the time Mr.
22 Scalf would get off work.

23 Q Okay. Was it every -- every single day, or did he
24 miss days when it was raining or something like
25 that, or was it just --

1 A It was --

2 Q -- fairly often?

3 A It was fairly often.

4 Q All right. Okay. And you said -- when would that

5 typically occur?

6 A Like --

7 Q Like, as it relates to Mr. Scalf?

8 A As he was getting off work.

9 Q Okay. All right. So the night of the shooting, if

10 we could go back there, all right? You said you

11 ran around the house, and what was the individual

12 that -- that did the shooting doing in this case?

13 A He was just standing there trying to argue with Mr.

14 Scalf, and Mr. Scalf was just trying to get him to

15 leave and go back to his home.

16 Q Okay. How would you describe this individual's

17 demeanor? Was this a calm conversation?

18 A No, sir.

19 Q All right. What was -- what was he doing?

20 A He was kind of a little hostile about it.

21 Q Okay. All right. And when you came around there,

22 were there any other guys with you? Was anybody

23 else getting these facts, so to speak, as far as

24 men?

25 A I'm not sure I was the only man.

1 Q Okay. All right. And what happened immediately
2 leading up to the shooting?

3 A Mr. Scalf was just trying to get him to leave. The
4 gentleman pushed him a few times and put his hands
5 on Mr. Scalf's face a few times. And Mr. Scalf
6 told him, "Don't -- get your hand out my face,"
7 numerous times. And then he didn't. Mr. Scalf
8 pushed his hand out of his face and he turned
9 around like he was going to go home and then he
10 turned back around and that's when I heard him
11 holler, "Harley run. He's got a gun."

12 Q Okay. All right. And where did he go?

13 A He ran after the shooting; is that what you're
14 asking?

15 Q Yes, sir.

16 A After the shooting, he took off back down Raintree
17 Lane.

18 Q All right. Where -- what did you do?

19 A I went to the corner of the burnt down house. And
20 after he got so far down on Raintree Lane, I could
21 no longer see him.

22 Q Okay.

23 A I don't know where he went after that.

24 Q All right. Do you think he stopped at the two-
25 story house, though?

1 A No, sir. I don't believe he did.

2 Q Okay. And how long were you out there? How far
3 down past the house could you see?

4 A About four houses from where I was at. So his
5 house and a few others.

6 Q Okay. So if this house was the third on the left,
7 maybe one, two more, something like that?

8 A Yes, sir.

9 Q And after those next two houses, do you -- do you
10 remember what the terrain looks like after that?

11 A No, sir.

12 Q Okay.

13 THE COURT REPORTER: (To the witness) Can you
14 speak up a little bit, please?

15 THE WITNESS: Yes, ma'am.

16 Q All right. And did you stay at the burnt house for
17 a long time watching?

18 A No, sir. After I couldn't see him, I just kind of
19 turned away and walked off.

20 Q Okay. All right. And where did you go back to?

21 A I went back to Ms. Scalf's house.

22 Q Okay. All So do you have any idea what he did
23 after you saw him on that initial run down
24 Raintree?

25 A No, sir.

1 Q Okay. Do you know if he would have -- could have
2 turned back around or anything like that?

3 MR. MORIN: Objection: Calls for speculation.

4 THE COURT: Rephrase it.

5 Q Just as you said a minute ago, you went to the
6 corner of the burned down house; is that correct?

7 A Yes, sir. I did.

8 Q And saw him run?

9 A (No response.)

10 Q What limited your ability to see him run?

11 A It eventually was too dark to where I couldn't see
12 him.

13 Q Okay. And do you know what he did after that?

14 A No, sir. I do not.

15 Q Okay. All right. But you saw he was within a
16 house or two of his own house?

17 A Yes, sir.

18 Q Okay. Okay. Now, you were fairly upset that
19 night; is that fair to say?

20 A Yes, sir.

21 Q Was it -- was it -- this was a fairly emotional
22 situation for you; is that correct?

23 A Yes, sir.

24 Q How would you describe the scene, initially, after
25 the shooting?

1 A Hectic.

2 Q Okay. Was there a lot of yelling and things like
3 that going on?

4 A Yes, sir. It was chaotic.

5 Q Okay. And you weren't able to --

6 MR. KENDALL: Give me just one moment, Your
7 Honor.

8 Q And just to clarify, did you -- did you linger at
9 all at -- at that burned down house?

10 A No, sir.

11 Q All right. So you ran there --

12 A After -- when I couldn't -- after I couldn't see
13 him, that's when I come on back.

14 Q Okay. And why did you -- why did you come on back?

15 A Because I couldn't see him, and I didn't know what
16 else to do.

17 Q Okay. Why didn't you continue chasing him?

18 A Because that wasn't my place.

19 Q Okay. All right. Were people encouraging you to
20 chase him or asking you to come back?

21 A Asking me to come back.

22 Q Okay. And I know you couldn't see his face, but
23 with that in mind, how confident are you in -- in
24 the fact the person who did the shooting is the
25 same person you seen pacing around, that returned

1 to the driveway of Raintree Lane?

2 A I'm certain that it was him.

3 Q Okay. Now . . .

4 MR. KENDALL: No further questions, Your
5 Honor.

6 CROSS-EXAMINATION

7 BY MR. MORIN:

8 Q Mr. Manning, I just have a few questions.

9 A Yes, sir.

10 Q When you were in the back -- well, you were working
11 on that pool?

12 A Yes, sir.

13 Q It was hot that day, right?

14 A Yes, sir.

15 Q In fact, when you were out there, you didn't have a
16 shirt on, did you?

17 A No, sir.

18 Q Okay. And did I hear you say that you went around
19 the house and jumped a fence?

20 A Yes, sir.

21 Q Okay. And you said that it was chaotic out there,
22 and a lot of people were yelling, right?

23 A (Nods head up and down.)

24 THE COURT REPORTER: (To the witness) Can you
25 speak up, please, sir?

1 THE WITNESS: Yes, sir.

2 THE COURT REPORTER: Thank you.

3 Q And I understand there's some confusion about what
4 it was, and you're still -- you're not certain
5 about the pants that the shooter was wearing?

6 A Yes, sir.

7 THE COURT: (To the witness) Excuse me just a
8 minute. If you'll lower that microphone just
9 a little bit, it'll help; okay?

10 Q And when the police first got there, you thought
11 maybe he had black pants on?

12 A Yes, sir.

13 Q And then somebody said "red shorts," and then you
14 weren't sure, so you said red shorts; is that
15 right?

16 A Yes, sir.

17 Q Now, when you jumped the fence and came around and
18 you saw them standing there --

19 A Yes, sir.

20 Q -- the shooter and Mr. Scalf, how long was it, from
21 the time you saw him standing there until the time
22 the man ran off?

23 A Maybe about five or six minutes.

24 Q Five or six minutes?

25 A Maybe a little longer. I'm not quite certain on

1 that, so I -- I was just trying to answer that to
2 the best of my ability to try and give you an
3 answer.

4 Q Yes, sir. I understand. And -- and the thing
5 about time, if you'll permit me, is a lot of times
6 people will something lasts a minute, but what they
7 mean is it was a short amount of time. They don't
8 actually mean five minutes, okay? So what I'd like
9 for you to do is to think for a minute. You jumped
10 the fence; you ran to where they were; they were
11 going back and forth; the shooter said a few
12 things; and then this hand thing went on and then
13 shots were fired and the man ran off. Five minutes
14 can be a long time for all that to go in. So was
15 it was like slow motion or -- or do you think maybe
16 your perception of that time may seem longer
17 because of what it was?

18 A Yes, sir. It was probably because of the situation
19 and circumstances.

20 Q Sure. Now, the man ran off and you ran behind him,
21 correct?

22 A Yes, sir.

23 Q Now, you ran -- you ran through the yard across the
24 street where the burned down house was; isn't that
25 correct?

1 A I was on the roadway.

2 Q You were on the roadway? You didn't go into the
3 yard?

4 A No, sir.

5 Q So when you said to Mr. Kendall you were standing
6 at the corner of it, you meant the corner of the --

7 A The house, but I wasn't in the grass. I was just
8 in the road --

9 Q Okay.

10 A -- beside the house.

11 Q Okay. The man who ran away, he ran through that
12 yard and cut through, right?

13 A Yes, sir.

14 Q Okay.

15 MR. MORIN: (To the witness) That's all the
16 questions I have.

17 MR. KENDALL: Your Honor, I just need to make
18 sure we clarify something.

19 REDIRECT EXAMINATION

20 BY MR. KENDALL:

21 Q When the man was running away, was he running in
22 grass or staying on the roadways?

23 A From what I remember, I thought it was the
24 roadways, but I can't be --

25 Q Okay. Well, just -- well, we just want you to

1 testify to what you remember, okay?

2 A Yes, sir.

3 Q Based on what you remember, was he -- was he
4 running through grass or was he running on the
5 roadways?

6 A I think it was the roadway.

7 Q Okay. All right. And the situation -- well, let
8 me ask you this. Mr. Morin had asked about time,
9 how long something passed. Do you remember any
10 gunshots being fired that night later?

11 A Yes, sir. After he disappeared into the dark,
12 later on, we heard gunshots in the air.

13 Q All right. And how long after that, did the
14 gunshots occur?

15 A I'm not quite sure on that. I can't give you an
16 exact time limit on that.

17 Q Okay. Did you have an estimate on that?

18 A Maybe two minutes. Enough for him to get
19 somewhere.

20 Q Don't -- don't speculate on stuff.

21 A Yes, sir.

22 Q I mean, I think you had estimated -- sorry. I
23 think you -- do you have an estimate of -- of what
24 it was? I think you estimated five minutes in the
25 past. I'm just trying to figure -- it was -- that

1 time was longer or shorter than the altercation?

2 If that gives you any sort of -- of a basis?

3 A It was probably, about in the middle.

4 Q Okay. All right. So you really, in all honesty,
5 can't really say --

6 A Yes, sir.

7 Q -- about how long it was? Okay. All right.

8 MR. KENDALL: Nothing further, Your Honor.

9 MR. MORIN: No further questions, Your Honor.

10 CLERK OF COURT: (To the witness) You may
11 step down.

12 (WHEREUPON, the witness was excused.)

13 MR. KENDALL: At this time, the State would
14 call Billy Anthony, Your Honor.

15 (WHEREUPON, the witness was sworn.)

16 CLERK OF COURT: Just remove your mask when
17 you testify.

18 DIRECT EXAMINATION

19 BY MR. KENDALL:

20 Q Good morning.

21 A Good morning.

22 Q Could you please state your name for the record?

23 A Yes. Billy Anthony.

24 Q And, Mr. Anthony, where are you currently employed?

25 A The Cherokee County Sheriff's Office.

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

3 A A little over 19 years.

4 Q And what are your responsibilities at the sheriff's
5 office?

6 A I am currently the captain over the uniform patrol
7 division.

8 Q All right. And prior to that responsibility, what
9 were you doing with the sheriff's office?

10 A I worked as a crime scene investigator and evidence
11 custodian.

12 Q All right. And through the course of -- of that,
13 what did those duties typically involve?

14 A As far as crime scene investigations, we respond to
15 any calls that an investigator may -- may need
16 assistance with to process crime scenes, any
17 evidence that may be brought to the sheriff's
18 office by officers that respond to scenes to be
19 processed for any type of fingerprint evidence or
20 to be transported to the State lab for examination.

21 Q Okay. And did you do a crime scene investigation
22 on this -- on this case?

23 A No, sir. I did not.

24 Q Okay. So in this instance you were, basically,
25 evidence custodian?

1 A Yes, sir. That's correct.

2 Q All right. I'm going to show you what is marked
3 State's Exhibit 50. It appears to be seven, the
4 GSR kit. And do you recognize that?

5 A Yes, sir. I do.

6 Q And what is that?

7 A This is a -- a gunshot residue kit that was
8 submitted into evidence at the sheriff's office.
9 It has a -- a label affixed to the top with our
10 case number and a barcode for tracking purposes.

11 Q All right. And -- and who was that delivered to?

12 A That was delivered to myself in the evidence vault
13 from Detective Jacob Mullinax.

14 Q At the time it was delivered, was it sealed?

15 A Yes, sir. It was. There's a red seal tape with
16 Mr. Mullinax's initials on it, and it was intact
17 when I received it.

18 Q Okay. And what did you do with that?

19 A So there was items on this case and other cases
20 that were submitted to SLED for analysis. I
21 transported this along with other items to SLED to
22 be analyzed. When we transport it down, there's
23 certain package requirements that SLED requires
24 once it is placed into their evidence lockers.
25 This particular piece of evidence was placed into

1 this heat-sealed pouch. I initial and dated it
2 with the date that I sealed it and filled out the
3 corresponding information on the front and placed
4 it in the evidence locker at SLED.

5 Q And prior -- prior to going down there, once it
6 came to you, where did you store it?

7 A It was stored in our evidence vault.

8 Q Okay. And prior to that, where would it have been
9 stored?

10 A It would have been in our evidence holding area in
11 the crime lab; that's where our crime scene
12 investigators work out of. It is -- it along with
13 our evidence vault has controlled access areas.
14 There's only three people that has access to our
15 crime lab and four that has access to our evidence
16 vault.

17 Q Okay. And -- and who are those individuals?

18 A The individuals that have access to the crime lab
19 is Detective Jimmy Henson, myself, and Detective
20 Jacob Mullinax.

21 Q Okay. Are -- are both of those areas secured
22 areas?

23 A Yes, sir. They are.

24 Q Okay. All right. And what did you do with that?
25 You said you took it to SLED?

1 A Yes, sir. I did.

2 Q All right. Do you recall when you took it to SLED?

3 A Yes, sir. If I may refer to my notes. The GSR kit
4 was transferred to SLED on September the 13th,
5 2019.

6 Q All right. And when you -- when you took it to
7 SLED, what kind of condition was it in?

8 A It was in the same condition which you see it here
9 with a section that -- on the white envelope that
10 SLED has actually -- they have opened it, broke the
11 seal, and they resealed it with their tape. So it
12 was in very similar condition.

13 Q Okay. And who added that -- just to make sure,
14 that is the same -- State's Exhibit 57 is the same
15 item you took down to SLED, the GSR kit, Diante'
16 Willis?

17 A Yes, sir. It is.

18 Q Okay. And once you got it there, do you take it
19 down to SLED in that outer packaging?

20 A No. I placed it in this heat-sealed package at
21 SLED lab.

22 Q Okay. And why did you do that?

23 A That is their protocol for their in-house transfer
24 of evidence, is that the gunshot residue kits go
25 inside a plastic, heat-sealed pouch that they

1 provide, that we seal when we arrive there.

2 Q Okay. And so just to be clear and summarize, as
3 you -- so just to be clear and summarize, when you
4 received this, it was from Officer Mullinax in a
5 sealed container -- in the sealed packaging?

6 A That's correct.

7 Q And you -- you took it to SLED and put it in
8 further sealed packaging?

9 A Yes, sir. That's correct.

10 Q All right. And in both of these areas, the -- the
11 evidence locker and the -- the evidence -- I guess,
12 processing room, the lab, both of those were
13 secured, controlled access areas?

14 A Yes, sir. They are.

15 MR. KENDALL: (To the witness) And please
16 answer any questions Mr. Morin may have.

17 THE WITNESS: Yes, sir.

18 CROSS-EXAMINATION

19 BY MR. MORIN:

20 Q I think I only have two questions. You took a
21 Clemson jersey to SLED; is that correct?

22 A Yes, sir. I believe so. I'm going to refer back
23 to my notes. Yes, sir.

24 Q And the request on that was for a test for blood
25 and someone's handwritten "sero"; is that serology?

1 A I would -- I'm not sure that is SLED that actually
2 wrote those on there.

3 Q Okay.

4 A So I --

5 Q But you're -- when you -- you sign -- sign your
6 report, it says "blood," correct?

7 A That -- that was for -- for -- excuse me. That was
8 prepared by Detective Mullinax. This is just the
9 receipt where I transferred it down.

10 Q Correct. And then -- but you signed the report
11 saying, "This is what I'm bringing." And when you
12 brought it, it had that on there?

13 A Yes, sir. That's correct.

14 Q Okay. Did you take a black jacket down to SLED?

15 A No, sir. That was not on this packing slip.

16 Q Okay.

17 MR. MORIN: (To the witness) That's all the
18 questions I have.

19 MR. KENDALL: Nothing further, Your Honor.

20 THE COURT: You may step down.

21 (WHEREUPON, the witness was excused.)

22 (WHEREUPON, the next witness was sworn.)

23 CLERK OF COURT: Watch your step. And you can
24 remove your mask while you testify.

25 THE WITNESS: Okay.

1 CLERK OF COURT: Thank you.

2 DIRECT EXAMINATION

3 BY MR. KENDALL:

4 Q Good morning.

5 A Good morning.

6 Q All right. would you please state your name for
7 the record?

8 A My name is Suzann Cromer, C-r-o-m-e-r.

9 Q And, Ms. Cromer, where are you currently employed?

10 A I'm employed by the South Carolina Law Enforcement
11 Division, commonly referred to as "SLED," in the
12 forensic services laboratory as a firearm and
13 toolmark examiner.

14 Q All right. And what are your responsibilities
15 there at -- as a firearm and toolmark examiner?

16 A What I do is called "firearms identification."

17 What we do is we look at ammunition components,
18 such as bullets, cartridge cases, shotgun shells,
19 to determine whether they are fired by or loaded
20 into and extracted out of a specific weapon. If I
21 do not have a specific weapon, I can look at the
22 ammunition components left at a scene and give
23 investigators an idea of how many firearms were
24 fired at that scene. Or also looking at bullets, I
25 can give investigators a list of potential firearms

1 that could have fired those bullets.

2 We, also, do serial number restoration, and
3 the National Integrated Ballistic Identification
4 Network, which is -- we call "NIBIN," which is a
5 digital database for images of fired cartridge
6 cases, that can seemly link all those cases
7 together.

8 Q Okay. And what sort of training did you have to
9 undergo in order to be able to do that?

10 A I have a bachelor's degree from Clemson University,
11 I did some graduate work at the University of South
12 Carolina in criminal justice. During that time, I
13 did an internship in the SLED Firearms Department.

14 I was hired on in December of '98, and then
15 moved into the training program for firearm and
16 toolmark examiners in February of 2000. I
17 completed their in-house training program, which is
18 a multi-year -- more than apprenticeship, if you
19 will, program, where we go through a training
20 manual that has a number of different modules and
21 we have to take written tests, oral tests,
22 practical exercises, to pass each module. And then
23 upon completion of all the modules in the training
24 manual, we're given a comprehensive final exam that
25 is graded by our training officer and our

1 lieutenant before we're allowed to take casework.

2 I've, also, taken classes with the Association
3 of Firearm and Toolmark Examiners, which is an
4 international organization for our profession. I
5 have -- you have to apply for membership, and I've
6 been granted membership. I've attended several of
7 their week-long seminars, where we get together and
8 discuss relevant fields in our -- relevant topics
9 in our field.

10 And, also, they offer extra workshops.
11 Several of the extra workshops I've taken are
12 barrel making, Hi-Point firearm familiarization,
13 submachinegun conversions, ethics, just to name a
14 few.

15 I have, also, toured numerous firearm
16 manufactures, such as Smith & Wesson, Ruger, Daniel
17 Defense, FN. I've, also, toured toolmark
18 manufacturers. I've taken training with the Bureau
19 of Alcohol, Tobacco, and Firearms on serial number
20 -- serial number restoration, and the National
21 Integrated Ballistic Identification Network, or
22 NIBIN. I've, also, attended several of their
23 user's group as a representative of North and South
24 Carolina.

25 Q Okay. And does firearms identification include

1 being able to match bullets?

2 A Yes. It does.

3 Q And bullet cases?

4 A Yes. It does.

5 Q All right.

6 MR. KENDALL: Your Honor, at this time, we
7 would offer Ms. Cromer as an expert in firearm
8 identification.

9 MR. MORIN: No objection.

10 THE COURT: She is so qualified.

11 Q I am going to show you what is marked -- what has
12 been admitted as State's Exhibit 45.

13 A Okay.

14 Q Do you recognize this?

15 A Yes, sir. I do. State's Exhibit 45 was my Item 13
16 and 15, and it is in a sealed container with my
17 initials and seal date.

18 Q Okay. And do you recall what those were?

19 A Yes, sir. I determined that these were -- my Item
20 13 was one fired bullet. My Item 15 was a fired
21 bullet jacket and a core fragment.

22 Q All right. And where -- where did these come from?
23 Where did you understand these to be from?

24 A These were labeled as from autopsy.

25 Q Okay. Jerry Lee Scalf, Jr.?

1 A Yes, sir.

2 Q Okay. So you have one bullet and one bullet
3 fragment; is that correct?

4 A One bullet jacket and one core fragment.

5 Q Okay. Could you kind of explain to the jury what
6 the difference between those two things is?

7 A Okay. A fired bullet is something that's intact --
8 you can't see it right here, but it's all together.
9 It has -- the jacket's intact and the core -- in
10 this case, it's a lead core -- it's together. When
11 I talk about a jacket fragment, it is like the
12 shell has come off, and it's separated from the
13 innards is the core. So, in this case, it's a lead
14 core with a copper jacket. Kind of like an M&M
15 with the inside and the hard candy shell.

16 Q And do you recall what you did with those -- those
17 two -- the -- the round and the fragment of the
18 round?

19 A Okay. What I do when I receive ammunition
20 components like these in a case, is first, I
21 picture the packaging, then I open it. I take a
22 picture of the internal packaging; I take a lot of
23 photos. Once I open it up, I look at what I have.
24 These were actually submitted as one item. And for
25 purposes of my examination, I separated them into

1 two different items, that way I can talk about each
2 one individually.

3 So I separate them in our computer program as
4 Items 13 and Items 15 for me. Then, what I do is I
5 measure them to get the diameter; what I'm trying
6 to establish is the caliber. So I look at them; I
7 look at the caliber. And then what I do next is I
8 look at the rifling marks.

9 Now, rifling is what's placed in the gun
10 barrel by the manufacturer to put a rotary motion
11 on that bullet, very similar to quarterback who's
12 throwing a football. He wants it to go into a
13 tight spiral towards its target, otherwise it'll
14 just lob into the ground. So it's going to put
15 that bullet in a rotary motion. And rifling is
16 made up of lands and grooves. And you can have any
17 number of lands and grooves. So what I do is I
18 look at it. I determine the caliber, then I look
19 at the rifling, determine whether -- how many lands
20 and grooves. And, in this case, this had six lands
21 and grooves.

22 I also look at what type of rifling it has
23 because there are two types of rifling. There's
24 conventional and then there's polygonal.
25 Conventional is more put into the gun barrel with

1 right angles. Polygonal is more scalloped or
2 smooth. This was conventional rifling.

3 Then the next step is I look at what direction
4 the twist is or which direction that rifling is
5 going to make that bullet spin. And I determined
6 it to be right-twist. I call this kind of
7 "climbing the ladder" to my microscope. If at any
8 point those characteristics don't match up, I just
9 stop right there. So if one was eight lands and
10 grooves and one was six, I can say they definitely
11 weren't fired by the same gun, and I could stop
12 right there. But since every characteristic
13 matched, I can make it to my microscope, and then I
14 do an examination on a comparison microscope of the
15 individual markings left by the rifling on these
16 lead jackets.

17 Q Okay. So it's about a five-step process; do I have
18 it right?

19 A Correct.

20 Q Five -- five --

21 A Yes. Caliber, type of rifling, number of lands and
22 grooves, direction of twist, and then actually you
23 have the -- you could actually go a step further
24 into the size of the lands and grooves.

25 Q Okay. All right. And were you able to do this in

1 this case?

2 A Yes. I did. I -- I made it up to my microscope to
3 do the microscopic examination.

4 Q All right. And based on your expert opinion, what
5 did you find out about these rounds?

6 A In my opinion, these rounds were fired by the same
7 firearm.

8 Q Okay. Go ahead.

9 A We render one of four conclusions. Positive, yes,
10 it was fired by the same firearm, or yes, it was
11 fired by this firearm. Negative, no it wasn't.
12 Unsuitable, meaning it's too damaged, which I did
13 declare this core fragment as unsuitable. Sorry.
14 But the jacket and the fired bullet were, in my
15 opinion, fired by the same gun. So -- and then we
16 have inconclusive. If we can't render a decision
17 either way, we can always say, "inconclusive." We
18 can't decide. And then after I render one of those
19 four conclusions, another firearm examiner has to
20 come in, render a conclusion theirselves (verbatim.)
21 If we agree, then we can issue our report.

22 Q Okay. Okay. Now, in this case, did you also --

23 MR. KENDALL: (To Ms. Leskanic) And I believe
24 that's already been admitted, correct?

25 MS. LESKANIC: Yes.

1 Q In this case, did you also examine two shell
2 casings from the same thing -- from the same case?

3 A Yes, sir. I did.

4 Q Now, were you able to reach an expert conclusion
5 about whether or not those were the same -- fired
6 from the same gun?

7 A No. My result on those cartridge cases was
8 inclusive. They were not marked very well by the
9 firearm, and although I noted some similarities, I
10 could not either rule them in as being fired by the
11 same gun or rule them out.

12 Q All right. When you say "marked by the same gun,"
13 what do you mean by that?

14 A Cartridge cases are a little different than
15 bullets. They're marked in five different
16 locations by the firearm. First, the head of the
17 cartridge case is the area here that has the
18 headstamp. It's rested up against a breech face of
19 the firearm during the firing process.

20 THE COURT REPORTER: (To Mr. Kendall) You
21 said that "here." Can she indicate with
22 words?

23 Q Oh, I'm sorry. If you could indicate with words
24 about what you were talking about.

25 A I'm sorry.

1 Q I believe you had said "here," if you could just
2 indicate with words now.

3 A Oh, I -- I'm pointing to my Item 1 in State's
4 Exhibit 52, and this is a fired 9mm Luger caliber
5 cartridge case. Again, it's -- it's very similar
6 to the bullet, matching all those steps to get to
7 the comparison microscope; it's a little less in
8 cartridge cases. We look at the breech face, and,
9 again, that's the part that the cartridge case head
10 rests up against during the firing. So any
11 imperfections left on that breech face during the
12 manufacturing process can be imprinted on that head
13 of that cartridge case in the primer.

14 Also, we have the firing pin impression. The
15 firing pin is what comes out of the breech face,
16 strikes that primer, causes the ignition -- or the
17 initial spark that goes through the flash hole to
18 ignite the gunpowder to push the bullet down the
19 barrel, but it also is burning acids, also, push
20 the cartridge case backwards into the breech face.

21 So we have the breech face, the firing pin.
22 We also have what we call "the extractor." And
23 it's like a little claw that holds the head of the
24 cartridge case into the firearm. So if you watch
25 movies, nowadays, it has a slide that moves back

1 and forwards on a semiautomatic pistol. So that
2 extractor will hold that cartridge case in that
3 slide on the firearm. And then the ejector. The
4 ejector is what's going to hit that cartridge case
5 to kick it out of the semiautomatic pistol through
6 the ejection port. So those can also leave
7 markings.

8 The last thing that can leave markings on a
9 cartridge case is the chamber of the firearm
10 itself. The chamber is the rear portion of the
11 barrel, and that cartridge case -- while those
12 gases are burning, it's gonna cause that case to
13 expand a little bit. And if there's any defects in
14 the walls of the chamber, when that extractor pulls
15 it out, they can be striated onto the body of the
16 cartridge.

17 Q And if two rounds are fired by the same gun, would
18 they necessarily produce exact same markings?

19 A Not every time. It also depends on -- depends on
20 the firearm. It can depend on the shooter. If the
21 shooter is not supporting the gun well, all of
22 those motions that have to occur in a firearm may
23 not occur. That's why you have some cases that the
24 cartridge case doesn't eject. So there's -- while
25 it's being pressed into the breech face, if

1 someone's not holding the gun firmly, the whole gun
2 is going to move backwards instead of that head of
3 the cartridge case being pressed into the breech
4 face to get those defects imprinted on it.

5 Also, the material that the cartridge cases
6 are made up of, the different hardness or
7 thickness, can make a difference in the markings.

8 Q Okay. All right. So, in this case, I guess, in
9 summary to it is -- is we couldn't really tell with
10 regard to those cases; is that correct?

11 A That's correct. I noted that there were some
12 similarities, but I had -- I was inconclusive as to
13 whether they were fired by the same firearm.

14 Q Okay. Well, let's take a step back for a second.
15 Could you tell the caliber and brand of those
16 rounds?

17 A Yes. They were both 9mm Luger caliber Winchester
18 brand.

19 Q Okay. So it's -- the -- the two rounds are -- are
20 made by the same company and -- or the same -- same
21 Winchester rounds, but just the microscopic
22 markings would be -- be close enough there, so you
23 made an indeterminate decision; is that fair to
24 say?

25 A That's correct.

1 Q Okay. Do you know what caliber the bullet fragment
2 and the jacket round were?

3 A I determined that State's Exhibit 45, the fired
4 bullet jacket and the fired bullet, were most
5 consistent with 9mm Luger caliber.

6 Q Okay.

7 MR. KENDALL: (To the witness) Please answer
8 any questions Mr. Morin may have.

9 MR. MORIN: (To the Court) May I approach?

10 THE COURT: (Nods head up and down.)

11 MR. MORIN: Thank you, Your Honor.

12 CROSS-EXAMINATION

13 BY MR. MORIN:

14 Q Just so I'm clear on a few things. When the gun is
15 being manufactured, it's creating its lands and
16 grooves inside the chamber, correct -- or -- it's
17 not in the chamber. The -- what do you call it? I
18 -- I can't remember.

19 A Inside the barrel.

20 Q Inside the barrel, there you go. And that's a
21 machine that's consistently doing that hundreds of
22 times a day?

23 A It depends on how it's put in the barrel, but, yes,
24 different things can use different tools.

25 Q Uh-huh. And from examining the -- the bullet, the

1 bullet fragment, cartridge casings, your
2 estimate -- you -- isn't it true during your -- I'm
3 trying to think -- study or looking at the case,
4 you estimate that it could have been from any one
5 of 75 different firearms?

6 A At least, sir. Part of my examination is when I
7 don't have a firearm, I can measure those actual
8 land and groove measurements --

9 Q Uh-huh.

10 A -- and give investigators a list of potential
11 manufactures of firearms that use those rifling
12 specifications. That's six land and groove, right
13 twist with these dimensions of lands and grooves.
14 And I believe there were 78 --

15 Q Okay.

16 A -- different manufactures on my list.

17 MR. MORIN: (To the witness) That's all the
18 questions I have.

19 MR. KENDALL: Nothing further, Your Honor.

20 THE COURT: Thank you. You may step down.

21 (WHEREUPON, the witness was excused.)

22 MR. KENDALL: The State would call Jamie Hall
23 at this time.

24 (WHEREUPON, the witness was sworn.)

25 CLERK OF COURT: Watch your step. You may

1 remove your mask while you testify.

2 THE WITNESS: Okay.

3 CLERK OF COURT: Thank you.

4 DIRECT EXAMINATION

5 BY MR. KENDALL:

6 Q Good morning.

7 A Good morning.

8 Q Could you please state your name for the record?

9 A Jamie Hall, H-a-l-l.

10 Q And, Ms. Hall, where are you currently employed?

11 A The South Carolina Law Enforcement Division in the
12 forensic services laboratory.

13 Q All right. how long have you worked there?

14 A Since 2015.

15 Q All right. And what are your responsibilities
16 there?

17 A I'm a forensic technician in the trace evidence
18 department. That involves me prepping any evidence
19 for GSR analysis, so I inventory GSR kits. I
20 collect samples from any clothing that comes in for
21 potential GSR, and I also prep supplies for arson
22 analysis.

23 Q Okay.

24 MR. MORIN: (To the witness) I hate to
25 interrupt. That last part, I didn't hear when

1 somebody stood up.

2 THE WITNESS: Oh, I also prepare supplies for
3 arson analysis.

4 MR. MORIN: Okay.

5 Q I'm going to show you what is marked State's
6 Exhibit 57, a gunshot residue kit. Do you
7 recognize this?

8 A Yes, sir. I -- I recognize it with our unique lab
9 number and item number that everything is given as
10 it comes into the laboratory, and it also has my
11 date and initials from when I processed it.

12 Q Okay. And how would that -- how did that kit come
13 to you?

14 A I would have received it from our evidence control
15 department where things are stored until we're
16 ready to process them.

17 Q All right. And -- and was it -- when you received
18 it, was it sealed or unsealed?

19 A It was sealed and initialed.

20 Q Okay. And when you say "sealed," are you talking
21 about just the paper packaging seal, or are you
22 talking about in the -- the big plastic units?

23 A The -- yeah. The heat-sealed pouch. So we
24 actually document both. And for this case, both
25 the inner envelope, the GSR kit, and the heat-

1 sealed pouch were both sealed and initialed.

2 Q Okay. And -- excuse me. All right. Once you
3 received that GSR kit, what did you do with it?

4 A Again, I verify that everything is properly sealed
5 and initialed, and then from there, I will open the
6 container. I label the stubs on the inside with
7 the unique lab number and item number. I document
8 pertinent information for analysis; such as, the
9 type of GSR kit, the time from the shooting
10 incident to the time of collection, who it was
11 collected from, and things of that nature that are
12 pertinent to the analysis.

13 Q Okay. So you, basically, open it up and prep it;
14 is that fair to say?

15 A Correct.

16 Q All right. And did you do that in this case?

17 A I did.

18 Q Okay. And once you opened that up and prepped
19 that, what did you do with it after that?

20 A Once I'm finished doing my part, it's put in a
21 secure location within the trace evidence lab, and
22 then it waits for the analysis to pull it.

23 Q Okay. All right. And do you recall who pulled it
24 in this case?

25 A It was Megan Fletcher.

1 Q Okay. Did you make any markings on the envelope
2 indicating that you -- that your -- your analysis
3 had -- that you had gotten it and done the prep
4 work?

5 A I date and initial the heat-sealed pouch and the
6 envelope, and then on the inside, the individual
7 stubs also have my initials and date on it.

8 Q Okay.

9 MR. KENDALL: (To the witness) Please answer
10 any questions Mr. Morin may have.

11 THE WITNESS: Okay.

12 CROSS-EXAMINATION

13 BY MR. MORIN:

14 Q Just as a matter of how you go about doing this.
15 It comes to SLED and then you prep?

16 A Correct.

17 Q Is there anything during your prep that you
18 would -- because you said you also check -- well,
19 let me ask this: You checked this particular item?
20 You prepped it?

21 A Yes.

22 Q During the course of your employment, as you said
23 earlier, you checked for gunshot residue?

24 A I -- I don't actually do the analysis --

25 Q No.

1 A -- of gunshot residue.

2 Q Not the analysis, but you do the prep work?

3 A I do the prep work, correct.

4 Q And sometimes you do that prep work on clothing or

5 other items besides this type?

6 A Correct.

7 Q And when that's done -- or when those items come in

8 -- just as an example we'll say a football jersey,

9 you check for gunshot residue to prepare it to be

10 tested --

11 A I --

12 Q -- or analyzed?

13 A I collect samples from the clothing to be analyzed

14 the same way as these stubs.

15 Q All right. Now, during that collection, if -- if

16 you don't -- if you can't collect anything, say off

17 of some item, it stops with you, right?

18 A No, sir. So --

19 Q It keeps going?

20 A -- there's no way for me to tell if there's

21 actually GSR on a garment --

22 Q Okay.

23 A -- by the naked eye. We have to use what's called

24 a "scanning electron microscope."

25 Q Uh-huh.

1 A So I sampled the area that would have been closest
2 to the discharge of a firearm. So in a jersey's
3 case, it would have the chest and sleeve area.

4 Q Uh-huh.

5 A So I would just dab the double-sided adhesive
6 across that area of the garment; and then it goes
7 to the analyst; and they determine whether or not
8 there's any GSR found.

9 Q Okay. So I'll make it real quick. Is this the
10 only item that you checked for gunshot residue in
11 this case that you got?

12 A This is the only item that I prepped, yes, sir.

13 Q For this particular case?

14 A Yes.

15 MR. MORIN: (To the witness) Thank you.

16 MR. KENDALL: Nothing further, Your Honor.

17 THE COURT: (To the witness) You may step
18 down.

19 THE WITNESS: Thank you.

20 (WHEREUPON, the witness was excused.)

21 MR. KENDALL: The State would call Megan
22 Fletcher at this time. (To the witness) Can
23 you send Megan in, Jamie?

24 MS. HALL: Yes, sir.

25 MR. KENDALL: Thank you very much.

1 (WHEREUPON, the witness was sworn.)

2 CLERK OF COURT: Okay. Watch your step. You
3 may remove your mask while you testify.

4 THE WITNESS: Yes, ma'am.

5 DIRECT EXAMINATION

6 BY MR. KENDALL:

7 Q Good morning.

8 A Good morning.

9 Q Could you please state your name for the record?

10 A My name is Megan Fletcher, F-l-e-t-c-h-e-r.

11 Q All right. And, Ms. Fletcher, where are you
12 currently employed?

13 A I'm currently employed by the South Carolina Law
14 Enforcement Division in the forensic laboratory and
15 the trace evidence department.

16 Q All right. Excuse me. And how long have you
17 worked there?

18 A Fourteen years.

19 Q And what do your responsibilities include at SLED?

20 A I'm in the trace department, so I'm a trace
21 analyst. So I perform different analyses on
22 different types of evidence; such as, fire debris,
23 paint, fibers, pressure sensitive tapes, glass,
24 explosives, and gunshot primer residue.

25 Q Okay. And what sort of training did you have to

1 undergo to be -- to be able to do all this?

2 A So I have a bachelor's degree in biochemistry and
3 English from Chatham College. I also have my
4 master's in forensic science, emphasizing in
5 computer forensics and forensic chemistry from
6 Marshall University. And then once I became
7 employed at SLED, I underwent in-house training for
8 each of the disciplines in which I'm able to
9 perform case work, and that included practical,
10 written, and oral examinations for however much
11 time each discipline required; and that also
12 included outside training as well.

13 Q Okay. And how many gunshot residue tests have you
14 tested over the years?

15 A Probably, over a thousand.

16 Q Okay.

17 MR. KENDALL: Your Honor, at this time, we
18 would like to qualify the witness, Megan
19 Fletcher, as an expert in GSR and trace
20 evidence analysis.

21 MR. MORIN: I have no objection.

22 THE COURT: She is so qualified.

23 Q I'm going to show you -- let me back up for a
24 second.

25 Could you please describe to the jury what

1 gunshot residue actually is?

2 A So gunshot residue is everything that comes out of
3 a gun when it's fired. That includes the smoke,
4 the fire, fragments of the bullet, and what we call
5 "gunshot primer residue," was it -- which is what
6 we analyze in the SLED lab. Gunshot primer residue
7 are microscopic, molten particles that are -- that
8 contain the elements lead, barium, and antimony.

9 Q Okay. And is there any way -- okay. I'm going to
10 show you what is marked State's Exhibit -- State's
11 Exhibit 57, the gunshot residue kit.

12 A Yes, sir.

13 Q Are -- are you able to recognize this?

14 A I do recognize State's Exhibit 57. I recognize it
15 by the SLED laboratory barcode sticker with the Lab
16 Number L19-16911, Item Number 7. I also recognize
17 it by my initials and the date in which I accessed
18 this evidence.

19 Q Okay. And does that appear to be in same sealed
20 condition as the last time you saw it?

21 A Yes, sir. My -- my heat seal with my initials and
22 the date in which I sealed it are still present.

23 Q Okay.

24 MR. KENDALL: We would offer State's Exhibit
25 57 into evidence at this time, Your Honor.

1 MR. MORIN: No objection.

2 THE COURT: What's the number?

3 MR. KENDALL: Fifty-seven, Your Honor.

4 THE COURT: Thank you.

5 (WHEREUPON, State's Exhibit No. 57 was marked
6 into evidence.)

7 Q Now, how did you receive this?

8 A I received this from a secure location within the
9 trace evidence laboratory.

10 Q Okay. And how do you begin to process that?

11 A So the evidence has already been inventoried by the
12 forensic technician, which was Jamie Hall. And so
13 all I have to do is open the evidence, ensure that
14 the contents are still present, and that everything
15 is labeled appropriately. I then put my initials
16 on everything, and then I begin my analysis.

17 Q Okay. And could you please describe to the jury
18 the process of your analysis? What do you do? How
19 do you process everything?

20 A So gunshot residue is analyzed using a scanning
21 electron microscope with an energy-dispersive X-ray
22 detector. So it's a very powerful microscope that
23 uses electrons instead of light. So, because it
24 uses electrons instead of light, I can see
25 particles that are much smaller than you could with

1 your typical laboratory microscope. So I can see
2 particles that are say one-tenth the size of a
3 human hair. I then am able to also determine what
4 types of elements are present in those particles.
5 So that's super important for gunshot primer
6 residue, because I need to make sure that those
7 particles are molten, and I need to make sure that
8 there's lead, barium, and antimony in those
9 particles.

10 Q Okay. And why are you looking for those particles?

11 A Those particles are characteristic of gunshot
12 primer residue.

13 Q Okay. And if you just find one -- one of those
14 particles; is that okay?

15 A We would report out that one particle was found.

16 Q Okay. But to actually get conclusion of it
17 containing gunshot residue, what do you need to
18 find?

19 A One particle would be a conclusion. To have
20 multiple particles, it would be two particles.

21 Q Okay. Let me back up. What were the substances
22 you're looking for?

23 A Lead, barium, and antimony.

24 Q Okay. If you only found lead, would that be good
25 enough?

1 A Oh, I'm sorry. No. Lead is considered a component
2 of a -- of gunshot primer residue, but it's not
3 characteristic. There are other sources of lead
4 that can be found in the environment, so we don't
5 consider that characteristic of gunshot primer
6 residue.

7 Q So the particles got to have all three; is that
8 fair to say?

9 A Yes, sir.

10 Q Okay. So we're -- we're not talking about just one
11 lead and one barium; is that right?

12 A Correct.

13 Q Okay. All right. And do you -- did you perform
14 gunshot analysis on what is -- is State's 57, the
15 gunshot residue kit?

16 A Yes, sir. I did.

17 Q And in your expert opinion, were you able to reach
18 a conclusion as to what that contained?

19 A Yes, sir. I was.

20 Q And what was your conclusion in this case?

21 A May I refer to my notes?

22 Q Yes.

23 A "In the GSR kit from Diante' Jermaine Willis,
24 particles characteristic of gunshot primer residue
25 were found. In general, particles characteristic

1 of gunshot primer residue are microscopic, molten
2 particles that contain the elements lead, barium,
3 and antimony. Gunshot primer residue can come from
4 discharging a firearm, being in the vicinity to the
5 discharge of a firearm, or coming in contact with a
6 surface that has gunshot primer residue on it."

7 Q Okay. All right. Thank you very much. Now, let's
8 talk about stacks and limitations to this, because
9 you kind of addressed those in that video. Without
10 seeing whether somebody shot a gun, can you say if
11 they actually shot a gun?

12 A No, sir. I cannot.

13 Q Okay. But this shows -- or demonstrates that the
14 aftermath of a gunshot -- so if somebody's near a
15 gun or shooting a gun, that it could be on their
16 hands?

17 A If somebody was near a gun and shooting a gun,
18 there's potential for gunshot primer residue to be
19 on their hands, yes.

20 Q All right. Once it gets on your skin, once it gets
21 on your hands, what happens? In other words, does
22 it stay on you forever like a tattoo? How tacky is
23 this on your hands?

24 A So gunshot residue is very easily removed from your
25 skin. So, essentially, as soon as you fire a gun,

1 you start removing it from your -- from your hands,
2 and that's because you wipe them on your pants or
3 you put your hands in your pocket or you may wash
4 your hands. So, because it's so easily removed
5 from your hands or transferred to other objects,
6 you are actively removing it from your hands; and
7 that's the reason that SLED has a policy of not
8 testing a gunshot residue kit beyond six hours
9 after an incident.

10 Q Okay. And you talked about washing your hands. If
11 somebody were to wash their hands or shower, how
12 would that affect gunshot residue?

13 A That should remove most, if not all, of the gunshot
14 primer residue.

15 Q Okay. Now, what about, like, sweat. How does that
16 affect gunshot residue?

17 A Sweating profusely would -- would help to remove
18 the gunshot primer residue. That's because the
19 sweat may actively take it away with it, but, also,
20 when you're sweating you tend to wipe your hands on
21 other objects, so that's actively removing it as
22 well.

23 Q Okay. All right. And you testified about
24 transferring from other objects. How -- how common
25 is that?

1 A So if something has been in the vicinity to the
2 discharge of a firearm, you could definitely
3 transfer from one item to another. So the most
4 logical is a recently fired weapon. It's very easy
5 to -- if you picked up a recently fired weapon,
6 that would be the easiest way to pick up gunshot
7 primer residue on your hands in a transfer
8 situation.

9 Q Okay. What if the individual -- when you say
10 "recently fired a weapon," are you talking about
11 days before? Are you talking about -- are you
12 talking about one that was just immediately fired?

13 A It could be any amount of time where the weapon
14 probably was not cleaned very well.

15 Q Okay. What happens if the firearm is cleaned?

16 A Typically -- I mean, it depends on how well you
17 clean your gun, but if -- if you clean your gun
18 pretty well, then there might not be any gunshot
19 primer residue to be removed. It just depends on
20 how much was on the gun to begin with.

21 Q Okay. All right. Is there any way for -- for SLED
22 to quantify that?

23 A No, sir. There's not.

24 Q And what is more likely, gunshot residue on a hand
25 from a fired weapon or from touching something else

1 that theoretically did have it on there?

2 A I can't really determine that.

3 Q Okay. I believe we put State's Exhibit 57 into
4 evidence. That is the 57, correct?

5 A Yes, sir.

6 Q All right.

7 MR. KENDALL: (To the witness) Please answer
8 any questions Mr. Morin may have.

9 THE WITNESS: Yes, sir.

10 CROSS-EXAMINATION

11 BY MR. MORIN:

12 Q Mister -- Mr. Kendall asked you about gunshot
13 residue on skin, correct?

14 A Correct.

15 Q Gunshot residue can also begin on clothing?

16 A That's correct.

17 Q And when it gets on clothing, is it dissipating at
18 the same rate as when it's on hands?

19 A So on an inanimate object, such as clothing, it
20 will remain until it's actively removed, so either
21 brushed off or washed in a washing machine per se.

22 Q Okay. And, obviously, if -- or let me ask you
23 this: So if I handle something like a football
24 jersey or sweatshirt or something like that, that
25 had gunshot residue on it, it would get on my hands

1 even if -- if I wasn't wearing gloves; is that
2 correct?

3 A It would depend on how much was on that inanimate
4 object to begin with, whether that transfer would
5 be likely, but it is a possibility.

6 Q All right. Well -- all right. Let's talk about
7 particles. And you correct me if I'm wrong, but
8 I'm envisioning this almost like a capsule for me.
9 There's a capsule particle and it's got these three
10 elements in it, okay? In this case, you indicated
11 to the solicitor that one particle would be enough
12 to give a positive result?

13 A My -- my result would say one particle
14 characteristic of gunshot primer residue was found.

15 Q And in this case, how many particles?

16 A There were three.

17 Q Three? Okay. Now, when you fire a firearm,
18 typically how many particles are there?

19 A It really depends on the type of weapon, the type
20 of ammunition, the condition of the weapon. Also,
21 it largely depends on how soon the gunshot residue
22 kit is collected after the firing.

23 Q All right. If I'm firing a 9mm gun, and I am
24 firing, gunshot residue comes out, correct?

25 A Yes, sir.

1 Q All right. Now, in your experience and your
2 knowledge that you've testified to, in a typical
3 standard firing of a 9mm gun, how many particles
4 can I expect to have?

5 A I don't -- I don't have an opinion on that, because
6 we don't quantify per caliber or core type.

7 Q So there's no way for you to be able to tell me how
8 many particles come out of any firearm at any time
9 it was fired?

10 A Without shooting that particular gun, without that
11 particular ammunition, I can't tell you how much a
12 particular gun is going to produce gunshot primer
13 residue.

14 Q And do you have a firearm?

15 A I do not.

16 Q Do you get trained on firearms?

17 A To use them?

18 Q Yeah.

19 A No, sir. I do not.

20 Q Now, you've testified that if somebody was to, say,
21 wipe their hands on their shirt or pants, they'd
22 transfer the gunshot residue to their shirt or
23 pants, correct?

24 A Yes, sir. That is the potential.

25 Q Is there any other item you tested for gunshot

1 residue in this case?

2 A The only item tested for gunshot residue in this
3 case was the gunshot residue kit from Mr. Willis.

4 Q Okay. You said you've done thousands of gunshot
5 residue tests?

6 A Yes, sir.

7 Q And in this particular case, you have three
8 particles. But if there was one particle, that
9 would be enough for you to say it was present?

10 A Yes, sir. I could say that one particle was
11 present.

12 Q Now, have you had cases where the particle number
13 was in excess of a hundred?

14 A Yes, sir.

15 Q Have you had a case where -- any cases in those
16 thousands where the particle number was in excess
17 of 200?

18 A I do not believe I have, and that's mostly because
19 we place limits on our automated analysis in order
20 to conserve time on the instrumentation; and so we
21 stop analysis on the instrument once it reaches a
22 certain number of particles.

23 Q And what's that number?

24 A For a typical analysis, it's 25 per lift.

25 Q Twenty-five?

- 1 A Yes, sir.
- 2 Q Okay. Now, you also said that if you picked up a
3 gun that had been fired and hadn't been cleaned,
4 you could get some gunshot residue on your hand; is
5 that correct?
- 6 A That's correct.
- 7 Q You also said that if, depending on how well the
8 gun is cleaned, it may still have gunshot residue
9 on it; is that correct?
- 10 A That's correct.
- 11 Q And it's certainly possible -- well -- that's okay.
- 12 MR. MORIN: Might I have a moment, Your Honor.
- 13 THE COURT: Yes, sir.
- 14 Q You just said "25 per lift," correct?
- 15 A That's the limit on the automated analysis, yes,
16 sir.
- 17 Q And how many lifts did you do in this case?
- 18 A There was one lift from the right hand and one lift
19 from the left hand.
- 20 Q Just one?
- 21 A No. There were two; one from the right hand and
22 one from the left hand.
- 23 Q Okay. And your analysis is, is there is three
24 particles on one hand?
- 25 A Yes, sir.

1 Q And the lift refers to what? The officers did at
2 the scene, or to what you're doing in SLED?

3 A The gun -- the lift was what was included in the
4 gunshot residue kit, which was collected by the
5 officers.

6 Q Right. So when I asked you earlier if you've ever
7 had any that's over a hundred, it's because the
8 officers did multiple lifts?

9 A Possibly. It could be from a victim which might
10 have had over a hundred on them, just because --

11 Q Lifts?

12 A -- they were the object, but it might be one lift
13 with over a hundred on it --

14 Q Okay. Now, I'm confused.

15 A -- from training, but . . .

16 Q The maximum amount you can get on a lift is 25?

17 A If I run that on the automated analysis program for
18 only 25.

19 Q Okay. So there's another way to do it, because my
20 question earlier was: Have you ever had one part
21 more than a hundred? You said, "Yes."

22 A Yes.

23 Q All right. So how do you get a hundred if the lift
24 is limited to 25?

25 A That's the part of the software analysis. I can

1 change the software analysis to -- to run
2 indefinitely.

3 Q Okay. So you're able to say just go up to 25 on a
4 lift, but you could say go up to 200 on a lift if
5 you wanted to?

6 A Well, I wouldn't say 200. What I would tell the
7 instrument to do is to run 100 percent of the lift
8 without limitations on the time.

9 Q Okay. But the limitation you put on this one was
10 25?

11 A Yes, sir.

12 Q Okay. And the particle to which you're referring
13 to is how much smaller than a human hair?

14 A In these particular particles, they were about one-
15 third to one-half the size of a human hair.

16 Q And it certainly couldn't be seen by a human eye;
17 you had to use an electronic microscope?

18 A That's correct.

19 MR. MORIN: (To the witness) That's all I
20 have.

21 REDIRECT EXAMINATION

22 BY MR. KENDALL:

23 Q What, ultimately, is gunshot residue analysis
24 seeking to determine?

25 A I'm seeking to determine whether there are

1 particles characteristic of gunshot primer residue
2 on particle lifts that were collected for that type
3 of analysis.

4 Q Okay. And you testified a moment ago, you're not
5 able to kind of quantify what a lot is; is that --
6 is that accurate?

7 A I'm not able to quantify gunshot primer residue in
8 that "X" number of particles means that it was
9 transferred from something, "Y" number means that
10 they were shooting, and "Z" number means that they
11 were only in the vicinity. I can't state that a
12 certain number of particles means that somebody was
13 definitely shooting as opposed to a different
14 scenario.

15 Q Okay. Okay. And why is that?

16 A And it's largely dependent on the gun, the
17 ammunition, and the time and the activity between
18 the incident and the collection of gunshot residue;
19 there's too many variables.

20 Q Okay. It's possible that -- or is it possible if
21 someone was shot, they would have gunshot residue
22 on them?

23 A If somebody was shot, it's very likely that they
24 have gunshot primer residue on them. We see it in
25 about 75 percent of our cases, and that's because

1 the majority of gunshot primer residue comes out of
2 the muzzle of a gun, and it goes towards the
3 target, in which case it would be a victim; and so
4 it would land on that target.

5 Q Okay. So you -- it wouldn't be unheard of for a
6 situation, whether it be the victim in -- in that
7 case, or -- or an individual who was shot has
8 significantly more gunshot residue primer on them
9 than someone who did the shooting and then ran away
10 for, you know, say an hour or so?

11 A No, sir. And that's also contributed because the
12 victim usually has less activity, if not zero
13 activity after being shot, and the living
14 individual who shot has definitely more activity.

15 Q Okay. So it's likely that the deceased would have
16 more than the person who did the shooting?

17 A There's a good chance.

18 Q Okay. But, again, this is not something because
19 there's so many environmental factors that -- that
20 you could -- can't quantify; is that fair to say?

21 A Right. There are so many variables that you
22 couldn't -- you couldn't perform this experiment --

23 Q Okay.

24 A -- and repeat it.

25 Q Okay. To -- to a numerical -- to a numerical

1 quantification, in other words, like with numbers;

2 is that --

3 A Yes.

4 Q -- is that --

5 A I'm -- I'm never going to be able to give you a

6 number and say that this is --

7 Q But --

8 A -- this is the number where we say that you were

9 shooting versus being in the vicinity.

10 Q Okay. All right.

11 MR. KENDALL: Nothing further, Your Honor.

12 MR. MORIN: Nothing further, Your Honor.

13 THE COURT: You may step down.

14 (WHEREUPON, the witness was excused.)

15 THE COURT: We'll take a break. I'll ask the

16 jury to please go to your jury room. Do not

17 discuss the case. I'll bring you back after

18 that break to continue.

19 (WHEREUPON, the jury left at 11:05 a.m.)

20 CLERK OF COURT: All visitors should be --

21 remain seated while the jury departs the

22 courtroom.

23 THE COURT: We'll be in recess for 15 minutes.

24 (Off the record from 11:06 a.m.

25 until 11:24 a.m.)

1 THE BAILIFF: Remain seated. Come to order.

2 THE COURT: (To Mr. Kendall) Are we ready for
3 the jury?

4 MR. KENDALL: I -- I believe we had just two
5 matters for the record --

6 THE COURT: All right.

7 MR. KENDALL: -- before they can come in, Your
8 Honor. The first is, I believe during last
9 testimony, I referred to the -- what is -- I
10 think -- correct me, is State's Exhibit 51.
11 It's a 57. I think I -- I -- it looked like a
12 seven.

13 THE COURT: Well, you definitely said 57; it's
14 not?

15 MR. KENDALL: No, Your Honor. It's State's
16 Exhibit 51, and I don't believe the Defense
17 has any objection. I think our --

18 THE COURT: It's correct on the -- on the
19 exhibit?

20 MR. KENDALL: I believe we put both
21 stickers --

22 THE COURT: Stickers?

23 MR. KENDALL: -- on the exhibit.

24 THE COURT: I mean, the sticker is correct;
25 you just misread it?

1 MR. MORIN: Yes.

2 THE COURT: Okay.

3 MR. MORIN: That's what happened.

4 MR. KENDALL: Yes, sir.

5 THE COURT: All right. The record shall
6 reflect any reference to 57 prior to right
7 now, is 51.

8 MR. MORIN: There is no 57. There's
9 not -- not --

10 THE COURT: Well, that makes it easy.

11 MR. MORIN: Yes.

12 THE COURT: Although we'd be looking for it,
13 perhaps. Okay.

14 MR. KENDALL: The second thing, Your Honor --
15 (To Mr. Morin) and so I guess you have no
16 objection to State's Exhibit 51 into evidence
17 is my understanding --

18 MR. MORIN: Yes.

19 MR. KENDALL: -- is what took place.

20 (To the Court) The second thing is we
21 have -- the parties -- there is a -- a
22 interview in this case of the defendant, Mr.
23 Willis, that was taken at the sheriff's
24 office. Now, I won't speak for the Defense,
25 but I think there is certainly information on

1 this that is beneficial to both sides, and so
2 I don't believe they're requesting a -- a
3 hearing to determine the validity of that. We
4 have gone through and made redactions to it.
5 My understanding is that they've -- now we
6 have agreed upon the redactions to that, and
7 so I just want to make sure that that was just
8 on the record. It could be that we've already
9 loaded it up, so when the jury is here, you
10 don't have to go through the whole process of
11 turning the computer on and everything. So my
12 understanding is the Defense has reviewed this
13 video as it is, and they don't have any
14 further objections to anything on that video.
15 THE COURT: And does that video have an
16 exhibit number?
17 MR. KENDALL: Yes, sir.
18 MS. LESKANIC: Fifty-three.
19 MR. KENDALL: Fifty-three, Your Honor.
20 THE COURT: All right. So 53 has been
21 reviewed by both sides and both are in
22 agreement to its admission?
23 MR. MORIN: Yes, Your Honor.
24 THE COURT: Okay.
25 MR. KENDALL: That's it, I believe, Your

1 Honor.

2 THE COURT: (To the bailiff) All right.

3 Bring the jury in, please.

4 (WHEREUPON, the jury came into open court
5 at 11:27 a.m.)

6 THE COURT: All right. (To Mr. Kendall) Jury
7 is present. You may continue.

8 MR. KENDALL: The State would call Sara
9 Goodman at this time.

10 (WHEREUPON, the witness was sworn.)

11 CLERK OF COURT: Watch your step, and you may
12 remove your mask while you testify.

13 DIRECT EXAMINATION

14 BY MR. KENDALL:

15 Q Thank you very much. Could you please state your
16 name for the record?

17 A Yes. My name is Sara Goodman.

18 Q And, Ms. Goodman, where are you currently employed?

19 A I'm employed at the South Carolina Law Enforcement
20 Division, commonly referred to as "SLED."

21 Q And how long have you worked at the South Carolina
22 Law Enforcement Division?

23 A Approximately, six and a half years.

24 Q And what are your responsibilities there?

25 A I am a forensic scientist assigned to the DNA

1 casework department, so I analyze items of evidence
2 and known standards for the presence of DNA.

3 Q Okay. And what sort of training did you have with
4 regards to do that?

5 A So I have a Bachelor of Science in Biology, as well
6 as a Master's of Science in Forensic Science. And
7 upon my employment at SLED, I went through about a
8 year and a half training program with another court
9 qualified analyst, which included instructions in
10 lab work as well as report writing and statistics.
11 And at the end of that training, I successfully
12 completed a series of competency tests to be
13 certified to perform DNA casework.

14 Q Okay.

15 MR. KENDALL: (To the Court) We would offer
16 Ms. Goodman as an expert in DNA casework.

17 MR. MORIN: No objection.

18 THE COURT: She is qualified.

19 Q Ms. Goodman, how -- how do you test for DNA?

20 A So when we receive items of evidence from law
21 enforcement agencies and take that evidence into
22 our custody, I will take a small portion of the
23 item, so if it's a swab or a piece of fabric, I'll
24 take a small cutting from that. I will put it in a
25 small test tube and apply chemicals to it that

1 separate the DNA off of the item and purify it. We
2 then take it through a process that tells us about
3 how much DNA is present on the item. We then make
4 many copies of the DNA to a level that our
5 instruments can detect, and then it goes through a
6 machine that separates out the DNA by size into a
7 visual representation of the DNA, which we call a
8 "DNA profile." So I will do that for each item of
9 evidence that I receive as well as normal
10 standards, and then I will write a report based on
11 my findings.

12 Q Okay. Now, are you always able to find DNA on
13 items?

14 A No. Not always.

15 Q Okay. Is it fairly common that items are submitted
16 and there's -- there's just not any usable DNA on
17 them?

18 A There -- it is not uncommon to not find DNA on
19 certain items.

20 Q Okay. I'm going to show you what is marked State's
21 Exhibit 48. Do you recognize this? You don't have
22 to pull it.

23 A Yes. This is SLED Item 6, which is a Clemson
24 football jersey.

25 Q Okay. And did you attempt -- just you and the team

1 at SLED, to develop a DNA profile off of the
2 Clemson football jersey?

3 A Yes. I received swabs from scraping this jersey,
4 and I did attempt to develop the DNA profile.

5 Q Were you able to?

6 A A partial DNA profile was developed but was
7 insufficient for interpretation.

8 Q Okay. So is it fair to say you tried, but it --
9 nothing that you could -- and I don't want you to
10 go into -- but nothing that you could use?

11 A That's correct. I could not make any comparisons
12 to this.

13 Q Okay. And, likewise, on State's Exhibit 52?

14 A Yes. These are shell -- or cartridge casings --
15 excuse me -- that we received with DNA requests on
16 them.

17 Q Okay. And were you able to determine if there was
18 any human DNA on that?

19 A No. From the swabs from these cartridge cases,
20 there was no human DNA detected, which means when
21 we took it through the process to see how much DNA
22 was there, there was no DNA detected for our
23 purposes.

24 Q Okay. So is it fair to say that you tried to do it
25 with those items, but it -- but it wasn't there --

1 enough there that you could work with?

2 A That's correct.

3 MR. KENDALL: (To the witness) Please answer
4 any questions Mr. Morin may have.

5 CROSS-EXAMINATION

6 BY MR. MORIN:

7 Q I have one question. Do you have your notes
8 or . . .

9 A I do.

10 Q With regard to the Clemson jersey, I'm just
11 wondering if -- withdraw the question.

12 MR. MORIN: (To the Court) No questions of
13 this witness.

14 THE COURT: You can step down. Thank you.

15 THE WITNESS: Thank you.

16 (WHEREUPON, the witness was excused.)

17 MR. KENDALL: Thank you, Your Honor. The
18 State would call Kenon Parnell, Your Honor --
19 or Christopher Kenon Parnell.

20 (WHEREUPON, the witness was sworn.)

21 CLERK OF COURT: Watch your step. You may
22 remove your mask while you testify.

23 DIRECT EXAMINATION

24 BY MR. KENDALL:

25 Q Okay. Could you please state your name for the

1 record?

2 A Christopher Kenon Parnell.

3 Q And, Mr. Parnell, where are you currently employed?

4 A With the Cherokee County Sheriff's Office.

5 Q How long have you been employed at the sheriff's
6 office?

7 A Approximately, seven years.

8 Q Okay. And what are your responsibilities for the
9 sheriff's office?

10 A Currently, I'm the captain of the criminal
11 investigation division.

12 Q All right. And what does that entail?

13 A That entails that myself and other detectives, we
14 would investigate crimes within Cherokee County.

15 Q Okay. And did you investigate a shooting that took
16 place on May 3rd of 2019?

17 A Yes, sir. I did.

18 Q And where was that?

19 A That was at -- like the intersection of Coach Hill
20 Drive and Raintree Lane.

21 Q Okay. And during the course of that investigation,
22 did you have the opportunity to interview the
23 defendant, Mr. Diante' Willis?

24 A Yes, sir. I did.

25 Q And do you see that interview as a fair and

1 accurate representation of that interview?

2 A Yes, sir.

3 Q All right.

4 MR. KENDALL: Your Honor, subject to prior
5 motions, we would offer State's Exhibit 53
6 into evidence.

7 MR. MORIN: No objection.

8 THE COURT: It's admitted.

9 (WHEREUPON, State's Exhibit No. 53 was marked
10 into evidence.)

11 MR. KENDALL: I would request to play that
12 video at this time, Your Honor.

13 THE COURT: You may.

14 (WHEREUPON, State's Exhibit No. 53 was
15 played in open court from 11:37 a.m.
16 until 12:23 p.m.)

17 DIRECT EXAMINATION CONTINUES

18 BY MR. KENDALL:

19 Q Detective Parnell, just a couple of things. You
20 mentioned GSR on that video. You had not gotten
21 the results back from the GSR --

22 A That's -- that's correct.

23 Q -- is that accurate? You had taken the test, but
24 the results, in fact, were not back; is that -- is
25 that fair to say?

1 A Correct.

2 Q Okay. Now, you all also talked a pretty
3 significant amount about Clemson football, what are
4 the typical colors of the -- the jerseys around
5 that time?

6 A For Clemson football, it would be orange and
7 purple.

8 Q Okay. All right. So if one was kind of dark blue,
9 it would be a little more unique?

10 A It would, yes, sir.

11 Q Okay. And just so we're clear, was the same type
12 of earbud found at the scene as was the case that
13 was found in the vehicle?

14 A That's correct.

15 Q Okay.

16 MR. KENDALL: (To the witness) Please answer
17 any questions Mr. Morin may have.

18 CROSS-EXAMINATION

19 BY MR. MORIN:

20 Q Let's start out with the lie that you just admitted
21 to. When we see that video and we see you get up,
22 somebody knocks on the door; is this a preplanned
23 lie?

24 A I don't recall if that's preplanned or not.

25 Q Okay. So you get out and you go out and you come

1 back and you said, "The sheriff called someone."

2 That was a lie?

3 A That's was, in fact, a tactic that is used in
4 investigations.

5 Q Well, okay. You use a lie as a tactic; is that
6 correct?

7 A That's fair to say, sure.

8 Q Now, several times on there you said, "I want to
9 shoot you straight. I want to be fair. I want to
10 be honest with you." None of that was true was it?

11 A Up until the tactic that was used, that's correct.

12 Q Well, you -- so what you're saying is when you were
13 interviewing him and you were going, "Ah, ah, what
14 color was that car?" You knew what that car color
15 was, didn't you?

16 A I did.

17 Q All right. Now, let's talk about the overwhelming
18 evidence. You're having this conversation with him
19 -- well, before we get to that.

20 He was arrested at nine-forty that evening,
21 correct? Give or take?

22 A Sure, yes, sir.

23 Q It could have been 9:45? This interview started at
24 one-forty in the morning; is that right?

25 A I believe so, yes, sir.

1 Q Now, he was taken into custody, wearing -- wearing
2 pants, no shoes, no shirt, and he was transported
3 to the sheriff's department, correct?

4 A Yes, sir.

5 Q And he sat there in a chair in that condition, and
6 when you got there, he was still handcuffed behind
7 his back, was he not?

8 A I do believe so, he was.

9 Q So that was at least two or three hours before you
10 came in there? Now, you're starting out this
11 conversation that the shooter came -- lives at [REDACTED]
12 Willis Road, correct?

13 A Willis Road?

14 Q I'm -- Raintree Road?

15 A Yes, sir.

16 Q All right. And you said that the witnesses
17 described the clothing; is that correct?

18 A They did, yes, sir.

19 Q All right. And what -- did they ever say he was
20 wearing a Clemson jersey?

21 A The witnesses that night did not.

22 Q So when you said the witnesses described his
23 clothing, that wasn't true, either, was it?

24 A They -- they did describe his clothing.

25 Q What would they -- they didn't describe a football

1 jersey, did they?

2 A They did not describe a football jersey, no, sir.

3 Q And you knew that all the eyewitnesses there, none

4 of them saw his face; is that correct?

5 A That's correct.

6 Q Now, on the other hand, Mr. Willis said he had gone

7 down to Maplewood, correct?

8 A Yes, sir.

9 Q And you believe that, don't you?

10 A I do, yes, sir.

11 Q And he said he lost a earbud, and you believe that?

12 A Yes, sir.

13 Q And he said he was sleeping in the truck, and you

14 believe that?

15 A I do.

16 Q And you didn't know anything about a Clemson jersey

17 until he said he was wearing one?

18 A That's correct.

19 Q So all those things were true, yet you're saying

20 he's lying. But most of what he said is true;

21 isn't that correct?

22 A Most of it, yes, sir.

23 Q But you didn't like the fact that he wouldn't admit

24 to being out there and being the shooter; isn't

25 that correct?

1 A That -- that is accurate.

2 Q And there's other lies that you have told him
3 besides the ones we see on here; isn't that
4 correct?

5 A I'm not sure the lies you're referring to.

6 Q All right. Did you ever tell him that DNA came
7 back on the Clemson jersey?

8 A I -- I would need to refer back to my notes if
9 that's okay?

10 Q Please do.

11 A (Complies.) So I do not have that note in my
12 report that if DNA was -- if I told him DNA was
13 confirmed on the Clemson jersey or not.

14 MR. MORIN: (To the Court) May I have a
15 moment?

16 Q All right. Well, let me ask you this: There's
17 another interview that you did with him; isn't that
18 correct?

19 A Yes, sir.

20 Q And is it possible during that time you told that
21 lie?

22 A It is possible.

23 Q Okay. Now, when you first started talking about
24 Coach Hill, he described a -- a house with a -- a
25 truck and a Jeep, right?

1 A Yes, sir.

2 Q So it wasn't just that he knew what cars were at
3 that house, he knew the other houses in the
4 neighborhood, too, didn't he?

5 A He did.

6 Q Now, after he told you about this Clemson jersey,
7 what did you do?

8 A As it relates to the interview on the video?

9 Q As it relates to the Clemson jersey.

10 A After he tells us that, the following days, we did
11 a canvas of the neighborhood; is that what you're
12 referring to?

13 Q Yeah.

14 A Yes, sir.

15 Q So three days later you went out there?

16 A Yes, sir. The next business day, Monday, when we
17 had additional folks available, yes, sir.

18 Q Okay. So the sheriff's office doesn't work on the
19 weekends?

20 A No. They -- they certainly do, absolutely.

21 Q You also recovered a hat; is that correct?

22 A It is, yes, sir.

23 Q Anybody at the scene say he was wearing a hat?

24 A I do not recall if anybody did or not.

25 Q So when you spoke to him -- on this video, you had

1 three witnesses, none of whom could say they saw
2 his face, right?

3 A That is correct.

4 Q You had done a search of his house, done a search
5 of the car, done a search of the outbuilding?

6 A Yes, sir.

7 Q Collected the earbud case that he said was in the
8 car?

9 A Yes, sir.

10 Q Shoes were in the car like he said?

11 A Correct.

12 Q Panda speaker was in the car that he referred to?

13 A Yes, sir.

14 Q That was all from your opening questions, telling
15 him about what's going on, he said -- told you
16 about all of that was there --

17 A Right.

18 Q -- correct?

19 A Yes, sir.

20 Q Said that he was running, and when he realized it
21 was the police, he stopped and put his hands up and
22 got on his knees; that was correct?

23 A Yes, sir.

24 Q So, now, the clothing to which you refer to in this
25 video, what was that description?

- 1 A That would be the dark-colored jacket or long-
2 sleeve-type shirt that some of the witnesses
3 referred to.
- 4 Q Okay. And you also knew at that time that
5 witnesses had said, "He didn't even - the shooter
6 did not even run to his house"; isn't that correct?
- 7 A It -- they didn't know if he had or if he had not.
8 It wasn't certain if he did run to that house or
9 ran by the house.
- 10 Q So if we go back and look at this, you're not
11 saying, "I got a witness who says you ran past the
12 house." You're implying he's the shooter. The
13 shooter ran past the house. You didn't say that?
- 14 A I'm not -- that's not what I'm saying.
- 15 Q Okay.
- 16 A I'm saying that some of the witnesses described the
17 suspect fleeing in the direction of the house,
18 running -- possibly running past the house, but
19 nobody ever said directly he ran in the house.
- 20 Q Correct.
- 21 A Yes, sir.
- 22 Q But when you started this interview, you started
23 from that place. That's where you started from?
- 24 A Yes, sir.
- 25 Q And the evidence that you collected through this

1 whole time was to point to that?

2 A That's not necessarily true.

3 Q Well, when you keep saying, "He's not telling the
4 truth. He's not telling the truth."

5 A I didn't dictate what evidence we did or did not
6 find.

7 Q But the evidence that you found, you were only --
8 never mind. I withdraw that question.

9 MR. MORIN: One moment, Your Honor. (To the
10 witness) That's all the questions I have.

11 REDIRECT EXAMINATION

12 BY MR. KENDALL:

13 Q You've been a detective for how long?

14 A Approximately, four years, give or take.

15 Q All right. Is it a fairly common practice to
16 sometimes -- in investigations, to use presumptions
17 about what evidence is going to be during
18 interrogations?

19 A Yes, sir. It is.

20 Q And during conversations?

21 A Correct. Yes, sir.

22 Q And what is the point of that?

23 A The point of that is to -- in this particular
24 incidence, if you don't mind if I refer to that, we
25 believe that he was the person responsible for what

1 took place and knew what evidence we had collected
2 at the crime scene and -- and on the search warrant
3 of the house. So in our belief, we -- we believe
4 that the evidence would come back to -- to result
5 in a positive match for gunshot residue, any DNA,
6 things that were collected. So I -- I addressed
7 that to him and let him know, "Hey, this has, in
8 fact, come back positive. It's going to come back
9 positive," and that's the reasoning behind that.

10 Q Okay. So you're trying to gauge a reaction; is
11 that fair to say?

12 A Yes, sir.

13 Q Okay. So it's -- it's not necessarily to coerce
14 anything. You just want to see what they -- how
15 they react with -- with different evidence; is that
16 an accurate way to describe it?

17 A Correct. Absolutely, a reaction.

18 Q Okay. And Mr. Morin asked you about overwhelming
19 evidence, what -- at that time, was the evidence
20 that you had, I guess?

21 A I'm sorry?

22 Q What evidence did -- you said -- you mentioned
23 overwhelming evidence, Mr. Morin asked you about
24 that. What was -- what was that evidence? What --
25 what did y'all have there?

1 A So the evidence at that time, we had multiple
2 witnesses who actually saw the incident unfold. Of
3 those witnesses that -- that observed what took
4 place, all of them were familiar with the guy they
5 directed that they saw or observed, who had
6 committed this crime. So that coupled with the
7 earbud that was found within the crime scene, and
8 then the -- which was labeled "JLab" that matched
9 the earbud case, also labeled "JLab," found in what
10 the defendant describes to be the car he resides
11 in.

12 Q Okay. Now, Mr. Morin asked you a couple minutes
13 ago about how the defendant could describe all the
14 cars on -- on the street; is that fair enough?

15 A Yes.

16 Q Were -- were there a lot of them?

17 A There's a fair amount of vehicles, yes, sir.

18 Q So this would have to be something that -- that
19 someone would've had to have experience, like
20 walking past or seeing for many times to -- to
21 remember all --

22 MR. MORIN: Objection: Calls for speculation.

23 THE COURT: Sustained.

24 Q Okay. And during his statement, did he indicate
25 walking up and down this road a fair amount?

1 A He did, yes, sir.

2 Q Okay. So that was something that -- that he said

3 happened?

4 A Correct.

5 Q All right. And at the time you interviewed him, do

6 you recall what the -- I'm sorry. Just one moment.

7 So at the time you did the interview, were you

8 aware of the -- the nature of the argument that was

9 taking place? In other words, why -- and if this

10 was conveyed to you, why they were arguing?

11 A Why the victim and the --

12 Q Uh-huh.

13 A -- the suspect were arguing?

14 Q Uh-huh.

15 A Yes. They had made mention in -- in statements

16 talking to deputies out there and myself, that they

17 were having a verbal altercation as it related to

18 false allegations or false accusations being made

19 in the past.

20 Q Okay. All right. And is that what was brought --

21 when the defendant identified them, describing who

22 they were, how did he recognize them?

23 A When he described that to me in our interview,

24 he -- he described the relationship with those

25 folks as the ones who had accused him of -- of

1 false accusations in the past.

2 Q Okay. I think he specifically said "police report"
3 or something like that?

4 A Yes, sir. I believe so.

5 Q All right.

6 MR. KENDALL: Nothing further, Your Honor.

7 MR. MORIN: (To the Court) I have no further
8 questions.

9 THE COURT: (To the witness) You may step
10 down.

11 (WHEREUPON, the witness was excused.)

12 MR. KENDALL: If we can we just have one
13 moment, Your Honor?

14 I think, Your Honor, the State would rest
15 at this time.

16 THE COURT: All right. Ladies and gentlemen,
17 that is all of the testimony -- or of the
18 evidence being offered by the State, at least
19 in the case in chief. Before we go further,
20 we're going to recess for lunch, and we'll
21 start back at two o'clock this afternoon with
22 the continuation of the case. So keep in mind
23 during lunch, no discussions, no
24 conversations, no research, no investigation,
25 no media exposure. Do have a good lunch.

1 please the Court.

2 THE COURT: Yes, sir.

3 CLOSING ARGUMENTS

4 BY MR. KENDALL:

5 MR. KENDALL: Good afternoon, ladies and
6 gentlemen. At the beginning of this trial,
7 the State requested three things. The first
8 of those things if you listen -- is that you
9 listen carefully to the instructions given to
10 you by the judge. In a few moments, the judge
11 is going to give you the final instructions on
12 the law in this case. The judge is the
13 decider of that. If anything I say
14 contradicts it, of course, go with what the
15 judge says.

16 But with that in mind, I would like to
17 discuss with you what Mr. Willis is charged
18 with. Mr. Willis is charged with two counts.
19 The first of these counts is murder. Murder
20 is a killing of a person with malice
21 aforethought, either expressed or implied.
22 Malice is doing the wrong -- excuse me --
23 murder is the killing of another person with
24 malice aforethought, either expressed or
25 implied. Malice is doing the wrongful act

1 intentionally and without just cause or
2 excuse. Aforethought is the time when the
3 evil is conceived. There is no particular
4 length of time prior to the killing for malice
5 to exist for there to be malice aforethought.
6 In other words, the defendant didn't have to
7 plan this for weeks or months or something
8 ahead of time. A voluntary act without
9 sufficient legal provocation is deliberate no
10 matter how sudden or furious it may be.

11 The defendant is also charged with a
12 second count, ladies and gentlemen.
13 Basically, the use of a firearm during
14 commission of a violent crime. In this case,
15 for essentially alleging he was using a
16 firearm during a commission of a murder.

17 With that in mind, the second thing I
18 asked you was -- of you would you listen
19 carefully to the instructions of the judge. I
20 -- listen carefully to the evidence. I thank
21 you for listening to that over these last few
22 days.

23 With that in mind, I'd like to talk to
24 you about that. Jerry Scalf was murdered by
25 Diante' Willis over what Mr. Willis viewed as

1 Mr. Scalf making false allegations against
2 him. It was a shooting by a man who fled the
3 scene on foot, had gunshot residue on his
4 hands, and ran from law enforcement. A man
5 who, when asked by detectives, acknowledged
6 and identified the folks at that [REDACTED] address
7 as to ones who made false police reports
8 against him.

9 And you heard from numerous witnesses
10 that were there that night that -- there that
11 night, ladies and gentlemen. You heard from
12 Harley Scalf, Lee's twin sister. She
13 testified the night he was shot they were in
14 the backyard putting up a pool. They heard an
15 argument out front and ran around. She heard
16 her brother arguing with another man who was
17 mad at Lee, because he was making -- he
18 accused Lee of making false allegations
19 against him.

20 She knew the guy from the neighborhood,
21 ladies and gentlemen, as a man who -- walking
22 up and down the street many times a day. She
23 recognized him in the neighborhood: His sex,
24 his height, his age, his build, his haircut,
25 his mannerisms. She recognized that he was

1 walking regularly and returning to the two-
2 story house on Raintree Lane where she saw him
3 come and go. She also recognized him by his
4 eyes and knew where he lived.

5 She said the man pushed Lee. Lee pushed
6 him back. And then he turned to go towards
7 Lee. Lee yelled, "Harley, he's got a gun.
8 Run." And then he fired, running across the
9 neighbor's yard back towards the home on
10 Raintree Lane. The man was wearing dark
11 clothes, long sleeves. When asked about it if
12 she knew who it was in court, she's a thousand
13 percent sure, ladies and gentlemen.

14 You also heard from Kyla, who was out
15 that night and witnessed the shooting. She
16 saw a man arguing with Lee that she had seen
17 walking about the neighborhood. She could not
18 see his face, but the guy walking around the
19 neighborhood would come and go from the house
20 on Raintree Lane, that two-story house. She
21 recognized his height and his body type. She
22 also said, "The guy pushed Lee and Lee pushed
23 him back, and the man turned and started
24 shooting."

25 Steve Manning was also out there that

1 night, ladies and gentlemen. He described a
2 man that he believed lived at the Raintree
3 address. The man would walk pacing back and
4 forth across the street at the same times that
5 Lee would be getting off work. He said that
6 following the shooting, the man ran back
7 towards Raintree Lane, but he did say when he
8 got to the burned down house across the
9 street, that he thought he went by -- or he
10 did go by. But he didn't stick around to see
11 what happened after that. He was called back
12 -- people were calling for him. So he didn't
13 really know what the defendant had done after
14 that.

15 You heard from Heather Vinesett, who had
16 seen the guy from the two-story house walking
17 up and down the street multiple times a day.
18 She heard him say in the weeks prior to this,
19 "I'll get you when you least expect it,"
20 walking to the house on Raintree Lane.

21 Following the shooting of Mr. Scalf, in
22 front of his sister, friends, in-laws, this
23 man ran. At the other end of the street, a
24 short time later, John Earls was microwaving
25 something. When he heard something

1 suspicious, he thought it might be a gunshot.
2 He looked out, and the first time that he did,
3 he didn't see anything. Went back and tended
4 to his stuff in the microwave, and he looked
5 outside again, he saw a man wearing a football
6 jersey at the cul-de-sac on Raintree Lane. No
7 flashlights flashing, he asked if the man was
8 okay. The man just took off running down
9 Maplewood Road towards Filter Plant.

10 A little while later, he heard what
11 sounded like gunshots. He walked back, saw a
12 man with the same build, complexion,
13 identified him by the way he was running,
14 running towards Raintree from Maplewood. But
15 this time when he saw the man, he was wearing
16 only pants. The football jersey was gone.

17 Once the scene was secure, Officers Jeff
18 Cole and Benji Peterson walked back to the
19 defendant's house at [REDACTED] Raintree Lane. They
20 checked around the back of the house where the
21 defendant sometimes hung out and a car in the
22 driveway. Then proceeded to knock on the
23 front door. Getting no response, they waited.
24 It was then in the dark they heard somebody
25 coming up. They flashed their lights and

1 discovered the defendant, Diante' Willis,
2 coming back to his house. No shirt. No
3 shoes. They ordered him to stop, "Sir, stop.
4 Let me see your hands," but he just ran; not
5 towards everything at the top of the street,
6 not even back towards the way he came, he ran
7 around the house trying to loop back to allude
8 law enforcement officers, ladies and
9 gentlemen. Luckily, they were able to detain
10 him. Deputy Cole took him into custody.

11 You also heard from crime scene that came
12 out that night, ladies and gentlemen. You
13 heard them explain they had found an earbud on
14 scene, not just the scene of the defendant's
15 house, but the actual scene of the shooting a
16 little ways in front of the red Camaro. It
17 was completely intact, didn't look like it had
18 been crushed or run over, and you can see from
19 the Court's Exhibit where it is in the road.
20 They also found an earbud case in the
21 defendant's possession -- or in the
22 defendant's vehicle. Same brand that matches
23 that earbud. They also found a black jacket,
24 similar to which Steven Manning had said the
25 shooter was wearing.

1 After that, law enforcement looked around
2 more in the neighborhood, and they found that
3 Clemson jersey -- not purple or not, you know,
4 the bright purple of Clemson and bright orange
5 is Clemson, but that darker, almost navy
6 color, unique, stuffed in a trash can at 130
7 Maplewood Drive.

8 You heard from Dr. Rose, the forensic
9 pathologist. She identified the defendant had
10 been shot three times, and the one that killed
11 him hit his aorta. You also heard later,
12 ladies and gentlemen, from the SLED analyst,
13 the two rounds that were inside of him matched
14 each other.

15 In addition, shortly after the defendant
16 was arrested -- or excuse me -- taken into
17 custody, they performed a gunshot residue test
18 on him. You heard Officer Mullinax talking
19 about this: The swabbing of his hands for
20 gunshot residue, those tiny particles that get
21 on people's hands when they are around a
22 firearm that's discharged. And you heard from
23 the technician from SLED, ladies and
24 gentlemen. Megan Fletcher, who said she
25 examined this and was able to find particles

1 from gunshot residue on the defendant's hands.
2 They had all three of those elements that she
3 discussed. On his hands, ladies and
4 gentlemen, was gunshot residue.

5 You also heard from Jeff Cole, the person
6 who had took him into custody, put him in
7 handcuffs. He had recently shot a gun, that
8 he had bathed many times since he had fired a
9 firearm, and that he had -- cleans his weapon
10 after firing it.

11 But you also heard from the defendant,
12 ladies and gentlemen, from his video. And
13 this is somewhat interesting to this case,
14 because though, of course, the witnesses
15 on-scene's identification of the defendant,
16 which is extremely important, it's also very
17 interesting how the defendant identifies them.
18 He admits to regularly walking this
19 neighborhood, walking down the street since he
20 got rid of his moped. He admits -- or is able
21 to identify the cars, knows what's out there,
22 and he identifies the people at [REDACTED] where
23 Jerry Scalf was murdered, as the people who
24 made false reports against them (as spoken.)
25 He didn't like those people. They made false

1 reports against him.

2 He also acknowledges that walking down
3 this area -- this part of the street,
4 acknowledges to wearing that Clemson jersey --
5 or a Clemson jersey with similar description
6 earlier to the one found in a trash can on
7 Maplewood Road. And, basically, acknowledges
8 to having earbuds similar to what was found --
9 that was in the case.

10 Now, ladies and gentlemen, this was a
11 murder that occurred at night following an
12 argument, a heated scene. There was a lot
13 going on and a lot of arguing. I certainly
14 understand that not everybody saw his face.
15 That's true. But they did recognize him from
16 around the neighborhood. They knew the guy
17 that was walking by was the one that did the
18 shooting.

19 And, ladies and gentlemen, this wasn't a
20 case of something like a carjacking or someone
21 pulls up in a car and gets out and jumps in
22 the car and drives away. The shooter fled the
23 scene on foot. He ran away on foot.

24 In addition, ladies and gentlemen, it
25 just so happened that an earbud matching the

1 same description as the one as the case in his
2 car was found on scene. A little bit up from
3 where the shooting occurred on Coach Hill
4 Drive. He also had gunshot residue on his
5 hands, ladies and gentlemen, of particles that
6 was shot out of a firearm ended up on his
7 hand. An abandoned Clemson jersey discarded
8 on Maplewood Drive. A jacket, matching the
9 same description, found in his car. But most
10 importantly, ladies and gentlemen, these are
11 the people that he alleges were making false
12 reports against him as the shooter was
13 alleging that Mr. Scalf was making false
14 accusations against him. We know that's the
15 common nexus. We know that's the interlocking
16 factor of this. The shooter says, "False
17 allegations." What does Mr. Willis say when
18 he's identifying them how he knows them,
19 "They're the people that made a false police
20 report."

21 Ladies and gentlemen, Mr. Scalf was
22 murdered on May 3rd, 2019, by Diante' Willis.
23 I hope that you will return a verdict of
24 guilty. Thank you.
25 THE COURT: Mr. Morin?

1 CLOSING ARGUMENTS

2 BY MR. MORIN:

3 MR. MORIN: I stood up here earlier, I think
4 it was two days ago, and talked about
5 believing none of this. And I talked about
6 the fact that the State's trying to enforce
7 their theory of this case. So what are you
8 talking about, Mr. Morin? What are you
9 talking about? Well, here's what I'm talking
10 about: Harley Scalf said to you that she did
11 not see the face of the man who did this,
12 okay? She didn't see it. So what is her
13 identification based on? Mr. Willis' eyes.
14 If she can't see his face, she can't see his
15 eyes. That is -- I can't think of anything
16 more common sense than that. And the
17 government says -- at the beginning, one of
18 the things they said was don't put your --
19 don't put your common sense -- please bring
20 with you. And there it is. When she sits up
21 here and looks at Mr. Willis, and said, "That
22 looks like his eyes," was she identifying the
23 shooter, or is she identifying Mr. Willis,
24 because he lives in [REDACTED] Raintree? She's not
25 identifying the shooter; she didn't see him.

1 That is her testimony.

2 They're trying to force, early in this
3 trial, "He ran to that house. He ran to that
4 house." But this morning, they called Mr.
5 Manning up. And what's different about Mr.
6 Manning than the other witnesses that they
7 called? He didn't stay at the house, where
8 some people said in the dark they could still
9 see him all the way down the street. He ran
10 after the shooter, and Mr. Kendall asked him,
11 "Did he run to that house?"

12 "No." Not my question, his question.
13 "No. He ran down the street into the
14 darkness." That's their case.

15 You know, the State -- the Judge is going
16 to charge you that they have to prove beyond a
17 reasonable doubt that Mr. Willis is the person
18 that committed this crime. And a reasonable
19 doubt is a doubt that would cause you to
20 hesitate to act.

21 Now, they called many witnesses. Many.
22 And I'm gonna ask you right now: Sitting here
23 now, can you tell me if the shooter was
24 wearing a Clemson jersey or a sweatshirt?
25 Because they found a sweatshirt, which they

1 did not test at all. And they found a Clemson
2 jersey, which they did not -- they attempted
3 to test for DNA.

4 Now, they called Mr. Earls. And I asked
5 Mr. Earls, I said, "Now, 72 hours after this
6 happened, the police came to your house?"

7 "Yes."

8 "And they asked you to write a formal
9 statement," to use the State's words. Then he
10 made a formal statement.

11 He wrote, "I was at the" -- oh, excuse
12 me. "I was at the refrigerator, I heard two
13 shots. I stepped out on the porch."
14 Initially, that took two minutes, but we find
15 out it's actually ten steps. "I stepped out
16 on the porch. I saw a man wearing a Clemson
17 jersey." The State says that's Mr. Willis.
18 Okay.

19 So the State is saying that, "He's
20 wearing a Clemson jersey," which no one saw at
21 the scene. He couldn't -- he does -- he
22 shoots. He runs a quarter of a mile. That's
23 the only way that can make sense. So that he
24 could be standing outside Mr. Earls's house,
25 when he steps out on the porch, and he sees

1 him.

2 Now, you heard his -- his statement to
3 the police. He was an athlete, but I'm pretty
4 sure you can't run a quarter of a mile
5 barefooted from the scene in the time it took
6 Mr. Earls to hear it and step out onto a
7 porch.

8 And, of course, that Clemson jersey is
9 something that nobody's saying anything about
10 until when? Till Mr. Willis said, "I was
11 wearing a Clemson jersey." Now, they're
12 implying that there's some sort of problem,
13 because he threw away the Clemson jersey.
14 Now, my daughter goes to Clemson, but I can
15 understand why people might throwaway Clemson
16 jerseys. But it doesn't have to be a reason.
17 It doesn't have to be a reason, and he doesn't
18 have to prove anything. They have to prove.
19 They have to prove beyond a reasonable doubt.

20 Now, the earbud. What did Mr. Willis say
21 was happening? "I lost the earbud. I'd been
22 -- I walked down Raintree towards Maplewood
23 and stopped on the way to Coach Hill."

24 Officer tried to tell whatever lie or
25 investigative technique he could to get him to

1 -- fed off of his telling the truth. He
2 repeatedly says, "I'm down here looking for an
3 earbud. I lost my earbud." They found the
4 earbud. They say, "He was walking through the
5 neighborhood." He walks through the
6 neighborhood. They find the earbud.

7 Now, I asked the officer, "Now, the
8 earbud's right here at the corner?"

9 "Yes."

10 When I asked Mr. Manning, "Mr. Manning,
11 which way did the person run, initially?" And
12 my question, "Did he run across the grass and
13 through the yard?" which common sense would
14 tell you, you -- if you were trying to get
15 away from this situation, that's where you
16 would go.

17 But on redirect, he said, "Well,
18 actually, he followed the road and went around
19 the corner." Does that make any sense? Does
20 it make sense that the person who would shoot
21 and not immediately head away? He would run
22 down and follow the road? And where's the
23 earbud? It's at the corner of Raintree and
24 Coach Hill. And you hear Mr. Willis on the
25 thing go, "Really? You found it on Coach

1 Hill, and I was looking down at Maplewood."

2 GSR. I wasn't sure how this was gonna
3 go. Mr. Kendall said right off the bat,
4 "Well, one particle's enough, right?" He's
5 trying to minimize the fact (inaudible)
6 doesn't really have the kind of evidence they
7 want to convince you they do.

8 And I asked her on the dabs or -- I can't
9 even remember what it was. She says, "Well,
10 it goes up to 25, but he had three.

11 Now, my initial reaction to that was,
12 "That's not much." And, of course, they
13 started scrubbing that -- jamming that peg
14 down into that hole from Cole on, right? If
15 you believe Officer Cole, he -- he scrubs up
16 like he's a -- like he's a doctor every time
17 he shoots a gun. Same -- and not as bad with
18 Officer Peterson, but what is -- I asked her,
19 I said -- when I got -- when they had GSR up
20 here, I said, "Now, it would depend on how
21 well you clean the firearm as to whether it
22 would still get GSR on it."

23 "Yes."

24 Why is that important? Because the whole
25 time -- the whole time the State is

1 continually planning to come up here and say,
2 "See, there's no way it could've been
3 transferred from Officer Cole." Who's running
4 with the gun, and you can it on the video that
5 you'll have, who jams the gun down into his
6 thing -- his holster, and grabs his -- and has
7 Mr. Willis on the ground. They're going to
8 say, "Well, that's not transference." That --
9 it -- it couldn't be because Cole did this.
10 They got three particles? Are you serious?

11 And then -- quite frankly, I'm not
12 supposed to ask questions that I don't know
13 the answer to, but I asked this one. There it
14 came. "How did you find a hundred particles,"
15 which she testified she did many times, "if it
16 only goes up to 25?"

17 "Well, I can change the software." The
18 government can change the software. The
19 government can change the software. They can
20 come in here and say, "Well, three particles
21 of gunshot residue. Thank you very much.
22 Goodbye. Everybody be safe going home."

23 No. Their burden -- they don't get to
24 come in here and say, "Look, three particles
25 is enough."

1 Scalf is terrible. It's awful what happened
2 to his family. But coming up here and saying
3 we know it's him because of three particles
4 and because they think he -- the way he
5 walked. Come on. Their actual description
6 that they have that matches Mr. Willis is,
7 "He's tall. He's skinny. He's black." Those
8 are the three things that are consistent.
9 After that, don't know about his hair,
10 according to Mr. Pennington. Don't know where
11 he went. Didn't run to the house. And I
12 can't stress that enough.

13 They are questions. "He didn't run --
14 did he run to the house?"

15 "No. He ran into the darkness."

16 Officer Parnell clearly becomes
17 frustrated with Mr. Willis' insistence, "This
18 is what I was doing. This is where I was.
19 This is what happened."

20 He's going, "No, no, no. That's not
21 true." All the meanwhile lying. Even sitting
22 up and not getting a lawyer, he -- I guess
23 that's coincidence. But that's not the case.
24 That's not the reasonable doubt that they have
25 the burden to carry. I'm not carrying it.

1 Mr. Willis isn't carrying it. They're
2 carrying it.

3 So they came to you today -- they came to
4 you this week, and that's their case. We know
5 the guy in the neighborhood, we've had
6 problems with him before, he's the guy, and
7 the police immediately go there and they start
8 driving toward that.

9 And when he says, "Yeah, I -- I'm here.
10 This is where I live," they immediately start
11 pouring in.

12 And -- and the Clemson jersey again.
13 This is a murder investigation. They didn't
14 find that jersey for three days and they
15 didn't talk to Mr. Earls for three days and
16 you know why? Because it was the weekend.

17 And, finally, the DNA that -- or the
18 gunshot residue question on the clothing. I
19 asked one of the detectives, and they said,
20 "No."

21 And y'all probably saw me do this. I
22 know you did just -- but I said, "If I was
23 wearing a football jersey and firing a gun,
24 would you check -- and I sent it to you for
25 DNA?"

1 She says, "Well, usually, on the sleeve
2 the shooter would -- should come," but they
3 didn't ask that.

4 And their DNA expert says, "Clothing is
5 different than skin. If it's on clothing, the
6 clothing has to be washed." They didn't do
7 that.

8 That paved, "We're just going to through
9 that fact away. We're not even gonna try to
10 put that in there."

11 So when you put all that together, the
12 question is: Have they proven that Mr. Willis
13 is the one that did it, or have they proven
14 that Mr. Willis lives at [REDACTED] Raintree and the
15 victim's family knows that he lives there? I
16 submit to you they haven't done anything more
17 than -- than say, "Prove Mr. Willis lives at
18 [REDACTED] Raintree." And if you don't -- no matter
19 what you think about the things that I've
20 said, or what the evidence you've heard is,
21 nothing's ever gonna change the fact that no
22 witness ever said they saw this person even
23 though they tried to say that she knew him
24 because of his eyes, which is not even
25 possible. That's their overwhelming evidence.

1 Overwhelming evidence that Officer Parnell had
2 to spend an hour from one-thirty to two-thirty
3 in the morning coming up with lies to try to
4 and figure out the truth, which Mr. Willis
5 kept insisting he gave. If it's overwhelming,
6 then why are we doing this? Because it's not
7 overwhelming.

8 But Mr. Willis maintains, "This is why I
9 was there. This is the truth. Why are you
10 trying to make me tell a story?"

11 Ladies and gentlemen, they have not
12 proven beyond a reasonable doubt that Mr.
13 Willis is the person who did this. And
14 without that, the charges don't matter. The
15 terrible fact that Mr. Scalf was killed
16 doesn't matter for this. Not for everything,
17 but they have to prove beyond a reasonable
18 doubt that it's him. And they have not.
19 Thank you.

20 JURY CHARGE

21 THE COURT: Madam Forelady, ladies and
22 gentlemen of the jury, you, of course, have
23 heard and seen all the evidence to be
24 presented in the case. You've now heard the
25 final summations of the lawyers, and,

1 therefore, it now it becomes my duty and
2 obligation to instruct you on the law that's
3 applicable in the case. You'll then be asked
4 to go back and to begin with your
5 deliberations, and through that process and
6 through the exercise of good judgment and
7 common sense, conscientiously applied to the
8 testimony and evidence received during the
9 trial, you're going to be called upon to
10 determine the facts where you can, apply the
11 law I provide you, and determine whether or
12 not the defendant's guilt has been proven
13 beyond a reasonable doubt.

14 It is your exclusive duty and prerogative
15 to determine what the facts are, and you do
16 that through your own common-sense examination
17 and evaluation of all of the testimony and
18 other evidence received during the course of
19 this trial.

20 And you 12 jurors alone will decide what
21 weight, value, and effect to give to any
22 particular witness' testimony or other
23 evidence in the case. Again, your sole
24 objective is to simply render a fair and
25 impartial decision based upon the evidence

1 presented, and the law that's applicable as I
2 will have provided it to you.

3 Now, as you know, in this case, the
4 defendant is Diante' Jermaine Willis. And Mr.
5 Willis has been charged by way of indictment,
6 which I explained to you earlier with the
7 crimes of murder and of possession of a
8 firearm during the commission of that violent
9 crime. The State alleges in the indictment
10 that on May the 3rd of 2019, Mr. Willis did
11 willfully and with malice aforethought kill
12 Jerry Lee Scalf Jr. by shooting him with a
13 firearm and that Mr. Scalf died as a proximate
14 result of that gunshot wound.

15 And in Count 2 of the indictment, they
16 allege that Mr. Willis did in fact possess and
17 visibly display a firearm during the
18 commission of that crime alleged in Count 1.

19 Now, as to those allegations and as to
20 each of the charges contained in the
21 indictment, the defendant has entered a plea
22 of not guilty. And as I've told you, that
23 plea of not guilty has placed upon the State
24 the burden of proving the allegations that
25 they have made by way of the indictment. The

1 burden of proving each of the -- each of the
2 essential elements to make up the crimes that
3 they have alleged against this defendant, and,
4 therefore, the burden is upon the State to
5 establish the defendant's guilt to the
6 satisfaction of you 12 jurors beyond a
7 reasonable doubt before a verdict of guilty
8 could be returned.

9 The burden is never upon a defendant or a
10 person accused of a crime to prove that they
11 are not guilty or to prove that they're
12 innocent, because in some instances that might
13 not be possible. The burden is always upon
14 the State, because they've made the accusation
15 and brought the charge to establish the
16 defendant's guilt beyond a reasonable doubt.

17 You are instructed that it is a vital,
18 important, and cardinal rule of law that every
19 defendant in the criminal trial, no matter how
20 serious the offense might be for which that
21 person stands charge, that person shall always
22 be presumed innocent of that charge and that
23 presumption of innocence remains with any
24 defendant as it does with this defendant from
25 the time that he is placed under arrest and

1 throughout the course of the criminal process
2 and even throughout the course of the actual
3 trial in the case.

4 That presumption of innocence will be
5 with Mr. Willis even as you go back into your
6 jury room after this instruction to begin with
7 your deliberations and that presumption of
8 innocence will be with him in that jury room
9 and it'll be with him forever unless you 12
10 jurors determine that he is no longer entitled
11 to that presumption of innocence. In other
12 words, after you have carefully considered all
13 of the evidence presented during the trial of
14 the case and from that evidence you have been
15 able to determine the material facts that
16 relate to the allegations and the charge made
17 against the defendant, if you determine based
18 upon your decision as to the facts and your
19 application of the law that his guilt has been
20 proven beyond a reasonable doubt, then he
21 would no longer be entitled to that
22 presumption of innocence. But it is only if
23 and less and until you are satisfied of his
24 guilt beyond a reasonable doubt that the
25 presumption of innocence would no longer be

1 applicable.

2 Now, the State does have the burden of
3 proving the defendant's guilt to your
4 satisfaction beyond a reasonable doubt, but
5 that does not mean that the State has to prove
6 his guilt beyond all doubt or beyond any
7 possible doubt, but it does require the State
8 to prove his guilt to your satisfaction beyond
9 a reasonable doubt.

10 Pardon me. The term "reasonable doubt"
11 should be given as plain and ordinary meaning.
12 A reasonable doubt is the kind of doubt that
13 would cause a reasonable person to hesitate to
14 act upon the information provided. And a
15 defendant in a criminal trial is entitled to
16 any reasonable doubt that arises from the
17 evidence or lack of evidence in the case, and
18 if upon any factual issue essential to a
19 finding of a verdict of guilty you have some
20 reasonable doubt as to how that issue should
21 be resolved, it would be your duty to resolve
22 that reasonable doubt in favor of the
23 defendant.

24 Now, while there are various forms of
25 evidence, such as testimony and photographs

1 and documents and charts and other types of
2 physical exhibits, there are really only two
3 types of evidence either or both of which may
4 be independently or in combination used to
5 prove some fact in issue, but the two types of
6 evidence are direct evidence and
7 circumstantial evidence.

8 Direct evidence is the testimony of a
9 person who testifies from actual knowledge of
10 that fact. It is testimony by a person who
11 has perceived the existence of a fact by means
12 of his or her senses, and then they come into
13 court and they testify as to what they have
14 previously perceived. Direct evidence proves
15 the existence of a fact in question directly
16 and does not require any deduction or
17 inference in order to establish that fact.

18 Circumstantial evidence, on the other
19 hand, is the proof of some other fact or a set
20 of facts, which taken either singly or
21 collectively, may prove the existence of a
22 fact in question as a necessary consequence
23 that is through an inference or a deduction.

24 And an "inference" is simply a deduction
25 of fact that may logically and reasonably be

1 drawn from the proof of some of the fact or
2 set of facts. In other words, it's a fact not
3 proven by the direct testimony of a witness
4 based upon their personal perception, but it
5 is a conclusion, which might reasonably be
6 drawn from the proof of other facts. In other
7 words, you may infer that a particular event
8 occurred or that a particular fact exists
9 based upon the proof of sufficient, factual
10 circumstances which reasonably warrant your
11 arriving at a particular conclusion.

12 The commission of a crime in any
13 particular element necessary to establish that
14 particular crime may be proven by direct
15 evidence or by circumstantial evidence or by a
16 combination of both direct and circumstantial
17 evidence. The law makes no distinction
18 between the weight or the value to be given to
19 direct evidence or circumstantial evidence.
20 However, to the extent that the State relies
21 upon circumstantial evidence in order to
22 establish the commission of a crime, all of
23 the circumstances proven must be consistent
24 with each other and when taken together, point
25 conclusively to the guilt of the accused

1 beyond a reasonable doubt.

2 If these circumstances merely portray the
3 defendant's behavior as suspicious, the proof
4 is insufficient and it fails. The burden
5 rests with the State to prove the defendant
6 guilty beyond a reasonable doubt regardless of
7 whether the State relies upon direct evidence
8 or circumstantial evidence or some combination
9 of both types of evidence.

10 Proof beyond a reasonable doubt is proof
11 that leaves you firmly convinced of the
12 defendant's guilt. There are very few things
13 in this world that we can know with absolute
14 certainty, and in criminal cases, the law does
15 not require proof that overcomes every
16 possible doubt. If, based on your
17 consideration of the evidence in this case and
18 then the exercising of good judgment and
19 common sense, you are firmly convinced that
20 the defendant is guilty of a crime with which
21 he stands charged, then you must find the --
22 the defendant guilty of that crime. And if,
23 on the other hand, you think there is a real
24 possibility that the defendant is not guilty
25 of a crime with which he stands charged, you

1 must give him the benefit of that doubt and
2 find him not guilty.

3 Now, as I've told you, you are the sole
4 judges of the facts in this case and you are,
5 therefore, necessarily the sole judges of the
6 credibility or the believability of each
7 witness that has testified during the trial.
8 And there are several factors which you should
9 consider in arriving at your assessment as to
10 the credibility of a particular witness's
11 testimony, and I'm going to list those factors
12 for you.

13 You should consider the demeanor of the
14 witness. That is how the witness appeared to
15 you as the witness testified from that witness
16 stand.

17 Was the witness straightforward in
18 responding to questions, or was the witness
19 hesitant or evasive in responding to questions
20 that were posed of the witness? Simply put,
21 did the witness appear to you to be telling
22 the truth and to have knowledge of the facts
23 to which that witness has testified.

24 You should also consider whether or not
25 the testimony of a witness is consistent or is

1 it inconsistent with that witness' own
2 testimony, as well as is it consistent or
3 inconsistent with any other statement made by
4 that same witness whether it was in court or
5 outside of court. And you should also
6 consider whether or not the testimony of a
7 witness is consistent, or is it inconsistent
8 with other witness' testimony or other
9 evidence received during the trial of the
10 case.

11 You should also consider how the witness
12 came to know the facts to which that witness
13 has testified. In other words, what was that
14 particular witness's opportunity and ability
15 to perceive the existence of those facts to
16 which that witness has testified by having
17 previously used his or her senses, and then
18 what is that witness' ability to be able to
19 come into court and to accurately recollect to
20 you as to what they have previously perceived.

21 You should also consider any bias or
22 prejudice or interest that a witness might
23 have with respect to the case. In other
24 words, do you find some reason that a
25 particular witness would come into court and

1 would testify one way or another to help or
2 hurt one side or the other? And you may
3 consider any interest that a witness might
4 have in the outcome of the case if you
5 determine that a witness does have such an
6 interest and you find that that interest would
7 bear upon that particular witness's
8 credibility.

9 You should also consider whether or not
10 the testimony of a witness was strengthened or
11 was it weakened by other evidence presented
12 during the course of the trial.

13 Now, because you are the finders of the
14 fact and the judges of the credibility of each
15 witness, you are permitted to believe as much
16 or as little of what a witness has testified
17 to as you deem is appropriate, and, therefore,
18 you may believe everything that a witness
19 testified to. You may choose to believe none
20 of it. You may believe some portion of a
21 witness's testimony and reject some other
22 portion of that same witness's testimony. In
23 a given case, you could believe one as opposed
24 to several or several as opposed to one. But
25 whatever your good judgment and common sense

1 tells you is the most believable and credible
2 testimony and evidence is that which you
3 should accept, and you should reject any
4 testimony or other evidence that you find not
5 to be credible or believable.

6 Again, your sole objective is to simply
7 render a fair and impartial trial based upon
8 the evidence or the lack there of and the
9 instruction provided to you by, the Court.

10 Now, the same law that provided that you
11 are the judges of the facts also provides that
12 I am the judge of the law and that just simply
13 means that nobody is going to tell you how to
14 arrive at your determination of fact in this
15 case. You do that, as I've already told you,
16 through the exercise of good judgment and
17 common sense conscientiously applied to the
18 testimony and evidence received during the
19 course of the trial. You must, however, under
20 your oath as a juror, accept the law as I
21 provide it to you as being the law that you
22 are to apply in the case. In other words,
23 you're not to concern yourself with what you
24 thought the law was before you came to serve
25 as a juror this week or what you think the law

1 ought to be. You must simply accept the law
2 unto your oath as I provide it to you as being
3 the law that you are to apply in the case, and
4 then you take that law and you apply it to the
5 facts as you determine those facts to be based
6 upon your common-sense examination of the
7 evidence received.

8 Now, as you know in this case, the
9 defendant is charged with two counts. And the
10 Indictment Count 1 is murder; Count 2 is
11 possession of a firearm in the commission of
12 that crime in Count 1. So I'm going to define
13 for you the law as it relates to the crimes of
14 murder and possession of a firearm during the
15 commission of a violent crime. Both of these
16 criminal offenses are what are referred to as
17 "statutory offenses," and statutes are those
18 laws that are contained in those blue volumes
19 behind me.

20 Each year, from January to June, the
21 legislature meets, and they pass a number of
22 laws and rules and regulations that govern our
23 conduct in a variety of ways. Some of the
24 laws that are passed are criminal penalty
25 statutes, and that just means that they define

1 conduct, which we are prohibited from engaging
2 in, and if we are proven to have engaged in
3 that conduct beyond a reasonable doubt, then
4 it subjects -- it subjects us to some form of
5 punishment or penalty for having violated the
6 statute.

7 Please understand, however, that under
8 your oath as a juror, your function and duty
9 is to determine whether or not the defendant
10 has been proven guilty of some crime the State
11 claims he committed. You are to make that
12 determination without any consideration being
13 given to any punishment or penalty that might
14 be imposed. That's not the function of the
15 jury and that's not something you are to
16 consider as you make your determination as to
17 whether or not he has been proven guilty.

18 But the crime of murder is set forth in
19 Section 16-3-10 of the South Carolina code of
20 laws, and that particular code section
21 provides that, "Murder is defined as the
22 killing of any person with malice aforethought
23 either expressed or implied." Again, it is
24 the killing of any person with malice
25 aforethought either expressed or implied.

1 So in order for you to find the defendant
2 guilty of the crime of murder in this case, it
3 would be necessary that the evidence in the
4 case establishes to your satisfaction beyond a
5 reasonable doubt that the defendant, Diante'
6 Jermaine Willis, did commit some act or acts
7 which proximally caused -- that means directly
8 caused -- the death of Jerry Lee Scalf Jr.,
9 and that, that killing was done with malice
10 aforethought. Malice aforethought is an
11 essential element of the crime of murder.

12 Malice, as an essential element of the
13 crime of murder, is a state of mind connoting
14 an ill will and having the intent the intent
15 to do harm.

16 Intent refers to the state of a person's
17 mind, which directs his actions towards a
18 specific object or goal. Intent would include
19 those consequences, which represent the very
20 purpose for which an act is done as well as
21 those consequences which are known to be
22 substantially certain to result whether
23 they're actually intended or not.

24 Malice is a technical term importing
25 wickedness and excluding just cause or legal

1 excuse. It is something which springs from
2 depravity, from a heart devoid of social duty,
3 and fatally bent on mischief. It is a state
4 of mind indicating an extreme disregard for or
5 an extreme indifference to human life. Malice
6 may be likewise defined as a state of mind
7 which indicates a formed purpose and design to
8 do a wrongful act under circumstances that
9 exclude any legal right to do it.

10 The words "expressed" or "implied" malice
11 do not mean different kinds of malice, but
12 merely the manner in which malice may be shown
13 to have existed. That is to say either by
14 direct evidence or by circumstantial evidence
15 implying or inferring the existence of malice.
16 Malice may be expressed as where there is an
17 expressed threat to kill or where there is a
18 lying-in-wait or where the circumstances show
19 directly that an intent to kill was
20 entertained by the killer. Malice may be
21 inferred, though no expressed intent to kill
22 is proven by direct evidence where the facts
23 and the circumstances which had been proven by
24 the evidence in the case satisfy you beyond a
25 reasonable doubt that malice was present in

1 the mind of the killer at the time any killing
2 took place. And, therefore, the existence of
3 malice may be inferred from any acts,
4 declarations, and conduct of the killer, as
5 well as from any other circumstances shown to
6 have existed at the time of the event from
7 which you might reasonably infer the existence
8 of malice; as often the state of a person's
9 mind can only be proven by circumstantial
10 evidence.

11 Malice as an essential element of the
12 crime of murder does not necessarily require
13 proof of an ill will or a hatred towards a
14 particular individual who is killed, nor does
15 it necessarily require proof of an actual or
16 specific intent to take human life, but rather
17 it refers to a state of mind accompanying
18 conduct signifying a general malignant
19 recklessness and an extreme disregard for or
20 an extreme indifference to human life.

21 Even if the facts proven are sufficient
22 to give rise to an inference of malice, such
23 an inference could simply be an evidentiary
24 fact to be taken into consideration by you 12
25 jurors along with all of the other evidence

1 received during the trial of the case, and you
2 shall give such inferences such weight, if
3 any, that you determine they should receive,
4 if any. The State is required to prove malice
5 just as it must prove any other essential
6 element of the crime of murder, and it is for
7 you 12 jurors to determine whether or not the
8 evidence in this case has established malice
9 beyond a reasonable doubt.

10 It's also essential that there exists not
11 only malice, but malice aforethought. The law
12 does not require that malice must exist for
13 any appreciable length of time before the
14 commission of an act proximately causing the
15 fatal result. In fact, it may be conceived at
16 the very moment that the fatal act is
17 committed. It is sufficient in the law so
18 long as the State does prove beyond reasonable
19 doubt both the existence of malice and the
20 commission of an act or acts by the defendant,
21 which proximately caused the fatal result.

22 You must determine whether or not malice
23 aforethought exists based upon your
24 consideration of all of the evidence
25 introduced during the trial of this case and

1 any reasonable inferences that might be drawn
2 from that evidence.

3 Now, while the State must prove beyond a
4 reasonable doubt that a killing did occur and
5 that it was accompanied by the element of
6 malice aforethought in order to establish the
7 crime of murder, it is not necessary that the
8 State prove any motive for the killing even
9 though there may be some evidence introduced
10 during the trial that was relevant to such
11 fact. Motive is not an essential element of
12 the crime of murder.

13 Not only must the State prove beyond a
14 reasonable doubt, each of the essential
15 elements of the crime alleged before the
16 defendant may be found guilty of that crime,
17 but the State must also prove beyond a
18 reasonable doubt that it, in fact, was this
19 defendant who committed that crime and not
20 someone else. In determining the identity of
21 the person alleged to have committed the crime
22 from witness testimony, you should consider
23 the capacity, ability, and opportunity the
24 witness had to observe the perpetrator,
25 whether the perpetrator was known to or was

1 familiar to the witness, and any other factors
2 or circumstances bearing upon and relevant to
3 the issue of identification. If after a
4 careful consideration of the evidence relating
5 to the issue of the identification of this
6 defendant as the perpetrator of any crime
7 proven to have been committed by someone, you
8 have a reasonable doubt as to the accuracy of
9 the identification of this defendant as the
10 perpetrator of that crime, you must resolve
11 that doubt in favor of this defendant and
12 return a verdict of not guilty.

13 Count 2 of the indictment alleges a
14 violation of Section 16-23-490, and that
15 particular code section and its pertinent
16 parts reads, "A person shall be guilty of an
17 additional criminal offense if a person is in
18 possession of a firearm or visibly displays
19 what appears to be a firearm during the
20 commission of a violent crime and is convicted
21 of committing that violent crime as defined in
22 Section 16-1-60." 16-1-60 lists those crimes
23 that are classified as violent under state
24 law, and murder is classified as a violent
25 crime under that particular code section.

1 Before the defendant can be found guilty
2 of a violation of this particular provision of
3 law, it would be necessary that you had found
4 the defendant to be guilty of the crime of
5 murder in Count 1 of the indictment, and you
6 find beyond a reasonable doubt that the
7 defendant did possess or visibly display a
8 firearm during the commission of that crime.

9 You are further instructed, and I
10 emphasize to you, that the fact that a
11 defendant does not testify during the course
12 of the criminal trial, is not a fact or
13 circumstance that may be considered by the
14 jury anyway -- in any way in your
15 deliberations or in your determination as to
16 whether or not his guilt has been proven
17 beyond a reasonable doubt. You may not permit
18 such a fact to weigh in the slightest degree
19 against a defendant. As I've already told you
20 the burden is upon the State to prove the
21 defendant guilty beyond a reasonable doubt.
22 The burden is never upon a defendant to prove
23 that he or she is not guilty or to prove that
24 he or she is innocent, because in some cases
25 that might not be possible. And, therefore,

1 you are instructed you -- that you are not to
2 draw any inference nor reach any conclusion
3 from the fact that a defendant does not
4 testify during the trial of the case nor may
5 that fact or circumstance even be discussed by
6 you jurors while you are engaged in your
7 deliberations.

8 Now, during deliberations there may come
9 a time where you have some question about the
10 evidence or the facts of the matter in the
11 case. Please understand that while I would be
12 glad to help you if I could, I am not ever
13 permitted to comment upon any issue of fact or
14 any evidentiary fact. You have to decide the
15 facts based upon your view of the evidence
16 presented during the trial of the case, and I
17 can't comment upon that.

18 Also, if you wonder if there is something
19 else out there that you think would be helpful
20 to you and you'd like to know if you can have
21 it, you can't, because all of the evidence
22 that has -- that is going to be introduced in
23 this trial has already been introduced. And
24 even if something is out there that you think
25 might be helpful, it cannot be introduced now

1 because the case is closed, and all the
2 evidence has been received. So while you will
3 have the evidence that was introduced during
4 the trial, no additional evidence can be
5 received even if it did exist. So don't
6 inquire of me about additional evidence or
7 anything about the facts, because I'm just
8 unable to provide you with that information or
9 that guidance.

10 If, at any time, you have a question
11 about the testimony of a witness and you think
12 that, that question can be answered by having
13 that witness's testimony reheard, we can bring
14 you back into the courtroom to have that
15 witness' testimony replayed. I don't have
16 transcripts of the witness' testimony, but if
17 you need to have some witness's testimony
18 reheard, we can bring you into the courtroom
19 and have all of that witness's testimony
20 replayed or just some portion of it if that's
21 all you need.

22 If, at any time, you have a question
23 about the law that you are to apply, I am
24 always permitted to answer those questions.
25 And so if you need a complete reinstruction, I

1 can provide you with that. If you simply need
2 -- simply need a -- an explanation or an
3 additional explanation or a clarification of
4 the law that I've already provided, I'm happy
5 to provide you with that additional
6 instruction, explanation, or clarification.

7 Madam Forelady, if, at any time, during
8 deliberations you have some -- you or your
9 fellow jurors has somebody (as spoken) you
10 need to address to me, if you'll write it on a
11 piece of paper, give it to the bailiff, he'll
12 provide it to me, and I'll respond to any
13 question that you have accordingly.

14 So far as the verdict form is concerned,
15 Madam Forelady, the indictment will serve as
16 the verdict form. On the back of the
17 indictment in the lower left-hand corner -- I
18 know you probably can't see it from there, but
19 you're going to have it in the jury room with
20 you. On the back it says -- you'll see the
21 word "verdict," and it's beneath that word
22 that you'll indicate the jury's decision.
23 You're going to be reaching two decisions.
24 You've got to decide a -- a verdict for Count
25 1 and, also, a verdict for Count 2.

1 But understand that Count 2, under no
2 circumstances, could you find the defendant
3 guilty of Count 2 without having found the
4 defendant guilty of Count 1, because Count 2
5 requires that the person be convicted of the
6 violent crime before he can be convicted of
7 possession of a firearm during the commission
8 of that crime.

9 But you do have two potential verdicts as
10 to each count. Count 1, the potential verdict
11 forms are: Guilty and not guilty. Count 2,
12 the potential verdict forms are, also: Guilty
13 and not guilty. So whatever that decision is,
14 you'll indicate that in the space provided,
15 you'll sign your name as the foreperson, and
16 also place -- place the applicable date;
17 today's the 2nd of December.

18 After you have completed the verdict
19 form, and you have, of course, completed your
20 deliberations and made your decisions, if
21 you'll knock on the jury room door, let the
22 bailiff know you've reached a decision, we'll
23 bring you back to receive your verdict. When
24 you do notify the bailiff that you've reached
25 a decision, you don't announce what it is, and

1 you don't give the bailiff the verdict form.
2 You'll hold on to the verdict form, and I'll
3 receive that from you after you come back into
4 the courtroom for us to receive your verdicts.
5 You may give the bailiff the exhibits if
6 you're through with those at the time that you
7 announce that you've completed your
8 deliberations.

9 Now, during deliberations, there might be
10 one or more on the jury that smoke. You can
11 smoke during deliberations, but you can't
12 smoke in the courthouse. You have to go
13 outside to accomplish that purpose. So if you
14 need to smoke, let the bailiff know, and
15 you'll be taken outside to accomplish that
16 purpose. But the jury is instructed that
17 deliberations may not take place if any juror
18 is absent for any authorized purpose. So if
19 at -- if, at any time, a juror is absent, the
20 deliberations must stop, and they may only
21 resume when all 12 jurors are present so that
22 all may participate in those deliberations.

23 Now, before the exhibits are sent back,
24 I'll have the lawyers and the court reporter
25 verify the existence of each that was

1 introduced during the trial. And so when the
2 get sent back, if you think there's something
3 missing, you can let us know, but it should
4 all be there. But as I say, no additional
5 evidence can be presented. But if there's
6 something that you thought was introduced
7 during the trial, and you don't think it's in
8 the box that was brought back to you, you can
9 let me know of that fact and we'll make that
10 determination as to that particular exhibit
11 should that arise.

12 I think that's going to cover everything,
13 but if it doesn't, I'm sure one of these
14 lawyers will remind me that I neglected to
15 provide you with some information, and if I
16 did do so or fail to, I will bring you back to
17 provide you with that additional information.
18 And if I don't need to bring you back for any
19 reason, I'll send word by way of the bailiff
20 that you may begin with your deliberations.
21 And, in that event, the bailiff will bring to
22 the jury room all of the exhibits which had
23 been -- have been introduced, and to you,
24 Madam Forelady, you'll also bring the
25 indictment, which will serve as the verdict

1 form.

2 So, right now, I'm going to ask all the
3 jurors, including the two alternates, to
4 retire to the jury room, but don't begin any
5 discussions until I send you word to do so.

6 (WHEREUPON, the jury was excused at
7 3:17 p.m.)

8 THE COURT: Are there any exceptions taken to
9 the instruction or request or additions to the
10 instruction by the State?

11 MR. KENDALL: No, sir, Your Honor.

12 THE COURT: By the Defendant (as spoken)?

13 MR. MORIN: No, sir.

14 THE COURT: All right. Let me ask y'all to
15 verify the exhibits, please. (To the court
16 reporter) Now, that -- that doesn't go back.

17 THE COURT REPORTER: Okay. The Court's
18 Exhibit?

19 THE COURT: The first one.

20 THE COURT REPORTER: Okay.

21 THE COURT: That one you got to be Number 1?

22 THE COURT REPORTER: Oh, this one right here?

23 THE COURT: I do believe.

24 THE COURT REPORTER: This one doesn't go.
25 Okay.

1 curious about the decision, and you want to
2 stay, you're welcome to do that, but you don't
3 have to, of course. So I'll leave that to
4 your discretion as to whether you want to stay
5 or leave, but you might want to go pick up the
6 pay vouchers either way, okay? Thanks again
7 for your help.

8 (WHEREUPON, the alternate jurors
9 leave the courtroom 3:27 p.m.)

10 All right. All of the exhibits has been
11 accounted for?

12 MR. MORIN: Yes, Your Honor.

13 MR. KENDALL: Yes, Your Honor.

14 THE COURT: All right. Send them back, and
15 ask the jury to begin deliberations. Notify
16 us when they've concluded.

17 We'll be at ease while the jury is
18 deliberating.

19 (Off the record from 3:28 p.m. until
20 5:56 p.m.)

21 THE BAILIFF: Remain seated. Come to order,
22 please.

23 THE COURT: I've been informed the jury has
24 reached a verdict. Are we ready to receive
25 it?

1 MR. KENDALL: Yes, sir, Your Honor.

2 MR. MORIN: Defense is ready.

3 THE COURT: All right. Bring them in please.

4 (WHEREUPON, the jury comes into open
5 court 5:57 p.m.)

6 VERDICT

7 THE COURT: Madam Forelady, have you and your
8 fellow jurors reached a unanimous decision?

9 MADAM FORELADY: Yes, Your Honor.

10 THE COURT: Have you reflected that decision
11 on the verdict form as requested?

12 MADAM FORELADY: Yes, Your Honor.

13 THE COURT: Did you sign you name and date it?

14 MADAM FORELADY: Yes, Your Honor.

15 THE COURT: If you'll please hand that verdict
16 form up by way of the bailiff.

17 (To the Clerk of Court) You may publish
18 the verdict.

19 CLERK OF COURT: 2019-GS-11-1436, "The State
20 versus Diante' Jermaine Willis." The
21 indictment for murder, which is Count 1, the
22 jury responds guilty.

23 As to indictment -- or excuse me -- as to
24 the weapon during commission of a violent
25 crime, Count 2, the jury responds guilty.

1 how things fall. But I just hurt for him and
2 think everybody deserves a second chance. So
3 that's it.

4 THE COURT: All right. Thank you, Mr.
5 Thompson.

6 MR. THOMPSON: You're welcome.

7 THE COURT: All right. Mr. Willis, do you
8 have anything you'd like to add to what your
9 lawyer's told me?

10 THE DEFENDANT: No, sir.

11 SENTENCING

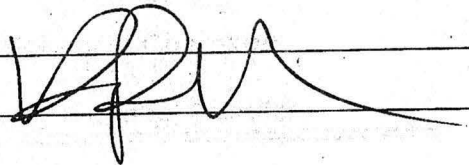
12 THE COURT: All right. On Indictment 2019-GS-
13 11-01436, Count 1, charge of murder wherein
14 you have been found guilty by a jury of that
15 offense, the sentence of the Court issue
16 Diante' Jermaine Willis be confined to the
17 South Carolina Department of Corrections for
18 the balance of your natural life.

19 As to Count 2, possession of a weapon
20 during the commission of a violent crime, no
21 sentence is imposed due to the fact that a
22 life sentence has been imposed on Count 1 of
23 the indictment.

24 Mr. Willis, you have a right to appeal
25 the verdicts of the jury and the sentence of

WITNESSES

Cherokee County Sheriff's Office



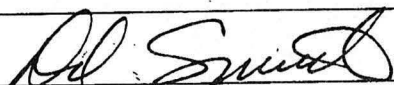
ARREST WARRANT NUMBER

2019A1110200172 - Count One

2019A1110100576 - Count Two

ACTION OF GRAND JURY

TRUE BILL



Foreperson of Grand Jury

Date: 9-26-19

VERDICT

Guilty
Guilty



Foreperson of Petit Jury

Date: 12-2-21

DOCKET NO. 19-GS-11-01436

The State of South Carolina

County of Cherokee

Barry Barnette, Solicitor

COURT OF GENERAL SESSIONS

September 26, 2019 TERM

THE STATE

vs.

DIANTE' JERMAINE WILLIS

Indictment for

MURDER (COUNT ONE) AND
POSSESSION
OF WEAPON DURING COMMISSION OF A
VIOLENT CRIME (COUNT TWO)

SC Code: 16-03-0010, 0020; 16-23-490

CDR CODE: 116; 0549

CLASS: FEL-EXM; FEL/F

FILED IN OFFICE OF
CLERK OF COURT
CHEROKEE COUNTY, S.C.

2019 SEP 26 AM 11:05

BRANDY W. MCBEE

436

RECEIVED

DEC 13 2021

SC Court of Appeals

STATE OF SOUTH CAROLINA)
COUNTY OF CHEROKEE)

INDICTMENT

At a Court of General Sessions, convened on September 26, 2019, the
Grand Jurors of Cherokee County present upon their oath:

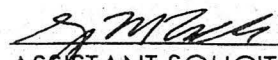
COUNT ONE-MURDER

That Diante' Jermaine Willis did in Cherokee County on or about May 3, 2019,
feloniously, willfully, and with malice aforethought, kill one Jerry Lee Scott, Jr., by
shooting the victim, and that the victim died as a proximate result thereof, all in
violation of §16-3-0010, 0020, CODE OF LAWS OF SOUTH CAROLINA, (1976, as
amended).

**COUNT TWO-POSSESSION OF WEAPON DURING
COMMISSION OF A VIOLENT CRIME**

That Diante' Jermaine Willis did in Cherokee County on or about May 3,
2019, possess a firearm, during the commission of a violent crime as defined in
Code §16-1-60, to wit: MURDER, in violation of Code §16-23-490; CODE OF LAWS
OF SOUTH CAROLINA, (1976), as amended.

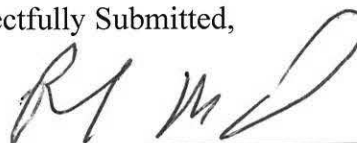
Against the peace and dignity of the State, and contrary to the statute in
such case made and provided.


ASSISTANT SOLICITOR

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



Robert M. Dudek
Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

This 8th day of May, 2023.

RECEIVED

May 08 2023

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Cherokee County

Honorable J. Derham Cole, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

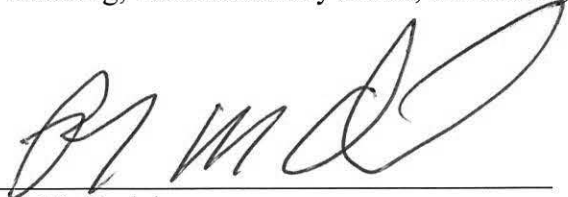
DIANTE JERMAINE WILLIS,

APPELLANT.

APPELLATE CASE NO. 2021-001466

CERTIFICATE OF SERVICE

I certify that a copy of the Record on Appeal in the above-referenced case has been served upon W. Joseph May, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 8th day of May, 2023.



Robert M. Dudek
Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT