

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Lexington County

Honorable Walton J. McLeod, IV, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

DONOVAN TIRRELL BRANNON,

APPELLANT.

APPELLATE CASE NO. 2022-000015

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	)	2016-GS-32-00492 (Brannon)
COUNTY OF LEXINGTON	)	2016-GS-32-00493 (Brannon)
	)	2016-GS-32-00495 (Robertson)
	)	2016-GS-32-00496 (Robertson)
	)	2016-GS-32-00497 (Robertson)
STATE OF SOUTH CAROLINA,	)	
PLAINTIFF,	)	
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
DONOVAN TIRRELL BRANNON AND	)	
SHANTREZ ALEJANDRO	)	
ROBERTSON,	)	
DEFENDANTS.	)	
_____	)	

November 12, 2021
Lexington, South Carolina

B E F O R E:

THE HONORABLE WALTON J. McLEOD, IV, JUDGE

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(SW) - Denotes State's Witness
(DW) - Denotes Defense Witness

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EXHIBITS

<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EVD</u>
(Court's Exhibits)			
1	Donovan Brannon Statement	*	
2	Shantrez Robertson Statement	*	

*There is no indication in the transcript or the notes of when these exhibits were marked.

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P R O C E E D I N G S

(WHEREUPON, proceedings commenced at 9:31 a.m.)

THE COURT: All right. We are on the record and we can start over.

Ms. Zmorczek, if you could, please.

MS. ZMORCEZK: Thank you. Your Honor, I received a call yesterday regarding my client's being arrested. Couldn't get down to the jail, obviously. But I obviously let the State know by showing up this morning that I am going to represent him. And I've had a conversation with him about what happened before he got here. Your Honor, he understands, in fact, I believe he even told the agents that he was going to show up, you know. He had a car accident so he's got some memory issues. He's going to do the best he can, I mean, not to forget about court. But I'm talking about -- you know.

And so, Your Honor, we would just ask that I believe that there's a proposed order submitted that -- and he understands and I know that the Court wants to tell him as well that, you know, he has been issued a subpoena and he is to show up. And he and I have talked and I've talked with his mom, and the solicitor's office is going to let me know in advance of when he needs to be here so I can make sure that I'm here when he testifies as well.

THE COURT: Ms. Fuller?

1 MS. FULLER: Yes, Your Honor. Just so -- I know
2 Ms. Zmorczek, she just jumped right to it, but just so the
3 record is clear why we're here.

4 Your Honor, the State filed an ex parte motion,
5 material witness motion to detain Antonio Stroman off of
6 -- based on his representation to Investigator Marthers as
7 well as Jill as well as myself and co-counsel that he was
8 not going to comply with our subpoena. Your Honor, we
9 filed -- that we submitted that motion on -- as well as an
10 affidavit on November 10th. Based on that, he was picked
11 up. Once Your Honor signed the order, he was picked up
12 yesterday and booked in. He did express to the Fugitive
13 Task Force that he was planning to comply with our
14 subpoena for trial next week.

15 Your Honor, I also spoke with his mother, who I
16 believe is sitting in the second row in the courtroom.
17 She indicated that there is a funeral of a brother or
18 someone like a brother on Saturday that he was planning to
19 attend. I do want to officially on the record thank
20 Mr. Williams for giving me that phone call yesterday to
21 bring that to my attention. Because like I told him, and
22 I'll put this on the record, I'm not heartless. He has a
23 brother's funeral to go to. I wouldn't be here requesting
24 that he be detained. And his mother has also given me
25 assurances, and by her voice on the phone, it sounds like

1 he would face more consequences from her than the Court if
2 he didn't show up the way her tone sounded yesterday.

3 So I have a proposed order releasing the material
4 witness and rescinding order to detain that was issued on
5 November 10th, Your Honor. And just so it's clear for the
6 record, it goes over the history of when the order was
7 signed. When he was picked up on November 11th, it
8 appears that he has indicated he will comply with the
9 subpoena and appear in court for trial in the above
10 referenced matter, which is State vs. Donovan Brannon and
11 Shantrez Robertson, and is scheduled for court here in
12 Lexington County Courthouse next week, November 15th.

13 It appears that Antonio Stroman's mother has
14 indicated that she would ensure that her son will appear
15 for trial next week. It appears that he has intentions of
16 attending a brother's funeral on Saturday, November 13th.

17 The order also instructs that he be released on his
18 own recognizance to the custody of his mother. It is
19 further the order of the Court that he comply with the
20 subpoena issued by the State for his appearance in court
21 next week. Failure to appear will result in possible
22 contempt of court charges and arrest.

23 The State's request at this time, Your Honor, is that
24 this order be signed as well as there's a spot here for
25 his mother's signature, name, phone number and address

1 along with this order.

2 And, Your Honor, the State's also requesting that you
3 place the defendant under oath and also instruct him about
4 the consequences of not complying with the State's
5 subpoena.

6 THE COURT: All right.

7 MS. ZMORCEZK: And, Your Honor, my only concern with
8 having his mom sign him out, I have no problem with her
9 giving the address and phone number, but I don't -- I
10 don't want it -- her signature in any way to have her face
11 any sort of criminal penalty ---

12 MS. FULLER: That's not the State's intent and that
13 -- you have my assurance on the record.

14 THE COURT: Yeah. All right. Well, and,
15 Ms. Zmorcezk, you're okay with obviously the text of the
16 order that you saw in advance of this hearing.

17 MS. ZMORCEZK: Correct.

18 THE COURT: Mr. Stroman, if you would, just
19 please . . .

20 (WHEREUPON, ANTONIO JAMES STROMAN is duly sworn.)

21 THE COURT: All right. Mr. Stroman, obviously,
22 you've heard -- you've talked with your lawyer briefly
23 this morning. The State has talked with your mother. You
24 understand that you are a witness in this case. I don't
25 know what day that will happen next week. But I can tell

1 you that you were served a subpoena and you are directed
2 to be here next week. And your failure to appear could
3 expose you to penalty of contempt of court. Do you
4 understand that?

5 MR. STROMAN: Yes, sir.

6 THE COURT: Okay. Do you have any questions about
7 that for me or for your attorney at this time?

8 MR. STROMAN: No. I just talked to my lawyer.

9 THE COURT: Okay. I'm -- shoot. Today's the 12th.
10 All right. I've signed the order releasing Mr. Stroman.

11 UNIDENTIFIED SPEAKER: Yes, Your Honor. We're
12 getting his mother's information.

13 THE COURT: Anything else for the record on this
14 specific matter?

15 MS. FULLER: Nothing from the State, Your Honor, on
16 Antonio Stroman.

17 MR. WILLIAMS: Your Honor, may I be excused to go
18 talk to my client a minute before ---

19 THE COURT: Certainly. Yes, sir.

20 MR. WILLIAMS: It may shorten down a lot of stuff.

21 THE COURT: Yes, sir.

22 (WHEREUPON, a recess is taken at 9:38 a.m.)

23 THE COURT: What are we moving forward with?
24 Immunity?

25 MR. WILLIAMS: Your Honor, I have talked to my client

1 this morning, and he is not going forward with the stand
2 your ground.

3 THE COURT: Okay. Okay. We know we have a Jackson
4 v. Denno. What other motions can we anticipate during
5 today? Somebody go.

6 MR. MAULDIN: Your Honor, there were some lineups
7 shown in this case to a Andy Barnes and a Curony Coleman.
8 We had indicated to the State that we would like to have
9 some Neil v. Biggers hearing regarding those.

10 In addition, there are people that didn't identify my
11 client up -- client in any kind of lineup or by picture or
12 any kind of precourt proceeding. And I would object to
13 any kind of in-court identification, because an in-court
14 identification is tantamount to a show-up procedure
15 conducted by the State. It's tantamount to a show-up of
16 my client. It's been six and a half years since the
17 incident. Usually, show-ups are disfavored unless the
18 confrontation is made rather recently.

19 THE COURT: All right. Just so I'm clear, are you
20 asking that a witness on the stand be prevented from
21 saying do you recall -- I don't even know the facts.

22 MR. MAULDIN: Pointing him out in court as some kind
23 of shooter in this case, Your Honor.

24 THE COURT: Even -- well, I mean, again, I'm trying
25 not to hyperfacal [phonetic] the questioning here. But a

1 witness is asked what they've heard or saw -- saw or did,
2 and if they say they ---

3 MR. MAULDIN: Well, my argument is ---

4 THE COURT: --- heard or saw or did a -- any
5 potential defendant in any case do something, how does
6 that -- how do you prevent a witness from doing that when
7 they're asked the question?

8 MR. MAULDIN: My argument is is that the trial is a
9 procedure conducted by the State, that having -- they know
10 Mr. Brannon, there are lineups presented to some people
11 because there's some issue of whether or not they know
12 that he is known as Red Nose. The word "Red Nose" is used
13 a lot. And if these people come in six and a half years
14 later and point them out, that is tantamount to the State
15 conducting a show-up identification of my client. That is
16 my argument. And much like the police do a show-up
17 lineup, that this trial procedure of an in-court
18 identification is a show-up lineup, and in the procedures
19 according -- to conduct a reliability for that should be
20 applied to that in-court identification.

21 THE COURT: Okay.

22 MR. MAULDIN: I thought we were going to have a
23 hearing on the business records, Your Honor. We were
24 provided notice that they were going to introduce Verizon
25 phone records of Donovan Brannon, Verizon phone records of

1 Shantrez Robertson -- that's obviously Theo's client and
2 my client -- Verizon phone records of a Jasmine Pringle,
3 who is my client's girlfriend at the time of the incident,
4 and AT&T records from a Tyrese White, who they have now
5 tied to the incident, and Facebook records for my client.
6 I thought we would be having a hearing on that where she
7 would move to introduce them that way. But I would object
8 to certain parts of that evidence coming in.

9 First, these are hundreds of pages of records. And I
10 know the State is not intending to introduce these
11 hundreds of pages of records, so we want to know what is
12 -- what they think is relevant to this case so we don't
13 have to do it piecemeal during the trial and keep the jury
14 out.

15 And after that my argument is that although I will
16 concede the cell tower location data, the date and time of
17 calls placed or the date and times of texts made from one
18 account to another are business records. Similarly with
19 Facebook, the fact that one account contacted another
20 account on a certain day and time is part of the business
21 records. The substantive content, as far as what people
22 put in their texts or what people put in their post on
23 Facebook, those are not records created by Facebook or
24 those phone companies. Those are records created by the
25 users of Facebook and the users of the phone company, and

1 therefore they are hearsay that don't fit the business
2 records exception because those aren't records that they
3 generate for the business. Keeping track of who -- who
4 sent what to who is part of their business, but actually
5 the subjective content of the messages in and of
6 themselves are -- it's kind of like a double hearsay, Your
7 Honor. They have the business records exception for the
8 parts that I say are business records, and then you've got
9 this other part here which is not hearsay from Facebook,
10 it's hearsay from somebody who is posting on Facebook or
11 somebody who is texting. So the substantive content of
12 those messages are basically another hearsay, and they
13 would have to either be authenticated by the person that
14 made those messages or in some other manner, or fall under
15 some other hearsay exception.

16 THE COURT: Well, oftentimes social media posts,
17 particularly if they are from a defendant ---

18 MR. MAULDIN: Well ---

19 THE COURT: --- could be, you know, admission or
20 statements by opponents nonhearsay.

21 MR. MAULDIN: Well, if we go party opponent for
22 statements my fellow made, Mr. Williams is not able to
23 cross-examine him and they're hearsay as to Mr. Williams's
24 client. I'm sure Mr. Williams would enjoin -- join my
25 objection on those grounds.

1 MR. WILLIAMS: Sure. We -- we do join with him the
2 objections that were made in regards to the Facebook. In
3 addition, Your Honor, there is a Bruton issue which could
4 appear in -- in these emails or whatever these texts are
5 because we're joined in a trial.

6 THE COURT: Well, there's been no motion for
7 severance of which I'm aware.

8 MR. WILLIAMS: We haven't made a motion for
9 severance. But we don't have to make a motion for
10 severance if the information in Bruton -- if they're
11 attempting to introduce evidence which they shouldn't
12 introduce because we are joined, that's a problem for the
13 State. They don't have to introduce that evidence to try
14 two people together.

15 THE COURT: Well, obviously, to Bruton, I mean, in
16 part that's why we're here today to talk about what
17 statements we have ---

18 MR. WILLIAMS: Right.

19 THE COURT: --- and if you go together then what
20 redactions must be made to stay within the line of the
21 most recent cases.

22 MR. WILLIAMS: I agree.

23 MR. MAULDIN: I'm just previewing the list of motions
24 here, Your Honor.

25 THE COURT: Yeah. I know.

1 MR. MAULDIN: My next motion is is there's some
2 mention of my client and Theo's client being part of the
3 Bloods. I know there is a series of case law in gang
4 evidence. But in reading through the discovery, there is
5 no assertion that the deceased or anybody else in his
6 group were a member of any gang, that this was part of any
7 kind of gang activity unless they're able to somehow
8 establish that through witnesses that this was a gang
9 thing. Most of the discovery talks about word on the
10 street this, word on the street that, but no actual
11 witnesses coming forward with firsthand knowledge. And if
12 they can't do anything like that, I would say that
13 mentioning the gang evidence is just bad character
14 evidence, it's not relevant under 403, prejudicial over
15 probative, et cetera, et cetera.

16 Additionally, Mr. Williams filed and I would join in
17 his motion for sequestration of the witnesses. I know
18 there is some exceptions. I think Marthers is the chief
19 investigating officer on this.

20 THE COURT: Victims.

21 MR. MAULDIN: And there's one left, Your Honor, and
22 that would be Brandon Jeffrey, I think.

23 THE COURT: Say again?

24 MR. MAULDIN: Brandon Jeffrey is his name. I think
25 he's only the only witness that we could construe as a

1 victim in this case. So I think those are going to be the
2 two -- two exceptions to that.

3 In addition, Your Honor, we received some new
4 ballistics report. And I'm going to have to kind of go
5 back into a factual recitation here, Your Honor.

6 THE COURT: Define "new ballistics report."

7 MR. MAULDIN: We got it on Wednesday. Email notice
8 of it on Tuesday, received it on Wednesday -- yesterday.
9 I'm sorry. Email notice on Tuesday, received it on
10 Thursday. Today's Friday the 11th. It's regarding --
11 basically, Your Honor, this involves a shooting at a club.
12 There were multiple people involved who give varying
13 statements on what could have happened. Crime scene goes,
14 they find about 30 or so shell casings on the ground.
15 Those are sent to SLED, I think, a year later. And we got
16 a report in August of this year where I believe there may
17 be four different guns involved in this case. They
18 recovered a gun from Mr. Brannon's area.

19 A week after the incident, somebody on the State's
20 side of witnesses brought in a couple of guns a week
21 later, and ballistics analysis was made following that.
22 It was determined that the gun attributed to Mr. Brannon
23 fired some of the shots, and the gun that was brought in a
24 week later by Mr. Barnes fired some of the shots because
25 they were able to compare the casings to those guns.

1 There was another gun that Mr. Barnes brought in that
2 didn't match any of those. And so there -- I believe at
3 that point in time we have about 20 or so shell casings
4 that are not attributed to any known pistol or a pistol
5 tied to a person.

6 One of the witnesses had mentioned a Boosie or
7 hearing that a Boosie had emptied their clip around the
8 time of the incident. I don't think that was investigated
9 until the past month or so who Boosie is or whatever. The
10 State has ---

11 THE COURT: Is that -- what was the word?

12 MR. MAULDIN: Bootsy or Boosie, B-O-O-T-S-Y or
13 B-O-O-S-Y, depending on who's writing it or who's saying
14 it or if the police is writing it down.

15 So -- so the State ran some facial recognition on
16 some Facebook photos, and then they believed that Boosie
17 is a fellow named Tyrese White, although I've seen in the
18 text messages where Antonio Stroman is referred to as a
19 Boosie.

20 But anyway, this Mr. White guy that they're focusing
21 on had a shooting case. I'm telling you it's getting real
22 complicated. I'm sorry. And if I lose anybody, please
23 let me know. He had a shooting case in January of 2015
24 where he was arrested for it. And they recovered shell
25 casings from that scene. They did not recover a gun from

1 him. And it is my understanding that the only witness
2 that identified him as a shooter in that case did.

3 And so they've taken the shells from that case and
4 compared it to some of these unknown shells, and the
5 report we got this week is that they're from the same gun,
6 the gun that was fired in that shooting case early 2015 in
7 Great Falls -- oh, I'm sorry. 2016, Your Honor. It would
8 have been half a year later.

9 It's our understanding they can't -- the State
10 wouldn't -- if the State is able to substantiate that
11 Mr. White is the one that actually fired that gun that
12 produced those shells, then -- then not. But it's my
13 understanding that they may not be able to do so. And if
14 they're unable to tie Mr. White to those shell casings
15 from 2016, I think the evidence that it matches these
16 unknown shell casings at the scene in this case, they
17 wouldn't be able to establish the relevance of it.
18 And just saying that we collected these shells in Great
19 Falls in 2016 without any other context and saying they
20 match these, that would confuse the jury, and the
21 prejudice would outweigh the probative value.

22 THE COURT: Okay.

23 MR. MAULDIN: And it's my understanding there was a
24 gun pulled off of my client in Chester in 2018. And some
25 comparisons were made with these shells, but they were

1 inconclusive, and so the State is not introducing that
2 evidence. But I did have an argument about that. But the
3 State has assured me that that doesn't rise to the level
4 of evidence because it's inconclusive.

5 THE COURT: Okay.

6 MR. MAULDIN: I think that's all I had, Your Honor.
7 That was quite a bit.

8 THE COURT: That's all.

9 MR. WILLIAMS: Judge, obviously, we're joining --
10 we're joining in those motions because he's argued in
11 effect to evidence that affects both of us, though
12 separate.

13 THE COURT: Understood.

14 (Pause in proceedings.)

15 THE COURT: Y'all were just talking there briefly,
16 but any objection on sequestration?

17 MS. FULLER: No objection, Your Honor. Just
18 requesting obviously the investigator, which I don't think
19 they have an objection to, our surviving victim.

20 Also, just so the defense knows, but Mr. Robertson's
21 mother is on our witness list as a potential witness that
22 we may call in this case. I don't believe that anything
23 she would hear would have any bearings. But I know it's
24 Mr. Donovan Brannon's motion, and so I know he's -- she is
25 his mother. I have no problem with that. But it would be

1 up to the defense -- I mean Mr. Williams, because it's his
2 motion if he would have a problem with Mr. Robertson's
3 mother being in the courtroom for trial.

4 MR. WILLIAMS: We don't care if Ms. Robertson sits in
5 with her child.

6 THE COURT: All right. Well, it sounds to me that
7 the parties stipulate to the ---

8 MR. WILLIAMS: Stipulation that we would agree to,
9 Your Honor.

10 THE COURT: --- sequestration of witnesses.

11 MS. FULLER: Making progress.

12 THE COURT: Also, I think -- granted, I haven't heard
13 anything even in response and I don't want to step ahead
14 of you, but as far as the gang affiliation references, any
15 immediate response on that? That are at least brought up
16 by the State. Put it that way.

17 MS. FULLER: Your Honor, in terms of the gang
18 reference, the way the facts naturally present, so this
19 obviously was a shooting that occurred at 1150 Parrish
20 Road in the Leesville area of our county. Around 3:14 was
21 when the 9-1-1 call was placed. There were approximately
22 41 gunshots that happened outside of that club that day.
23 Present in the club, the State alleges that both
24 defendants were in the club along with Antonio Stroman,
25 along with Tyrese White, along with other people. While

1 they were in the club, our victim -- deceased victim as
2 well as our surviving victim was in the club along with
3 friends and cousin.

4 While they were in the club, the defendants were in
5 there, and they were throwing up gang signs and jumping
6 around. At one point someone from the victim's side goes
7 into that crowd, they're jumping around, the surviving
8 victim pulls him out. Shortly thereafter they leave the
9 club and the shooting happens. And so in natural, factual
10 presentation, no matter how we cut and slice it, that's
11 the facts of the case.

12 Your Honor, of course we would abide by any
13 instruction because I believe the latest case, Johnson, if
14 there's a motive or intent that's connected to gang
15 activity, Your Honor, we do have some latitude in that in
16 presenting it. We're not going to get into potential like
17 character evidence, per se, characterizing the gang,
18 describing it. It's literally just for the brief
19 presentation -- factual presentation. So we can limit it
20 as much as possible. We won't be jumping up and down
21 every chance we get saying gang, gang, gang. That's not
22 our intent. But it's almost impossible to present the
23 narrative to the jury without what happened inside the
24 club.

25 THE COURT: I think we discussed that case recently

1 in another trial. I'll go back and take a look. But my
2 inclination is certainly to limit it. Now, whether to
3 eliminate it may not be practical, but . . .

4 MS. FULLER: Yes, Your Honor. We would definitely
5 agree with that. We don't -- we don't want to come back
6 here twice. So we are limiting it, keeping it simple.
7 And, of course, we'll follow any other instructions by the
8 Court.

9 THE COURT: And, obviously, I'm not making a ruling
10 on that here. But I do want -- you know, we'll have two
11 jury panels in here on Monday, and that's something we can
12 talk about again probably in the break. But I do want to
13 review the law on that. But to be clear, any sort of
14 reference to gang affiliations should be limited if not --
15 you know, if not eliminated, limited to a great deal just
16 to avoid any sort of unnecessary prejudicial effect to the
17 defendants in the case. But I'll review the much recent
18 case matter and make sure I come up with a ruling that is
19 in line with that.

20 MS. FULLER: Thank you, Your Honor.

21 MR. WILLIAMS: Can I ask one question, Your Honor?
22 In regards to that comment, is Your Honor's -- the
23 decision that the Court decides on Monday, the thing that
24 we don't want to get into, it would be in limine. So we
25 don't want like the State to get up there and say

1 something about gangs and stuff like that if in the end
2 there's nothing that's going to be referenced as that.

3 MR. MAULDIN: In the opening?

4 MR. WILLIAMS: Yes.

5 THE COURT: Oh, well, I think if I understand your
6 point, we're talking about gang evidence which would be --
7 come out in sworn testimony on the stand versus ---

8 MR. WILLIAMS: On gang testimony, Your Honor.

9 THE COURT: Oh, yeah. But to your point, I mean,
10 we're talking about referencing gangs in both opening and
11 closing ---

12 MR. WILLIAMS: Yes, right.

13 THE COURT: --- which are not evidence and could have
14 some, you know, additional prejudicial value that we want
15 to avoid. So I don't -- I'm not giving you a ruling other
16 than to say I'm aware of it and I want to figure out how
17 to best approach it.

18 Mr. Mauldin, does that ---

19 MR. MAULDIN: Well, Your Honor, the solicitor
20 mentioned motive or intent, and I couldn't discern from
21 her statement where gang evidence was part of a motive or
22 intent in the case. Somebody could get into a scuffle in
23 a club and then go outside and have an argument without
24 being in a gang. There has been no evidence presented to
25 us that anybody on the victim's side, as the State calls

1 it, is a member of a gang and this was a fight between two
2 gangs. So I'm ---

3 THE COURT: Is it addressed in any of the statements
4 given to law enforcement? Okay. Well, a Jackson v. Denno
5 here will frankly give us an idea to flush out some of
6 this, I think.

7 MR. MAULDIN: Yes, sir. Just when you're reading
8 those cases, I want that question about what is the motive
9 or intent that the State is alleging.

10 THE COURT: Okay. Okay. Business records. So for
11 Neil v. Biggers, I'll look into show-up identification.
12 But, I mean, do you got any response briefly on that?

13 MR. McNAIR: Judge, the purpose of a Biggers is to
14 prevent a suggestive out-of-court lineup leading to an
15 in-court ID. In this case our victim, Brandon Jeffrey,
16 could not identify the defendant in a photo lineup. He
17 got down to one person, thought it was that guy but
18 couldn't say for sure because of a difference in facial
19 hair. So obviously, there was no suggestive photo lineup
20 done in this case because he didn't pick out the right
21 person or didn't pick out anybody.

22 On the case law on that, if I can find it, State v.
23 Lewis, 363 SC 37, 2005 case, it says Biggers does not
24 apply to a first-time in-court ID because the judge is
25 present and can adequately address relevant problems, the

1 jury is present to witness the ID rather than merely
2 hearing testimony about it, and cross-exam offers
3 defendants an adequate safeguard or remedy against
4 suggestive examinations.

5 So, Your Honor, I think the fact -- just the mere
6 fact that an out-of-court photo lineup was shown to the
7 victim does not prevent him from doing an in-court ID.
8 Mr. Mauldin and Mr. Williams can cross him all day long on
9 his identification, but there's nothing that precludes him
10 from making the in-court ID in this case.

11 Further, Perry v. New Hampshire, Supreme Court Case
12 565 US 228, says due process does not require preliminary
13 judicial inquiry into reliability of eyewitness
14 identification that was not procured under unnecessarily
15 suggestive circumstances arranged by law enforcement.

16 In this case, like I mentioned, clearly there was no
17 unduly suggestive lineup shown because he didn't even
18 identify anybody in that lineup.

19 THE COURT: Well, how many IDs were there?

20 MR. McNAIR: There was one shown to Brandon Jeffrey
21 who was a witness to the shooting. There was two other
22 lineups shown to other people who didn't actually witness
23 Mr. Robertson. They just identified him as being Red
24 Nose. So they weren't actually eyewitnesses to the crime,
25 and I don't think that's even -- that's not even really

1 even relevant. Biggers -- Biggers applies to eyewitnesses
2 to the actual crime.

3 THE COURT: Okay. Well, in theory, the person who
4 could not make an -- is the person who couldn't make an
5 identification at the time going to make an identification
6 now?

7 MR. McNAIR: He probably will, Your Honor. I
8 mean ---

9 THE COURT: I mean ---

10 MR. McNAIR: He was very -- I mean, he was pretty
11 certain it was the guy in the lineup. He just didn't want
12 to circle it because of a difference in facial hair.

13 There's another case, it's State v. Brown out of this
14 circuit, a similar situation where a witness was shown a
15 photo lineup. She wrote something to the effect of "none"
16 or "couldn't say" at the bottom of the lineup. Then when
17 she got to court, she did recognize the person, was
18 allowed to make an in-court ID. She just didn't -- she
19 was a little hesitant in circling somebody on the lineup.
20 That did not prevent her from making an in-court ID when
21 she saw the person and recognized them in court. And
22 that's State v. Brown, 333 SC 185. It was an armed
23 robbery case here where one of the victims provided a
24 general description of the defendant as a small-framed,
25 maybe 140 pounds wearing a big gold ring on his right

1 hand. She was shown a photo lineup. She wrote the word
2 "none" at the bottom of the lineup indicating she could
3 not identify anybody. At trial she testified that
4 although she had marked "none," she had, in fact, picked
5 Number 3, which was the defendant. The defense objected.

6 THE COURT: In this matter, are you -- do you intend
7 to use the photo lineup that was not completed as evidence
8 in your case? I'm just -- as far as determining whether
9 there needs to be a hearing, the identification evidence
10 under Biggers wasn't completed because no -- no one -- no
11 one was circled.

12 MR. McNAIR: There will be testimony concerning the
13 fact that he was shown a lineup and why he couldn't
14 identify the person. I'm sure Mr. Mauldin and
15 Mr. Williams will cross him on, you know, that he didn't
16 identify as Mr. Robertson in a photo lineup. But that
17 would be for cross-exam purposes.

18 THE COURT: And I recognize that the remedy for any
19 alleged suggestiveness in the identification process is
20 cross-examination and argument. But -- and I just want to
21 make sure I'm not missing something here, Mr. Mauldin.
22 But . . .

23 MR. MAULDIN: Well, Your Honor, in reading those
24 cases, I think the framework of my argument is not
25 addressed by the Court and may not have been brought up by

1 the defense in that an in-court identification is a
2 show-up identification that's done by the State. I don't
3 think anybody's argued that. Not that it's analogous,
4 that it is that.

5 And so these people know Mr. Brannon, and then for
6 the first time they're picking Mr. Robertson out in the
7 courtroom, that's a show-up in my book. This is -- this
8 trial is conducted by the State. We're not conducting the
9 trial. It's been so long since the crime, he's pretty
10 much going to be the only one that they don't know that's
11 in the defendant's stand. And so my argument is that
12 identifying somebody in court like that is tantamount to a
13 show-up where they're -- you know, he had the six pictures
14 before, he's only going to have Mr. Robertson now.

15 As to the State's argument -- or the mention of the
16 case, I would ask Your Honor to look at State v. Thompson,
17 276 XC 616 [sic]. In that case ---

18 THE COURT: Say that again, please.

19 MR. MAULDIN: State v. Thompson ---

20 THE COURT: Right.

21 MR. MAULDIN: --- 276 SC 616.

22 In that case where a victim had failed to pick a
23 defendant out of a lineup and then made an in-court
24 identification two years later, that was held to be
25 improper. And here we're going six and a half years

1 later. State v. Thompson.

2 The -- Mr. Barnes, who a lineup was shown to, is a
3 witness to the crime.

4 Mr. Coleman was not -- I think he might have been in
5 the club at the time but came out afterward.

6 And it's real confusing to me about where this name
7 "Red Nose" comes from, because I don't know if one person
8 came up with that name and then the police ran with it
9 because they didn't have a real name. But it seems like
10 most people know my client as Trez and not as Red Nose.
11 So it's a -- it's a little confusing to me about where
12 that initially popped up and whether it was a thing that
13 other people adopted because the police gave them that
14 name. I mean, that's kind of beside the -- they're
15 identifying as Red Nose but seems to be something a little
16 confusing whether they actually know Mr. Robertson as Red
17 Nose or if Red Nose is the name the police is providing
18 them with as an alternate identity I suppose of
19 Mr. Robertson, or alias.

20 But, you know, my argument, which I don't think was
21 addressed in this case and wasn't made by the defendants
22 at the time, was that in-court ID at a trial is a show-up.

23 THE COURT: Okay. I think I understand what you're
24 saying.

25 MR. MAULDIN: I was just going to ---

1 THE COURT: And I will review that case.

2 MR. MAULDIN: Yes, sir.

3 THE COURT: And so I'm sort of stuck in a holding
4 pattern on that issue at the moment.

5 MR. MAULDIN: And that may not apply to only
6 Mr. Jeffrey, but other witnesses such as O'Brien Gilliam
7 or Dominique Williams who were at the scene and they did
8 witness this.

9 THE COURT: Well, again, I haven't read Thompson,
10 but ---

11 MR. MAULDIN: Yes, sir.

12 THE COURT: --- you indicated Thompson involved
13 someone who could not identify someone on a ---

14 MR. MAULDIN: That -- that applies to Mr. Jeffrey,
15 obviously.

16 THE COURT: Okay. But you're saying ---

17 MR. MAULDIN: There are other witnesses that made no
18 prior ---

19 THE COURT: But if I understand you correctly, which
20 I may not be, but if I understand you correctly, you have
21 an objection to people showing up in court five, six years
22 later making a first-time identification of the defendant.

23 MR. MAULDIN: Yes, sir.

24 THE COURT: Okay.

25 MR. MAULDIN: And that's under due process for the

1 relevant US -- both substantive and procedural for the US
2 the right to a fair trial under relevant US.

3 THE COURT: That's why a question, though, is what --
4 when is someone -- this is more hypothetical because I
5 don't know the evidence in this case, but when has
6 someone's sworn testimony become too far removed to be
7 able to provide? Huh? What?

8 MS. FULLER: Never.

9 MR. McNAIR: Never is the answer, Your Honor.

10 THE COURT: Well, I mean ---

11 MR. MAULDIN: That's why we have all these rules and
12 case law and objections about testimony that shouldn't be
13 provided, Your Honor.

14 THE COURT: Okay, okay. Well, my question, I
15 realize, is a general ---

16 MR. MAULDIN: Everything should come in, but ---

17 THE COURT: My question is a general one, I
18 recognize. But if I understand the scenario ---

19 MR. MAULDIN: Yes, sir.

20 THE COURT: Okay.

21 MR. MAULDIN: They say the judge is there. But
22 you're a gatekeeper of the evidence, and obviously, the
23 reliability of evidence is one of your gatekeeping
24 functions.

25 THE COURT: Well ---

1 MR. MAULDIN: That's how you keep evidence out and
2 that kind of thing. And on a show-up ID, you know, part
3 of the reliability is the time frame in between the event
4 and the identification which here is six and a half years.

5 THE COURT: Okay.

6 MS. FULLER: Your Honor, I just want it to be clear
7 for the record that when it comes to Neil v. Biggers and,
8 you know, constitutional challenges, we're looking at
9 police conduct and whether they suggested. And I think
10 some of defense counsel's argument is being -- is that was
11 the whole point of Neil v. Biggers is whether or not
12 police suggestiveness influence the identification. When
13 there is no police suggestiveness, I don't even know if
14 you can touch the in-court identification. Like there is
15 nothing that says that if someone has never been shown a
16 lineup before that they can -- they're barred from an
17 in-court ID. There has been cases, there was a case that
18 was sent back, tried 17 years later. Are you telling me
19 that the witnesses, if they still remember 17 years later
20 what happened, that they are limited from testifying to
21 it? I mean, that -- that's a stretch, just respectfully.

22 THE COURT: Well, I'm just trying to understand
23 everyone's prospective arguments.

24 MR. MAULDIN: Your (unintelligible) to work with
25 police, with State ---

1 MR. MAULDIN: --- and you say ---

2 MS. FULLER: No. That's not the case.

3 MR. MAULDIN: And the trial is a State-conducted
4 procedure, and that's why I say it's a ---

5 THE COURT: All right.

6 MR. MAULDIN: Yes, sir.

7 THE COURT: Business records, y'all haven't really --
8 I mean, the business records we're talking about are just
9 the conducted in the ordinary course of business records,
10 which in prior trials -- and it essentially just becomes
11 what other witnesses use to build maps or share electronic
12 communications that went back and forth.

13 As far as the actual -- and I -- look, in other
14 trials I don't recall that -- I know I've been involved in
15 trials that have -- that are heavy on electronic evidence.
16 I don't recall a giant book going back to the jury of all
17 the paperwork. And granted, I know we're not stipulating
18 anything, but just the business records themselves, your
19 objection is just you want to know what specific documents
20 the State contends are relevant or ---

21 MR. WILLIAMS: Your Honor, I think -- I think
22 evidence is concerned -- it's not evidence if it's not
23 relevant. So if you have a stack of stuff, and of that
24 stack of stuff only some of it is relevant, then the other
25 stuff should not be included in anything in a file that

1 says it's evidence.

2 THE COURT: Well ---

3 MR. WILLIAMS: So -- and ---

4 THE COURT: It would be an incomplete document
5 (unintelligible). I mean, I get your point, but it's also
6 a matter of ---

7 MR. WILLIAMS: Therein lies the problem with
8 introducing mass information which has not been gleaned to
9 determine whether or not there's double hearsay, whether
10 or not there's some sort of Bruton issues, there's some
11 sort of confusion that could develop as a result of that.

12 So all -- what we really want to know, it's best
13 probably to be handled at trial, if the truth be known,
14 Your Honor, is if she will show us what part -- what part
15 she wants to introduce. It may or may not be relevant,
16 number one. It may not be relevant. It may -- it may
17 have some sort of information in there that should never
18 be shown in public. You know what I'm saying? It may be
19 -- it may be inflammatory, it may -- but we don't know
20 what she's trying to introduce yet. I guess -- and to
21 begin with, Your Honor, we probably need -- it's probably
22 best to handle at trial itself so we can see what is being
23 introduced, what -- what pieces of stuff she's trying to
24 get in front of that jury to see.

25 THE COURT: Okay.

1 MR. WILLIAMS: We're arguing in ---

2 THE COURT: A vacuum right now.

3 MR. WILLIAMS: --- in a vacuum right now. That's
4 right.

5 THE COURT: All right. Well, I anticipate that those
6 records will be offered for identification at trial. They
7 will -- and -- Mr. Mauldin? I feel like you're going to
8 say something very important.

9 MR. MAULDIN: My deal or my thrust is that if we know
10 what she's wanting to put in, then we can handle it
11 pretrial pretty quickly instead of having to interrupt the
12 trial every time she tries to put in this thing or that
13 thing or whatever. So if we knew what they were putting
14 in, we could frame our arguments and do that outside of
15 the presence of the jury in a manner that doesn't
16 interrupt the trial over and over and over.

17 THE COURT: Yeah. All right. Well, y'all can try to
18 talk some more or not. It's up to y'all. I'm not going
19 to tell y'all what to do.

20 MR. MAULDIN: Yes, sir.

21 THE COURT: I'm -- I'm prepared to be here for as
22 long as necessary, the following week too. So it will be
23 what it will be. It's entirely up to y'all.

24 MS. FULLER: Your Honor, I can simply put on the
25 record that, obviously, everything I served notice of is

1 fair game. Like I mentioned in chambers, the State is
2 introducing calls, GPS -- I mean cell site location and
3 text messages that are contained in the record. And so if
4 there's a specific motion to suppress any of that, sure.
5 But in terms of the notice of evidence, the State's
6 position is that my notice -- my notice of evidence is
7 proper. I like to say things once at the time because if
8 you go too fast, it gets confusing. So notice of evidence
9 I believe is proper. If there's a specific challenge to
10 the affidavits or anything like that, I'm clearly prepared
11 to argue that.

12 In terms of the contents and my court exhibits, I'm
13 guessing that's what they are requesting. But I do plan
14 to put in ---

15 THE COURT: Well, I think the response would be they
16 don't know what to move to suppress because they don't
17 know the specific statements you're relying on.

18 MS. FULLER: Well, I'll tell the Court this. It's
19 the phone records were limited from the date the crime
20 happened and then I think to the date Mr. Robertson turned
21 himself in. So they're from like the 6th to the 8th.
22 There isn't like a ---

23 THE COURT: Three days of records.

24 MS. FULLER: There is not like months long. I turned
25 over ---

1 THE COURT: Three days of records.

2 MS. FULLER: Three days of records.

3 I turned over my cell phone maps that I usually don't
4 turn over that far in advance because they're a court
5 exhibit, but I did. And you can see the time frame of the
6 records I do plan to introduce.

7 THE COURT: And those cell phone maps are created
8 from the ---

9 MS. FULLER: The phone records. Right. So I'm not
10 -- I'm literally more open than I've ever been.

11 So in terms of looking, if you look at the maps, it
12 has the times that I plan to introduce, and whatever times
13 are on the maps, I'm going to introduce the records to go
14 with them.

15 In terms of the text messages, I'm still working on
16 finalizing those exhibits. But they're -- they're in the
17 discovery, so ---

18 THE COURT: We'll go over this again.

19 MS. FULLER: Right.

20 THE COURT: But, obviously, you know ---

21 MS. FULLER: It's just too soon.

22 THE COURT: I would ask -- okay. But I would ask at
23 trial when we get into text messages, let's have some -- I
24 mean, expect to have a lot of bench conferences, okay? I
25 think that's -- and limit the breaks with the jury. But I

1 am -- the more -- as many conferences as it takes to
2 ensure we don't run afoul of Bruton and its progeny. I
3 want the lawyers to be aware of that.

4 MS. FULLER: That's correct, Your Honor. And I don't
5 know if we're jumping to Bruton.

6 THE COURT: I'm -- well, I'm sorry we've been jumping
7 around a lot.

8 MS. FULLER: Right. So in terms of, you know, the
9 State's position when it comes to text messages, you know,
10 Bruton, the defense argued -- or referenced, I can't
11 remember which one, I'm not sure if you, Mr. Williams,
12 adopted Mr. Mauldin's argument, but, you know, talk about
13 confrontation clause, and just respectfully, it does not
14 apply to nontestimonial messages. And so we've gone
15 through great care to sanitize this case from any Bruton
16 issues and truthfully from the defendant's statements
17 both ---

18 THE COURT: Just so I'm clear, when you say that, you
19 mean Bruton really only applies to -- that you're -- what
20 you're telling me is that you're talking about custodial
21 statements only. You're not talking about ---

22 MS. FULLER: That's correct, Your Honor. That's what
23 the whole Bruton was. If you -- they wrote a statement
24 implicating a codefendant, you know. There is some
25 extensive case law in redacting --

1 THE COURT: It was written a few years before the
2 advent of social media.

3 MS. FULLER: But the Constitution still only applies
4 to testimonial statements. I mean ---

5 THE COURT: I realize that. But imagine a
6 hypothetical where there's a text message that the
7 statement, it implicates multiple people including a
8 codefendant. I mean, that's something that might need to
9 be addressed prior to being identified by a witness or put
10 up on a projector.

11 MS. FULLER: Okay.

12 THE COURT: The effect -- maybe I'm wrong, but the
13 effect would still be the same. There would be a hanging
14 inference about somebody who may not -- who may decide not
15 to testify but there's already this thing hanging out
16 there. That's what I want to be -- we have to be careful.

17 MS. FULLER: I completely understand that. And if
18 there is a text message that's in the discovery where
19 either defendant implicated the other, I'm really
20 disappointed that I missed it. So I don't see that, but
21 I'll go back through it if that's the defense suggestion
22 that there's a text message implicating the other.

23 THE COURT: Well, assuming that a lot of these texts
24 do get in, this is not something for the defense. This is
25 something for the Court. I want to make sure ---

1 MS. FULLER: Right. Got you.

2 THE COURT: --- that -- that anything that the State
3 intends to offer has those things in the back of their
4 mind, whether it's custodial or not as far as email or
5 text message, that -- whatever social media apps are
6 involved here. I know there's a lot of them. Or -- I
7 mean, a lot of them out there. I don't mean involved in
8 this case.

9 MS. FULLER: Right.

10 THE COURT: So there's a lot of ways people
11 communicate, and I just want to be aware -- I want us to
12 be aware that we have to -- it's my opinion that we have
13 to be cognizant of those -- any potential risks over any
14 statement.

15 MS. FULLER: Right. And, Your Honor, so much of what
16 I've done in the past prior to calling that witness, I'll
17 approach and let you know that I'm moving in text
18 messages. I don't anticipate having to deal with that
19 until the end of the week, so in order as much as
20 possible. But I'll be prepared to ---

21 THE COURT: Okay. And, again, I'm not trying to ---

22 MR. MAULDIN: Well, I've made everybody aware, and we
23 can address it, I guess, at that time, Judge.

24 THE COURT: Okay. And I'm -- y'all are -- whether
25 you know it or not, you're communicating. So -- all

1 right.

2 MS. FULLER: Thank you, Your Honor.

3 THE COURT: Jackson, do we want to head into Jackson
4 v. Denno now? Are we ready?

5 MS. FULLER: Yes, Your Honor. I wasn't sure if you
6 wanted to take care of some of the other housekeeping
7 ones, but we can.

8 THE COURT: What -- what am I leaving out? Because
9 I've got a lot of notes here.

10 MS. FULLER: The other one that I still have left was
11 the new ballistics report.

12 THE COURT: Okay.

13 MS. FULLER: And then -- but we can do Denno if you
14 want.

15 THE COURT: And that's a ballistics report that is
16 not a duplicate. It's a new set of information.

17 MS. FULLER: Right, Your Honor. So -- and once we
18 received the ballistics report in, I think, was it August
19 of this year, it became very clear that there were three
20 shooters who we allege would be associated from the
21 defendant's side. And once that became very clear that
22 the two weapons we were missing was a 9 mm and a
23 .40 caliber, then we (unintelligible) discussions that we
24 needed to do our best to identify that .40 caliber.

25 (Unintelligible) the State is alleging, based on

1 witness statements and what we can tell, is that
2 Mr. Robertson had the 9 mm. That's the State's position.
3 And so the .40 caliber, when -- in the discovery there is
4 a mention of a person named Boosie, B-O-O-S-I-E. And at
5 one point we thought we were dealing with one person named
6 Boosie. It wasn't until reviewing, I believe,
7 Mr. Robertson's girlfriend's statement in preparing for
8 trial when she indicated she picked him and Boosie up, and
9 I'm like, well, that doesn't make sense because Boosie
10 went to the hospital because Antonio Stroman's nickname is
11 Boosie.

12 From there we had photographs from Facebook where the
13 defendant was with another person. And from their
14 Facebook and from other information, I can tell that he
15 has a friend in the -- or cousin, family member
16 potentially in the Great Falls area, Chester, Lancaster
17 area that also goes by the name of Boosie. And so that's
18 when we realized that we're dealing with two Boosies,
19 because some of the facts didn't jive in terms of whether
20 or not Stroman, what his role was in all of that.

21 From there we submitted a photograph of this person
22 named Boosie and facial recognition because I believe his
23 Facebook page is Fame-Fame, his YouTube is Fame-Fame two
24 times. And so we didn't have his actual name until later
25 we realized we've had the name the whole time. It was in

1 discovery back in 2015. We just didn't make the
2 connection till now. But once we ran it through facial
3 recognition, it came back to an individual named Tyrese
4 White.

5 Investigators then contacted Great Falls area, gave
6 them the nickname Boosie, do they know anybody named
7 Boosie. They also said, well, yeah, there's a Tyrese
8 White. He had charges in a shooting.

9 And so once we got that report, it was a .40 caliber,
10 and I was like this is a long shot. Who would keep a gun?

11 And so at that point they still had their evidence.
12 And so for several weeks, probably over a month, we
13 requested they submit it to SLED to enter into IBIS. And
14 what that system does ---

15 THE COURT: And they is who? You said "they."

16 MS. FULLER: The -- the police department in Great
17 Falls.

18 They submit it to SLED. It took them a long time.
19 They said they had constant shootings. They didn't have
20 time to make it to Columbia to submit in SLED. But
21 anyway, they ultimately made it there, I think, last week
22 -- I think last week. And they entered it into IBIS, and
23 that essentially the Ivan [phonetic] system, which
24 essentially takes all as a national database that has
25 guns, casings in it. And that's how some cases are

1 actually solved. When guns are collected, I know our
2 sheriff's department goes every two weeks and logs it into
3 the system. So the system is constantly checking.

4 So it was Monday -- I think it was Monday of this
5 week we get an email notification that there's a potential
6 lead on their case. Yeah. The holiday's throwing me off.
7 Yeah. It was Monday of this week. There was a lead in
8 the case in Great Falls and our case. And so SLED at that
9 point requested that our evidence go back so they can do a
10 comparison to actually confirm because the leads are just
11 investigative leads. They -- they aren't matches.

12 And then so then we get the call, I think, Tuesday
13 that the shell casings match. In that case in Great
14 Falls, Tyrese White was arrested.

15 THE COURT: This week?

16 MS. FULLER: No. In 2016.

17 THE COURT: I'm sorry. That's (unintelligible),
18 not ---

19 MS. FULLER: He was arrested. He was a named suspect
20 in it. There is other evidence suggesting he's guilty of
21 that crime and possessed that firearm. The firearm was
22 never recovered.

23 And so after that information came back, we received
24 notification of the report was ready on Wednesday. When
25 we -- when we logged in, we didn't see it. Logged in

1 yesterday and the report was there. And so that's when we
2 turned it over confirming that that shell casing that
3 happened about six months after our shooting matched our
4 shooting.

5 At that ---

6 THE COURT: The weapon.

7 MS. FULLER: Huh?

8 THE COURT: Matched the weapon.

9 MS. FULLER: Yes.

10 Also, in the meantime, law enforcement was able to
11 obtain a phone number for Tyrese White based on evidence
12 we had in discovery already. His name was saved in cell
13 phone devices as Boosie and at one point saved as Tyrese
14 White. So truly the name was in the discovery since 2015,
15 just never realized the connection till now.

16 Based on his cell phone information putting him here
17 at the time of the crime, based on cell phone information
18 putting him with Mr. Robertson traveling away and also
19 other information from the -- from the phone records, at
20 that point law enforcement was able to obtain arrest
21 warrants based on that new information for Tyrese White.
22 And so those warrants are now currently outstanding
23 pending his arrest.

24 In terms of the case, the State has always intended
25 to present three shooters. We're contending to go forward

1 with these two. Prior to this week, the identity of who
2 we believe the third shooter was was unknown. So nothing
3 has changed there. Naturally, when the investigator takes
4 the stand, in terms of case investigation and what
5 happens, his third arrest warrant obviously would be --
6 the investigation will be presented.

7 And so the relevance of this new report that came out
8 this week obviously goes towards the case investigation
9 and goes towards the arrest of the third individual once
10 he is located.

11 THE COURT: And that's the third individual involved
12 in the allegations in this case.

13 MS. FULLER: That's correct, Your Honor. That's the
14 State's position.

15 THE COURT: But not to be offered against . . .

16 MS. FULLER: It will be just based on circumstances
17 of the crime, presenting the case as whole and part of our
18 case in chief. Obviously, it doesn't -- we're not
19 alleging that that new case matches any of their guns,
20 what we believed to be their guns. It's just full case
21 presentation.

22 THE COURT: Okay. And just so I'm -- what is --
23 y'all would like that kept out. Explain to me why again.

24 MR. MAULDIN: The State is alleging that Mr. White is
25 an associate of these two.

1 THE COURT: Who's currently not in custody.

2 MR. MAULDIN: Who's currently associate or a friend
3 on Facebook. He's in pictures with him, communicating
4 with him, whatever. Associate and a friend. And they're
5 going to allege that he was there the night of the
6 shooting, he was the third shooter.

7 Okay. They are alleging that these shells from Great
8 Falls shows that he's the shooter -- the third shooter
9 because they were from a case where he was arrested and a
10 suspect. Okay. The fact that he is arrested is not
11 evidence. I mean, you tell that to the jury at the
12 beginning of the trial that (unintelligible) indicted is
13 not -- the fact that they were a suspect is not evidence.
14 She's not going to be able to get an officer up here like
15 it's a preliminary hearing and just testify about the
16 case. There needs to be some qualified credible evidence
17 that Mr. White was the shooter in that case and therefore
18 left those shells on the ground. There needs to be some
19 evidence from some kind of witness that saw him shoot the
20 gun that left the shells on the ground, not just the
21 officer testifying about what happened in the case similar
22 to a preliminary hearing.

23 Without that credible evidence, I don't think they've
24 laid the foundation that Mr. White shot those bullets --
25 or, you know, shot the bullets that left those shell

1 casings. And if they can't establish that with competent
2 evidence, then it's not relevant. Because just to have a
3 cop testify he was arrested (unintelligible) suspect, I
4 mean, if they have other witnesses that can do that, fine.
5 But we haven't been notified of any of them. We've given
6 a motion of discovery. But it's my understanding that the
7 victim who is the only witness that points at him being
8 the shooter has since (unintelligible) due to other
9 reasons. So just because it's case investigation doesn't
10 mean all kinds of hearsay can come in.

11 So obviously, the fact that they're trying to connect
12 these bullets that were supposedly matching bullets at the
13 scene to that guy who is friends of these guys, that's
14 detrimental to them.

15 THE COURT: Well ---

16 MR. MAULDIN: Also, the charges in Great Falls were
17 dismissed, Your Honor, against Mr. White. That charge
18 was.

19 THE COURT: Okay. All right. Hence but he's got a
20 pending warrant for this situation as we speak.

21 MR. MAULDIN: Yes, sir.

22 THE COURT: I mean -- yes, Ms. Fuller.

23 MS. FULLER: Your Honor, I guess the State's position
24 differs from Mr. Mauldin. Mr. White is not on trial. I
25 don't believe to present full investigation I need to

1 prosecute Tyrese White at the same time. He's not on
2 trial today. Some of their arguments obviously would be
3 down the road. Right now we're just concerned with the
4 admissibility, not the weight. That's for the jury. And
5 so I differ in what I -- what the State's burden would be
6 in full case presentation. It is part of the
7 investigation. The third shooter has -- up until now had
8 not been identified, so that case against the third
9 shooter has always been open. And so I don't agree with
10 defense suggesting that I have to prove Tyrese White
11 guilty today because -- or next week because he is not on
12 trial.

13 THE COURT: Does the State intend to provide the name
14 of the alleged third shooter?

15 MS. FULLER: I can tell your court -- Your Honor
16 this. Prior to even getting that report this week, the
17 State's presentation of the facts would have included
18 Tyrese White's name regardless of warrant for his arrest.
19 Getting this last piece gave law enforcement a little bit
20 more to go ahead and get warrants. But his name was going
21 to be -- come up in this trial.

22 MR. MAULDIN: Well, Your Honor, we can request the
23 State do a proffer at the time it intends to introduce
24 that evidence and see if the proper foundation was laid.
25 I mean, not only do we have -- I believe they have to

1 establish a foundation that Mr. White is the one that left
2 those shell casings in Great Falls -- sorry.

3 THE COURT: She's looking out for you.

4 MR. MAULDIN: I know.

5 But also, there's going to be chain issues as well as
6 to the evidence from Great Falls to SLED for that testing.
7 So, I mean, that's -- that's a whole hoop-dee-doo that
8 we're going -- I guess we'll just deal with it at a later
9 time at an in-camera hearing and a proffer. I'm just
10 making aware that that's going to be an issue.

11 THE COURT: It is. It is. I mean, so the State
12 indicates they were going to use this person's name, but
13 in reality, it sort of fills in a gap that was ---

14 MR. MAULDIN: Well ---

15 THE COURT: --- apparently not -- well, I'm just --
16 that's the reality of it. I mean, that's what they intend
17 to do.

18 MR. MAULDIN: Your Honor?

19 THE COURT: Okay. I mean, to -- I don't know if
20 that's a proper term or not, but fill the gap of what a
21 factfinder might have a question about when they
22 deliberate.

23 MR. MAULDIN: How about we take a break?

24 THE COURT: You're ready for a break, Mr. Mauldin?

25 MS. FULLER: I don't mind a break.

1 THE COURT: Well, listen. I mean, if Mr. Mauldin
2 wants a break, we're going to give him a break. Let's
3 take five minutes.

4 MR. MAULDIN: Before the Jackson v. Denno.

5 THE COURT: Yeah. Well, actually, let's get our
6 ducks in a row on that so we can start that after the
7 break, please.

8 (WHEREUPON, a recess is taken at 10:48 a.m.)

9 MS. FULLER: Your Honor, and briefly, I just want to
10 let the Court know in terms of the requested stipulations,
11 the first portion of what I emailed defense counsel was
12 more so putting them on notice my intent for chain of
13 custody. I haven't received any specific challenges to
14 chain, but the State intends to call the person that
15 collected four -- five categories which are the swabs from
16 the Grand Marquis, the shell casings from the parking lot,
17 the bullet fragments and projectiles from parking lot and
18 all vehicles, GSR kits for Stroman and Brannon and guns
19 and the following processing at SLED. The State intends
20 to call the witness that collected them and then go to
21 expert testimony.

22 The ones that I did need specific stipulations for
23 would be Robertson's buccal swab, Brannon's buccal swab
24 and Andy Barnes' buccal swab. But it appears the defense
25 isn't stipulating to that collection. And so I'll just

1 add ---

2 MR. MAULDIN: I am, Your Honor.

3 MS. FULLER: It looks like Defendant Robertson is
4 stipulating.

5 MR. WILLIAMS: All right. We'll stipulate to that on
6 our guy, Your Honor.

7 MS. FULLER: All right. Your Honor, I think we may
8 not have a problem then.

9 The State's ready for Denno.

10 THE COURT: All right. Just to be clear, you're
11 stipulating on the buccal swabs.

12 MR. WILLIAMS: We are.

13 THE COURT: But we are not stipulating on Items 1
14 through 5 that the solicitor just -- the swabs from the
15 Grand Marquis ---

16 MR. WILLIAMS: We're not stipulating to the jump
17 going from the collection all the way to the expert's
18 testimony.

19 MS. FULLER: And, Your Honor, we can argue that down
20 the road, but I really don't need their stipulation.

21 THE COURT: Okay. Thank y'all for stipulating on
22 some of it.

23 MS. FULLER: Thank you.

24 THE COURT: All right.

25 MS. FULLER: May I proceed with Denno?

1 THE COURT: Yes, ma'am.

2 MS. FULLER: Thank you, Your Honor. The State calls
3 Investigator -- well, I don't know if I should call you
4 that now. But Spivey. He's since retired. But he was
5 Sergeant Spivey at the time.

6 WHEREUPON,

7 SHAWN SPIVEY,

8 After having been duly sworn, testified as follows:

9 THE CLERK: Once you're seated up there, take your
10 mask off. State your name and spell your last name for
11 the record.

12 THE WITNESS: Okay. My name is Shawn Spivey, last
13 name is spelled S-P-I-V-E-Y.

14 DIRECT EXAMINATION

15 BY MS. FULLER:

16 Q Thank you. Can I still call you Sergeant Spivey? Is
17 that -- all right. Back in June of 2015, where were you
18 employed?

19 A Lexington County Sheriff's Department.

20 Q And what was your responsibility or your duties and
21 your rank back then?

22 A At the time I was major crime investigator, but right
23 before this case, shortly before, I was promoted to
24 sergeant over property crimes. But I had not transitioned
25 over. I think it was that next Monday I was transitioned

1 over to property crimes.

2 Q Okay. And then just for the interest of time, back
3 on June 6th of 2015, did you have an opportunity to
4 interview Donovan Brannon in this case?

5 A I did.

6 Q And how did that come about?

7 A So I initially went out to this apartment complex
8 over in Batesburg based on Lieutenant Frier asking me to
9 go there because it was a victim there that had been shot
10 that was on scene. So I went there. And so as I got
11 there, that's -- I mean, that's how it transpired.

12 Q Okay. And when you arrived there, just so it's clear
13 for the record, did you encounter Donovan Brannon?

14 A I did.

15 Q Okay. And can you explain to the Court what was the
16 custody status at that time?

17 A At the time Batesburg PD, they had him in custody.
18 Not us at the time.

19 Q Okay. And Batesburg Police Department had him in
20 custody. And are you aware of what he was in custody for?

21 A It was public disorderly conduct.

22 Q And at that point, is that when you obtained a
23 statement from him?

24 A No.

25 Q Okay. Go ahead and explain to the Court at what

1 point you obtained a statement from Donovan Brannon.

2 A So out there I was kind of canvassing, talking to
3 different people out there, witnesses. And at one point I
4 got a phone call from Lieutenant Frier saying to respond
5 to Batesburg PD where that's -- that's where Mr. Brannon
6 was located at because we had enough to go ahead and
7 charge him for the murder.

8 Q Okay. And at that point did Lexington County
9 Sheriff's Department take custody of Mr. Brannon?

10 A Yes.

11 Q And did you transport him back to headquarters at
12 that point?

13 A I did.

14 Q Go ahead and explain to the Court, take the Court
15 through that.

16 A So it was -- at this point it was -- it was daylight.
17 I remember it was daylight outside.

18 So I got there and I spoke to an Officer Alewine. I
19 obtained custody of Mr. Brannon. He was asking what he
20 was being charged with. I told him I would explain to him
21 once we got into the vehicle everything he wanted to know.

22 And then once we got into the vehicle, I immediately
23 went over Miranda warnings with him. And I do that based
24 on a statement form. I do this all the time just to make
25 certain I cover all the bases of Miranda.

1 He agreed to talk to me, so then we proceeded to talk
2 after that.

3 Q Okay. And where were you physically at that point
4 when he spoke with you?

5 A Initially, I was in my truck. And then we started
6 transporting from Batesburg back -- back to the sheriff's
7 department.

8 Q And so in transport, did he (unintelligible) you were
9 speaking to him?

10 A He did.

11 Q And at this point he was in custody?

12 A Yes.

13 Q Had he been served with warrants yet or was he just
14 being detained?

15 A He was being detained.

16 Q Though was he free to leave?

17 A No.

18 Q Okay. But you did mirandize him?

19 A Yes.

20 Q Was this recorded in any way?

21 A No.

22 Q Did he make any threats or promises in that moment
23 while you spoke to him?

24 A No.

25 Q Did he appear to be intoxicated in any way?

1 A He said earlier he had been drinking, but at the time
2 he appeared to be sound body/mind. He didn't appear to be
3 unable to answer questions.

4 Q But he did not appear unable to answer questions.

5 A No. He -- he seemed -- he seemed to be fine.

6 Q Okay. And in your communications with him, did any
7 other (unintelligible) earlier being intoxicated appear to
8 (unintelligible) his ability to communicate with you in
9 any way?

10 A No.

11 Q Anything about his mental state or any information
12 that you may know about him appear to influence his
13 ability to communicate with you?

14 A No.

15 Q And based on -- to the best of your knowledge, did he
16 appear to communicate with you freely and voluntarily?

17 A Yes.

18 Q Did -- was he ever denied any water, food, drink or
19 anything of that nature?

20 A No.

21 Q Any threats?

22 A No.

23 Q Any promises?

24 A Nope.

25 Q Now, eventually, you get back to the Lexington County

1 Sheriff's Department; is that correct?

2 A That's correct.

3 Q And did you obtain any -- a written statement from
4 him at that point?

5 A I did.

6 Q And I'm going to show you what's marked as Court's
7 Exhibit 1 for the purpose of this hearing. I'm going to
8 ask if you recognize it.

9 A I do.

10 Q And what do you recognize that to be?

11 A This is a suspect's statement form that we obtain
12 before interviewing somebody.

13 Q Okay. And whose statement form is that?

14 A This is Donovan Brannon.

15 Q And how do you recognize that as his statement form?

16 A It has his name on it, his signature, and his
17 initials beside Miranda that I had read to him.

18 Q Okay. And how do you recognize this as a form that
19 you read to him?

20 A Because I've used it many times.

21 Q And is your name also on there?

22 A It is.

23 Q Okay. At this time can you go ahead and publish the
24 rights that you would have advised Donovan Brannon of?

25 A So -- and I always initial beside anytime I read

1 rights just so -- just to clarify that I don't miss
2 anything. So I read: I have the -- you have the right to
3 remain silent. Anything you say can be used against you
4 in a court of law. You have the right to talk to a lawyer
5 for advice before I ask any questions and have him or her
6 present with you during questioning. If you have no money
7 for a lawyer's fees, the Court will appoint one to
8 represent you without any cost if you wish. If you decide
9 to answer any questions now without a lawyer present, you
10 still have the right to stop answering questions at any
11 time. You also have the right to stop answering questions
12 at any time until you talk to an attorney. Basically, do
13 you understand these rights?

14 Q And did he appear to understand the rights that you
15 advised him of?

16 A He did.

17 Q Did he verbalize that or -- or acknowledge in other
18 ways that he understood his rights?

19 A He said that he would talk to me.

20 Q Okay. And also, looking at this statement form, did
21 he also initial these rights?

22 A He did.

23 Q And he did that in your presence?

24 A Yes.

25 Q And did he go ahead and waive his right to an

1 attorney and speak with you?

2 A Yes.

3 Q And if you can, just publish for the Court his
4 narrative portion of the -- of his statement.

5 THE COURT: Madam Solicitor, do you have an extra
6 copy? Thank you. I just want to know what we're saying.

7 THE WITNESS: It says: Me and my cousin Antonio
8 Stroman was riding trying to find some -- somewhere to go.
9 So -- so we was like let's go to The Spot. So we went and
10 had a couple of drinks. We got there around 12:30, 1:00.
11 We drank a little more in the club.

12 On -- on -- on the way out, we had my lady friend
13 take -- taken to us -- talking to us. Then she walked
14 off. So we got in the car. That's when Sunshine told my
15 cousin Antonio, and he's got in parentheses, Fuck you,
16 pussy boy, end quote. I was like go ahead, bro. Keep
17 going. So he kept -- we keep going.

18 As we was pulling out, I heard two shots hit the car.
19 That's when I returned fire. And we was leaving all at
20 the same time so I didn't know if I hit anybody or not. I
21 was scared for my life.

22 That's the first page.

23 BY MS. FULLER:

24 Q Okay. And (unintelligible) the first page. Now, the
25 statement is four pages long; is that correct?

1 A That's correct.

2 Q And what is the -- what are the contents generally of
3 the following three pages?

4 A The rest of them are question and answers.

5 Q Okay. So in terms of his first -- on the first page,
6 that statement, whose handwriting is that?

7 A That is his handwriting.

8 Q Okay. And when he was writing that statement, did he
9 do that entirely in your presence?

10 A He did.

11 Q And at the time back in 2015, was this interview
12 recorded?

13 A No.

14 Q Audio or video?

15 A No.

16 Q Okay. But you observed him write this at that time.

17 A I did. And he initialed beside the beginning and the
18 end of his statement.

19 Q And when he wrote that portion, did he appear, to the
20 best of your knowledge, to be making those statements in
21 writing, that statement freely and voluntarily?

22 A Yes.

23 Q Okay. And now looking at page 2 and 3 and 4, can you
24 explain to the Court what are the general contents of
25 these pages?

1 A So generally, what I do is after they write their
2 initial statement, then I'll -- if I have additional
3 questions, then I'll ask questions and I'll have an answer
4 section for him based on the questions that I ask. And
5 then he initials beside his -- his answers that he put in
6 himself.

7 Q Okay. And if you can publish to the Court what
8 questions you asked and then his answers.

9 A So the first question I did was: When you left the
10 club, when did you realize that your cousin Antonio
11 Stroman had been shot and how did you know this?

12 His answer was: I realized he was shot when we got
13 halfway from the club. And I know he was shot because --
14 because he said, I'm hit, cuz. And I responded, Hold on
15 in there. We gonna get you some help.

16 And that's the end of that one.

17 Q Okay.

18 A The next one was: When you got to the apartment,
19 Creekview, what happened next?

20 His response was: Pulled -- pulled and waited on the
21 ambulance and prayed my cousin Antonio would be okay.

22 The next question was: When you returned fire, how
23 many shots did you fire?

24 His response, his answer was: Around about four or
25 five shots.

1 The next question was: What kind of gun did you fire
2 and who does it belong to?

3 His answer was: A Ruger that belongs to me, a nine.

4 The next question is: What did you do with this gun?

5 His answer was: I throw it in Creekview when the
6 police pulled up.

7 The next question was: Is the gun you threw the same
8 one we found in the bushes area in front of where you guys
9 were parked?

10 His answer was: Yes.

11 The next question: Whose vehicle were you guys in
12 and where was everyone sitting?

13 His answer: My cousin Antonio. I was behind the
14 driver. Antonio was behind the passenger. I don't
15 remember who was driving. I was drunk a little.

16 That was the end of page 2.

17 Q Thank you. And if you turn to page 3.

18 A All right. So the first question on Page 3: While
19 at the club, did anyone have any problems with Sunshine
20 and what was it over?

21 His answer was: No one had any problems with him.
22 And I don't know what it was over. Only thing I know is
23 Sunshine tried to kill me and my cousin Antonio Stroman.
24 I don't know why.

25 The next question was: Why do you think Sunshine

1 said, Fuck you, pussy boy, in quotes?

2 His answer was: Because Ridge Spring and Batesburg
3 never get along. Always had beef.

4 The next question was: Do you know Sunshine's real
5 name?

6 His answer was: No.

7 The next question: Did anyone in this car with you
8 fire -- anyone else in the car with you fire a gun?

9 His answer was: No.

10 Next question: Did anyone make any promises or
11 threaten you in any way to write this statement?

12 His answer was: Nope.

13 Next question: Did anyone -- did anyone else follow
14 you to the apartment after leaving the club?

15 His answer was: I don't know. Maybe. I was worried
16 about Antonio well-being.

17 The next question: Are you wearing the same clothes
18 you were wearing when you went to the club tonight?

19 His answer was: Yeah.

20 That's the end of page 3.

21 Q Okay. And now if you can publish page 4.

22 A All right. The first question on page 4 is: Is
23 there anything else you need to tell me about what
24 happened that I'm not asking you?

25 His answer was: No, sir.

1 Next question: While at the club prior to leaving,
2 did you approach Sunshine or anyone else and fire any
3 rounds off into the air and then start shooting at
4 Sunshine?

5 His answer was: No.

6 The next question: What kind of vehicle was -- was
7 Cautia Facia [phonetic] in -- and who was she with?

8 His answer was: She was with her cousin Tamekia.
9 The car she was in, I don't know.

10 The next question: Who was Red Nose, in quotes.

11 His answer was: I don't know who that is.

12 The next question: Did anyone pull into the parking
13 lot of the Creekview Apartment driving a dark color SUV
14 and talk with you about changing your clothes?

15 His answer was: Yes. Somebody did pull up talking
16 about clothes, but I don't know who it was.

17 End of statement.

18 Q And then just to be clear, in terms of pages 2
19 through 4, at any point in the Q&A session -- or question
20 and answer session, did the defendant request to stop?

21 A No.

22 Q Did he appear to also answer each of those questions
23 freely and voluntarily?

24 A Yes.

25 Q And did he also appear to write those answers freely

1 and voluntarily?

2 A Yes.

3 MS. FULLER: Your Honor, I believe at this time I
4 don't have any further questions.

5 THE COURT: Okay. Mr. Mauldin?

6 MR. MAULDIN: I don't know if it's my row to hoe on
7 this one.

8 THE COURT: Mr. Williams?

9 CROSS EXAMINATION

10 BY MR. WILLIAMS:

11 Q Just briefly, that's the written statement. Did you
12 transport him in a truck to Batesburg or anything like
13 that?

14 A Yes.

15 Q So when I'm looking at the investigative reports,
16 that's actually your investigative reports of you driving
17 to Batesburg, correct?

18 A When I -- say that one more time?

19 Q It says -- in our investigative report it says: Once
20 in my truck, I read over Miranda warnings with Donovan.
21 He said he understood them and agreed to talk to me. Is
22 that conversation with you?

23 A Yes.

24 Q And in your investigative report, after explaining
25 that there was a shooting, it says: He then made the

1 comment that he should speak with his attorney first.

2 A He did.

3 Q So that occurred as y'all were driving to
4 Batesburg-Leesville, right?

5 A That's whenever we were on our way at this point
6 driving to the sheriff's department.

7 Q All right. And you didn't do any further questioning
8 once he said that, right?

9 A I did. Because at that time, and it says in my
10 supplemental as well, that he made the comment that he
11 should, and so at this point I stopped and asked him, I
12 said, Are you asking that you said you wanted an attorney?
13 And he -- and he didn't answer the question. I then asked
14 him again. I said, I need to know. And I can read you
15 based on what it says in my report.

16 Q That's fine. Go ahead.

17 A Let me find that portion.

18 So when he made that comment, he said -- since I'd
19 heard him make a comment about an attorney I asked him if
20 he wished to talk with an attorney first before talking
21 with me anymore. And he didn't say anything. I explained
22 that I needed to know if he wanted his attorney before we
23 could continue talking about the case. He then began
24 trying to ask me questions about the case. I explained,
25 again, that I would answer his questions; however, he

1 needed to tell me if he wanted his attorney first as we
2 couldn't talk about this case anymore if he did. He then
3 said that he wanted to talk with me without an attorney
4 and see what I had to say.

5 Based on the conversation at the time, based on the
6 flow of the conversation, based on him making the comment
7 I should speak with an attorney was not to me affirmative,
8 unequivocal revocation of his rights. So that's why I
9 asked him more questions based on trying to clarify do you
10 want an attorney at the time.

11 Q All right. And did you have further discussions with
12 him about what happened after that?

13 A We did.

14 Q And what would those discussions involve?

15 A So at this point after he made the comment that he
16 would agree to talk to me without his attorney, he didn't
17 want his attorney, then we started talking about what
18 happened at the club. And so I could read in there, I
19 said: Well, driving down the road I was asking him about
20 the incident. I told him that investigators were on scene
21 speaking with witnesses and that I was being told -- told
22 that it was said that he shot Sunshine. After talking
23 with him for a little while about this, Donovan said that
24 he fired his gun after they fired at him first. He
25 said ---

1 Q Let me stop you there.

2 A Okay.

3 Q So essentially, this is an oral statement much akin
4 to the written statement. It's identical, would you say?

5 A Sure.

6 MR. WILLIAMS: Okay. Based on that we have no other
7 questions.

8 THE COURT: All right. Any redirect?

9 MS. FULLER: Besides we'll just finish publishing the
10 statement since he went into it.

11 REDIRECT EXAMINATION

12 BY MS. FULLER:

13 Q Sergeant Spivey, you can just finish publishing the
14 rest of the conversation in the vehicle for the record.

15 THE COURT: I thought we went through page ---

16 MS. FULLER: No. It's the oral statement in the
17 car.

18 THE COURT: Oh. Excuse me.

19 MR. WILLIAMS: Your Honor, I guess I don't really
20 have an objection to the written statement as being
21 introduced if that's what's being introduced.

22 MS. FULLER: Right. I'm just going to finish
23 publishing.

24 THE COURT: I think what she's doing is she's -- I
25 may have made her -- divert her. I can't remember as far

1 as when he was talking about what the defendant verbally
2 told him in his presence. But okay.

3 THE WITNESS: So at this point he said he fired at
4 him first. He said that as they were leaving out of the
5 club, Sunshine yelled at his cousin Antonio making the
6 comment, Fuck you, pussy -- fuck you, Antonio, you pussy,
7 in quotes.

8 He said he told his cousin not to worry about what he
9 said and to get in the car. He said that while they were
10 leaving, he heard two gunshots strike the vehicle they
11 were in; therefore, he leaned out the window he was next
12 to, which I have in parentheses "back seat behind the
13 driver," and fired approximately four shots from his gun.

14 I asked him if this -- if this gun he fired was this
15 that he was shooting, and he said it was. I asked him if
16 he threw -- if he threw it in the bushes by the building
17 where they parked the car they were in at, and he said
18 yes. He said when the police showed up, he walked over to
19 the bushes and threw it there. He said that it was a
20 Ruger 9 mm handgun.

21 Get to page 5. It says: Shortly after we arrived at
22 headquarters, I told him I wanted to go into an interview
23 room and continue talking with him, and he said okay.
24 While in the room, I asked him for his number. He
25 provided me with his phone number 803-604-9198. This be

1 known that this number is different than the one he wrote
2 on his statement as his. On his statement he ended up
3 writing it was 803-809-3558. The number listed -- the
4 other number he listed was the number he said was his mom
5 Simone.

6 I then continued talking with Donovan about what
7 happened. He said that he went out to The Spot with his
8 girlfriend/friend, Kashia [phonetic] Norris, as they were
9 having a party out there. I asked if it was for Dre, and
10 he said no, that it was a normal party. He said they got
11 out there approximately 12:30, 1:00 and stayed for
12 approximately two to three hours drinking.

13 He said they ended up meeting his cousin Antonio
14 Stroman at the party. He said that he saw Q, unknown real
15 name, when they were leaving.

16 When they went to leave out the club they left with
17 some girls. He said that -- that -- he said one of the
18 girls was Kashia Norris and the other one is her cousin
19 Tamekia [phonetic], unknown last name. He said the girls
20 got into a separate vehicle than them.

21 They were getting into the car to leave. He yelled
22 -- he said Sunshine yelled out, in quotes, Fuck you,
23 Antonio. He said that he told Antonio to keep riding and
24 to not worry about it. He said he was in his car at this
25 point.

1 While leaving out, he said he heard two bullets hit
2 the vehicle they were in; therefore, he leaned out his
3 vehicle and fired four to five shots back towards
4 Sunshine. He said he didn't know if he hit anyone or that
5 anyone was dead until I told him. He said he was scared
6 and had been drinking. He said he didn't know Antonio got
7 shot yet.

8 He said after he put his head back in the car,
9 Antonio said, in quotes, Cuz, I'm hit, end quote. He told
10 him that they were going to get him to the hospital, so
11 they drove to Creekside Apartments.

12 He said that he was the one that called 9-1-1 and
13 did so on Stroman's phone. But when we were talking
14 later, before writing his statement, he said he didn't
15 know who called 9-1-1 but said they arrived pretty quick.

16 He said he threw the gun he used to shoot at the
17 people by the bushes in front of where his car was. He
18 said he slipped over to the bushes when Batesburg PD
19 showed up. He said that the gun was his and it was a
20 Ruger 9 mm. He said that when EMS showed up, he dealt
21 with them.

22 I asked Donovan about the vehicle they were in. He
23 said that Antonio just bought it recently.

24 Donovan then agreed to write a statement. While he
25 was writing a statement, he changed that he went to the

1 club with Kashia Norris to that he went to the club with
2 Antonio and that he -- that he now met Kashia there. He
3 also said that Kashia and her cousin left in Kashia's car
4 but didn't know what kind of car she drove.

5 I then began asking Donovan about what the witnesses
6 were telling the other investigators about him shooting in
7 the air. He said this was not true.

8 I asked him where everyone was sitting at in the car,
9 and he said that he was behind the driver's seat, Antonio
10 was behind the passenger's seat in the back. I asked him
11 who was driving, and he said he didn't know. Earlier he
12 said that it was Q, but now he said that he had been
13 drinking and can't remember.

14 It should be known that Donovan appeared fine while
15 talking with me.

16 I asked him about a guy named Red Nose, and he said
17 he didn't know who he was.

18 I asked -- I also asked Donovan about him changing
19 clothes per a witness. He said he didn't change any
20 clothes and that he had on the same ones from earlier. He
21 said that someone did pull up and tell them they needed to
22 change their clothes, but he said they didn't and he
23 didn't know who they were.

24 Donovan then agreed to write a statement.

25 And then the last part was: Once Donna walked

1 Donovan over to LCDC, which is Lexington County Detention
2 Center, while there, based on policy to charges, he had to
3 do a strip search. While doing the search, Donovan had
4 two pair of socks on each of his feet. I asked him why he
5 had two pairs of socks on, and he said his shoes were too
6 big.

7 As he was removing the socks on his right foot, he
8 pulled one sock off at a time. When he went to pull the
9 second sock off on his right foot, he pulled out a small
10 bag containing green leafy items from his second sock. He
11 then said that he forgot he had this ---

12 THE COURT: Is this -- hold on. This is on account
13 of the statement, account of the inventory search that
14 occurred at the ---

15 THE WITNESS: Yes. So this is -- I mean ---

16 MR. WILLIAMS: Judge, I guess I'm going to object. I
17 don't know what -- what these statements for the Jackson
18 v. Denno purposes if we're talking about the socks and the
19 marijuana.

20 THE COURT: He -- I think he just continued to read
21 his report.

22 MR. WILLIAMS: Okay, okay.

23 THE COURT: It's all in here. That's fine in here.

24 MR. WILLIAMS: Okay, okay.

25 THE COURT: Madam Solicitor.

1 MS. FULLER: Thank you.

2 BY MS. FULLER:

3 Q And while -- during the time that he was making the
4 statement, did he ask clearly for an attorney?

5 A No.

6 Q When you were in the vehicle with him and you asked
7 him multiple times if he wanted to proceed without an
8 attorney, did he indicate that he would?

9 A Yes.

10 Q And he made these verbal statements to you.

11 A Yes.

12 Q Is that correct?

13 A That's correct.

14 Q And then when -- the time you showed -- you provided
15 him with written statements, you again advised him of his
16 Miranda rights?

17 A Yeah. We went over the rights that I had went over
18 with him so that he could initial beside that he
19 understood those.

20 Q So you advised him of his rights more than
21 (unintelligible)?

22 A Uh-huh. That's correct.

23 Q And he indicated that he understood them?

24 A Yes.

25 Q And he waived his rights?

1 A That's correct.

2 MS. FULLER: I think that's it, Your Honor.

3 THE COURT: Any recross?

4 MR. WILLIAMS: Perhaps it might be easy just to ask
5 the solicitor, are all these statements that we're
6 intending to introduce the written statement?

7 MS. FULLER: For the purpose of the Denno hearing,
8 Your Honor, they did -- arguing that both the oral
9 statements and the written statements were made freely and
10 voluntarily.

11 THE COURT: I would like a summary of whatever he
12 read and what the verbal statement was just so I can have
13 something to dwell. So -- and I don't want to put words
14 in your -- Mr. Williams?

15 MR. WILLIAMS: Go ahead. Go ahead, Judge.

16 THE COURT: Well, no. I don't think you have an
17 objection to the written statement, but you may ---

18 MR. WILLIAMS: I have -- I don't have an objection to
19 the written statement. It was all the other stuff that
20 was kind of being danced around. I'm okay with the
21 written statement.

22 THE COURT: Okay. Well, but you're not okay with ---

23 MR. WILLIAMS: No.

24 THE COURT: --- the verbal statement.

25 MR. WILLIAMS: And I can ask some follow-up

1 questions?

2 RECROSS EXAMINATION

3 BY MR. WILLIAMS:

4 Q Was it recorded in any way?

5 A No.

6 Q Not -- were you at the sheriff's department when
7 these conversations were going on or was it inside your
8 car?

9 A No. We actually went to the interview room.

10 Q So you were in the interview room where?

11 A At the sheriff's department.

12 Q And they have -- they have the capacity to video and
13 to take -- and take sound samples of interviews, don't
14 they?

15 A At the time, no, we didn't do that.

16 Q You didn't at the time?

17 A No.

18 Q All right. When did they change that?

19 A I don't know. When I was still there, they -- we
20 didn't do -- we didn't do that.

21 Q Was that a policy of the sheriff's department?

22 A What's that? To ---

23 Q Not to have video back then and not to have audio?

24 A We just -- we just didn't have it. I mean, we didn't
25 do it, so . . .

1 Q So was the statement about the attorney, was that --
2 that was in the car, right?

3 A That's correct.

4 Q Was that -- did that happen at the sheriff's
5 department?

6 A That was inside the car.

7 Q When did -- when did his oral statements -- was it
8 just a continuation? You got into the sally port and you
9 were still talking. You got out. You opened the door and
10 you ---

11 A No. When you look at my supplemental, it states when
12 we got to the sheriff's department, I then asked -- I then
13 advised him that I would like to continue talking to him.
14 So that's when he agreed. He said okay. We went into the
15 interview room to talk.

16 Q And was anyone present with you when you were giving
17 -- taking these statements? Just you and him?

18 A Just me.

19 Q All right. And no recording?

20 A No.

21 MR. WILLIAMS: That's all I have.

22 THE WITNESS: Am I good?

23 THE COURT: All right. The witness may step down.

24 Thank you.

25 MS. FULLER: Thank you, Your Honor.

1 THE COURT: As far as the verbal portion, I'd like to
2 review the report he was reading from. Assuming that that
3 statement is deemed voluntary and admissible, I would ask
4 that at trial it be -- the questions elicit the responses
5 of what the defendant did and not just a recitation of
6 what the investigative report says. Does that make sense,
7 Mr. Spivey?

8 MR. SPIVEY: (Unintelligible.)

9 THE COURT: All right. Okay. Thank you. So just so
10 I'm clear, I need to focus in between the orange lines.

11 MS. FULLER: That's correct.

12 THE COURT: All right. I'll look over the
13 supplemental report. But based upon stipulation of
14 counsel, the handwritten statement from Mr. Brannon
15 provided to Mr. Spivey be deemed admissible and voluntary.

16 MR. WILLIAMS: That will be Number 3, Your Honor, of
17 the list of stipulations. Not that I'm keeping up with
18 them, Your Honor.

19 THE COURT: I'm waiting for when you say now I've
20 already done enough stipulations.

21 Ready for our next statement?

22 MS. FULLER: Your Honor, do you want argument?

23 THE COURT: Well, okay. I can take -- I just wanted
24 to look over -- I was going to frankly hold the verbal
25 part under advisement. I wanted to just move on to the

1 next statement.

2 MS. FULLER: Okay. Oh, we can. But before you rule,
3 are we going to be able to argue?

4 THE COURT: Sure.

5 MS. FULLER: Oh, okay.

6 THE COURT: I just -- you know what? Go ahead and
7 argue now.

8 MS. FULLER: No, no, no. I'll do whatever you want.
9 No. He's challenging the verbal part.

10 THE COURT: The verbal. And I hadn't . . .

11 MS. FULLER: We can do it later, Your Honor. I can
12 move onto the next (unintelligible). I just wanted to
13 make sure.

14 THE COURT: Yeah. Let's do the next witness and then
15 we'll do all the argument at the end.

16 MS. FULLER: Okay. Thank you, Your Honor. At this
17 time we call John Moore.

18 THE COURT: Did Mr. Brannon get -- is this for the
19 next -- the other defendant or is this for another one
20 for Brannon?

21 MS. FULLER: It's for the next defendant.

22 THE COURT: Okay. All right.

23 MS. FULLER: I'm not -- for Donovan Brannon I have no
24 more additional witness.

25 THE COURT: Okay. Just making sure.

1 MS. FULLER: Well, I guess just to be safe, does the
2 defense have witnesses for Brannon? And then we can go
3 into Robertson.

4 MR. WILLIAMS: We have no witnesses.

5 THE COURT: Okay. All right. We'll move on. Thank
6 you.

7 WHEREUPON,

8 JOHN MOORE,

9 After having been duly sworn, testified as follows:

10 THE CLERK: Have a seat and take your mask off.
11 State your name and spell your last name for the record.

12 THE WITNESS: Name's John Moore, last name M-O-O-R-E.

13 DIRECT EXAMINATION

14 BY MS. FULLER:

15 Q And where are you currently employed?

16 A I'm employed with the Lexington County Sheriff's
17 Office as a detective.

18 Q And back in 2015 where were you employed?

19 A Lexington County Sheriff's Office as a detective.

20 Q And just jumping straight into this particular
21 defendant Shantrez Robertson, Detective Moore, back on
22 June 9th of 2015, did you have an opportunity to interview
23 Mr. Robertson in this case?

24 A I did. Detective Marthers and I both did.

25 Q And go ahead and describe to the Court the

1 circumstances of this interaction.

2 A On June 9, 2015, about 6:30 at night, my sergeant
3 Jessie Lance asked me to sit in on an interview that
4 Detective Marthers has. I went to the interview room and
5 met Detective Marthers at Interview 1 room. He gave me a
6 briefing of what's going on with his case. They -- he
7 said he had a shooting case in Batesburg at a club, may be
8 or appeared to be gang related, and that Mr. Robertson was
9 coming in as arrested by the Fugitive Task Force at the
10 time.

11 Q So back on June 9th of 2015, is it safe to say his
12 custody status was arrested and detained?

13 A He was arrested and detained, that's correct.

14 Q And he was not free to leave?

15 A Not free to leave.

16 Q And at that time during the interview, did you advise
17 him of his Miranda rights?

18 A I did. I -- I read his rights to him. When he came
19 into the interview room, I let him sit down. I introduced
20 myself, Detective Marthers. I read him his Miranda rights
21 by each line. After he acknowledged each line that he was
22 -- he knew the right and understood it, he signed and I
23 signed by each line and went down each one of them.

24 Q Okay. And at the time of advising Mr. Robertson of
25 his rights, did he appear to be intoxicated in any way?

1 A Oh, no, no. He was calm and settled.

2 Q Did he appear to be under the influence of anything
3 mental or anything that would impair his ability to
4 understand his rights?

5 A No. Absolutely not.

6 Q Okay. And to the best of your knowledge, did he
7 agree to speak with you that day?

8 A He did.

9 Q And did he speak freely and voluntarily?

10 A He did.

11 Q And I'm going to hand you Court's Exhibit 2 and ask
12 you if you recognize it.

13 A I do. It's our standard statement form with the
14 Miranda rights on it, and it's giving the date and time.
15 We're at the sheriff's office. Gives his name, 20 years
16 of age, his date of birth and his address at the time and
17 his phone number.

18 Q And the address at the time, who would have provided
19 that information?

20 A He would have.

21 Q Okay. And the phone number at the time, who would
22 have provided that information?

23 A He would have.

24 Q Is there an alternate contact on there?

25 A There is, there is.

1 Q And who was that?

2 A Charlene Walker.

3 Q And who would have given that information?

4 A He would have.

5 Q And whose handwriting is that information in?

6 A That's mine, that's mine.

7 Q Okay. And was there a phone number for Ms. Walker?

8 A It is.

9 Q And who would have provided that information?

10 A I wrote down the information, but he provided it to
11 me as it was going.

12 Q Okay. And the phone number that Mr. Robertson
13 provided you, what is that phone number?

14 A 803-379-7913 for Charlene Walker.

15 Q And the other phone number he provided you?

16 A 803-801-0408 as his.

17 Q Okay. And did he provide an address, you indicated?
18 You indicated he provided an address?

19 A Yes, he did. In Winnsboro, South Carolina.

20 Q In terms of advising of his rights, did he verbalize
21 or simply -- did he initial acknowledging he understood
22 his rights?

23 A Yes.

24 Q And did he verbalize that as well?

25 A He did.

1 Q And can you publish for the record what rights you
2 advised him of?

3 A I will. Thank you. Number 1, you have the right to
4 remain silent. I asked him do you understand that? He
5 initialed it. I signed it.

6 Anything I say can and will be used against you in a
7 court of law. Same way. He initialed that. I signed it.

8 I have the right to talk to an attorney for advice
9 before asking any questions and have him or her present
10 during any questions. He understood that. He signed it.
11 I signed it.

12 If I have no money for a lawyer, the Court will
13 appoint one and represent me without cost to me if I wish.
14 He signed it, I signed it.

15 If I decide to answer questions now without a lawyer
16 present, I will still have the right to stop answering
17 questions at any time. I also have the right to stop
18 answering questions anytime until I have talked to a
19 lawyer. He understood that completely. We both signed
20 it.

21 And there we go. He says at the end: I have read
22 the statement of my rights and understand my rights. He
23 initialed it. And he said: I make the further following
24 statement.

25 And at this point we set down everything and the

1 floor is basically open to him, whatever he wanted to say
2 at that point.

3 Q And after you advised him of his rights, did he waive
4 his right to counsel at that point?

5 A He did.

6 Q And after communicating, he initialed, acknowledged
7 as well?

8 A That's right. He did.

9 Q And then just for the record, he initialed
10 acknowledging each and every one of his rights.

11 A Absolutely.

12 Q And did his waiver of his rights appear, to the best
13 of your knowledge, to be freely and voluntarily made?

14 A Yes, ma'am.

15 Q Okay. Were any threats or promises made to him?

16 A No, ma'am.

17 Q Were there any withholding of any essentials that he
18 may have asked for, the water or bathroom or anything of
19 that nature?

20 A No. During my interviews with people, I like to make
21 sure that they're comfortable and know everything that's
22 going on.

23 Q And after you advised him of -- after you advised him
24 of his rights, did he go ahead and speak with you guys?

25 A He did.

1 Q Did he verbally speak with you or did you write a
2 statement?

3 A Verbally.

4 Q Did he ever write a statement (unintelligible)?

5 A No, ma'am. He didn't write a statement. He said
6 before he'd write a statement, he'd like to talk to an
7 attorney.

8 Q Okay. And at the point that he verbally spoke with
9 you, did he request an attorney?

10 A No.

11 Q Okay. And so after he spoke with you, is that when
12 you asked him to write a statement?

13 A I did. After he gave us a -- his brief involvement
14 here going down what he did that night, I asked him to put
15 it on paper, and he preferred not to. He preferred at
16 that point to talk to an attorney after our interview was
17 over with.

18 Q Okay. And at that point, did you terminate the
19 interview?

20 A I did.

21 Q At any point after he asked for an attorney, did you
22 obtain any additional statements from him?

23 A No, ma'am.

24 Q And so all the information you obtained from him was
25 prior to him requesting an attorney.

1 A That's correct.

2 MS. FULLER: Okay. Your Honor, that's it for this
3 witness. I'll publish the statement with the next
4 witness.

5 THE COURT: Very well. Any cross?

6 CROSS EXAMINATION

7 BY MR. MAULDIN:

8 Q Now, you talked about him being arrested by a
9 Fugitive Task Force. Are you aware of the circumstances
10 of his arrest or anything like that?

11 A No, I was not.

12 Q All right. And so you're briefed by Marthers. And
13 just to clarify, the invocation of the right of the
14 attorney came after the verbal statement when you gave him
15 papers that, hey, I want you to write this down.

16 A Yeah. I've had the paper in front of me the whole
17 time in this casual, what happened, what went on at the
18 scene. And I let him -- the floor was open to whatever he
19 wanted to say. And after he said that, I asked him to put
20 down on writing on paper, and he said he'd like to talk to
21 an attorney first.

22 Q But he didn't say that during the talking part, just
23 when he was offered to write.

24 A Right, right.

25 Q And then it was over with.

1 A That's correct.

2 Q As far as you were concerned.

3 A Yes.

4 Q Who was the sheriff at that time? Was it Metts still
5 or ---

6 A I think it was Sheriff Metts still at that time.

7 Q Was there any kind of policy about not recording
8 people's interviews or statement?

9 A We -- we didn't have cameras and audio at that time
10 in the room.

11 Q Well, what about the BJ Quattlebaum case where there
12 were cameras? And that was like early 2000's, wasn't it?

13 A I'm -- I'm not sure about the exact case, but at one
14 time we had cameras and then they took them out. Or one
15 of the rooms had cameras. I'm not sure all of them had
16 it.

17 Q The capability was there and then it was removed at
18 one time for some unknown reason.

19 A Well, out of one room, yeah. There's four -- I
20 believe there's four interview rooms.

21 MR. MAULDIN: All right. I need to bring my reading
22 glasses.

23 No further questions.

24 THE COURT: All right. Redirect?

25 MS. FULLER: Nothing more from this witness, Your

1 Honor.

2 THE COURT: All right. Very well. Next witness.

3 The witness can step down. Thank you.

4 MS. FULLER: Thank you, Your Honor. The State calls
5 investigator Brannon Marthers.

6 WHEREUPON,

7 BRANNON MARTHERS,

8 After having been duly sworn, testified as follows:

9 THE CLERK: Please have a seat. Take your mask off,
10 and state your name and spell your last name for the
11 record.

12 THE WITNESS: Brannon Marthers, M-A-R-T-H-E-R-S.

13 DIRECT EXAMINATION

14 BY MS. FULLER:

15 Q And where are you currently employed?

16 A Lexington County Sheriff's Department.

17 Q And back in June of 2015, where were you employed?

18 A Lexington County Sheriff's Department as a major
19 crimes detective.

20 Q And how long have you been a major crimes
21 (unintelligible)?

22 A At that point a little less than six months.

23 Q On (unintelligible) on June 9, 2015, were you present
24 for an interview with Investigator John Moore of the
25 Defendant Robertson in this case?

1 A Yes, ma'am.

2 Q And can you explain to the Court your nature of
3 involvement and the circumstances of the interview?

4 A As far as my involvement, I was the lead investigator
5 assigned to the case. With all that was going on at the
6 time that I was notified that Mr. Robertson was taken into
7 custody, I asked for a second person to be in the
8 interview since I was still fairly new to the unit. And
9 Detective Moore was willing to sit in with the interview
10 and help me through it.

11 Q Okay. And were you present when Detective Moore
12 advised Mr. Robertson of his Miranda rights?

13 A Yes, ma'am. I was present from start to finish.

14 Q Okay. And from your observation, did it appear that
15 Mr. Robertson understood his rights?

16 A Yes, ma'am.

17 Q Did he appear to be intoxicated in any way?

18 A Not to me.

19 Q Did he appear to have any impairments that would have
20 impacted his ability to understand his rights?

21 A None that were noted from me.

22 Q To the best of your knowledge, did he appear to speak
23 with you guys freely and voluntarily?

24 A Yes, ma'am.

25 Q And in terms of the Court's 2 that's there, were you

1 present when he initialed advisements of his rights?

2 A Yes, ma'am.

3 Q And were you present when he initialed waiving his
4 right to speak with you guys?

5 A Yes, ma'am.

6 Q And after that waiver of attorney, did he, in fact,
7 speak with you guys?

8 A Yes, ma'am.

9 Q (Unintelligible) and publish to the Court what he
10 informed you guys about the incident.

11 A Yes, ma'am. He gave us information. He said that he
12 went to the incident location with Mr. Stroman and
13 Mr. Brannon. He continued and provided that he and
14 Brannon had a minor altercation before getting to the
15 club, and while he was there, he wasn't really, from what
16 he said, quote, feeling it, end quote.

17 He called his girlfriend to come pick him up. When
18 we asked who that was, he said it was Jasmine Pringle. We
19 asked where she was -- where she resided at, and he said
20 it was in the Garner's Ferry Road area.

21 Mr. Robertson provided that she came and picked him
22 up somewhere around 2:00 to 3:00 that morning and they
23 went back to her place. And when they got there, it was
24 somewhere around 2:45 to 3:15 in the morning.

25 Once they got back, he stated that he and Ms. Pringle

1 went and engaged in sexual intercourse, and during that
2 time he noticed that his phone was going off but he knew
3 that it was at 2 percent so he didn't pay any attention to
4 it until he was able to charge it later in the morning.

5 Mr. Robertson indicated that he got a text message
6 from the victim's cousin, Mr. Gantt's cousin, stating that
7 there was a rumor indicating that he killed Gantt.

8 Mr. Robertson was asked if he shot Gantt, and he stated
9 that he didn't have a gun and left the club before any
10 altercation took place. Detective Moore did caution
11 Mr. Robertson about lying and bringing Pringle in on it
12 also as she could be facing criminal charges. And he
13 indicated that he wasn't lying.

14 We asked him for Ms. Pringle's number. He provided
15 it to Detective Moore who called her outside the presence
16 of Robertson.

17 After we contacted her, she agreed to come to the
18 sheriff's department. And then Detective Moore asked
19 Robertson to provide a written statement which he refused
20 to provide without speaking to an attorney.

21 At that point we asked Mr. Robertson if he had a cell
22 phone on him. He indicated that he left it at his
23 mother's residence at Winnsboro. And he maintained that
24 he went to Pringle's residence after the incident and it
25 was never -- and he was never present for the altercation

1 despite witness statements being presented to him.

2 With all of the information provided, Detective Moore
3 and I escorted him to booking.

4 Q Okay. And you indicated that he provided Jasmine
5 Pringle's phone number. What was the phone number that he
6 provided?

7 A I don't have it documented on here. 803-767-9149.

8 Q And all this information he provided to you guys
9 prior to requesting an attorney?

10 A Yes, ma'am.

11 Q And after he requested an attorney, did -- did you
12 ask him any additional questions?

13 A Nothing other than he was asking us questions at the
14 same time. He was asking who was the witnesses that
15 placed him at the scene, of course, going through the
16 process of trying to interview him at the same time with
17 him asking for an attorney. He maintained that he was
18 still with Ms. Pringle at the time of the incident. At
19 that point the interview was terminated.

20 Q Okay. And so it's clear for the record, when he
21 requested an attorney before writing a written statement,
22 he then asked you guys questions?

23 A It was not at that specific time, but it was
24 throughout the entire process.

25 Q Okay. But at one point he initiated a question ---

1 A Yes, ma'am.

2 Q --- after asking for an attorney?

3 A Uh-huh.

4 Q But anything else of substance in terms of the facts
5 of this case did he provide after requesting an attorney?

6 A No, ma'am. If there was, I would have documented it.

7 Q Okay. Just so I ask this of you as well, were any
8 threats or promises made to him?

9 A Absolutely not.

10 Q Okay. And he -- to the best of your knowledge, he
11 freely and voluntarily spoke with you?

12 A He appeared to. Yes, ma'am.

13 MS. FULLER: No further questions.

14 THE COURT: All right. Cross-examination.

15 MR. MAULDIN: Thank you, Your Honor.

16 CROSS EXAMINATION

17 BY MR. MAULDIN:

18 Q So during the verbal conversation, you or Detective
19 Moore or both of you were saying, well, witnesses were
20 putting you there. Is that the basic thing or were you
21 providing more?

22 A It was basic information.

23 Q Detailed information ---

24 A Basic information that witness accounts had him
25 there. No, ma'am -- no, sir.

1 MR. MAULDIN: All right.

2 THE COURT: All right.

3 BY MR. MAULDIN:

4 Q So it was just witnesses. Nothing about this witness
5 saw you do this or this witness saw you do that?

6 A Yeah. It was basic information.

7 Q Just that people saw you there?

8 A For the most part.

9 Q Well, what -- what is more than the most part?

10 A That's what I remember.

11 Q You don't remember any specific things being told to
12 him?

13 A I don't remember us going any specific than witness
14 accounts put you at the scene.

15 Q Okay. And so basically, all that he was told was
16 that witnesses put you there.

17 A Yes, sir.

18 Q Okay. He wasn't told that witnesses said he was the
19 shooter or anything?

20 A I don't recall telling him that.

21 Q I just want to make sure there.

22 And the -- okay. Now, you weren't involved in his
23 transportation from Winnsboro to Lexington; is that right?

24 A No, sir. That was done through the Fugitive Task
25 Force.

1 Q Are you aware of any conversations he might have had
2 with those people?

3 A None were expressed to me.

4 Q And had he turned himself in to Winnsboro and they
5 just went and picked him up?

6 A I don't know the circumstances of that. I just
7 received notification from them that he was in custody and
8 they were en route to the sheriff's department.

9 MR. MAULDIN: No further questions, Your Honor.

10 THE COURT: Any redirect?

11 MS. FULLER: None, Your Honor.

12 THE COURT: All right. The witness may -- witness
13 may step down.

14 MS. FULLER: No further witnesses from the State on
15 Robertson (unintelligible).

16 THE COURT: All right. Does that conclude all the
17 Jackson v. Denno witnesses?

18 MS. FULLER: (Unintelligible.)

19 THE COURT: Oh, excuse me.

20 MR. MAULDIN: Your Honor, I don't have any witnesses
21 for this.

22 THE COURT: All right. So that concludes the Jackson
23 v. Denno testimony.

24 MR. MAULDIN: Yes, sir.

25 THE COURT: All right. Will I be able to get a copy

1 of the report that he was referencing? Not -- you don't
2 have to do it right this minute if you don't have it, but
3 I would like one. That's an extra?

4 MS. FULLER: (Unintelligible.)

5 THE COURT: Can we make a quick copy of that?

6 MS. FULLER: Oh, no. I really don't need it. We
7 have plenty of copies.

8 THE COURT: I don't see any notes about opposing
9 counsel on this, so ---

10 MR. WILLIAMS: I would move to strike those, Your
11 Honor.

12 THE COURT: All right. We can hear argument on both
13 of them.

14 MS. FULLER: Thank you, Your Honor. The State's
15 position is that all the statements of both Brannon and
16 Robertson are admissible, Your Honor. The testimony here
17 from three credible officers here, I don't think anything
18 was (unintelligible), that they advised both defendants of
19 their Miranda, they indicated to the Court that both
20 defendants waived their rights, understood their rights
21 and appeared to be intoxicated in any way, and so freely
22 and voluntarily made those statements.

23 In terms of Brannon's oral statements in the vehicle,
24 Your Honor, Sergeant Spivey explained to the Court the
25 nature and the circumstances that Mr. Brannon was in

1 custody and not free to leave. At one point he did
2 mention a lawyer or an attorney, but the State's position
3 is that it was not -- it was an ambiguous indication of
4 his right, Your Honor. And at that point, despite
5 that, Sergeant Spivey took efforts to confirm are you
6 waiving your rights. Even though at that point he could
7 have technically just (unintelligible), but he asked
8 Mr. Brannon do you wish to keep speaking, and he did.

9 Further, in terms of his written statement, Miranda
10 was provided to the defendant again, and again he waived
11 his rights. So the State's position is that both -- all
12 -- not both, but all oral and written statements made from
13 the time he was transported to the time he finished
14 writing his written statement would be admissible, Your
15 Honor.

16 In terms of Mr. Robertson, you had testimony that he
17 was advised of his rights. He obviously was not free to
18 leave but he was advised of his rights and that he
19 acknowledged his rights and waived them and freely and
20 voluntarily spoke to counsel -- I mean spoke to law
21 enforcement. Your Honor, so it's the State's position
22 that both statements of Brannon and Robertson, should the
23 State intend to offer them, that they be admissible.

24 And beg the Court's indulgence.

25 Nothing further, Your Honor, but opportunity to reply

1 if necessary.

2 THE COURT: All right. Mr. Williams.

3 MR. WILLIAMS: Your Honor, obviously, our first
4 stipulation was as to the written statement.

5 THE COURT: Yes, sir.

6 MR. WILLIAMS: In regards to the oral statement, the
7 only thing that really gives us any type of heartburn is
8 the fact that he did ask to speak with an attorney, and
9 it's not -- it's not documented. There's no protection
10 for him other than just the statements that were made by
11 the police officer that at some point in time he went into
12 the statement that -- what occurred.

13 It would be better, though, if those statements, when
14 Your Honor looks at them, when they're gleaned out, that
15 he explain which statements were made while he was in the
16 car and which statements were made when he was at the
17 sheriff's department, because it appears that they have
18 mixed them up on the stand.

19 THE COURT: I didn't -- I tried to get ahead of that,
20 Mr. Williams ---

21 MR. WILLIAMS: Yes.

22 THE COURT: --- by asking counsel to try to elicit
23 testimony and questioning to ensure that the verbal is --
24 there's sort of a line of demarcation between the written
25 and the oral statement.

1 MR. WILLIAMS: Yes, sir.

2 THE COURT: Anything else as far as ---

3 MR. WILLIAMS: No. No, Your Honor.

4 THE COURT: All right. Mr. Mauldin.

5 MR. MAULDIN: Your Honor, I don't think I have any
6 issues as to the Jackson v. Denno aspect of the testimony;
7 however, there are some things that came up that are
8 concerning to me. The fact that Mr. Robertson declined to
9 write a written statement is obviously an indication of
10 his rights post-Miranda, and I think no mention should be
11 made that he was offered an opportunity to write a
12 statement and declined to do so, because that would be a
13 comment on his ---

14 THE COURT: Silence.

15 MR. MAULDIN: --- post-arrest silence, Your Honor.
16 So I would want any mention of that stricken.

17 And they're talking about him being picked up by the
18 Fugitive Task Force. When I -- people might look at --
19 you might look at me (unintelligible), the solicitor might
20 give me the stink eye, but when I hear the word
21 "fugitive," I'm thinking of Richard Kimble, somebody
22 that's on the active run from the law. And the best that
23 I know, these guys didn't know is that he turned himself
24 in at the Winnsboro Police Department and the Fugitive
25 Task Force just went to pick him up and bring him back. I

1 think that word does have negative connotations
2 (unintelligible) parlance in that he wasn't actively on
3 the run, just that he lived in Winnsboro. I don't know --
4 just say that officers picked him up, and not a fugitive
5 (unintelligible).

6 THE COURT: Mr. Mauldin always has interesting -- I
7 don't know how I can get through the rest of the day
8 without thinking of Harrison Ford and Tommy Lee Jones.
9 Anyways . . .

10 MR. MAULDIN: And for the part about them telling him
11 you're lying, you'd better not lie, the police telling him
12 that, that kind of is their opinion about whether or not
13 he's telling the truth.

14 THE COURT: You also have to ---

15 MR. MAULDIN: That's really ---

16 THE COURT: We dealt with this in September with
17 State v. Washington, which we dealt with ad nauseam.

18 MR. MAULDIN: Okay.

19 THE COURT: We have to -- I'd have to go back and
20 look at it again, but we have to be mindful of ---

21 MR. WILLIAMS: State v. Washington, Your Honor.

22 THE COURT: Fair enough.

23 MR. MAULDIN: Okay. And that's all I had. That's
24 all I have, those three things.

25 MS. FULLER: Yes. (Unintelligible) dealing with

1 (unintelligible), Your Honor, the State will not elicit
2 testimony that you -- of the officer's comment that don't
3 lie. (Unintelligible.)

4 And then should the State intend to offer these
5 statements, the word "Fugitive Task Force" we can remove;
6 however, we do plan to present testimony of date of the
7 incident and the date he's questioned. So the three day
8 there, I think that's fair game. I won't -- we won't
9 mention the fugitive (unintelligible) picked him up.

10 THE COURT: I think -- yeah. I think -- well, I
11 think basically that, you know, after turning himself in,
12 he was transported to Lexington County Sheriff's
13 Department by law enforcement. Who else was going to do
14 it? I think we can ---

15 MR. MAULDIN: I think SLED did it.

16 THE COURT: Well, who -- well ---

17 MS. FULLER: I'm not getting into it, Your Honor.

18 THE COURT: Okay.

19 MS. FULLER: I was just doing that briefly for the
20 record just to let you know that (unintelligible) is a
21 nonissue.

22 In terms of the oral statement from Mr. Brannon, Your
23 Honor, I do stand by my statements. I do believe that the
24 testimony, in my opinion it was clear what was in the
25 vehicle versus what was written when there was any verbal

1 comments while he was riding. But if Your Honor needs to
2 hear that again, I don't mind. But it's in the report we
3 handed up and the written statement. But I didn't -- I
4 didn't glean any -- or I didn't glean any issues with how
5 he presented versus what was in the car or while he was
6 walking, what was in the interview room.

7 THE COURT: After we conclude this, are we almost
8 done, essentially? All right. Let's take a short break.

9 (WHEREUPON, a recess is taken at 12:01 p.m.)

10 THE COURT: Under Jackson v. Denno I take a look at
11 the totality of the circumstances and whether the State
12 has met the burden for admissibility for the jury to be
13 able to see at trial. Ultimately, if they're admitted,
14 then the jury has really the final word on whether the
15 statements are what they say they are and whether they --
16 they weigh the credibility of it at that time.

17 I believe that really the only thing left to discuss
18 was the oral statement that was provided. I think under
19 the circumstances that Mr. Spivey laid out the dialogue
20 regarding the mentioning of attorney, invoking his right
21 to counsel. I thought it was adequately addressed, that
22 it was not an unequivocal right and that -- excuse me --
23 assertion, excuse me. I misspoke. That any confusion
24 that there may have been was clarified by the dialogue
25 between Detective Spivey and Mr. Brannon, and I believe

1 that the verbal statement -- the statements verbally given
2 by the defendant would also be admissible at trial.

3 Unequivocal assertion of the right is what I meant to
4 say, Mr. Williams.

5 So obviously, the stipulation on the written portion
6 has already been dealt with and I don't think you had an
7 objection.

8 MR. MAULDIN: I didn't have any motion ---

9 THE COURT: Yeah. On Jackson v. Denno.

10 MR. MAULDIN: --- on the Jackson v. Denno issue.

11 THE COURT: I think those are dealt with for now.

12 I'm going to spend some time this afternoon regarding
13 gang references.

14 The identification issue we discussed earlier today.

15 Could I get a -- is the new ballistics report the one
16 that was provided to me by email a couple -- two weeks
17 ago?

18 MS. FULLER: No, Your Honor.

19 THE COURT: There's one from this week. I'd like to
20 see a copy of that as well. You can email it to me.

21 Other than that, I think it's counsels' intent to
22 just take these up as they come during trial; is that
23 correct?

24 MR. MAULDIN: I reckon so, Your Honor.

25 THE COURT: All right. That's totally fine.

1 MR. WILLIAMS: Is Your Honor doing anything about
2 this other unknown shooter in terms of mentioning him and
3 all that or are we going to take . . .

4 THE COURT: Well, I had some thoughts about it, but
5 in reality, whether I rule now or Monday morning is not
6 going to change much.

7 MR. WILLIAMS: All right.

8 THE COURT: So that's something I think I need to
9 wait.

10 MR. WILLIAMS: All right.

11 THE COURT: As far as the mentioning of the third
12 shooter, basically, that goes hand-in-hand with the most
13 recent report. I mean, they are tied together because
14 it's -- so that's something I'm going to consider this
15 afternoon as well.

16 We can -- obviously, the jury will be in, I think, at
17 9:30 on Monday. We'll get through that first set of
18 qualification and, you know, we could get on the record in
19 between the break.

20 Any other matters, Madam Solicitor?

21 MS. FULLER: Yes, Your Honor. A couple things.

22 In terms of Tyrese White's name, the gang testimony
23 and the in-court identification, Your Honor, not sure what
24 the schedule of the Court was, but the State's thought was
25 to be able to begin opening arguments and at least two

1 witnesses on Monday after jury selection. And so it might
2 be a selfish request to know what parameters we are
3 because those are three important things in this case and
4 that would in fair game be mentioned in opening arguments.
5 And so respectfully -- I mean, I'm not rushing the Court,
6 but it kind of puts us in a ---

7 THE COURT: If I can make a decision today that I can
8 email y'all, I'll attempt to do so.

9 MS. FULLER: And, Your Honor, we can be available too
10 if you need additional arguments because these are very
11 important, and we do believe that we are within our rights
12 and within the rules to present what we're requesting.

13 Your Honor, also, additionally for the record, I have
14 a note -- I want to mention this to the Court. It should
15 be in the summaries we provided recently of our witness --
16 witness interviews preparing for trial. I -- I've
17 probably been doing this the least amount of time of
18 everyone in this room, so I'll also preface that. But in
19 my time in doing this, this is probably the first case
20 where I've met so many witnesses who are in fear of coming
21 to court. I've had one witness literally tell me how much
22 time that she has to do because she's not coming to
23 testify.

24 And so I do want the Court to know and also put -- if
25 it's not clear from the summaries written to let defense

1 know because the ones that are coming, I'm not going to
2 ask them if they're in fear. Obviously, I wouldn't do
3 that. But I -- I think it would be good if on cross if
4 it's not like pressed because it's probably going to be
5 obvious that they -- I mean, I'm going to make it clear
6 that they're under subpoena to be here and that's why
7 they're testifying. But I don't want -- just to protect
8 the future of this proceeding, I don't want to cast the
9 defendants in a bad light or anything of that nature. So
10 I'm putting it on here as officer of the Court that I
11 don't intend to elicit -- solicit testimony about their
12 fear of testifying.

13 And their fear is, you know, retaliation, that their
14 family members might get killed and all of that. And so I
15 just want to be candid with the Court in what we're
16 dealing with here and let defense counsels know that as
17 well that I don't plan to go there. But I do want -- I do
18 want it to be clear.

19 MR. WILLIAMS: So I'm trying to figure out why we're
20 even talking about it.

21 MS. FULLER: Because I like to put things on the
22 record.

23 MR. WILLIAMS: Because now they are painting us in a
24 bad light.

25 MS. FULLER: In front of the jury?

1 MR. WILLIAMS: No. In front of the judge. I don't
2 -- you know.

3 MS. FULLER: That's not ---

4 THE COURT: My -- my response to that is every person
5 who is subpoenaed to come up here doesn't want to be here.
6 And if you -- it's common in trials. Are you here because
7 you want to be here? No. Were you subpoenaed? Yes. And
8 get on in the testimony. I don't think it needs to go any
9 further than that.

10 MS. FULLER: That's correct.

11 THE COURT: And I think the solicitor said she's not
12 going to take it any further.

13 MS. FULLER: Right. And if the Court -- the State's
14 intent was not to -- when I'm presenting the case, no
15 disrespect, I'm concerned about the jury and what the jury
16 -- bad light. My intent wasn't to portray them in a bad
17 light.

18 THE COURT: Well, you're also trying to -- I may have
19 incorrectly read it this way, but I think you may be --
20 you may not have a witness show up. Is that kind of what
21 you're ---

22 MS. FULLER: Oh, that might happen, and we'll have to
23 call on the Court. But yeah.

24 THE COURT: Well, again, we'll see what happens
25 there.

1 Since we're here, we've got -- if y'all want to go
2 ahead and argue it out now, maybe I can make a decision
3 this afternoon as far as the Neil v. Biggers or the
4 show-up witness as counsel talked about.

5 Please fill in if I'm missing something, but you're
6 going to have -- in theory there's going to be a witness
7 here -- I'm making this up because I don't know. But in
8 theory, if there's an eyewitness here who says they were
9 at the scene and they saw the defendant do X, Y and Z or
10 not do X, Y and Z based upon their personal knowledge,
11 that's generally what witnesses do. But if I understand
12 the defendant's argument that because of the gap in time
13 -- is it because of the gap in time only that you think
14 it's inappropriate, Mr. Mauldin?

15 MR. MAULDIN: Yes, sir. Like I said, I'm
16 analogizing this to a show-up identification. And, Your
17 Honor, I need to consider reliability.

18 And there is a case as I mentioned where somebody who
19 couldn't identify somebody out of a lineup, they were --
20 it was held to them doing an in-court ID was inadmissible.
21 That's -- that's my position.

22 THE COURT: Okay. Closer in time and place. Yeah.
23 It's tough to just -- because once they testify, it's out.

24 (Pause in proceedings.)

25 THE COURT: Of course, some of these witnesses didn't

1 have any identification procedures at all. They didn't do
2 a lineup, right?

3 UNIDENTIFIED SPEAKER: Yes, sir.

4 THE COURT: So, I mean --

5 MS. FULLER: There's no -- there's no analysis
6 with ---

7 THE COURT: Yeah.

8 MR. MAULDIN: Well, like I said, I think it's novel
9 that I'm likening a court ID at trial to a show-up
10 identification.

11 THE COURT: Well, I'm trying to give your
12 argument ---

13 MR. MAULDIN: It may not be novel.

14 THE COURT: I'm trying to -- I'm trying to make sure
15 I understand everything about your argument. That's all.

16 MS. FULLER: And ---

17 THE COURT: Yes, ma'am.

18 MS. FULLER: Your Honor, just briefly, I wasn't
19 familiar with Thompson, so I just read it. But I can
20 probably say that the facts here are totally different.
21 In this particular -- in Thompson, it appears the clerk
22 testified that she never got a good look at the appellant
23 except for his eyes. Totally different factual scenario.

24 THE COURT: Well, we don't know the factual scenario.

25 MS. FULLER: Right.

1 THE COURT: You're anticipating.

2 MS. FULLER: I'm -- I can represent to the Court it's
3 a totally different factual scenario.

4 But here I can see the Court's analysis and reasoning
5 that -- that potentially -- again, I'm just skimming the
6 summary -- it just said the clerk testified she never
7 really got a good look at the appellant except for his
8 eyes. She failed to identify the accused in two
9 photographic lineups, one held two months after the
10 robbery and the other ten days before trial.

11 THE COURT: This is how I think I'm --

12 MS. FULLER: That's -- those are different facts.

13 THE COURT: This is how I'll handle it. The motion
14 is denied for now, okay? However, with any witness you're
15 going to lay a foundation and we will sense when the
16 question will be asked. And if defense counsel will just
17 "may we approach," and if you feel that there's just no
18 foundation whatsoever for someone's testimony to be able
19 to offer identification, you can -- we can speak about it
20 briefly. I think it requires us to talk outside the jury.
21 We can do that. I'll at least allow you to note your
22 objection on the record at that time. But for now the
23 motion is denied. But you can address it as the moment
24 approaches, all right?

25 MR. MAULDIN: Yes, sir.

1 THE COURT: Next. What -- I've got to look over
2 that. I've got to look over the gang stuff. I want to
3 make sure -- we can argue that all we want, but I want to
4 read the law.

5 MS. FULLER: Yes, Your Honor. The gang stuff, the
6 case that we would rely on is Johnson v. State, 433 SC
7 550. And that's one caveat we can potentially tweak at
8 some point.

9 But the -- the third shooter testimony and Tyrese
10 White, before this week his name was going to mention and
11 the third shooter was going to be mentioned. I don't see
12 how we can be handicapped in our presentation of the
13 facts. And so that would be a big issue that we would
14 respectfully request a ruling on if we can later today or
15 something. But if we're full presentation of this case,
16 the ballistics report clearly identifies that there is
17 someone shooting a .40 caliber, one person shooting a
18 9 mm, one person shooting ---

19 THE COURT: The original ballistics report.

20 MS. FULLER: The original, correct. Nothing
21 substantially has changed. The discovery talks about
22 Robertson with someone named Boosie, discovery talks about
23 Boosie having -- being Tyrese White. It was in there.
24 Like it wasn't hidden. It was in the phone extraction.
25 It's there. And so there isn't anything new of the

1 existence of his name, who he is. The facts have been
2 there this whole time. But I don't -- I respectfully ---

3 THE COURT: The information has been there.

4 MS. FULLER: The information has been there the
5 entire time. The entire time. And so I would
6 respectfully request that we be allowed to present in full
7 our case.

8 THE COURT: Mr. Mauldin?

9 MR. MAULDIN: Just to clarify, I don't know what
10 Mr. Williams's objection is regarding that. But my
11 objection is specifically to these shell casings from the
12 Great Falls case being compared to the shell casings in
13 this case without a proper foundation to establish who
14 left those shells in the Great Falls case. Do you follow
15 me?

16 THE COURT: Well, before -- before you go further,
17 but you're -- you don't have an objection to them
18 mentioning the potential third shooter.

19 MR. MAULDIN: No.

20 THE COURT: Okay.

21 MR. MAULDIN: No. But this physical evidence ---

22 THE COURT: Right.

23 MR. MAULDIN: --- is what I'm objecting to.

24 THE COURT: Which is ---

25 MR. MAULDIN: I don't know what Theo is objecting to.

1 I'm not speaking for Mr. Williams. I mean, he's an
2 acquaintance, his cell phone records put him there, that's
3 fine. No one's made like a photo-lineup identification or
4 anything like that. But it's this physical evidence as
5 far as these shell casings from the Great Falls case is --
6 is my issue. But I think unless they lay the proper
7 foundation that Tyrese White is the one that shot the gun
8 that left the shell casings in Great Falls, they can't say
9 -- that's what I'm saying, Your Honor.

10 THE COURT: Okay.

11 MR. MAULDIN: Not that he doesn't exist. These shell
12 casings from Great Falls are attributed ---

13 THE COURT: No, no. Your client -- I mean, your
14 objection is not them mentioning his name or using it in
15 opening or closing. But as far as ---

16 MR. MAULDIN: Physical evidence.

17 THE COURT: Which they could show by proper witnesses
18 if they ---

19 MR. MAULDIN: Well, if they can. But ---

20 THE COURT: But even then you -- okay.

21 MR. WILLIAMS: I actually agree with my co-counsel in
22 regards to that, to that issue right there. That's really
23 the only connection that causes any problems. Because
24 there's no way which -- there's really no way they could
25 introduce those shells that I'm aware of without having at

1 least the person who -- the person -- the person is dead
2 to begin with.

3 MR. MAULDIN: I mean ---

4 MR. WILLIAMS: You know what I'm saying? And -- and
5 -- go ahead.

6 MR. MAULDIN: That's my -- I mean, she may prove me
7 wrong, but they just can't say that we found these shells
8 in the Sheet [phonetic] case and Mr. Tyrese White was
9 arrested for it. There has to be some more foundation
10 than that.

11 MR. WILLIAMS: And I would agree. I have a fourth
12 stipulation, Your Honor. The case ---

13 THE COURT: What's it going to cost us?

14 MS. FULLER: Wait. Hold on.

15 MR. MAULDIN: The case that she is citing about
16 gangs, I think that's the most up-to-date case dealing
17 with it. And I think an accurate reading of that case
18 supports -- can be argued both ways in this particular
19 situation. The key is motive and intent, those two magic
20 words in that case. So I think if Your Honor peruses that
21 case, I think that is the case to read. But we just think
22 she's wrong about how she interprets it. That's four.

23 THE COURT: All right. Well ---

24 MS. FULLER: I didn't catch the stipulation, but -- I
25 didn't write anything.

1 THE COURT: Madam Solicitor, at least for part of
2 your question, I think Mr. Mauldin resolved that as far as
3 the mentioning of the person's name.

4 And your -- I'm sorry. I'm trying not to get into
5 your case here. But as far as the use, I understood the
6 extra -- the bullets that were tied -- or allegedly tied
7 to this third shooter that are referenced in the report
8 that came out last week, you do -- you do have the witness
9 to view the chain on them?

10 MS. FULLER: Should the State need to prove chain of
11 custody, Your Honor, the State will do so.

12 THE COURT: Okay. And the whole point of the bullets
13 is just to show to lend support to what you will say in
14 your opening about the third shooter. And is it ---

15 MS. FULLER: And -- well, Your Honor, in terms of
16 specifically that there is -- there's too many firearms at
17 least on opening, so -- but the specifics of shell casings
18 and the nuances is probably not going to be mentioned in
19 openings. I just want to -- I want to be able to say that
20 there's three shooters and what our allegations are.

21 THE COURT: The shell casings aren't tied to your
22 clients. How is it prejudicial to your clients?

23 MR. MAULDIN: The shell casings ---

24 THE COURT: Could -- I mean ---

25 MR. MAULDIN: Sorry. They're saying that this third

1 person is friends with our guys and was hanging out with
2 our guys at the club. If they can establish -- I mean,
3 they're tying them all together like they're acting in
4 concert or as a gang or something like that. You know,
5 they're going to probably go with the hand of one, hand of
6 all charge because, you know, I think -- you know, there
7 is some question as to what was the fatal shot. And, you
8 know, if somebody didn't fire the fatal shot, I'm sure
9 they're going to hand of one, hand of all that in. You
10 understand what I'm saying? And so by showing that a
11 cohort of theirs that was there at the club and then
12 showing this physical evidence which they say is tied to
13 him but they can't prove that it's tied to him from Great
14 Falls other than saying he was arrested for an incident,
15 then it reflects poorly on our client as well and is
16 prejudicial.

17 MS. FULLER: And just lets have a hypothetical
18 conversation here. Let's just hypothetically, the
19 firearms expert is on the stand, she's going over her
20 report. In her report she naturally will testify kind of
21 like we do in fingerprints and in shell casings, were
22 these items entered into IBIS? Yes. Was there a lead
23 generated? Yes. It came back connected to a Great Falls
24 case. That is natural testimony based on her examination
25 and what she determined. Because when you have

1 unidentified casings, you're talking about police
2 investigation, the thoroughness of it. I don't see how we
3 don't talk about that.

4 Let's just say, for instance, we're not saying it's
5 Tyrese White, right? Let's just for -- hypothetically
6 we're saying -- we're not saying his name, right, as it
7 relates to those casings. I don't see how we don't have
8 an opportunity to present the full police investigation
9 when that's what it is. When during her examination she
10 logged the casings in our case, whatever firearms she had,
11 all of that into this national database and what if
12 anything came from that? A lead was generated. And did
13 you develop a match in that case? Yes. A match came back
14 to a Great Falls case. Let's say that that's there. I
15 don't see how that's not fair game testimony. That's what
16 happened. That's the investigation.

17 And so to be limited in presenting -- hypothetically
18 if we want to do that -- to be limited in that when a
19 common attack, in my short years of practice on law
20 enforcement, is the investigation, what they didn't do, or
21 what they did and didn't do, that's common. I'm not --
22 I'm not suggesting that's what they will do. But that's
23 something the State has to prepare for.

24 We are entitled to a fair trial just like the
25 defendant. And we're entitled to present a full, complete

1 case. And I -- I don't think that we should be
2 handicapped in doing that.

3 THE COURT: I can understand what you're saying here.
4 It's almost that the report which ties those bullets to
5 the scene and a shooter at the scene essentially is
6 inextricably intertwined with the overall case.

7 MS. FULLER: Right. That would be the State's
8 position as to testimony that we present. Like that is --
9 I don't see how -- it's, for example, you know, when the
10 defendant was caught with the gun, that was sent to SLED
11 by, I think, Chester County. The analysis was done. It
12 came back inconclusive. I don't believe ethically I can
13 introduce that. But should there have been a match --
14 should there have been a match, naturally, her testimony
15 would be she had a comparison case and there was a match
16 on a gun with this case, you know. So it's kind of like
17 you're limiting the State.

18 And then also keeping in mind Tyrese White is not on
19 trial today -- or this next week. Tyrese White is not on
20 trial. And so proving our cases or presenting a full case
21 I think is important to the State and it's something that
22 we would respectfully request.

23 THE COURT: You don't think you can present a full
24 case without the evidence of the third shooter.

25 MS. FULLER: Oh, we definitely -- yeah. We have to

1 talk about that there be a third shooter. There are 34 --
2 there are 41 shell casings in this case attributed to four
3 different guns being fired. I don't see how we don't talk
4 about that. So that's -- that's that. If we're talking
5 just about the comparison that was done yesterday or the
6 day before yesterday with a match in the case, that's also
7 natural testimony from firearms that I think is relevant.
8 When it comes to his gun that was sent to --
9 Mr. Robertson's gun that was sent for comparison, I don't
10 think I can make the argument that it's relevant, because
11 ethically I can't, and I'm not trying to.

12 And so that's just the State's position. And
13 co-counsel can jump in if there's anything that I'm
14 missing. But that's just my position.

15 MR. WILLIAMS: There is one additional thing is, and
16 that is that this analysis that was presented to us two
17 days ago, certainly not timely, it wasn't presented in
18 accordance with the rules of discovery, which I was
19 fussing about earlier. So even on the basis of that, she
20 shouldn't be allowed to go into that because it wasn't
21 timely done, wasn't timely presented before we started
22 this trial.

23 THE COURT: Mr. Mauldin, anything else?

24 MR. MAULDIN: I'm a little confused because Your
25 Honor and the solicitor agreed that the shell casings are

1 inexplicably intertwined.

2 THE COURT: I asked. I didn't agree with anybody.

3 MR. MAULDIN: Well, no, no. But you asked and she
4 agreed that they are inexplicably intertwined with the
5 case, and yet in the next sentence, she's saying, well,
6 Tyrese White is not on trial. So if it's inexplicably
7 intertwined, it does affect them and does prejudice them.

8 And so -- and secondly, I have not received any
9 report regarding these shells being run through an IDIS or
10 an IBIS or which -- I don't know what the acronym is. So
11 I would like to know -- I would like to have a report of
12 when that was done, if it was done before or after these
13 shells were transferred from Great Falls. This report, is
14 it IBIS?

15 MS. FULLER: There's no report. It's just something
16 Police Departments do as often as they wish to.

17 MR. MAULDIN: Did she keep a record of when she did
18 it?

19 MS. FULLER: I don't have any control
20 (unintelligible). I'm not being difficult. I'm just
21 trying ---

22 MR. MAULDIN: I -- I understand. But that might be
23 something we need to know.

24 So I guess my -- if we're going to boil it down even
25 further, are you saying that you can get the fact that

1 these shells match those shells in but not that Tyrese
2 White fired them?

3 THE COURT: You're asking me?

4 MR. MAULDIN: No. I'm asking -- I'm asking the
5 solicitor. Because it's tying Tyrese White to the shells
6 that is my big problem. I guess they can say, well, we
7 ran it through IDIS [sic], and these shells match the
8 shells in a case from Chester, and Chester sent those
9 shells over and they were a match. But as far as saying
10 that Tyrese White is the one that shot ---

11 MS. FULLER: Charged.

12 MR. MAULDIN: --- the gun that ejected those
13 shells ---

14 THE COURT: Okay.

15 MS. FULLER: That's charged? That was charged?

16 MR. MAULDIN: And dismissed. The fact that
17 somebody's arrested is not evidence that they did
18 something.

19 THE COURT: Right.

20 MS. FULLER: Exactly.

21 THE COURT: But the only . . .

22 MR. MAULDIN: But they're trying to say it is, that
23 these are Tyrese White's shells from Tyrese White's gun.
24 They're making that a foregone conclusion, whereas if he
25 was merely arrested for it, I think they would have to lay

1 a foundation then.

2 So I can see now that they can bring in the fact that
3 they tested those shells and they match some shells from a
4 Great Falls case, but not the fact that Tyrese White was
5 attached to them.

6 THE COURT: What about that it matches -- you got me
7 all tied up now.

8 MS. FULLER: Your Honor, just for the sake of now,
9 and I usually don't like breaks but I do need one, but
10 where we -- where we are and what we have rulings on and
11 understandings on, I think we're on a good point for our
12 opening arguments. The actual last point that he boiled
13 down to, Tyrese White charged with that, I'm good with
14 dealing with that when the time comes or even later today
15 or Monday just to give us time to really flush out how we
16 really want to present. But what we've had -- what we've
17 discussed enough I'm good on waiting on the rest of your
18 ruling on -- waiting for the rest of the ruling on Tyrese
19 White charged with those .40 caliber casings in Chester.
20 I can hold that in abeyance for today and we can do some
21 more research. We can have some more dialogue on it. But
22 in terms of third shooter, the State is alleging the third
23 shooter is Tyrese White regardless of case and this.

24 THE COURT: And the defendants don't have a problem
25 with that.

1 MS. FULLER: Right. So I think we're at a good spot
2 with that.

3 That last point that he boiled down to I think is, in
4 my opinion, would probably need to be flushed out, and we
5 can take up again. It's not going to be our first
6 witness, it's not going to be the second -- first day or
7 second day. But we have enough right now to -- I think,
8 based on what rulings we've heard, for our full opening on
9 what the theory of the State's case is.

10 THE COURT: Well, you said just now based upon the
11 dialogue back and forth you were good. I'd like you to
12 clarify what -- I mean ---

13 MS. FULLER: Well, the ---

14 THE COURT: --- so that y'all are on the same page.

15 MS. FULLER: Right. And I can be misunderstanding,
16 but Mr. Mauldin indicated that logged in, it came back,
17 matched this Great Falls case. Separate that argument
18 from there are three shooters, separate that argument,
19 Tyrese White's name, you know. So I think I'm good there.
20 It's just that last nugget whether or not I can argue that
21 Tyrese White was charged with that .40 caliber is that
22 last piece of nugget which goes to that specific
23 inclusionary sentence I think we can flush out and take up
24 argument later.

25 THE COURT: Charged with the Lexington County.

1 MS. FULLER: No.

2 THE COURT: Are we still on Great Falls? But it was
3 dismissed too.

4 MS. FULLER: I called the prosecutor to find out why
5 it was dismissed. But, yeah, she did dismiss it.

6 THE COURT: Okay. It was nolle prossed or ---

7 MS. FULLER: It was nolle prossed at her discretion.

8 THE COURT: Okay. All right. Yes, sir.

9 MR. MAULDIN: I know -- can we work out the logistics
10 again? The jury is coming in on Monday at ---

11 THE COURT: 9:30.

12 MR. MAULDIN: --- 9:30. We're going to ---

13 THE COURT: So we should be done with qualification
14 -- if we start around 9:30, we'll be done with
15 qualification about 10:15.

16 MR. MAULDIN: Okay. And then the second batch comes
17 in at 1:30?

18 THE COURT: 1:00. 1:00 or 2:00? 1:00.

19 MR. MAULDIN: 1:00.

20 THE COURT: So we have ---

21 MR. MAULDIN: That -- using the same time, that will
22 be about 2:15 to qualify them.

23 THE COURT: Yeah. And then we go into voir dire.

24 MR. MAULDIN: And then we go into voir dire and jury
25 selection, which I think is ten, ten and ten? Ten

1 strikes, ten strikes, ten strikes, ten strikes. Or was it
2 five?

3 THE COURT: Five. It's ten?

4 MS. FULLER: Five per defendant, ten per defendant.

5 MR. MAULDIN: Okay. I think it's ten, ten, and ten.

6 MR. WILLIAMS: Correct.

7 MR. MAULDIN: And then -- and then we're going to be
8 able to have time to open and do a few witnesses or ---

9 MS. FULLER: Yeah. I know in the past few cases
10 we've usually finished somewhere before 2:00. The
11 remaining panel comes back at 2:00 and we usually have our
12 jury roughly around 3:00-ish. And, yes, if all pretrial
13 is worked out in the interim, which I think we're pretty
14 close, then, yeah, the State, just so we can finish this
15 week -- next week would request that we start opening on
16 Monday and ---

17 THE COURT: Okay. I'll -- I'll do everything I can
18 to accommodate that.

19 MR. MAULDIN: I just kind of know -- want to know
20 where I'm at.

21 MS. FULLER: --- and at least two witnesses Monday so
22 we can finish.

23 MR. WILLIAMS: I don't know. We haven't started yet.

24 THE COURT: But at the end of the day, y'all control
25 the schedule more than I do. I mean, I'll ---

1 MS. FULLER: If there's no objection ---

2 THE COURT: I'll be pleased to try to get this trial
3 done in a week, but I'm prepared to go till whenever.

4 MR. MAULDIN: Yes, sir. But without a plan, there is
5 no attack.

6 MS. FULLER: Yes. I fully want to just, you know,
7 acknowledge -- fully acknowledge and be mindful that the
8 following week is Thanksgiving, so I am -- you know,
9 that's part of the State's proposal. Completely we'll be
10 here next week if -- the following week if we need to.

11 THE COURT: Okay. I mean, not to mention the
12 15 people who are sitting in that box are not going to
13 want to be here next week either.

14 MS. FULLER: Exactly.

15 THE COURT: That's reality.

16 All right. So I've got a little bit more work to do
17 that we will attack on Monday as far as the -- the report,
18 the Great Falls issue. I've got the gang affiliation
19 stuff I'm looking at this afternoon in accordance with the
20 stipulated Johnson v. State, which everyone agrees is the
21 controlling case. And I think that's it, right?

22 MS. FULLER: Yes. And the last thing, just to put
23 defense counsel and defendant on notice, he is a defendant
24 out on bond facing serious charges, and so I would just
25 contend to bring that to the Court's attention regarding

1 the status of his bond once the case is called. I know
2 today we went through a lot of information. A lot of
3 things have been exposed. I'll give him credit. He
4 showed up here today. But it is the State's position in
5 terms of once the case is called in terms of bond.

6 THE COURT: I think we've obviously dealt with this
7 once before. I think it was after the jury was sworn and
8 it really became an issue. But ---

9 MR. MAULDIN: Let's withhold our ruling until it's
10 time for it on that.

11 THE COURT: I'm not going to do anything today. I'm
12 not going to do anything today. But, you know, next week
13 be prepared for anything.

14 MR. WILLIAMS: Yes, sir.

15 THE COURT: Anything else for the record for now?

16 MS. FULLER: I don't believe so, Your Honor.

17 THE COURT: All right. Everyone have a nice weekend.
18 I'll be around a little bit this afternoon if you need me.
19 But over the weekend, let me know if anything comes up
20 (unintelligible).

21 Have a nice weekend. We'll be in recess.

22 (WHEREUPON, proceedings concluded at 12:46 p.m.)
23
24
25

State of South Carolina
 County of Lexington

Court of General Sessions

State	)	
	)	
	)	Transcript of Record
v.	)	2016-GS-32-00492
	)	2016-GS-32-00493
Donovan Brannon	)	
	)	
<u>Defendant.</u>	)	

November 15 - 19, 2021
 Lexington, South Carolina

B E F O R E:

The Honorable Walton J. McLeod, Judge; and a
 jury.

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1 P R O C E E D I N G S

2 * * *

3 (The following proceedings were held November
4 15, 2021.)

5 (State's Exhibit Nos. 1-404 marked for
6 identification.)

7 MS. FULLER: Thank you, Your Honor. May it
8 please the Court?

9 THE COURT: Yes, ma'am.

10 MS. FULLER: The State calls for trial under
11 Indictment No. 2016-GS-32-00493, an indictment
12 against Donovan Tirrell Brannon for attempted
13 murder.

14 The State calls for trial
15 Indictment No. 2016-GS-32-00492, State versus
16 Donovan Tirrell Brannon, an indictment for murder.

17 The State calls for trial
18 Indictment No. 2016-GS32-00495, State versus
19 Shantrez Alejandro Robertson, and that's an
20 indictment for attempted murder.

21 State calls Indictment 2016-GS-32-00496, State
22 versus Shantrez Alejandro Robertson, and that's an
23 indictment for murder.

24 Beg the Court's indulgence.

25 May I approach?

1 THE COURT: Yes, ma'am.

2 Ladies and gentlemen, the indictment against
3 Mr. Donovan Tirrell Brannon for murder provides that
4 Mr. Brannon, together with Mr. Shantrez Robertson,
5 did in Lexington County, South Carolina, on or about
6 June 6th, 2015 unlawfully, willfully, and
7 feloniously and with malice aforethought kill the
8 victim, William T. Gantt, by shooting him with a
9 pistol.

10 Mr. Gantt died on or about June 6th, 2015 in
11 Lexington County as a proximate result thereof in
12 violation of the law. The indictment reads the same
13 for attempted murder regarding Mr. Brannon.

14 Also, two indictments for murder and attempted
15 murder provide that Mr. Shantrez Alejandro
16 Robertson, together with Donovan Tirrell Brannon,
17 did, on or about June 6th, 2015 with intent to
18 kill the victim, Brandon Jeffery, willfully,
19 feloniously, and with malice aforethought -- excuse
20 me, regarding the murder, with malice aforethought,
21 kill the victim, Mr. William T. Gantt, by shooting
22 with a pistol with Mr. Gantt, dying on June 6th,
23 2015; that for attempted murder, the defendant did
24 attempt to kill Brandon Jeffery with malice
25 aforethought, shooting the victim with a pistol in

1 violation of the law.

2 Now, the indictments charge these defendants
3 with murder and attempted murder. Now, I remind you
4 that the fact that the defendants were arrested,
5 charged, and indicted in this case is not evidence
6 in this case and cannot be considered by you as
7 evidence of guilt in this case, nor does it create
8 any presumption of innocence or guilt. This
9 document is simply the formal written instrument
10 which contains the charges made against the
11 defendants. It is the formal documents by which
12 these cases are brought into this court.

13 Now, the defendants have pled not guilty to
14 these indictments, and that puts the burden on the
15 State to prove the defendants guilty. A person
16 charged with committing a criminal offense in South
17 Carolina is never required to prove himself
18 innocent.

19 No matter what the seriousness of the charges
20 may be, the defendants -- a defendant will always be
21 presumed to be innocent of the crime for which the
22 indictment was issued, unless guilt has been proven
23 by evidence satisfying you of that guilt beyond a
24 reasonable doubt.

25 Now, I have several questions that I'm going to

1 go over with you as potential jurors. But before I
2 begin that process, I want to allow the opportunity
3 for the attorneys to stand up and introduce
4 themselves to you at this time.

5 MS. FULLER: Thank you, Your Honor. My name is
6 Sutania Fuller. I'm an assistant solicitor here in
7 the 11th Circuit, primarily in Lexington, but that
8 includes McCormick, Saluda, and Edgefield County.
9 Assisting me is co-counsel, Robby McNair, also of
10 the 11th circuit. Sitting also at counsel table is
11 Investigator Brannon Marthers of the Lexington
12 County sheriff's department.

13 Sitting behind me is Madison Lundy, she's a
14 paralegal in our office. Also sitting with me, and
15 an investigator in our office, Jill Smith; and also
16 sitting with us is our victim advocate, Rhonda
17 Robinson.

18 MR. WILLIAMS: I'm Theo Williams. I practice
19 law right across the street on the corner where the
20 old bank building is in the firm of Williams,
21 Stitely & Brink. Assisting me in this is my
22 daughter, Anna Williams, who is also an attorney
23 there.

24 Our client's name is Donovan Tirrell Brannon,
25 who is the gentleman with the blue suit.

1 MR. MAULDIN: My name is David Mauldin. I also
2 practice law across the street in the building next
3 to Theo. This is my paralegal, Gale Etheridge, and
4 this is my client, Shantrez Robertson.

5 THE COURT: All right. Has any member of the
6 jury panel ever been related by blood or marriage or
7 have a close personal relationship to either Donovan
8 Tirrell Brannon or Shantrez Robertson? If so,
9 please stand.

10 Yes, ma'am, your juror number?

11 POTENTIAL JUROR: 217.

12 THE COURT: 217. And which defendant do you
13 have a connection to?

14 POTENTIAL JUROR: I am -- I'm not related to
15 him, but I grew up with Brannon.

16 THE COURT: You grew up with Mr. Brannon?

17 POTENTIAL JUROR: His mother, I did.

18 THE COURT: Okay.

19 POTENTIAL JUROR: And the same church.

20 THE COURT: The fact that you said you grew up
21 with them and attended the same church, do you think
22 that would affect your ability to be fair and
23 impartial hearing this case?

24 POTENTIAL JUROR: Well, me, myself, personally,
25 I really don't want to take part in it.

1 THE COURT: You think it may affect your
2 ability to be fair and impartial? Thank you. Tell
3 me your juror number again.

4 POTENTIAL JUROR: 217.

5 THE COURT: Thank you.

6 All right. Is any member of the jury panel
7 related by blood or marriage or have a close
8 personal, past personal, business relationship with
9 Brandon Jeffery or William T. Gantt? If so, please
10 stand.

11 (No one standing.)

12 THE COURT: All right. Now, the following is a
13 list of possible witnesses in this case. Please pay
14 attention. First group is -- of potential witnesses
15 are from the Lexington County sheriff's department.
16 And I'll read them off: Brannon Marthers, Sam
17 Smith, Jessie Lance, Miles Rawl, Chad Redding,
18 Steven Okerman, Adam Creech, Caleb Black, Ben Booth,
19 Tracey Barr, Nick Burt, Heather Clary, Shelby
20 Derrick, Craig Finley, Tim Franklin, Todd Garrick,
21 Tom Gray, Jacob Holliman, David Hellman, Kevin
22 Howard, J.J. Jones, Albert Lyons, Timothy Martin,
23 Roy Mefford, Brandon Miller, John Moore, Brittany
24 Nicholson, Louis Rivera, Glenn Ross, Dan Schirra,
25 Candy Shealy, Cam Sherben, Shawn Spivey, Brittany

1 Sink, Tom Smith, Erin Spaulding, Keith Sprinkle,
2 Hamp Taylor, Mike Willfong, Jason Wilkes, Darren
3 Wisemen, Jay Bonnet, David Wood, Scott Zowstra,
4 Shannon Dykes, Sandy Black, Candy Kaiser, Mike
5 Phipps. Also, Nikki Rogers from Lexington County
6 Communications; Rodney Watson, Lexington County
7 Communications; Dr. Janice Ross, Newberry Pathology.

8 The following are from the South Carolina Law
9 Enforcement Division: Adrian Effney; Tim Grambow;
10 Doris Yarborough; Tiffany Hesel-Edwards; Jackie
11 Davis; Charlotte Crobe; Michelle Eichenmiller; Tyler
12 Sturkie; Andria Harrison; Jason W. Greenen; Special
13 Agent Clay Simons from the FBI; Amanda Lee Smith of
14 the Batesburg-Leesville Police Department; Deepak
15 Harpalani, Batesburg-Leesville Police Department;
16 Brian Dempsey; Lexington County EMS; John Winhorn,
17 Lexington County EMS; Craig Davis, Lexington County
18 EMS; Virginia Youmans, Lexington County EMS; James
19 Forsite, Lexington County EMS; Brandon Mills of
20 Lexington County EMS; Ken Raider; Will Herring;
21 Brandon Jeffrey; O'Brien Gillian; Andy Barnes;
22 Dominique Williamson; Tracey McCants; Joanne
23 Christy; Curony Coleman; Andrien Coleman; Andre
24 Cook; Arian Cummings; Betty Johnson; Tasha Johnson,
25 Demetrich Harris; Jucandra Marshall, Shannon Martin,

1 Jasmine Frendwell, Adrian Parker; Lamont Rowe,
2 Lynette Rowe, Kwiki Smith, Antonio Stroman, Travis
3 Weaver, James Henderson, Henry Hendrix, Nichole
4 Hendrix, Asia Lane, Anija Sales, Charlene Walker,
5 Sharese Whitt, Sam Chema, Donovan Tirrell Brannon.

6 Ladies and gentlemen, has anyone ever been
7 related by blood or marriage to any of the people I
8 have just listed or had a close personal, social, or
9 business relationship with any of the potential
10 witnesses I just called out?

11 Okay. Let's start with you, sir.

12 POTENTIAL JUROR: Yes, sir, Juror 221. Some of
13 those deputies that were on the list, I was shift
14 partners with.

15 THE COURT: Okay. You're Juror No. 201?

16 POTENTIAL JUROR: 221, Your Honor.

17 THE COURT: The fact that you were formerly
18 employed with several of the employees from the
19 Lexington County sheriff's department, would that
20 affect your ability to be fair and impartial in
21 hearing this case?

22 POTENTIAL JUROR: No, sir.

23 THE COURT: Okay.

24 Yes, sir, at the back?

25 If everyone would stand up, that way I can get

1 to you. If you know one of the witnesses I called,
2 just go ahead and stand up, please.

3 Yes, sir, in the back?

4 POTENTIAL JUROR: Juror No. 83. Officer Tracey
5 Barr, she's a friend of mine.

6 THE COURT: Juror 83 and -- can you say the
7 name again?

8 POTENTIAL JUROR: Officer Tracey Barr.

9 THE COURT: Is a friend of yours?

10 POTENTIAL JUROR: Yes, sir.

11 THE COURT: And the fact that you know Tracey
12 Barr, would that affect your ability to be fair and
13 impartial in hearing this case?

14 POTENTIAL JUROR: No, sir.

15 THE COURT: Yes, ma'am, your juror number?

16 POTENTIAL JUROR: 63. Jackie Davis from SLED
17 is a friend of mine.

18 THE COURT: The fact that you know one of the
19 witnesses who is employed with SLED, will that
20 affect your ability to be fair and impartial in
21 hearing this case?

22 POTENTIAL JUROR: No, sir.

23 THE COURT: All right. Anyone else?

24 (No one standing.)

25 THE COURT: All right. Earlier, I asked if any

1 of you on the jury panel know the defendants in this
2 case. Does anyone know or have a relationship with
3 the defendants' relatives, family members? If so,
4 please stand.

5 (No one standing.)

6 THE COURT: Does any member of the jury panel
7 have any -- ever been represented by or otherwise
8 know the defendants' attorneys in this case? That
9 would be Mr. Theo Williams and Anna Williams and
10 Mr. Dave Mauldin. If so, please stand.

11 (No one standing.)

12 THE COURT: Has anybody on the jury panel
13 previously worked for an attorney, in an attorney
14 office?

15 (No one standing.)

16 THE COURT: Does any member of the jury panel
17 have an immediate family member or close personal
18 friend that's ever been investigated for or charged
19 with an offense involving an assault or shooting?

20 (No one standing.)

21 THE COURT: Has any member of this jury panel
22 had an experience with any law enforcement agency
23 that might affect your ability to be fair and
24 impartial in hearing this case?

25 (No one standing.)

1 THE COURT: Does any member of the jury panel
2 have any religious or moral beliefs that would
3 prevent them from passing judgment on another person
4 as a member of a jury?

5 (No one standing.)

6 THE COURT: Does any member of the jury panel
7 have -- know anyone or have dealings with someone
8 who works for the Lexington County Solicitor's
9 Office? If so, please stand.

10 (No one standing.)

11 THE COURT: Does any potential juror have a
12 family member or close personal friend who's
13 involved with law enforcement?

14 Okay. Yes, ma'am, your juror number?

15 POTENTIAL JUROR: 185.

16 THE WITNESS: 185, and what is your connection
17 there to that question?

18 POTENTIAL JUROR: My first cousin works in law
19 enforcement.

20 THE COURT: Okay. Which law enforcement
21 agency?

22 POTENTIAL JUROR: Transport Police.

23 THE COURT: Okay. So you have a first cousin
24 who works for the state transport police. And the
25 fact that you have that first cousin in that

1 occupation, would that affect your ability to be
2 fair and impartial in hearing this case?

3 POTENTIAL JUROR: No, sir.

4 THE COURT: Yes, sir.

5 POTENTIAL JUROR: Juror No. 3. My father is a
6 police officer for Richland County.

7 THE COURT: Your father is a police officer in
8 the Richland County sheriff's department?

9 POTENTIAL JUROR: Yes, sir.

10 THE COURT: The fact that your father works for
11 the Richland County sheriff's department, would that
12 affect your ability to be fair and impartial in
13 hearing this case?

14 POTENTIAL JUROR: No, sir.

15 THE COURT: Does any potential juror have a
16 family member or close friend who's been the victim
17 of a violent crime? If so, please stand.

18 Yes, ma'am?

19 POTENTIAL JUROR: Juror No. 70. My father was
20 killed by a drunk driver in 2008.

21 THE COURT: The fact that your father was
22 killed in a drunk driving incident, would that
23 affect your ability to be fair and impartial in
24 hearing this case?

25 POTENTIAL JUROR: No, Your Honor.

1 THE COURT: Thank you.

2 Yes, sir, No. 3 -- Juror No. 3?

3 POTENTIAL JUROR: Yes, sir. My auntie was
4 murdered.

5 THE COURT: Your aunt was murdered?

6 POTENTIAL JUROR: Yes.

7 THE COURT: A victim of a violent crime?

8 POTENTIAL JUROR: Yes, sir.

9 THE COURT: And the fact that you have a family
10 member who was a victim of a violent crime, do you
11 think that would affect your ability to be fair and
12 impartial in hearing this case?

13 POTENTIAL JUROR: No, sir.

14 THE COURT: Okay. Yes, ma'am?

15 POTENTIAL JUROR: Juror No. 106, wife was
16 assaulted by a mob.

17 THE COURT: And the fact that your wife was a
18 victim of a crime, do you think that would affect
19 your ability to be fair and impartial in hearing
20 this case?

21 POTENTIAL JUROR: No, sir.

22 THE COURT: Does any potential juror have any
23 strong feelings about the rights of individuals to
24 possess a firearm?

25 (No one standing.)

1 THE COURT: I asked earlier if you have family
2 members or friends that were the victim of a violent
3 crime. Do any of you have family or a close
4 personal friend who was accused of a crime -- a
5 violent crime, that is?

6 Yes, sir, your juror number?

7 POTENTIAL JUROR: No. 5, Your Honor.

8 THE COURT: Go ahead.

9 POTENTIAL JUROR: My ex-brother-in-law was
10 accused.

11 THE COURT: The fact that you had an ex-in-law
12 who was accused of a violent crime, would that
13 affect your ability to be fair and impartial in
14 hearing this case?

15 POTENTIAL JUROR: Not at all.

16 THE COURT: Has any member of this jury panel
17 heard or read anything about this case for which
18 you've heard the indictments for? That would
19 include any information you may have read in the
20 newspaper or seen on the television or on the
21 internet or through any sort of social media
22 website.

23 Has anyone heard anything about this case at
24 this point in time, other than what you were just
25 advised of from the indictments? If so, please

1 stand.

2 (No one standing.)

3 THE COURT: Has any member of the jury panel
4 formed or expressed an opinion about any issue or
5 matter involved in this case?

6 (No one standing.)

7 THE COURT: Is any member of this jury panel
8 aware of any bias or prejudice towards either the
9 State or the defendants in this case?

10 (No one standing.)

11 THE COURT: Is there any member of the jury
12 panel who is a member of or contributor to any group
13 which has as its primary concern the promotion of
14 law enforcement or victim's rights? These groups
15 would include, but are not limited to MADD, SADD, or
16 CAV.

17 (No one standing.)

18 THE COURT: All right. Finally, does any
19 member of this jury panel know of any reason
20 whatsoever why he or she should not serve as a juror
21 in this case, with particular emphasis being placed
22 on your ability to be fair and impartial to both the
23 State and the defendants?

24 (No one standing.)

25 THE COURT: Counsel?

1 (Sidebar conference.)

2 THE COURT: If I could get Juror No. 217 to
3 come forward, please.

4 (Juror No. 217 comes forward.)

5 THE COURT: Hi. I appreciate you speaking with
6 us earlier, but I just want to make sure. I know
7 you know Mr. Brannon and didn't want to be involved,
8 which I totally understand. Did you talk about this
9 with anyone else at the courthouse today? Did you
10 talk about this case or that you knew him with any
11 of the other potential jurors? Do you understand?

12 POTENTIAL JUROR: I understand what you're
13 saying. All I asked them was --

14 THE COURT: Who is them?

15 POTENTIAL JUROR: His family. Because I been
16 looking at him the whole time. I'm like, do I know
17 him? But I know his family --

18 THE COURT: I know you know the family. I want
19 to know if you talked about --

20 POTENTIAL JUROR: With the jury?

21 THE COURT: -- the defendant with any potential
22 other jurors?

23 POTENTIAL JUROR: Oh, no, no, no, no.

24 THE COURT: All right. So you haven't talked
25 with any of the potential jurors. All right.

1 MS. FULLER: Did the family talk about why
2 she's here or --

3 POTENTIAL JUROR: No, they didn't tell me. I
4 said, Who y'all here for? They said, My brother.
5 That's all they said.

6 THE COURT: But you didn't have any other --

7 POTENTIAL JUROR: No, no, no.

8 THE COURT: You didn't talk about any details
9 of the case or anything like that?

10 POTENTIAL JUROR: No, no, no.

11 THE COURT: I'll excuse you. You can go out
12 the side door. You're free to go. Thank you.

13 217 is excused.

14 The other thing, the fact that a person here
15 said he worked at a job with them but he could be
16 fair and impartial, I wouldn't strike him either.
17 So I'm not going to strike.

18 MR. WILLIAMS: At the conference where the
19 court reporter couldn't hear us, I moved to strike
20 221 for cause. He's an employee of the Lexington
21 County sheriff's department --

22 THE COURT: Former.

23 MR. WILLIAMS: Former. He's a school resource
24 officer.

25 THE COURT: If he were current, that would be

1 different.

2 MR. WILLIAMS: He worked at the sheriff's
3 department between 2013 and 2019. This case
4 happened in 2015. And also that he had worked with
5 partners that had worked on the case, and he might
6 have some kind of knowledge or discussion of the
7 case.

8 THE COURT: Okay. Just to be clear.

9 MR. WILLIAMS: Theo is joining in my motion.

10 THE COURT: He is not a school resource officer
11 who is in the building in a uniform as a deputy
12 sheriff. He works for the school district as a
13 coordinator for all school resource officers.
14 Again, if he were an active duty sheriff's deputy,
15 that would be different. He's an employee of
16 Lexington/Richland District 5, which is different.

17 Your objection is noted.

18 MR. MAULDIN: I would join in that motion.

19 THE COURT: Mr. Williams joins Mr. Mauldin's
20 motion; however, I heard the potential juror's
21 response. He stopped working for the sheriff's
22 department in 2019. He said he could be fair and
23 impartial. He is currently an employee for
24 Lexington County School District 5. And I'll deny
25 defense counsel's request to strike him for cause.

1 All right. Ladies and gentlemen, if you'll be
2 patient, we're getting ready for the jury selection.
3 Stay in your seats; remain quiet. I appreciate you
4 keeping the courtroom quiet, and we'll start.

5 Counsel, I'm going to go with three alternates.

6 THE CLERK: When I call your name in just a
7 minute, if you'll bring your belongings, come and
8 stand in front of this podium, and face out. If
9 this -- if you are seated on the jury, you'll come
10 over here and get a badge from the bailiff and have
11 a seat over here. If you are told to -- or,
12 otherwise, you'll be told to return to your seat.

13 Juror No. 86, Asha Haltiwanger.

14 (Juror No. 86 comes forward.)

15 THE CLERK: What say you for the State?

16 MS. FULLER: Please present the juror.

17 THE CLERK: What say you for Defense Robertson?

18 MR. MAULDIN: Please seat the juror.

19 THE CLERK: What say you for Defense Brannon?

20 MR. WILLIAMS: Please swear the juror.

21 THE CLERK: If you'll have a seat in the jury
22 box, please, ma'am.

23 Juror No. 199, Amy Tetrault.

24 (Juror No. 199 comes forward.)

25 THE CLERK: What say you for the State?

1 MS. FULLER: Please present the juror.

2 THE CLERK: What say you for Defense Robertson?

3 MR. MAULDIN: Please present the juror.

4 THE CLERK: What say you for Defense Brannon?

5 MR. WILLIAMS: Please swear the juror.

6 THE CLERK: Juror No. 3, Cornelius Alexander.

7 (Juror No. 3 comes forward.)

8 THE CLERK: What say you for the State?

9 MS. FULLER: Please present the juror.

10 THE CLERK: What say you for Defense Robertson?

11 MR. MAULDIN: Please excuse this juror.

12 THE CLERK: If you'll return to your seat, sir.

13 183, Tracey Shealy.

14 (Juror No. 183 comes forward.)

15 THE CLERK: What say you for the State?

16 MS. FULLER: Please excuse the juror.

17 THE CLERK: Please return to your seat, ma'am.

18 28, Susan Brigman.

19 (Juror No. 28 comes forward.)

20 THE CLERK: What say you for the State?

21 MS. FULLER: Please excuse the juror.

22 THE CLERK: Please return to your seat, ma'am.

23 219, Rachel Williamson.

24 (Juror No. 219 comes forward.)

25 THE CLERK: What say you for the State?

1 MS. FULLER: Please present the juror.

2 THE CLERK: What say you for Defense Robertson?

3 MR. MAULDIN: Please present the juror.

4 THE CLERK: What say you for Defense Brannon?

5 MR. WILLIAMS: Please swear the juror.

6 THE CLERK: Have a seat in the jury box,
7 please, ma'am.

8 202, Stuart Thompson.

9 (Juror No. 202 comes forward.)

10 THE CLERK: What say you for the State?

11 MS. FULLER: Please present the juror.

12 THE CLERK: What say you for Defense Robertson?

13 MR. MAULDIN: Please excuse this juror.

14 THE CLERK: If you'll return to your seat,
15 please, sir.

16 102, Tippy Hiott.

17 (Juror No. 102 comes forward.)

18 THE CLERK: What say you for the State?

19 MS. FULLER: Please present the juror.

20 THE CLERK: What say you for Defense Robertson?

21 MR. MAULDIN: Please present the juror.

22 THE CLERK: What say you for Defense Brannon?

23 MR. WILLIAMS: Please excuse the juror from the
24 trial of this case.

25 THE CLERK: If you'll return to your seat,

1 please, ma'am.

2 69, Jennifer Frick.

3 (Juror No. 69 comes forward.)

4 THE CLERK: What say you for the State?

5 MS. FULLER: Please present the juror.

6 THE CLERK: What say you for Defense Robertson?

7 MR. MAULDIN: Please excuse this juror.

8 THE CLERK: If you'll return to your seat,

9 please, ma'am.

10 120, Clinton Coles.

11 (Juror No. 120 comes forward.)

12 THE CLERK: What say you for the State?

13 MS. FULLER: Please present the juror.

14 THE CLERK: What say you for Defense Robertson?

15 MR. MAULDIN: Please present the juror.

16 THE CLERK: What say you for Defense Brannon?

17 MR. WILLIAMS: Please excuse the juror from the

18 trial of this case.

19 THE CLERK: If you'll return to your seat,

20 please, sir.

21 106, Mary Hunt.

22 (Juror No. 106 comes forward.)

23 THE CLERK: What say you for the State?

24 MS. FULLER: Please present the juror.

25 THE CLERK: What say you for Defense Robertson?

1 MR. MAULDIN: Please present the juror.

2 THE CLERK: What say you for Defense Brannon?

3 MR. WILLIAMS: Please excuse the juror from the
4 trial of this case.

5 THE CLERK: If you'll return to your seat,
6 please.

7 24, Tiesha Bradley.

8 (Juror No. 24 comes forward.)

9 THE CLERK: What say you for the State?

10 MS. FULLER: Please present the juror.

11 THE CLERK: What say you for Defense Robertson?

12 MR. MAULDIN: Please present the juror.

13 THE CLERK: What say you for Defense Brannon?

14 MR. WILLIAMS: Please swear the juror.

15 THE CLERK: If you'll have a seat in the jury
16 box, please, ma'am.

17 218, Trevor Williams.

18 (Juror No. 218 comes forward.)

19 THE CLERK: What say you for the State?

20 MS. FULLER: Please present the juror.

21 THE CLERK: What say you for Defense Robertson?

22 MR. MAULDIN: Please present the juror.

23 THE CLERK: What say you for Defense Brannon?

24 MR. WILLIAMS: Please swear the juror.

25 THE CLERK: If you'll have a seat in the jury

1 box, please, sir.

2 112, Eric Kanski.

3 (Juror No. 112 comes forward.)

4 THE CLERK: What say you for the State?

5 MS. FULLER: Please present the juror.

6 THE CLERK: What say you for Defense Robertson?

7 MR. MAULDIN: Please present the juror.

8 THE CLERK: What say you for Defense Brannon?

9 MR. WILLIAMS: Please excuse the juror from the

10 trial of this case.

11 THE CLERK: If you'll return to your seat,

12 please, sir.

13 194, Barry Still.

14 (Juror No. 194 comes forward.)

15 THE CLERK: What say you for the State?

16 MS. FULLER: Please present the juror.

17 THE CLERK: What say you for Defense Robertson?

18 MR. MAULDIN: Please excuse this juror.

19 THE CLERK: If you'll return to your seat,

20 please, sir.

21 133, Melissa Mallory.

22 (Juror No. 133 comes forward.)

23 THE CLERK: What say you for the State?

24 MS. FULLER: Please present the juror.

25 THE CLERK: What say you for Defense Robertson?

1 MR. MAULDIN: Please present the juror.

2 THE CLERK: What say you for Defense Brannon?

3 MR. WILLIAMS: Please excuse the juror from the
4 trial of this case.

5 THE CLERK: If you'll return to your seat,
6 please, ma'am.

7 94, Grazia Hayes.

8 (Juror No. 94 comes forward.)

9 THE CLERK: What say you for the State?

10 MS. FULLER: Please present the juror.

11 THE CLERK: What say you for Defense Robertson?

12 MR. MAULDIN: Please present the juror.

13 THE CLERK: Defense Brannon?

14 MR. WILLIAMS: Please swear the juror.

15 THE CLERK: If you'll have a seat in the jury
16 box, please, ma'am.

17 116, Paige Kelso.

18 (Juror No. 116 comes forward.)

19 THE CLERK: What say you for the State?

20 MS. FULLER: Please present the juror.

21 THE CLERK: What say you for Defense Robertson?

22 MR. MAULDIN: Please present the juror.

23 THE CLERK: Defense Brannon?

24 MR. WILLIAMS: Please excuse the juror from the
25 trial of this case.

1 THE CLERK: If you'll return to your seat,
2 please, ma'am.

3 No. 13, Hannah Bernard.

4 (Juror No. 13 comes forward.)

5 THE CLERK: What say you for the State?

6 MS. FULLER: Please present the juror.

7 THE CLERK: What say you for Defense Robertson?

8 MR. MAULDIN: Please present the juror.

9 THE CLERK: What say you for Defense Brannon?

10 MR. WILLIAMS: Please swear the juror.

11 THE CLERK: If you'll have a seat in the jury
12 box, please, ma'am.

13 No. 95, Jeffrey Hayes.

14 (Juror No. 95 comes forward.)

15 THE CLERK: What say you for the State?

16 MS. FULLER: Please present the juror.

17 THE CLERK: What say you for Defense Robertson?

18 MR. MAULDIN: Please present the juror.

19 THE CLERK: What say you for Defense Brannon?

20 MR. WILLIAMS: Please excuse the juror from the
21 trial of this case.

22 THE CLERK: If you'll return to your seat,
23 please, sir.

24 No. 79, Darcell Gordon.

25 (Juror No. 79 comes forward.)

1 THE CLERK: What say you for the State?
2 MS. FULLER: Please present the juror.
3 THE CLERK: What say you for Defense Robertson?
4 MR. MAULDIN: Please present the juror.
5 THE CLERK: What say you for Defense Brannon?
6 MR. WILLIAMS: Please swear the juror.
7 THE CLERK: If you'll have a seat in the jury
8 box, please, sir.
9 142, Ashley Merritt.
10 (Juror No. 142 comes forward.)
11 THE CLERK: What say you for the State?
12 MS. FULLER: Please present the juror.
13 THE CLERK: What say you for Defense Robertson?
14 MR. MAULDIN: Please present the juror.
15 THE CLERK: What say you for Defense Brannon?
16 MR. WILLIAMS: Please swear the juror.
17 THE CLERK: If you'll have a seat in the jury
18 box, please.
19 36, Jessica Cannon.
20 (Juror No. 36 comes forward.)
21 THE CLERK: What say you for the State?
22 MS. FULLER: Please present the juror.
23 THE CLERK: What say you for Defense Robertson?
24 MR. MAULDIN: Please present the juror.
25 THE CLERK: What say you for Defense Brannon?

1 MR. WILLIAMS: Please excuse the juror from the
2 trial of this case.

3 THE CLERK: If you'll return to your seat,
4 please, ma'am.

5 58, Anthony Draft.

6 (Juror No. 58 comes forward.)

7 THE CLERK: What say you for the State?

8 MS. FULLER: Please present the juror.

9 THE CLERK: What say you for Defense Robertson?

10 MR. MAULDIN: Please excuse the juror.

11 THE CLERK: If you'll return to your seat,
12 please, sir.

13 98, Henry Hennis -- I'm sorry. Harry.

14 (Juror No. 98 comes forward.)

15 THE CLERK: What say you for the State?

16 MS. FULLER: Please present the juror.

17 THE CLERK: What say you for Defense Robertson?

18 MR. MAULDIN: Please present the juror.

19 THE CLERK: What say you for Defense Brannon?

20 MR. WILLIAMS: Please swear the juror.

21 THE CLERK: If you'll have a seat in the jury
22 box, please, sir.

23 104, Roderick Holsey.

24 (Juror No. 104 comes forward.)

25 THE CLERK: What say you for the State?

1 MS. FULLER: Please present the juror.

2 THE CLERK: What say you for Defense Robertson?

3 MR. MAULDIN: Please present the juror.

4 THE CLERK: What say you for Defense Brannon?

5 MR. WILLIAMS: Please swear the juror.

6 THE CLERK: Have a seat in the jury box,
7 please, sir.

8 221, Ross Wise.

9 (Juror No. 221 comes forward.)

10 THE CLERK: What say you for the State?

11 MS. FULLER: Please present the juror.

12 THE CLERK: What say you for Defense Robertson?

13 MR. MAULDIN: Please excuse the juror.

14 THE CLERK: If you'll return to your seat,
15 please, sir.

16 46, Kira Cooper.

17 (Juror No. 46 comes forward.)

18 THE CLERK: What say you for the State?

19 MS. FULLER: Please present the juror.

20 THE CLERK: What say you for Defense Robertson?

21 MR. MAULDIN: Please present the juror.

22 THE CLERK: What say you for Defense Brannon?

23 MR. WILLIAMS: Please swear the juror.

24 THE CLERK: If you'll have a seat in the jury
25 box, please.

1 Alternates, Your Honor?

2 THE COURT: Yes ma'am.

3 THE CLERK: Three?

4 THE COURT: Yes ma'am.

5 THE CLERK: Casey Schumpert, 185.

6 (Juror No. 185 comes forward.)

7 THE CLERK: What say you for the State?

8 MS. FULLER: Please present the juror.

9 THE CLERK: What say you for Defense Robertson?

10 MR. MAULDIN: Please excuse the juror.

11 THE CLERK: If you'll return to your seat,

12 please, ma'am.

13 176, Terrence Mulmer.

14 (Juror No. 176 comes forward.)

15 THE CLERK: What say you for the State?

16 MS. FULLER: Please present the juror.

17 THE CLERK: What say you for Defense Robertson?

18 MR. MAULDIN: Please present the juror.

19 THE CLERK: What say you for Defense Brannon?

20 MR. WILLIAMS: Please excuse the juror from the

21 trial of this case.

22 THE CLERK: Please return to your seat.

23 172, Nyhelas Rivera Palen.

24 (Juror No. 172 comes forward.)

25 THE CLERK: What say you for the State?

1 MS. FULLER: Please present the juror.

2 THE CLERK: What say you for Defense Robertson?

3 MR. MAULDIN: Please excuse this juror.

4 THE CLERK: If you'll return to your seat,
5 please.

6 34, Danielle Caldwell.

7 (Juror No. 34 comes forward.)

8 THE CLERK: What say you for the State?

9 MS. FULLER: Please present the juror.

10 THE CLERK: What say you for Defense Robertson?

11 MR. MAULDIN: Please present the juror.

12 THE CLERK: What say you for Defense Brannon?

13 MR. WILLIAMS: Please swear the juror.

14 THE CLERK: If you'll have a seat in the jury
15 box, please, ma'am.

16 210, Brian Wick.

17 (Juror No. 210 comes forward.)

18 THE CLERK: What say you for the State?

19 MS. FULLER: Please present the juror.

20 THE CLERK: What say you for Defense Robertson?

21 MR. MAULDIN: Please present the juror.

22 THE CLERK: What say you for Defense Brannon?

23 MR. WILLIAMS: Please excuse the juror from the
24 trial of this case.

25 THE CLERK: If you'll return to your seat,

1 please.

2 83, Glenworth Green.

3 (Juror No. 83 comes forward.)

4 THE CLERK: What say you for the State?

5 MS. FULLER: Please present the juror.

6 THE CLERK: What say you for Defense Robertson?

7 MR. MAULDIN: Please excuse this juror.

8 THE CLERK: If you'll return to your seat,

9 please, sir.

10 THE COURT: I just have a quick question for

11 counsel.

12 (Sidebar conference.)

13 THE CLERK: 74, Michelle Gladden.

14 (Juror No. 74 comes forward.)

15 THE CLERK: What say you for the State?

16 MS. FULLER: Please present the juror.

17 THE CLERK: What say you for Defense Robertson?

18 MR. MAULDIN: Please present the juror.

19 THE CLERK: What say you for Defense Brannon?

20 MR. WILLIAMS: Please swear the juror.

21 THE CLERK: If you'll have a seat in the jury

22 box, please, ma'am.

23 105, Bonnie Horton.

24 (Juror No. 105 comes forward.)

25 THE CLERK: What say you for the State?

1 MS. FULLER: Please present the juror.

2 THE CLERK: What say you for Defense Robertson?

3 MR. MAULDIN: Please excuse this juror.

4 THE CLERK: If you'll return to your seat,
5 please.

6 167, Carmen Preston.

7 (Juror No. 167 comes forward.)

8 THE CLERK: What say you for the State?

9 MS. FULLER: Please present the juror.

10 THE CLERK: What say you for Defense Robertson?

11 MR. MAULDIN: Please present the juror.

12 THE CLERK: What say you for Defense Brannon?

13 MR. WILLIAMS: Please excuse the juror from the
14 trial of this case.

15 No. 5, Phillip Arms.

16 (Juror No. 5 comes forward.)

17 THE CLERK: What say you for the State?

18 MS. FULLER: Please present the juror.

19 THE CLERK: What say you for Defense Robertson?

20 MR. MAULDIN: Please present the juror.

21 THE CLERK: What say you for Defense Brannon?

22 MR. WILLIAMS: Please excuse the juror from the
23 trial of this case.

24 THE CLERK: If you'll return to your seat,
25 please, sir.

1 23, Steven Bozard.

2 (Juror No. 23 comes forward.)

3 THE CLERK: What say you for the State?

4 MS. FULLER: Please present the juror.

5 THE CLERK: What say you for Defense Robertson?

6 MR. MAULDIN: Please present the juror.

7 THE CLERK: What say you for Defense Brannon?

8 MR. WILLIAMS: Please swear the juror.

9 (Sidebar conference.)

10 THE COURT: All right. Ladies and gentlemen,
11 thank you for your agreement to come here today and
12 to begin your service on jury duty. First thing I'm
13 going to do is send you out of the courtroom and
14 down to the jury room where y'all will have the
15 opportunity to choose a foreperson who will serve as
16 the foreman or forelady as this week's jury.

17 While you're doing that, you know, you can
18 refresh yourselves. There's facilities down there
19 to refresh yourselves with.

20 But, in the interim, do not talk about this
21 case; do not discuss anything about this case or any
22 of the parties involved in this case; don't do any
23 sort of independent research on your own with any
24 sort of devices. All of the information you're
25 going to need as jurors in this case will come from

1 that witness stand and you don't need to do any sort
2 of research on your own. But, in the meantime,
3 please go down to the jury room. Please don't
4 discuss the case.

5 And send a note back up with who they choose to
6 be their jury foreperson.

7 THE BAILIFF: Okay.

8 THE COURT: Thank you very much.

9 (The jury exits the courtroom at 3:17 PM.)

10 THE COURT: All right. Ladies and gentlemen,
11 thanks again for your patience in this process. As
12 far as your potential jury service the rest of the
13 week, you're certainly done for today because we've
14 chosen the jury for the trial.

15 What I'm going to ask is that there's a number
16 on your jury sheet. Call that number tomorrow night
17 after 6:00 p.m. just to verify there's nothing on
18 Wednesday for you to do. I don't anticipate there
19 will be. But I want everyone to check on the county
20 clerk website or call that number tomorrow night
21 after 6:00 p.m. and you will get further
22 instructions.

23 I suspect you'll be done for the week come
24 Wednesday, but we just have to be careful and make
25 sure there's nothing else going on this week while

1 you're serving.

2 If anyone needs work excuses -- those do get
3 mailed out. But if you need one sooner, I believe
4 you can go down to the Clerk's Office and inquire
5 into that if you need something today.

6 Otherwise, Madam Clerk, anything else?

7 THE CLERK: No, sir.

8 THE COURT: All right. Thank you all for being
9 here on time today, and thank you for paying
10 attention closely to all the questions. You're free
11 to go at this time. Please check the call-in number
12 tomorrow night after 6:00 p.m. Thank you.

13 (The remaining jury panel exits the courtroom
14 at 3:21 PM.)

15 THE COURT: All right. I think we can
16 anticipate bringing them up here, swearing them,
17 doing the opening charge, and going into opening
18 statements.

19 Is the State ready with a witness or two today?

20 MS. FULLER: Yes, Your Honor. The State
21 schedule permits two witnesses today.

22 THE COURT: All right. Are y'all ready to
23 proceed otherwise, Mr. Williams and Mr. Mauldin?

24 MR. WILLIAMS: Yes, sir.

25 MR. MAULDIN: Yes, sir.

1 THE COURT: We'll just take ten minutes, get
2 them back up here. We'll find out who our
3 foreperson is, swear them, charge them, turn them
4 over to y'all.

5 MS. FULLER: Thank you, Your Honor.

6 (Short break.)

7 THE COURT: All right. Madam Court Reporter,
8 our Foreperson is Juror No. 199, second juror
9 selected, that's Amy Tetral.

10 (Court's Exhibit No. 1 marked for
11 identification.)

12 THE COURT: One other thing before the jury
13 gets here: Obviously, we're going to be here for
14 several days in this trial, and we'll have people in
15 and out of the courtroom. For anyone who is
16 attending this trial and any lawyers here as well,
17 everyone needs to remember to keep their composure
18 and not have any outbursts from something you hear
19 from the witness stand or something that you --
20 anything you may disagree with in the courtroom.
21 Please remember, everyone keep their composure. And
22 if you're unable to do so, feel free to excuse
23 yourself from the courtroom. Okay?

24 (The jury enters the courtroom at 3:45 PM.)

25 THE COURT: All right. Madam Forelady, ladies

1 and gentlemen of the jury, welcome back. You had a
2 chance to refresh yourselves. We are now going to
3 begin the trial of this case. However, I have some
4 instructive remarks and instructions I want to give
5 you. Before I do that, I want the Clerk of Court to
6 swear you in at this time.

7 (Jury sworn.)

8 THE CLERK: Thank you.

9 THE COURT: Now, before we begin the actual
10 trial of the case, I thought it might be helpful if
11 I explained to you basically how a trial proceeds.

12 First, the State will make an opening
13 statement. An opening statement is not evidence.
14 It is simply an outline to help you understand what
15 that party expects the evidence will show. The
16 defendant may, if he wishes, present an opening
17 statement, but he does not have to, for reasons I
18 will explain later.

19 Following opening statements, you will hear
20 testimony and evidence in this case. This will
21 consist of testimony from the State's witnesses, as
22 well as any physical exhibits which will be
23 introduced into evidence.

24 Following the completion of the testimony, the
25 attorneys will again have the opportunity to make

1 what is called closing arguments or summation to
2 you. This is an opportunity for the attorneys to
3 summarize the case from their respective points of
4 view. Again, these arguments are not evidence.

5 Following the closing arguments of the
6 attorneys, I will instruct you on the law of South
7 Carolina as it pertains to the issues that have
8 arisen in this case. When I have completed my
9 instructions to you, you will then be permitted to
10 begin your deliberations in order to reach your
11 verdict.

12 Now, you are the jury in this case and I want
13 to take a few minutes to tell you something about
14 your duty as jurors and to give you some
15 instructions. At the end of the trial, I'll give
16 you more detailed instructions. Those instructions
17 will control your deliberations.

18 It will be your duty to decide, from the
19 evidence, what the facts are. You and you alone are
20 the judges of the facts. You will hear the
21 evidence, decide what the facts are, and then apply
22 those facts to the law which I will give to you.
23 That is how you will reach your verdict. In doing
24 so, you must follow the law, whether you agree with
25 it or not.

1 The evidence will consist of the testimony of
2 witnesses, documents and other things received into
3 evidence as exhibits, and any facts on which the
4 lawyers agree or which I may instruct you to accept.

5 You should not take anything I say or do during
6 the trial as indicating what I think of the evidence
7 or what your verdict should be.

8 Now, this is a criminal case called by the
9 State of South Carolina. The State charges the
10 defendants with murder and attempted murder. The
11 charges against the defendants are contained in the
12 indictments. The indictments are not evidence of
13 anything. It's simply the description of the
14 charges made by the State against the defendants.

15 The defendants have pled not guilty to the
16 charges and are presumed innocent unless and until
17 proven guilty beyond a reasonable doubt. Proof
18 beyond a reasonable doubt is proof that leaves you
19 firmly convinced of the defendant's guilt. A
20 defendant has a right not to testify, and never has
21 to prove innocence or present any evidence. The
22 burden of proof is always upon the State of South
23 Carolina.

24 Now, the following things are not evidence and
25 you must not consider them as evidence in deciding

1 the facts of the case: Number one, statements and
2 arguments of the attorneys; two, questions and
3 objections of the attorneys; and three, any
4 testimony I instruct you to disregard.

5 Now, evidence here may be both direct and
6 circumstantial. Direct evidence is testimony by a
7 witness about what that witness personally saw,
8 heard, or did. Circumstantial evidence is indirect
9 evidence; that is, it is proof of one or more facts
10 upon which one can find another fact. You're to
11 consider both direct and circumstantial evidence.
12 The law permits you to give equal weight to both,
13 but it is up to you to decide how much weight to
14 give any evidence.

15 There are rules of evidence which control what
16 can be received into evidence. When a lawyer asks a
17 question or offers an exhibit into evidence and a
18 lawyer on the other side thinks that it is not
19 permitted by the rules of evidence, that lawyer may
20 object. If I overrule the objection, the question
21 may be answered or the exhibit may be received. If
22 I sustain the objection, the question cannot be
23 answered or the exhibit cannot be received.

24 Whenever I sustain an objection to a question
25 or deny a motion to admit an exhibit into evidence,

1 you must ignore the question or the existence of the
2 exhibit. And you must not guess what the answer
3 would have been or what the exhibit would have
4 shown.

5 Sometimes it may be necessary for me to request
6 that you leave the courtroom while I discuss the
7 attorneys' legal questions that come up during the
8 trial. If this occurs, you should not speculate
9 about what our discussions were or the reason that
10 you were asked to leave the room. It's simply a
11 procedure that the law requires when certain legal
12 issues arise.

13 There also may be occasions when I ask the
14 attorneys to approach the bench so that I can
15 discuss a legal issue with them in private. I will
16 do this as often as possible so that you will not be
17 required to leave the courtroom more often than is
18 absolutely necessary.

19 Again, if I ask the attorneys to step up to the
20 bench or if I ask you to leave the courtroom, please
21 don't think that anybody is trying to hide anything
22 from you or keep any evidence from you. This is
23 simply a procedure used by all lawyers and by all
24 courts to determine and decide legal questions.

25 In deciding the facts of the case, you may have

1 to decide which witnesses to believe and which
2 witnesses not to believe. You may believe
3 everything a witness says, or only part, or none of
4 it. In deciding what to believe, you may decide a
5 number of facts, including the following: The
6 witness' ability to see, hear, or know the things
7 testified to; the quality of the witness' memory;
8 the witness' manner while testifying; whether the
9 witness has an interest in the outcome of the case,
10 or any motive, bias or prejudice; whether the
11 witness was contradicted by anything the witness
12 said or wrote before the trial or by other evidence;
13 or how reasonable the witness' testimony was when
14 considered in light of other evidence which you
15 believed.

16 Now, until I advise you to begin your
17 deliberations, you must not discuss this case with
18 anyone, including your fellow jurors, family,
19 friends or anyone involved in the case. This
20 includes face-to-face discussions or those by
21 telephone, email, text messaging, social media, on
22 Twitter or Facebook or any sort of application that
23 you can communicate with.

24 During your breaks for meals or overnight, you
25 may not use these devices to do any sort of

1 independent research or communicate with victims
2 about this case while you're outside of the
3 courthouse.

4 As I said briefly before you took your break,
5 all the evidence you're going to receive in this
6 case will come from that witness stand, and you can
7 focus your attention there. That's where you'll
8 hear the evidence in this case. There's no need for
9 you to do any sort of independent research on your
10 own from any means or discussion with anyone else.

11 During the trial, do not read, listen to, or
12 watch any news reports about this case. Obviously,
13 I've told you not to do any independent research,
14 but avoid -- do not do any sort of reading of the
15 news that includes any information about this case,
16 whether it be on the internet, newspaper, radio, or
17 the like.

18 After the case is submitted to you, you'll
19 discuss it only in the jury room with your fellow
20 jurors. The attorneys and the parties have been
21 advised in this case that they're not to talk to you
22 at all. So if you happen to see someone in this
23 courtroom, in this courthouse, or anywhere and they
24 don't say hello, they're not being unfriendly,
25 they're just doing what I've asked them to do.

1 It's your solemn responsibility to determine
2 the guilt or innocence of the defendants, and your
3 verdicts must be based solely on the evidence as it
4 is presented to you in this trial and on the law as
5 I instruct it to you during and at the close of the
6 trial.

7 I don't see anyone with any sort of notepads or
8 note devices. You don't need to take notes during
9 this trial. You just need to focus your attention
10 on the witness stand.

11 We will get started here very shortly, but we
12 will start as early in the morning as we practically
13 can. Obviously, as I've told you, take breaks
14 during the day. If during the testimony if someone
15 just needs to take a break, just wave me down, get
16 my attention, and we'll take a break. Okay?

17 Otherwise, at this time, what I would like is
18 for you to give your complete and undivided
19 attention to the attorneys in this case as they
20 present their opening statements.

21 MR. MCNAIR: Thank you, Your Honor. May it
22 please the Court?

23 THE COURT: Yes, sir.

24 MR. MCNAIR: This case begs the question, what
25 is the value of a human life? To these defendants,

1 sitting right here, it's worth nothing more than an
2 opportunity to show everybody at the club who's
3 boss. And they unleashed hell to prove that.

4 These two defendants and one of their
5 associates fired 34 shots -- at least 34 shots at a
6 group of five people who were just there to hang out
7 at the club that night.

8 William Tyrone Gantt, known as Shine; a father,
9 a son, a loved one, gunned down for being at the
10 wrong place at the wrong time. All he did was ask
11 Tirrell Brannon what he was talking about as he and
12 Shantrez Robertson walked up with guns in their
13 hands asking where they at.

14 Brandon Jeffery, just a guy who has worked at
15 Do It Best Hardware for 16 years, shot twice in the
16 leg before he was able to crawl under his car and
17 save his own life. Lucky to be alive. He's here,
18 and you'll hear from him tomorrow about what
19 happened.

20 O'Brien Gilliam, goes by OB, just a naive
21 20-year-old kid at the club that night just trying
22 to have a good time. He's lucky to be alive. And
23 you'll hear he may have been the intended target all
24 along.

25 Andy Barnes, Dominique Williamson, two others

1 that were part of that group of five, just there to
2 have a good time, almost lost their lives. Wrong
3 place, wrong time.

4 Why would somebody do this? Why would somebody
5 do something so wicked, so senseless, so depraved?
6 The facts are that on June 6th of 2015, at a place
7 call The Spot, a club in Batesburg, OB, who I just
8 mentioned, was in the club having a good time on the
9 dance floor. He happened to get in the middle of
10 these defendants' group with their associates as
11 they were jumping around flashing signs. He crossed
12 a line he didn't know he had crossed.

13 Brandon Jeffery saw what was going on. He went
14 and pulled OB out the circle. They didn't mean any
15 disrespect, but that almost cost them their lives.

16 Shortly after that, Brandon Jeffery gets a bad
17 feeling for being in the club, sees these defendants
18 looking at him. He and all his friends, O'Brien
19 Gilliam, William Gantt, Andy Barnes, Dominique
20 Williamson, they all leave the club. They go to
21 where their vehicles are parked. Next thing they
22 know, these two are walking up, guns in hands, Where
23 they at?

24 Shine stands up and says, Who you talking
25 about? And they open fire 34 times. William Gantt

1 is hit five times with multiple bullets. Brandon
2 Jeffery hit twice in the leg. Dominique Williamson
3 is just sitting in her car putting on makeup as it's
4 shredded with bullets. By the grace of God, O'Brien
5 Gilliam didn't get hit, Andy Barnes didn't get hit.
6 They were standing by the vehicles as well. As he's
7 taking fire, Andy Barnes is able to get into the
8 driver's seat of his vehicle, crawl to the glove
9 box, get his gun, and return fire, which is probably
10 the only thing that saved him.

11 Most of his shots hit the vehicle he was
12 crouched behind, but a couple of his shots hit the
13 Grand Marquis, the burgundy Grand Marquis that
14 you're going to hear about in this case that the
15 defendants came to the club in and that they left
16 the club in.

17 That vehicle belonged to Antonio Stroman and he
18 was hit in the back of the neck as they were
19 leaving. These two defendants were in that vehicle
20 and so was a guy named Tyrese White, who is charged
21 as the third shooter in this case.

22 Now, you're going to hear testimony that
23 Mr. Gantt, William Gantt, did have a gun that night.
24 What you're not going to hear is any credible
25 witness come in here and say he ever pulled his gun

1 or fired first. So please do not let that distract
2 you from the truth of this case. His gun was
3 ultimately recovered by law enforcement fully
4 loaded, indicating he didn't fire a shot.

5 You'll hear the pathologist in this case,
6 Dr. Ross, say his right arm was down when that fatal
7 shot went through his arm. He never raised his gun.
8 He never fired a shot. This ain't a case of
9 self-defense.

10 You're going to hear everybody has nicknames in
11 this case. They all know each other by nicknames,
12 which is easy to refer to them that way. Everybody
13 knows Donovan Brannon because he's from Batesburg.
14 He went by Fresh. A lot of people didn't know
15 Shantrez Robertson because he wasn't from the area,
16 but he goes by the name Red Nose.

17 Fresh and Red Nose rode to the club that night,
18 like I said, in a burgundy Grand Marquis with two
19 other people, Antonio Stroman, who goes by the
20 nickname Boosie, and Tyrese White, who goes by the
21 nickname Boosie or Little Boosie. And he's also
22 charged as a shooter in this case.

23 Multiple people ID'd Fresh because they knew
24 him; ID him as having a gun in hand and shooting
25 that night. Brandon Jeffery ID's Red Nose as having

1 a gun in his hand right beside Fresh shooting.
2 Jeffery says he was wearing white pants with stars
3 on them. And you'll see a video of Mr. Robertson
4 earlier that night wearing those same pants.

5 We know Fresh had a nine-millimeter Ruger that
6 night. Five casings belonging to that weapon were
7 found on scene. There's a Facebook photo of him
8 with the gun earlier that night at a party. That
9 gun was later found at Creek View Apartments in
10 Batesburg in the area where Fresh was standing.
11 That's where all the defendants drove in that Grand
12 Marquis after that shooting happened.

13 We know Red Nose had a nine-millimeter Smith &
14 Wesson. There's Facebook messages where he's trying
15 to sell a Smith & Wesson with 17 shots less than 30
16 hours prior to this incident. There's text messages
17 where he's still trying to sell it about 12 hours
18 prior. 15 shell casings consistent with a
19 nine-millimeter Smith & Wesson were found on scene.
20 And it also happens that a nine-millimeter Smith &
21 Wesson ended up firing the fatal bullet that killed
22 Mr. Gantt.

23 Tyrese White fired the third gun, which we
24 believe to be a 40-caliber. 14 shell casings belong
25 ing to that gun were found on scene.

1 But, ladies and gentlemen, it really doesn't
2 matter who fired which gun or who fired the fatal
3 bullet. I'm sure y'all have all heard the concept
4 of the hand of one is the hand of all. And that is
5 a legal concept that applies in this case. When two
6 or more people combine or agree to commit a crime,
7 each is liable for the acts of the other. It
8 doesn't even matter if one of them didn't have a
9 gun. If two people act together to commit a crime
10 and one person shoots and they have the same intent,
11 they're both guilty.

12 But. In this case, you will hear they both had
13 guns, they both shot. But it doesn't matter whose
14 bullet connected and killed Mr. Gantt, they all
15 shot.

16 You're going to hear, as I mentioned, from
17 Brandon Jeffery. You're going to hear from OB.
18 You're going to hear from Andy Barnes. Now, what I
19 ask of you is don't expect them to remember every
20 little detail in a chaotic event like this. Don't
21 expect them to remember all the same details.
22 They're all seeing things from different
23 perspectives as they're taking fire.

24 And I hope y'all can relate to that. I think
25 we've all been at things like a sporting event where

1 you're watching players on the field and the guy
2 beside you might see something different than you
3 did. That's just the nature -- that's just human
4 nature. And when you're watching something like
5 that, you're not taking fire like these witnesses
6 were. They all saw different things from different
7 perspectives. It should be more concerning to you
8 if they said all the same thing, that they all saw
9 the same thing.

10 You get to ask yourself, who has a motive to
11 lie and who doesn't? Who came forward with the
12 truth and who tried to hide the truth in this case?
13 You get to determine who's credible and who's not.

14 Now, these defendants don't have to say a word.
15 We have the burden of proof, and that's fine. But,
16 like I said, what this is not a case of is
17 self-defense. And what -- I want to talk to you a
18 little bit about that just in case it comes up
19 during this trial.

20 No credible witness, like I said, will come in
21 here and say anybody in the victims' groups pulled a
22 gun or shot prior to these guys opening fire.
23 Mr. Robertson told law enforcement he wasn't even
24 there when the shooting happened. Like I said, when
25 Mr. Gantt's gun was recovered, it was fully loaded.

1 The key thing about self-defense I want you to
2 remember is you can't bring on the difficulty, as
3 the law says, and then claim self-defense. You
4 can't start a fight and then claim self-defense.
5 You can't walk up to somebody with a gun in a
6 threatening matter saying where they at and then
7 claim self-defense if they shoot back. Keep that in
8 mind throughout this trial, please.

9 As you heard the Judge say, we're here for the
10 murder of William Gantt and the attempted murder of
11 Brandon Jeffery. We have to prove the elements of
12 those offenses to you beyond a reasonable doubt.
13 Y'all have all heard that term. I want to talk to
14 you about it because a lot of people have
15 misconceptions about what reasonable doubt really
16 is.

17 What it is not, it does not require us to prove
18 things to an absolute certainty. There are very few
19 things, if any, in this word that we can know to an
20 absolute certainty, and the law does not require
21 that. It does not require us to prove things to you
22 beyond any doubt you may have or all doubt
23 whatsoever. What it requires is that at the end of
24 this trial, you are firmly convinced of these
25 defendants' guilt.

1 I'm about to sit down. We are lucky -- they
2 are lucky that we're here today for just one murder
3 and not five. William Gantt, Brandon Jeffery,
4 O'Brien Gilliam, Andy Barnes, and Dominique
5 Williamson, they were on the receiving end of a
6 massive amount of gunfire. This was a total
7 disregard for human life. They were willing to gun
8 down multiple people for nothing, for foolishness.
9 Senseless. It's malice. Total disregard for human
10 life. They have no regard for human life.

11 The victims have waited a long time for this
12 day. Keep your eye on the ball. Focus on the
13 truth, and it will lead you to justice. Thank you.

14 MR. MAULDIN: Thank you, Your Honor.

15 Hello, ladies and gentlemen of the jury. At
16 the end of this case, after we've done our openings
17 and all the witnesses have testified and you've
18 looked at all the pictures and watched any videos,
19 looked at any photos, heard expert testimony, and
20 we've done our closing arguments and you go back to
21 that jury room, you're going to have no more idea
22 what happened that night than you did when you first
23 walked in the courtroom today. You're not going to
24 be firmly convinced of anything.

25 In a couple of weeks from now, if somebody asks

1 you about your jury service, the only thing you can
2 say you were firmly convinced of is that it happened
3 six and a half years ago.

4 Sure, sure, you're going to learn they have
5 this place called The Spot. It's a club. It's not
6 a big nightclub with neon lights and stuff like
7 that. It's in a little house in Batesburg-Leesville
8 off Exit 39, I believe, where 178 and 20 meet. Just
9 about three minutes off it southeast. It's just a
10 house. It wasn't a regular business-type thing. It
11 was a club where they would throw a party every once
12 in a while or have a DJ and people would go and
13 dance.

14 There's some dirt roads leading to the club,
15 dirt roads leading up to the club. There's a bunch
16 of trees around, open area to park, and then the
17 little house where they had the little club. And it
18 was 3:00, 3:15 in the morning. All these people had
19 been at the club dancing, ingesting a little bit of
20 alcohol, maybe something else. Who knows what their
21 recollections were at the time. And you'll hear
22 about the witnesses who were at this club. And
23 everybody has an agenda, we know that.

24 The solicitor said, well, the stories are a
25 little different. And they're probably going to be

1 not only be different from each other, but different
2 from back in 2015 when they gave them. If they were
3 all the same, you'd be worried. Well, if his
4 witnesses had all the same story and the defense
5 witnesses had all different stories, do you think
6 he'd be singing a different tune? I would. I mean,
7 you can't have it both ways. And I would do the
8 same thing.

9 So the police are called and they go out on
10 force. There's a lot of police. I'm sure you heard
11 the witness list. The first people they get to are
12 these people, Brandon Jeffery, "Pedro", O'Brien
13 Gilliam, "OB", Dominique Williamson, "ED", Andy
14 Barnes, "Teddy P", and the dead guy, William Gantt,
15 "Shine". That's the long-and-short here, and that's
16 the story they wrote, no matter what they find later
17 on or who they talk to later on.

18 And they gather some evidence during the case
19 and, at some time later, it gets sent off to be
20 examined. As far as we know, they might have DNA,
21 fingerprint, gunshot residue and ballistics, which
22 is where they're putting together the picture that
23 Mr. McNair laid out for you, the ballistics.

24 They're also going to have cell tower
25 information about where people might have been at

1 what time. They also may be having some text
2 messages and social media posts. And none of these
3 can conclusively point to what happened.

4 Even if you take a little bit of these pieces
5 and you put it all together, it's not going to make
6 a full picture. It's just going to be a bunch of
7 separate pieces. And you're not going to be firmly
8 convinced that Mr. Robertson committed a murder.
9 You're not going to be firmly convinced that he
10 committed attempted murder. Thank you.

11 MR. WILLIAMS: May it please the Court?

12 THE COURT: Yes, sir.

13 MR. WILLIAMS: First thing I want to tell you
14 is even though we've got this long table over here,
15 we're not together. You say, well, they look like
16 they're sitting together. Well, we're not really
17 together. Because what they've done in this case is
18 they have charged two different individuals with
19 committing crimes. But they're different
20 individuals.

21 When deciding this case, you have to make
22 decisions based on facts and evidence that point to
23 two different individuals. So the easiest way,
24 obviously, for the State to ever prove anything
25 against any individual is to have more than one

1 individual and say simply, by the group of them,
2 they must be guilty of something.

3 You know, in opening argument, that's a chance
4 where you're supposed to tell the jury something
5 about your case and what you intend to prove. It's
6 like going to a movie or -- well, maybe not a movie.
7 It's like going to an opera, if you like opera, or
8 maybe going to a play where you have a little story
9 that you're going to follow along. And you give
10 them a purview or preview of what they're going to
11 see. And the hope is that somehow at that opening
12 shot that you'll catch that jury and they're going
13 to be on your side.

14 That's kind of like when you're kids and you're
15 the first one to get to Mama and you tell Mama, she
16 did it, she did it. Well, you know, it's not first
17 in the door that gets credit for the truth. If it
18 was that easy, I'd learn to run faster, but it's
19 not. Because what you have to do is you have to sit
20 and you have to analyze the evidence that comes in.

21 What we attorneys and what we solicitors say,
22 that's not evidence. It doesn't mean a thing
23 really, because evidence is something which other
24 people present to you. Evidence is supposed to be
25 parts of things that you see, hear, smell, touch,

1 whatever. It's something that you can consider.
2 Because, you know what, I don't think any of us on
3 this front row were here. Well, at least, my
4 daughter, Anna, wasn't here and I know David wasn't
5 here. I know the solicitor wasn't there, and I
6 wasn't there.

7 Now, I happen to live in Batesburg and I -- you
8 know, I kind of know a little bit about what that
9 place looks like or did look like. You go out there
10 today, you can't see it. What you do is, basically,
11 take I-20, take a left on 178, go down to Parrish
12 Road. Then when you get to Parrish Road, you turn
13 left again. And if you were looking for it, you
14 couldn't find it because it's all grown up and the
15 place has burned down. But it was, indeed, some
16 sort of get-together place that people went to.

17 I heard the characterization of a bunch of gun
18 shooting and things like that, and that these
19 individuals who are listed as victims had been done
20 wrong. You know, I hesitate using the word victim
21 because victim normally indicates that there's one
22 side that's not a victim and then there's another
23 side that is a victim.

24 But, you know, the one person we haven't heard
25 about as being a victim is Antonio. He's an

1 individual who is listed as one of the witnesses
2 here, Antonio Stroman. And Antonio Stroman was shot
3 in the back of the neck. That's pretty severe
4 stuff, isn't it? Shot in the back of the neck,
5 thought he was going to be paralyzed. Who did they
6 arrest going after the person who shot Antonio
7 Stroman?

8 See, this is kind of like taffy. The older
9 this thing gets, the longer this thing gets; the
10 more years that go by, the more it gets involved.
11 Doesn't make it cleaner, doesn't make it more
12 precise in any way whatsoever, because now we've
13 heard that there's somebody else who is the shooter.
14 I don't see him in this courtroom.

15 Mr. White, if you're here, raise your hand.

16 No, he's not here. He's not being tried with
17 these two individuals who are here.

18 The place we're talking about is a place where
19 probably -- I say probably. I wasn't there. I can
20 only read these reports. But when the police get
21 there, there was at least 30 people who were in
22 there clogging a way for anyone to find out what's
23 going on. The cars get stuck. They have to get
24 somebody -- one of the police officers down there,
25 he has to kind of put some tape up just so he can

1 get vehicles in and out, if you can imagine such a
2 confused area.

3 Now, this is 3:15 in the morning. The other
4 attorney over here made some comments about alcohol
5 and other stuff. Well, you'll have proof of that,
6 because you'll have medical testimony from some of
7 the individuals that were examined that proves --
8 did I say proves -- proves that there was alcohol
9 and there were drugs. That will come out when the
10 pathologist testifies.

11 So the reason why the other attorney was
12 talking about this is because people's perception,
13 when you have been drinking, when you have been
14 using drugs, is a little bit askew.

15 One thing that I would ask that you consider as
16 you watch all of this -- you know, there's a lot
17 going on today that is, basically, political. You
18 know, political consideration about guns, political
19 considerations about science. I would suggest to
20 you that there is one thing, which is something that
21 cannot be changed very much, and that is science.
22 You follow the science that's being presented in
23 this case, and I think that will lead you in the
24 right direction.

25 Because, as you know, and I think it has been

1 mentioned, DNA will be mentioned, gunshot residue
2 will be mentioned. There will be angles of bullets
3 that went out. There will be professionals whose
4 job it is to determine what type of gun fired a
5 particular type of bullet and the trajectory that it
6 went and where more than likely the shots came from
7 after the fact. You'll have all that information
8 that you can look at.

9 And it's inescapable that some things you won't
10 have an answer for because the one thing you won't
11 have is a motive in this case. Because you'll hear
12 some people saying there was nothing going on inside
13 the club.

14 The one thing I want you to focus on is who was
15 the individual who got kicked out of the club
16 because he had a gun with him? I don't think it was
17 either one of these two individuals.

18 So when you think about being a victim, you
19 don't normally go to places with guns. So pay
20 attention to all the testimony that comes out here.
21 My client -- and, remember, I only represent one,
22 he's Fresh -- well, I don't know if he's fresh, but
23 it's -- I've known him long enough to know what his
24 nickname is.

25 When he was arrested, he gave a fully written

1 statement about what transpired, what we heard about
2 those people who won't own up to what happened and
3 what didn't happen.

4 And I think this testimony or this argument, if
5 you will, by the solicitor about no self-defense
6 might just go away with that. Because if nothing
7 else, this was not about a bunch of people dancing.
8 I don't bring a gun to a dance. Somebody had it out
9 for, I guess, Fresh, for whatever reason.

10 Because what you'll learn is that Antonio was
11 driving this car. They were taking shots at Fresh
12 and whoever else was down there. And when you look
13 at the car, you'll see the angles of all the bullets
14 that were hitting the car. You get shot in the neck
15 and Fresh pulls his cousin out, puts him in the back
16 of the car. He's bleeding, got a bullet in the back
17 of his neck. And he says, I'm going to drive him.
18 He takes him so he can get an ambulance to take care
19 of him.

20 You may see some sort of video showing him
21 acting like an idiot, because he did, saying, Where
22 are the police? Where is the ambulance? He was
23 upset, he was. And who would blame him? He loves
24 the guy he was trying to take care of. Fully
25 cooperated with police, told them exactly what

1 transpired. That's the other side of the coin.

2 You know, when I looked at today's date,
3 November 15th, 2021, I'm old enough to remember
4 another date, November 22nd, 1963. I knew exactly
5 where I was at 12:30, 1:00. I was on a school bus
6 leaving Airport High School going back home because
7 something tragic had happened. Nobody on this --
8 nobody in this jury box is old enough to know what
9 I'm talking about. Somebody had shot John
10 Fitzgerald Kennedy.

11 And the reason why that just seems to ring in
12 this particular case is because of all the
13 conspiracy theories that have come ever since that
14 date. And if you read about what's going on, the
15 government won't even release the last of the
16 reports, but that's what it is. They talk about it.
17 I don't know who was on the grassy knoll. I don't
18 know if there's a grassy knoll down there. It's
19 kind of that situation.

20 So what you have to do is focus. We don't know
21 how many people were shooting. You heard three. We
22 don't know how many bullets were out there. But we
23 know this -- I will tell you this without a doubt --
24 the only gun that anyone can say was anywhere near
25 my client, no bullet came from either one of the two

1 individuals who were shot. That's right.

2 You got Pedro, who was shot in the legs, and
3 you got poor Mr. Gantt, who's known as Shine, who's
4 deceased, both got bullets in their legs -- well, in
5 their bodies. None of those, none of those, none of
6 those match any gun that my client has been around.
7 So produce it if you got it, show it to us. They
8 don't even have gunshot residue off my client, even
9 though he made some statements.

10 Part of the reason, it's six and a half years
11 old. Think about that. When these witnesses take
12 the stand, ask them where they sent the gunshot
13 residue anywhere. Ask them when they did this, did
14 that. And ask them when they decided to go ahead
15 and just, oh, there's somebody else, Mr. White. If
16 we wait long enough, we'll have four or five other
17 people involved with this. There was so many people
18 shooting, nobody knows what they were doing.

19 Firmly convinced of my client's guilt. The
20 only thing you're going to be firmly convinced of is
21 you're glad you weren't there. And that's not what
22 the jury system is all about. The jury system is
23 all about people using facts to make decisions and
24 applying the facts to the law as His Honor will
25 charge you.

1 I thank you for listening to me, and I thank
2 you for being -- I know you guys didn't know when we
3 were picking -- you probably had some idea it was
4 going to be a longer case, I don't know, than you
5 really wanted. But I thank you. Because there's
6 some things that are much more important and better
7 than machines, and that's you human beings sitting
8 back there because you've got common sense.

9 Thank you again. And I believe, in the end,
10 you're going to find my client not guilty of either
11 one of the charges he's charged with.

12 THE COURT: Is the State ready to proceed?

13 MS. FULLER: Yes, Your Honor. The State calls
14 Daniel Schirra.

15 THE CLERK: Raise your right hand please.

16 DANIEL SCHIRRA

17 being first duly sworn, testified as follows:

18 THE CLERK: If you will have a seat, state your
19 name, please, and spell your last for the record.

20 THE WITNESS: Daniel Schirra, S-C-H-I-R-R-A.

21 DIRECT EXAMINATION

22 BY MR. MCNAIR:

23 Q. Mr. Schirra, where are you currently employed?

24 A. Currently work in United States Courts
25 Probation Office as United States probation officer.

1 Q. Back in 2015, where did you work?

2 A. I worked for the Lexington County sheriff's
3 department as a patrol deputy.

4 Q. How long were you with the sheriff's
5 department?

6 A. At that time?

7 Q. Yes. When did you start?

8 A. I started in March. I was on the tail end of
9 my training.

10 Q. I got you. Now, were you on duty July 6th of
11 2015?

12 A. Yes, sir.

13 Q. On that day, did a 911 call come in, in
14 reference to a shooting at 1150 Parrish Road?

15 A. Yes, sir.

16 Q. Is that in Lexington County?

17 A. Yes, sir.

18 Q. What time did that initial 911 call come in?

19 A. We received it around 3:14 in the morning.

20 Q. Where did you respond to initially?

21 A. So I worked the west region, which bordered the
22 south region, and I was directed to a gas station on
23 Fairview Road, which is on the border of our two
24 regions, to assist in the car.

25 Q. Would that be the Hill View gas station?

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

2 Q. Why did you respond to that location?

3 A. We were informed that there was a gunshot
4 victim there who had been at the initial scene of
5 the shooting.

6 Q. What time did you get on scene to the Hill
7 View?

8 A. I was there at 3:27 a.m. is when I indicated I
9 was on scene to dispatch.

10 Q. And did you make contact there with a gunshot
11 victim?

12 A. I did, yes, sir.

13 Q. What was his name?

14 A. Brandon Jeffery.

15 Q. What was going on when you first got there with
16 Mr. Jeffery?

17 A. There was some people crowded around a vehicle.
18 I came up to a gray Dodge Charger. Mr. Jeffery was
19 in the backseat laying down with gunshot wounds to
20 his legs.

21 Q. What condition did he appear to be in at that
22 point?

23 A. He was in clear pain. He was making audible
24 notations of being in pain. He was very emotional,
25 excited, loud, seemed concerned.

1 Q. What, if anything, did you happen to
2 Mr. Jeffery at that point?

3 A. I'm sorry?

4 Q. What did you do at that point?

5 A. I maintained the safety of the scene as EMS
6 arrived and stayed with Mr. Jeffery as EMS took him
7 to the ambulance and continued to stay with
8 Mr. Jeffrey until the ambulance.

9 Q. Did you, in fact, ride with Mr. Jeffery in the
10 ambulance?

11 A. Yes, sir, I did.

12 Q. And was he being treated in the back of the
13 ambulance?

14 A. He was, yes.

15 Q. And while he's in the back of the ambulance and
16 being treated, did you have an opportunity to speak
17 to him?

18 A. I did, yes.

19 Q. Did he still appear to be under the stress of
20 being shot?

21 A. Yes. He was very concerned and upset.

22 Q. What, if anything, did you ask Mr. Jeffery?

23 A. Just in general, I asked, What happened? Where
24 were you?

25 Q. Did he make statements to you about what

1 happened?

2 A. He did, yes.

3 Q. Did you document those statements in your
4 report?

5 A. I did.

6 Q. Can you read the statements that he made to
7 you?

8 A. Yes --

9 MR. WILLIAMS: Objection; 802, Your Honor.

10 MR. MAULDIN: Same objection, Your Honor.

11 MR. MCNAIR: Excited utterance, Your Honor.

12 THE COURT: Overruled.

13 THE WITNESS: This is actually interesting.

14 The first thing he indicated to me was not about
15 himself, but began telling me that a gentleman named
16 Robertson killed Shine. I asked him to tell me who
17 Shine was or if he could tell me who Shine was. And
18 he informed me that was the nickname of Tyrone Gantt
19 who had been at The Spot, a nightclub on Parrish
20 Road.

21 Mr. Jeffery told me he and Shine were leaving
22 this club when Robertson and a gentleman named
23 Tirrell Brannon ran -- and I quoted him telling me
24 this: Ran up the hill screaming, Where them N words
25 at? Stated that Shine replied, you know, What N

1 words? At which point, Robertson presented a chrome
2 and black handgun. Tirrell presented an all black
3 handgun, and they began shooting in that direction.

4 THE COURT: Counsel, I have a separate question
5 I need to ask y'all real quick. Unrelated.

6 (Sidebar conference.)

7 BY MR. MCNAIR:

8 Q. Just to clarify, you responded to the Hill View
9 on June 6th of 2015; is that correct?

10 A. 6/6/15, yes, sir. That's what my report
11 indicates.

12 Q. All right. And I think we stopped when you
13 said Mr. Jeffery told you Robertson presented a
14 chrome and black handgun.

15 A. Yes, sir.

16 Q. What else did he tell you en route to the
17 hospital?

18 A. In that same breath, he indicated that
19 Robertson was the one with the chrome and black
20 handgun, Tirrell had an all black handgun, and that
21 they began to be shot at.

22 At that time is when Brandon began to notate
23 his own injuries. He told me that he only could
24 feel the second shot in his leg, which dropped him
25 to the ground. He crawled under a car and hid until

1 the shooting stopped. He recalled hearing 12 to 14
2 gunshots.

3 I then inquired more about the people, about
4 who they were. If you want me to go into that?

5 Q. Yes. Did he say anything about, yeah, who they
6 were and what they were doing prior to the shooting?

7 MR. WILLIAMS: Your Honor, I would object to
8 this -- at some point in time, the utterance has to
9 not --

10 MR. MAULDIN: I join, Your Honor. It's become
11 a narrative, not an utterance.

12 THE COURT: Certainly, the initial statement is
13 an exception, but how long does the exception go,
14 Counsel?

15 MS. FULLER: It's almost over, Your Honor. I
16 think he's en route to the hospital. He's just been
17 shot. He's still being treated. I think all this
18 is -- he's relaying what happened.

19 THE COURT: Okay. Proceed. Overruled.

20 BY MR. MCNAIR:

21 Q. What, if anything, did he say about the
22 individuals and what they were doing prior to the
23 shooting happening?

24 A. He said Brandon -- Mr. Jeffery stated that --

25 MR. WILLIAMS: I'm going to object again, Your

1 Honor. This has gone beyond an utterance and a
2 response to interrogation.

3 THE COURT: Very well.

4 (Sidebar conference.)

5 MR. MCNAIR: That's all the questions I have.
6 Please answer anything the defense attorneys have.

7 THE COURT: Cross-examination?

8 MR. WILLIAMS: Thank you, Your Honor.

9 CROSS-EXAMINATION

10 BY MR. WILLIAMS:

11 Q. Hello, Agent Schirra.

12 A. Good afternoon.

13 Q. Good afternoon. You were an agent with the
14 probation office here, then you became a deputy.
15 And now, you're a probation agent again. But it's a
16 little bit higher up in the federal system; is that
17 right?

18 A. That's correct.

19 Q. And reading this, was the callout, was that to
20 1150 or 1140 Parrish Road on the 911?

21 A. I can't really speak to the Parrish Road
22 incident. I was dispatched to the Fairview Truck
23 Stop -- Hill View.

24 Q. And that's the Ben Franklin Road?

25 A. Yes, sir. It's right off the interstate.

1 MR. WILLIAMS: All right. No further
2 questions.

3 THE COURT: Cross-examination?
4
5

6 CROSS-EXAMINATION

7 BY MR. MAULDIN:

8 Q. Now, Brandon is the guy who was allegedly shot
9 in the leg, right?

10 A. Yes, sir.

11 Q. So he'll be able to come testify about what he
12 saw and didn't see, won't he?

13 A. I'm not sure if he's willing to do that or not.
14 Can you repeat the question?

15 THE COURT: Yeah, maybe refresh the question.

16 BY MR. MAULDIN:

17 Q. Well, Brandon, obviously, is not the person who
18 allegedly was deceased as a result of something.

19 Brandon is alive. He can come testify about what he
20 saw, heard, smelled, anything, right?

21 A. I haven't spoken to Mr. Brandon since that
22 night. I hope he's doing well and he's able to
23 testify.

24 Q. Right. So if he's alive, he can come talk
25 about it, can't he?

1 A. If he's willing to do so, yes, sir.

2 Q. If he's willing to?

3 A. I can't speak to that.

4 MR. MAULDIN: That's all I have, Your Honor.

5 THE COURT: Any redirect?

6 MR. MCNAIR: Nothing further, Your Honor.

7 THE COURT: The witness may step down.

8 MR. MCNAIR: Your Honor, the State calls
9 Timothy Franklin.

10 TIMOTHY FRANKLIN

11 being first duly sworn, testified as follows:

12 THE WITNESS: I do.

13 THE CLERK: Have a seat over there. You can
14 take your mask off. If you'll state your name and
15 spell your last for the record, please.

16 THE WITNESS: Timothy Franklin.

17 DIRECT EXAMINATION

18 BY MR. MCNAIR:

19 Q. Detective Franklin, where are you currently
20 employed?

21 A. Lexington County sheriff's department.

22 Q. And how long have you been with the sheriff's
23 department?

24 A. Approximately nine years.

25 Q. What's your current position?

1 A. Property crimes detective.

2 Q. Now, were you working or on duty back on June
3 6th of 2015?

4 A. I was.

5 Q. Did you respond to a call in reference to a
6 shooting at The Spot in Batesburg?

7 A. I did.

8 Q. Where did you respond to initially?

9 A. The Hill View Truck Stop, 2656 Ben Franklin
10 Road.

11 Q. What time did you get to the Hill View?

12 A. Approximately 3:20 a.m.

13 Q. What did you do once you got there?

14 A. I assisted with identifying people on scene as
15 well as getting the victim, Brandon Jeffery, loaded
16 onto the ambulance and transported to the hospital.

17 Q. And who rode with Mr. Jeffrey to the hospital?

18 A. Daniel Schirra.

19 Q. Was he training under you at the time?

20 A. He was.

21 Q. Now, did you accompany them to the hospital?

22 A. I followed in my police car.

23 Q. Did you have any contact with Mr. Jeffery?

24 A. Briefly, whenever they loaded him on up in the
25 ambulance and then once we got to the hospital.

1 Q. Did you have contact with him at the hospital?

2 A. I did.

3 Q. What was going on with him when you talked to
4 him at the hospital?

5 A. He was receiving treatment in the ER room.

6 Q. Can you describe his demeanor for us and what
7 condition he was in?

8 A. He was very distraught, upset. It was at that
9 point when I observed two gunshot wounds, one to his
10 ankle, one to his thigh/knee area.

11 Q. Was he being treated as you were speaking to
12 him?

13 A. He was.

14 Q. Did he still appear to be under the stress of
15 recently being shot?

16 A. For the most part. He was very upset.

17 Q. Did you ask him any questions?

18 A. I didn't really ask many questions --

19 Q. Let me rephrase that. Did he make any
20 statements to you about what happened?

21 A. He did.

22 Q. Did you document those in your report?

23 A. I did.

24 Q. What statements did he make to you about --

25 MR. WILLIAMS: Your Honor --

1 MR. MAULDIN: I join in.

2 MR. WILLIAMS: -- it's a long excited
3 utterance.

4 THE COURT: Stop. Stop.

5 Ladies and gentlemen, we're going to take a
6 short break. I'm going to send you right back down
7 to your jury room and get you back up here very
8 shortly. Please don't discuss the case while you're
9 out please. I'll get you back up here momentarily.
10 Thank you.

11 (The jury exits the courtroom at 4:41 PM.)

12 THE COURT: Obviously, there was an excited
13 utterance here. We've had testimony from an excited
14 utterance that occurred in the ambulance, I believe,
15 and now we're at the hospital. Obviously, I didn't
16 hear which hospital we were at. And he may still be
17 in an excited utterance. But I do know we have to
18 consider some level of timeliness. So that's why
19 I'm taking a break to look at. But I'll hear
20 argument from either one of you.

21 MR. MCNAIR: I've got a case on that, Your
22 Honor. Time is not a dispositive factor. It's one
23 thing to consider, but as long as they're still
24 under the stress of the event, which is, in this
25 case, a gunshot, it would qualify as an excited

1 utterance.

2 THE COURT: Again, I'm not disputing that a
3 person being shot wouldn't be in an excited state of
4 mind -- or excited state.

5 Mr. Williams?

6 MR. WILLIAMS: Judge, I was looking for that
7 doctor who's going to come in here and testify about
8 all the drugs he was given and what his mental
9 condition was based on all those drugs. Because the
10 one person who would know best if he was having an
11 excited utterance would be that guy who was treating
12 him.

13 THE COURT: Well, on the fly here, I'm looking
14 at State v. Sims. Long passage of time between the
15 start of an event and statement, one factor you
16 consider it's not -- it's not the dispositive
17 factor -- statements after extended periods of time
18 can be considered an excited utterance as long as
19 they were made under continued stress.
20 State v. Blackburn noting a time over one hour and
21 up to 11 hours does not necessarily eliminate
22 statement as part of the res gestae.

23 MR. WILLIAMS: The thing we would argue is the
24 intervening fact that he is now at the hospital when
25 he has somebody who is treating him.

1 THE WITNESS: Well, to that point --

2 MR. WILLIAMS: Giving him medication,
3 hopefully, to calm him down.

4 THE COURT: Well, I didn't hear how long he had
5 been at the hospital when he said that. You also
6 still have the ability, when you see this doctor
7 to go into --

8 MR. WILLIAMS: We don't even know that doctor
9 is coming here, do we, Judge?

10 THE COURT: That's true, we don't.

11 MR. WILLIAMS: That would be way after all this
12 hearsay has gotten in, Your Honor.

13 MR. MCNAIR: He can cross the witness on that,
14 whether he was being treated and what they gave him.

15 THE COURT: I don't know how much of a planning
16 of questioning you have, but, you know, outside --

17 MR. WILLIAMS: He does have the person that
18 testified to whatever is going on -- he might put
19 this guy on the stand to testify about what
20 happened.

21 MR. MCNAIR: That's not the standard, that he
22 can testify --

23 MR. WILLIAMS: Well, it's hearsay, Your Honor,
24 is the problem.

25 THE COURT: Yes, it is hearsay, but it is an

1 applicable exception to hearsay.

2 MR. WILLIAMS: And, obviously, we're saying
3 it's not.

4 THE COURT: I gathered that.

5 MR. MAULDIN: We'd join in, Your Honor.

6 THE COURT: We'll hear it out in-camera and
7 hear the full amount because I don't want to -- I
8 have ideas of what I think is appropriate. But, to
9 your point, once it's testified to -- I mean, we can
10 just do it here. Can't be that long of a witness,
11 right?

12 MR. WILLIAMS: You might have a lot of excited
13 utterance, Judge?

14 THE COURT: One thing I do is slow things down.
15 Outside of identification, how far in depth do
16 you anticipate?

17 MR. MCNAIR: You want to proffer what
18 statements he heard?

19 THE COURT: Yeah, let's do that. I just want
20 to hear it. That way, it's on the record and you've
21 got an appellate record if you so need it.

22 Madam Court Reporter, let's do this in-camera
23 right here right now.

24 IN-CAMERA EXAMINATION

25 BY MR. MCNAIR:

1 Q. Detective Franklin, you testified you followed
2 Brandon Jeffery to the hospital, correct?

3 A. Yes, sir.

4 Q. And when you got to the hospital, how long was
5 it before you spoke to him?

6 A. The time that they got him out of the ambulance
7 and took him into the ER room.

8 Q. Was a doctor even seeing him at that point or
9 doctor giving him any type of medication that you
10 saw?

11 A. I don't recall on that. I just know it was a
12 brief amount of time from the ambulance to the ER
13 room. And we're standing there dealing with this
14 situation, and he's talking.

15 Q. So pretty much as soon as you got there, you
16 had interaction with Mr. Jeffery?

17 A. Yes, sir.

18 Q. And he made statements to you about what
19 happened?

20 A. He did.

21 Q. And you documented those in your report?

22 A. I did.

23 Q. And what statements did he make to you?

24 A. He kept repeating that Tirrell Brannon and a
25 Robertson subject were the persons who shot him. He

1 also advised that he and a group of people he was
2 with had left the club, they were leaving out to the
3 parking lot around 3:05 in the morning. While they
4 were walking up to the car, they heard someone say,
5 Where them N words at?

6 He also then advised that he observed Tirrell
7 and Robertson subject standing there with each of
8 them holding a pistol, and that was when they began
9 shooting at the group of people that he was with
10 from a short distance away. He also stated he heard
11 approximately 12 to 14 shots, and I know for a
12 fact -- quote: I know for a fact they emptied their
13 clips. And he again reiterated that these two
14 subjects that I named were the ones involved in the
15 shooting.

16 MR. MCNAIR: That's the extent of it, Your
17 Honor.

18 THE COURT: Mr. Williams?

19 IN-CAMERA EXAMINATION

20 BY MR. WILLIAMS:

21 Q. How long a time period was it from the time in
22 which you left the Hill View to you arrived at --
23 was it Richland Memorial Hospital that you went to?

24 A. Lexington Medical Center.

25 Q. Lexington Medical Center. How long was it?

1 A. I don't recall exactly how long. But the
2 ambulance traveled, what, 65 miles an hour from the
3 39. That's about how fast we were going.

4 Q. So you weren't -- there was no speeding going
5 on. It was going 65 miles an hour --

6 A. I mean, those ambulances only go a certain
7 speed.

8 Q. How many people were in the back of that
9 ambulance with him?

10 A. I don't recall that.

11 Q. Did you talk to those people about whether or
12 not they had been talking to him or anything?

13 A. No, I don't recall.

14 Q. Who were those people who were in the back of
15 the ambulance?

16 A. I know for a fact that Deputy Schirra, Daniel
17 Schirra, was in the back.

18 Q. Back of the ambulance?

19 A. Yes, sir.

20 Q. So there was a police officer in the back of
21 the ambulance talking to him all the way from the
22 scene all the way to the hospital, right?

23 A. Again, I wasn't there, so I don't know what was
24 said or what wasn't said in the back of the
25 ambulance.

1 Q. So how many nurses were in the back of the
2 ambulance?

3 A. Just paramedics, all I know of.

4 Q. Were paramedics trained to determine whether or
5 not a patient who is in the back of the ambulance is
6 under some kind of stress or excited utterance or in
7 some sort of nervous condition?

8 A. I can't speak on what paramedics are trained to
9 do, sir.

10 Q. Would they be more suitable to determine
11 whether or not a person has control of what they're
12 saying or whether or not -- or they're still wrapped
13 up in a minute, a moment or something?

14 A. That's an assumption. I can't speak on that
15 fact, sir.

16 Q. It's kind of like hearsay, isn't it?

17 So you don't have those individuals who can
18 come in here and testify to the condition of that
19 man all the way from Hill View all the way up to
20 Lexington County Hospital, right?

21 A. What I can say is he was completely coherent
22 whenever he was speaking with me at the hospital.

23 Q. So he wasn't under stress. He was at least
24 coherent? He was putting together a long scenario
25 of what occurred, right?

1 A. He was telling me what happened.

2 Q. And did you record it?

3 A. I don't believe we had body cameras back then,
4 sir.

5 MR. WILLIAMS: Judge, it sure sounds like Rule
6 403. It sure sounds like --

7 THE COURT: What I'm going to do is I'm going
8 to allow the excited utterance for identification
9 purposes to identify. But as far as going through
10 the what happened in the parking lot, we've heard it
11 once from another person who was immediately or at
12 least closer in time than this witness.

13 So outside of identifying the person who --
14 what is Brandon's last name?

15 MR. MCNAIR: Shot them.

16 THE COURT: Yes. After that, we can move on to
17 cross. We've already heard from a witness who was
18 there 25 or 30 minutes earlier and identified it and
19 gave the background.

20 Anything else?

21 Your objection will be overruled. But I'm
22 limiting the amount of testimony --

23 MR. WILLIAMS: I think, in essence, you have
24 ruled my way, Your Honor, so I'll sit down and be
25 quiet.

1 THE COURT: Very well. Let's bring them back
2 up.

3 (The jury enters the courtroom at 4:56 PM.)

4 THE COURT: Ladies and gentlemen, welcome back.
5 We will continue where we left off.

6 MR. MCNAIR: Thank you, Your Honor.

7 CONTINUED DIRECT EXAMINATION

8 BY MR. MCNAIR:

9 Q. Detective Franklin, I think we left off with
10 you testifying that you followed Brandon Jeffery in
11 the back of the ambulance to the hospital; is that
12 correct?

13 A. Yes.

14 Q. And what hospital was that?

15 A. Lexington Medical Center.

16 Q. Did you have an opportunity to speak with
17 Mr. Jeffery once he got to the hospital?

18 A. I did.

19 Q. How soon after he got to the hospital did you
20 have a chance to speak to him?

21 A. As he was being placed in the ER room.

22 Q. Did he make any statements to you about who
23 shot him and the other person?

24 A. He did.

25 Q. And who was that?

1 MR. WILLIAMS: Renew objection, Your Honor.

2 THE COURT: So noted. Overruled.

3 THE WITNESS: Tirrell Brannon and the Robertson
4 subject.

5

6 BY MR. MCNAIR:

7 Q. Did you note anything about how he said that to
8 you in your report?

9 A. He was very upset while he was saying it.

10 Q. Did he say it one time or more than one time?

11 A. He repeated it multiple times.

12 MR. MAULDIN: Thank you, Detective.

13 THE COURT: Cross-examination?

14 CROSS-EXAMINATION

15 BY MR. MAULDIN:

16 Q. Mr. Franklin, do you know what kind of drugs
17 they gave him when he was in the ambulance?

18 A. I do not, sir.

19 Q. Do you know what kind of drugs he might have
20 been given before he got shot?

21 A. I do not, sir.

22 MR. MAULDIN: No further questions.

23 THE COURT: Mr. Williams, any
24 cross-examination?

25 MR. WILLIAMS: No questions, Your Honor.

1 THE COURT: Any redirect?

2 MR. MCNAIR: Nothing further, Your Honor.

3 THE COURT: All right. The witness may step
4 down.

5 MR. MCNAIR: That's all the witnesses we have
6 for today, Your Honor.

7 THE COURT: Ladies and gentlemen, we're going
8 to go ahead and break for the day. Before you go,
9 there are a couple of things. I'd like you to be in
10 your jury room tomorrow morning around 8:45. If
11 something comes up, traffic happens, I get it, so
12 try to keep -- give the clerk of court a call and
13 give the courthouse a call if you're running late.
14 We just want to know if you're running late, that
15 you are.

16 Please don't discuss the case with one another
17 at any time. Please don't discuss the case with
18 your family members or anyone else. Focus on
19 getting the evidence in this case from this witness
20 stand. Don't do any independent research of any of
21 the people involved in this case. Everything you
22 need to know will come from the witness stand.

23 So we'll see you tomorrow morning at 8:45.
24 We'll shoot to start testimony up around 9:00, and
25 we'll just get to work from there. Otherwise, have

1 a nice evening, and we'll see you tomorrow morning.

2 (The jury exits the courtroom at 4:59 PM.)

3 THE COURT: Madam Solicitor?

4 MS. FULLER: Yes, Your Honor. In one of the
5 breaks earlier, I handed defense counsel a disc with
6 clips from body cam. I also handed your clerk a
7 copy. Hopefully, to -- it's going to be introduced
8 sometime tomorrow. So if there's any objections, I
9 just want us prepared so we don't have to take too
10 long a break and maybe address it before we start
11 tomorrow or before the witness is called.

12 THE COURT: This is a body cam from the scene?

13 MS. FULLER: No. It's on a clip. I put it all
14 on a clip. It's at the Creek View Apartments. It
15 will make sense once we get started.

16 THE COURT: Okay.

17 MS. FULLER: There's several witnesses ahead.
18 I'm just trying to streamline it because there's so
19 much evidence.

20 THE COURT: All right. I'll watch it before
21 tomorrow morning.

22 Anything else for today?

23 MS. FULLER: Your Honor, just Robertson's
24 custody status.

25 THE COURT: I'm inclined to remand him with the

1 charge we're facing.

2 Mr. Mauldin?

3 MR. MAULDIN: Well, Your Honor, it has been six
4 and a half years, and he is here today. He's shown
5 up to my office these past couple of months. His
6 family is here. You know --

7 THE COURT: I understand your argument. But --

8 MR. MAULDIN: It takes a lot of -- I mean, six
9 and a half years.

10 THE COURT: I agree. I understand what you're
11 saying. This is a decision I get a few -- the more
12 trials I do, this is something I think is
13 appropriate under the circumstances. So that's my
14 decision.

15 MR. MAULDIN: Yes, sir.

16 THE COURT: Anything else for the record today?

17 MS. FULLER: None from the State, Your Honor.

18 THE COURT: All right. I'll be in first thing
19 in the morning. Y'all know where to find me.

20 Can we have the courtroom open certainly by
21 8:45 when the jury arrives? If y'all need to get in
22 earlier, just let me know if you have any sort of
23 technology things. Between the clerk of court and
24 I, we ought to be able to make that work.

25 Otherwise, I'll take a look at the video, and

1 let's talk about it first thing in the morning.

2 Have a good evening. Court is in recess.

3 (The following proceedings were held November
4 16, 2021.)

5 THE COURT: I have a note. It's not a note
6 about procedure or anything. But if I could just --
7 so I received a note from a juror who has a
8 device --

9 MS. FULLER: A pacemaker.

10 THE COURT: Well, it doesn't say pacemaker. I
11 showed it to Theo. But it's connected to her cell
12 phone, which I think relays her heart rate
13 information off to her medical providers. She just
14 said she needs to have it. It's connected to the
15 Bluetooth.

16 MS. FULLER: Yeah, we had that in our last
17 trial. It was blood pressure. I'm fine.

18 MR. WILLIAMS: No objection, Your Honor.

19 THE COURT: Mr. Mauldin, no objection from you?

20 MR. MAULDIN: No objection.

21 THE COURT: So I'm just going to inform this
22 jury -- have the bailiff inform the Juror No. 219
23 can keep her smart phone on her person just because
24 it's connected to this medical device. All right?
25 So --

1 (Court's Exhibit No. 2 marked for
2 identification.)

3 THE COURT: All right. Obviously, we're
4 starting early. In working with the clerk of court,
5 we're going to order lunch today, tomorrow,
6 Thursday, and Friday for the jury to try to get this
7 thing done. May not. If we can save a couple hours
8 during the week, it may help us conclude it this
9 week. So we can probably plan on maybe a shorter
10 lunch break, assuming their lunch is here.

11 Yes, ma'am?

12 MS. FULLER: Just a request for today, so
13 things can go a little faster during this afternoon.
14 The evidence items just got here. We're already
15 pre-marking the photos. But the physical, it's
16 going to be a lot to pre-mark. I asked my paralegal
17 how long she would need, probably a little break, so
18 we're asking for a little bit longer lunch today, an
19 hour and a half.

20 If not, then the testimony is going to be
21 dragged out. I'm trying to balance it out, but it's
22 either we can pre-mark it or we'll have to do it in
23 trial, and it will slow us down.

24 THE COURT: Okay. Well, somebody is working on
25 that as we speak then, right?

1 MS. FULLER: Well, she already has the figures.
2 But she would need to -- she's the only one I trust
3 to do it. She has to be in here. And, during
4 lunch, she's going to mark them. But the evidence
5 is being organized now, yes; but she's going to have
6 to physically mark it when she gets out there.

7 THE COURT: Well, do the best she can.

8 MS. FULLER: If we can have an hour and 15,
9 just so she has time to eat and then mark, that
10 would be my request for today. I'm good the rest of
11 the week.

12 THE COURT: We'll do our best to accommodate,
13 making the afternoon more efficient. But do your
14 best to try to do it in an hour, please, best you
15 can. I see your face.

16 MS. FULLER: I'm saying --

17 THE COURT: You're asking; I'm asking.

18 MS. FULLER: Yes. It's over 70 items.

19 MR. WILLIAMS: Your Honor, I do have one
20 pretrial matter to maybe save us some time.

21 THE COURT: Go ahead.

22 MR. WILLIAMS: Your Honor, we have been
23 presented with what appears to be some sort of
24 exhibit. I don't know if Your Honor has a copy of
25 that.

1 THE COURT: I do see something.

2 MR. WILLIAMS: I can only assume that the
3 solicitor is going to attempt to introduce this or
4 show it and have it in front of the jury. Your
5 Honor, I note that the color that is done on this
6 particular exhibit, it shows a nice soft yellow and
7 gold for Andy Barnes and Mr. Gantt. Then, in the
8 Charger, it shows a nice -- I don't want to say it's
9 ecru. It's a little bit darker than ecru. But it's
10 like a little tan color.

11 And then on the bottom, where it has the
12 Mercury Marquis, it has the red, the dark red, as
13 evidence of these four individuals, who we can only
14 assume are the alleged shooters of guns.

15 Your Honor, obviously, we would object to this
16 because of the coloring, if nothing else. I don't
17 know if Your Honor remembers the civil case where
18 there was an extended lawsuit where Honda actually
19 got -- or Toyota, I'm sorry, got popped for a bunch
20 of money because some attorney drew a picture of an
21 atomic bomb in the showing of the case.

22 The jury came back and just pumped it up and
23 hit him for like millions and millions of dollars.
24 The Supreme Court looked at it and said: That's
25 highly inflammatory; it's improper; you should not

1 connect those two things.

2 Well, here is what we have: The solicitor not
3 only connecting it to a possible gang relationship
4 by using the color red but, in addition, red means
5 danger in my world. You know, any time you go to a
6 stop light, you know that means stop; you know that
7 means danger. If you look at the gold and stuff,
8 those are nice, mediocre colors.

9 My objection, Your Honor, has to do with the
10 color that's being used to possibly influence the
11 jurors to think that there's something more to this
12 demonstration other than putting four names
13 together. She could have done four colors that
14 had -- I don't know, pink might have been better,
15 which is a shade of red.

16 But by doing red, there's an attempt to
17 indicate that there's danger about these four
18 individuals. And we would object to the use of this
19 in front of a jury.

20 THE COURT: Okay.

21 MR. MAULDIN: Your Honor, I would join in the
22 motion. I also point out red is the color of blood.
23 And I would say this would violate 403 and the right
24 to a fair trial under 6th Amendment, U.S. Article 1,
25 Section 14, South Carolina.

1 THE COURT: Madam Solicitor, is this a
2 demonstrative or --

3 MS. FULLER: Yes, Your Honor. The State
4 intends to introduce that to the jury, definitely
5 with no intent to suggest blood. Red is the color I
6 use. And it's just for -- I used it in previous
7 trials. Definitely no intent there. I can make it
8 more burgundy. The car they were driving is
9 burgundy. I can change it to burgundy. But it's
10 going to be in that family because that's the color
11 of the car they were driving, and that's the
12 purpose.

13 And throughout the trial, there are other
14 colors I'm using, too, mainly primary colors. But
15 if the color is an issue, I mean --

16 MR. WILLIAMS: Your Honor, the colors for these
17 two individuals, it should be gray then because
18 there was a gray car here and a gray car here, if
19 that's the logic involved here. And the other thing
20 is, this person right here, Tyrese White, who is not
21 even a party to this action, I mean, he's not even
22 here. I can't ask him what color car he was in.

23 THE COURT: I'm not aware of the color schemes
24 associated with -- other than what you're telling
25 me. I mean, if it's -- if burgundy is easier for

1 the State to, you know -- how quick could you do a
2 darker shade of red or burgundy or maroon --

3 MS. FULLER: I don't know. You'll have to ask
4 our -- Justin to see how long. But I need it for my
5 first witness, so --

6 THE COURT: Was this the color of the gangs
7 we're not mentioning in trial?

8 MS. FULLER: I didn't even think that. But,
9 yeah, they are Bloods. No, actually, it's weird, I
10 don't think all of them are Bloods. But -- but, no,
11 that's -- I know two of them are Bloods. But that
12 wasn't the State's intent at all. So if there's a
13 suggestion that I was trying to sneak that in --

14 THE COURT: I would take it as he's trying to
15 avoid any unnecessary or undo inference of the color
16 red. I don't think he's being accusatory in the
17 choice of --

18 MS. FULLER: There was definitely zero intent
19 on the State's side.

20 THE COURT: How soon do you need to publish
21 this?

22 MS. FULLER: Now.

23 THE COURT: Well, ask your person how quick it
24 would be --

25 MR. MAULDIN: Can we make my copy a Court's

1 Exhibit? Oh, they're changing it, right? Never
2 mind.

3 MR. WILLIAMS: Your Honor, I would join in the
4 motion with my --

5 THE COURT: You want to make this a Court's
6 Exhibit?

7 MR. WILLIAMS: In that we have spent the time
8 talking about the motion, Your Honor, in the
9 event --

10 THE COURT: Okay.

11 Mr. Williams?

12 MR. WILLIAMS: In the event that somebody else
13 needs to look at what we've been talking about, we
14 would move to introduce my copy as a Court's
15 Exhibit.

16 (Court's Exhibit No. 3 marked for
17 identification.)

18 THE COURT: So if I heard correctly, no issue
19 with body cam?

20 MR. WILLIAMS: No, Your Honor, except to
21 foundation. The meat of it, we don't have any
22 problem with it.

23 THE COURT: Well, we haven't heard the meat of
24 it.

25 Do we have what we need?

1 MS. FULLER: Not yet, Judge.

2 MR. WILLIAMS: All I can say about this, Your
3 Honor, is it's better, but we still object to this.
4 They're still using the dark and the light. There's
5 no reason she can't just print names down.

6 THE COURT: Well, your objection is noted and
7 I'm fine with it as it is.

8 MR. MAULDIN: I'm joining in, Your Honor.

9 THE COURT: Are we ready to call our next
10 witness?

11 MS. FULLER: No, Your Honor, I still need my
12 exhibit.

13 THE COURT: Your exhibit?

14 MS. FULLER: Yeah, it's a bigger one.

15 THE COURT: For the board?

16 MS. FULLER: Yes.

17 THE COURT: I want to ask the lawyers to --
18 obviously, I know the witnesses are sequestered.
19 We've got a pretty good crowd in here. Can y'all
20 just confirm we don't have any witnesses?

21 MR. WILLIAMS: On my list, Your Honor, it's --

22 MR. MAULDIN: Well, my client's mother is in
23 the courtroom, but we talked Friday about accepting
24 her. I think the State mentioned accepting her.

25 THE COURT: Okay. I just wanted to make sure.

1 I don't want to hear about it later. I'll deal with
2 it now, if it's a problem.

3 Can I see counsel up at the bench, please?

4 (Sidebar conference.)

5 THE COURT: You ready to bring the jury up?

6 MS. FULLER: Uh-huh.

7 THE COURT: All right. Bring them up.

8 (The jury enters the courtroom at 9:38 PM.)

9 THE COURT: All right. Madam Forelady, ladies
10 and gentlemen of the jury, welcome back. I hope you
11 had a nice evening. We're going to pick up where we
12 left off yesterday with the next witness in the
13 State's case in chief.

14 MS. FULLER: Thank you, Your Honor. The State
15 calls Brandon Jeffery.

16 BRANDON JEFFERY

17 being first duly sworn, testified as follows:

18 THE WITNESS: I do.

19 THE CLERK: You can remove your mask. Have a
20 seat over there, please. If you'll state your name
21 and spell your last for the record, please.

22 THE WITNESS: Brandon Jeffery, J-E-F-F-E-R-Y.

23 DIRECT EXAMINATION

24 BY MS. FULLER:

25 Q. Good morning. First, I want to start with

1 introducing yourself to the jury. Where are you
2 from?

3 A. Ridge Spring-Monetta.

4 MS. FULLER: Permission to approach the
5 witness, Your Honor?

6 THE COURT: Yes, ma'am.

7 BY MS. FULLER:

8 Q. I'm going to go ahead and move the mic a little
9 bit closer. I want to make sure I can hear you and
10 the jury can hear you. Okay?

11 Go ahead. And where are you from?

12 A. Ridge Spring-Monetta.

13 Q. Is that where you were raised and spent your
14 life?

15 A. Yes, ma'am.

16 Q. And where are you employed?

17 A. Do It Best.

18 Q. How long have you worked there?

19 A. 16 years.

20 Q. And how old are you now?

21 A. 37.

22 Q. Back in June of 2015, how old were you?

23 A. 30, going on 31.

24 Q. Okay. Back on the night of June 5th and going
25 into the morning of June 6th, do you recall that

- 1 night?
- 2 A. Yes, I do.
- 3 Q. And how do you recall that night?
- 4 A. Bad night. Tragic.
- 5 Q. Now, it's been a little over six years now and
- 6 you still remember that night?
- 7 A. I do, just like yesterday.
- 8 Q. Let's start out with who were you hanging with
- 9 that night before it became a bad night?
- 10 A. Me, Teddy P, Shine, my cousin Dee Dee, and OB.
- 11 Q. And you said a lot of names. Who is OB to you?
- 12 A. It's my cousin.
- 13 Q. And what is -- do you know OB's full name?
- 14 A. O'Brien Gilliam.
- 15 Q. And you said Dee Dee. Who is Dee Dee to you?
- 16 A. My cousin.
- 17 Q. And what is her full name?
- 18 A. Dominique Williamson.
- 19 Q. And you said Shine. Who is Shine to you?
- 20 A. Might as well say cousin, but close family.
- 21 Q. Okay. And how long have you known Shine?
- 22 A. Since elementary.
- 23 Q. And that's in Ridge Spring-Monetta?
- 24 A. Yes, ma'am.
- 25 Q. Do you know his full name?

1 A. Tyrone Gantt.

2 Q. Is Tyrone his middle name?

3 A. I think it's William Tyrone Gantt, but
4 everybody -- went by Tyrone.

5 Q. So you called him Tyrone Gantt?

6 A. Yeah.

7 Q. Or Shine?

8 A. Shine.

9 Q. And you mentioned you were also with Teddy P.
10 Who is Teddy P?

11 A. That's my homeboy, Andy Barnes.

12 Q. And how long have you known Teddy P?

13 A. About the same, except he went to North Augusta
14 for a little while and then he come back around. So
15 just about all my life.

16 Q. Okay. So you mentioned a lot of nicknames. Do
17 you have a nickname, too?

18 A. Yeah. Pedro.

19 Q. And are these nicknames that you guys just
20 developed growing up?

21 A. Yes.

22 Q. So you've had that nickname for how long?

23 A. A long time. A lot of people don't know my
24 real name.

25 Q. How about with Shine? How long have you known

1 him as Shine?

2 A. A long time.

3 Q. And how about Andy Barnes? How long have you
4 known him as Teddy P?

5 A. A long time.

6 Q. And O'Brien Gilliam, OB, how long have you
7 called him OB?

8 A. A long time.

9 Q. And the same thing with Dominique, how long
10 have you called her Dee Dee?

11 A. A long time.

12 Q. Just normal nicknames?

13 A. Normal.

14 Q. Regarding Shine, did you know his family as
15 well?

16 A. Yes.

17 Q. Do you know if he had children and a wife?

18 A. Yes. His wife was my classmate.

19 Q. And how about his kids?

20 A. He got three kids.

21 Q. Now, starting out June 5th, which is that
22 Friday; is that correct? You remember that?

23 A. Right.

24 Q. How did it come up that you guys were hanging
25 out? Like, how did that plan develop to hang out

1 that day?

2 A. My cousin Dee Dee, she wanted to go to a guy
3 from Saluda -- he had a party down there. So I
4 said, I'll ride with you. Everybody else decided to
5 go because I went.

6 Q. Okay. And I'm going to stop you sometimes to
7 clarify some things.

8 You said your cousin Dee Dee wanted to go to a
9 party. Where was this party?

10 A. At The Spot.

11 Q. Do you know where The Spot is, the address?

12 A. 1170 Parrish Road, I think.

13 Q. On Parrish Road?

14 A. Something like that.

15 Q. Okay. And it's in Leesville or Batesburg?

16 A. They call it Sandhills.

17 Q. Sandhill area. And that's in Lexington County?

18 A. Yes, ma'am.

19 Q. Okay. You said she wanted to go out. Before
20 that discussion, what were y'all doing?

21 A. Playing a little Madden.

22 Q. Just playing Madden?

23 A. Yeah.

24 Q. Where were you playing Madden?

25 A. Over at my homeboy Dre's house.

1 Q. And I'm not going to take for granted if the
2 jury knows this or not. What is Madden?

3 A. Football game on Playstation.

4 Q. Okay. And you said you were at your homeboy's
5 house. Where was your homeboy's house?

6 A. In Monetta.

7 Q. And so your homeboy, your friend, your
8 homeboy's house. And is that where everyone comes
9 and meets up and that's where y'all are hanging out?

10 A. Yes.

11 Q. Just so it's clear, that's where Dee Dee is,
12 Shine, OB, Teddy P?

13 A. Everybody.

14 Q. Was it unusual for you guys to hang out?

15 A. No.

16 Q. So you guys were just hanging out, playing the
17 game, and then Dee Dee said she wanted to go out?

18 A. She had already told me earlier that day, so we
19 was already over there. And she came over there and
20 then we went out.

21 Q. Gotcha. So earlier on the 5th, that Friday,
22 that's when you guys decided to go out?

23 A. Right.

24 Q. This wasn't planned days in advance or weeks in
25 advance?

1 A. No.

2 Q. It just kind of happened. Okay. Once you guys
3 decide to go, tell me how you guys get there. Who's
4 driving?

5 A. Dee Dee drove her car, the Charger. And, if
6 I'm not mistaken, Shine was driving Teddy P car.

7 Q. Okay. So Dee Dee drove a Charger. Is that a
8 Dodge Charger?

9 A. Yes.

10 Q. Who rode with Dee Dee?

11 A. Me, Dee Dee, and OB.

12 Q. And then you talked about the other car. Who
13 was in the other car?

14 A. Teddy P and Shine.

15 Q. Okay. Do you recall what kind of car that was,
16 or if I showed you a picture --

17 A. It look like a Stratus.

18 Q. A Stratus. Is that a Dodge Stratus?

19 A. Dodge Stratus.

20 Q. You end up leaving.

21 Tell me what happens when you get there, where
22 you guys parked, and all of that.

23 A. Well, we parked at the top of the hill, on,
24 like, as soon as you pull in, to the left.

25 Q. Okay. And when you say the top of the hill, is

1 that on the property of where The Spot is?

2 A. Yes.

3 Q. Okay. And you all parked. Do you remember how
4 you parked?

5 A. Just about side-by-side.

6 Q. Do you remember if you pulled in or you backed
7 in?

8 A. We backed in.

9 Q. And then, from there, you guys go in the club?

10 A. Walked down the hill.

11 Q. Did all of you guys go in together?

12 A. No.

13 Q. Tell me about that.

14 A. Me, OB, and Dee Dee went in at the same time.
15 And, for some reason, they wouldn't let Shine in at
16 the time, so him and Teddy P went back to the car.

17 Q. Okay. Were you present for when they didn't
18 let Shine in?

19 A. No.

20 Q. Okay. So you don't know what happened or why
21 they didn't let Shine in?

22 A. Right.

23 Q. While you were inside The Spot, did you
24 eventually see Shine and Teddy P come in?

25 A. Yeah.

1 Q. Okay. And that would be shortly after you guys
2 were in there?

3 A. Right.

4 Q. Go ahead and describe to the jury what it's
5 like in The Spot.

6 A. Basically, like a little hole in the wall.
7 But, you know, I guess it could be good vibes if you
8 make it good vibes. But I go in there to have a
9 good little time and maybe, you know, try to find a
10 little girl somewhere, and that's about it.

11 Q. Okay. So that was your -- I don't want to say
12 your purpose of going out that night. But you were
13 just looking to have a good time?

14 A. Have a good time, right.

15 Q. Have a good time.

16 And while you're in there, are you guys moving
17 around? Standing in one place? Like, what's
18 happening?

19 A. First thing I did was went to the bar, got me a
20 little drink. And, basically, it ain't too much you
21 can do. Like, it ain't that big where you can just
22 like roam and roam. So I got a little spot and just
23 looking to see what's going on.

24 Q. Okay. And is this -- I don't want to take this
25 for granted, but just typically what young people

1 would do if they go to the club?

2 A. Dance and party.

3 Q. And that's what was happening?

4 A. Right.

5 Q. Did you have an opportunity to see Donovan
6 Tirrell Brannon in The Spot that night?

7 A. Yes.

8 Q. Tell me about that. When did you see him?

9 A. When did I see him?

10 Q. Yeah.

11 A. I saw him -- it was -- that was just about as
12 soon as I got in there.

13 Q. Okay. All right. What, if anything -- did you
14 speak with him? Or what, if anything, did you
15 observe?

16 A. I didn't speak to him until I pulled my cousin
17 out the group on the dance floor.

18 Q. Tell me about that. Your cousin, who's your
19 cousin?

20 A. Cousin OB.

21 Q. And you pulled him out of the group on the
22 dance floor?

23 A. Right.

24 Q. Why did you do that?

25 A. Because I was like -- they was doing the

1 jumping around or whatever, you know, throwing up
2 those signs. And I was like, we ain't here for
3 that, you know what I'm saying. So I pulled him out
4 the crowd.

5 Q. So you pulled OB out. And then what happened?

6 A. That's when the dude, Red Nose, I don't know if
7 he's like trying to figure out why I pull him out
8 the crowd or what. But that's when he went to
9 Fresh, you know what I'm saying; came by, kind of
10 bumped me.

11 Fresh like, oh, what's up, Pedro? We dapped
12 up, what's up, you know, everything is everything.
13 That's how that went. That's how I spoke to Fresh.

14 Q. So this would have been after you pulled OB
15 out, you noticed that -- you said the dude, Red
16 Nose. Do you know who Red Nose is?

17 A. Right.

18 Q. What's his name? Do you know who Red Nose is?

19 A. I didn't know him before that night.

20 Q. Did you know his name or did you always call
21 him Red Nose when you knew him?

22 A. Yeah.

23 Q. Do you know his first or last name?

24 A. Shantrez Robertson.

25 Q. So you remember seeing him in there that night,

1 too?

2 A. Right.

3 Q. And he was with Fresh, Donovan Tirrell Brannon?

4 A. Right.

5 Q. And shortly after that is when Fresh comes over

6 and daps you up. But you describe them looking at

7 you or talking or what? Could you hear them or --

8 A. I couldn't hear them. They was just like, I

9 guess -- made me feel like he got the vibe, like,

10 who that dude is pulling him out the crowd --

11 MR. WILLIAMS: Objection; speculation, Your

12 Honor.

13 MS. FULLER: Okay. I can move on.

14 THE COURT: Rephrase.

15 BY MS. FULLER:

16 Q. So this is what you observed?

17 A. Right.

18 Q. And what you observed, that's the impression

19 you got from the interaction between the two of

20 them?

21 A. Exactly.

22 Q. Then after that, Fresh walked over, daps you

23 up --

24 MR. WILLIAMS: Objection to leading, Your

25 Honor.

1 MS. FULLER: Just going over the testimony --

2 MR. WILLIAMS: Still objection to leading, Your
3 Honor.

4 THE COURT: Overruled.

5 BY MS. FULLER:

6 Q. Picking up from there, what did you do next?

7 A. I went over there and chilled with one of my
8 homeboys, Drake.

9 Q. Then do you eventually leave the club?

10 A. Yeah.

11 Q. What made you leave when you left?

12 A. Because it was a little guy -- he's from my
13 town, we call him Six Pack -- he was in the bathroom
14 with Fresh. I can't remember who else was in there.
15 But I guess, some kind of way, when the door came
16 open, I seen them looking like they was questioning.
17 So I was like, dang man. I went to the door, like,
18 man, what's wrong Six Pack? Like, come on. He came
19 out. He was like, man, and Fresh showed me a gun --

20 MR. WILLIAMS: Objection to hearsay.

21 THE COURT: Please don't testify what other
22 people said.

23 THE WITNESS: Okay.

24 THE COURT: Continue.

25 BY MS. FULLER:

1 Q. And then in response to what you heard, what
2 did you do?

3 A. That's when I left.

4 Q. And then did everyone leave with you?

5 A. Yeah. Shine and Teddy P had already left. It
6 was outside.

7 Q. So standing outside of the club?

8 A. Right.

9 Q. So you guys aren't side-by-side. But when you
10 say left, they were -- y'all were getting ready to
11 leave? Or describe that to me.

12 A. Getting ready to leave. They was like right
13 there on the hill talking to a few guys from Saluda.

14 Q. Okay.

15 A. So by the time I came out, I was like, man,
16 y'all about ready? They was like, man, we not
17 ready. I was like, man, we came together, let's
18 leave together. So that's how that went.

19 Q. Then you guys leave?

20 A. Right.

21 Q. Tell me what happens when you get back to the
22 car or what's going on then.

23 A. We was about to leave, we got almost to the
24 car -- well, Shine hand was basically on the door
25 handle, and we heard a little chatter, you know,

1 where's such-and-such, where's such-and-such? So
2 Shine was like, hold on, man; let me see what's
3 going on.

4 So by that time, we was like, who y'all looking
5 for? And Fresh was like, You know we ain't looking
6 for you. Next thing you know, it start; like, shots
7 going everywhere.

8 Q. All right. Let me back up just a little bit.
9 When -- I know you said such-and-such. But what did
10 you actually hear? Do you remember what words --

11 MR. WILLIAMS: Objection --

12 THE COURT: Such-and-such from who? Let's get
13 a who.

14 MS. FULLER: He said Fresh.

15 THE WITNESS: Fresh. You want me to say it?

16 THE COURT: That's fine. I just wanted to know
17 who the question was directed to.

18 BY MS. FULLER:

19 Q. And we can go back to it.

20 You said you heard a little chatter. Who did
21 you hear chattering?

22 A. Fresh chattering.

23 Q. When you heard him talking, what did you
24 actually hear?

25 A. You want me to say exactly what I heard?

1 Q. Yeah.

2 A. Just like that: Where them pussy niggas at?

3 Q. I won't have you repeat it again. But that's
4 what you heard Fresh say?

5 A. That's what I heard him say.

6 Q. Did you see anybody else with him?

7 A. Yeah, Red Nose.

8 Q. Did you see -- what, if anything, did you see
9 in his hands?

10 A. Both of them had pistols.

11 Q. Okay. And this is while they --

12 A. Walking up the hill.

13 Q. And Fresh made the comment, such-and-such?

14 A. Right.

15 Q. And we'll just refer to it as such-and-such.

16 And they're walking up the hill to where you guys
17 are?

18 A. Right.

19 Q. And what was -- I don't want to ask this in a
20 weird way. But how did you know it was Fresh and
21 Red Nose?

22 A. Because I know them.

23 Q. Okay. Was there anything that impacted your
24 ability to see them? The lighting or anything like
25 that?

1 A. No.

2 Q. Okay. And you're sure about that?

3 A. I'm sure.

4 Q. Okay. And then they walk up. How close did

5 they get? And you can tell me when to stop. So

6 I'll be Fresh walking up the hill. You're there.

7 Tell me how close he was able to come to you.

8 A. He didn't get close to me. Got close to Shine.

9 Q. Okay. So I'll stop there. So you're standing
10 where you are?

11 A. Right.

12 Q. Where is Shine?

13 A. Right there where the glass at.

14 Q. Oh, sorry.

15 A. Where she sitting at.

16 Q. So Shine is here?

17 A. And I'm about right here.

18 Q. And you're behind. Okay.

19 So Shine is here next to the court reporter.

20 And tell me how close Fresh got to Shine.

21 A. Come on up. Probably about right there.

22 Q. Okay. So at this point, Fresh is about this
23 far from you?

24 A. Right.

25 Q. And you were able to see him?

1 A. Right.

2 Q. And similarly with Red Nose, was he next to him
3 or in the same general area?

4 A. Right.

5 Q. So nothing really prohibited you from seeing
6 what you saw?

7 A. Right.

8 Q. Once they got there, you heard Shine respond to
9 Fresh?

10 A. Right.

11 Q. And then just to get back to where we were so I
12 can ask the next question, then you heard Fresh say,
13 Not you?

14 A. Right.

15 Q. Not you or something like that?

16 A. Right.

17 MS. FULLER: Beg the Court's indulgence.

18 Q. And then after that, what happened? After
19 Fresh told Shine, You know not you, what happened?

20 A. Shots started getting fired.

21 Q. Okay. And your testimony was that both Fresh
22 and Red Nose had guns in their hands?

23 A. Right.

24 Q. Did you -- do you know who shot first?

25 A. I can't never tell you that.

1 Q. Okay. Do you recall seeing the actual pulling
2 of the trigger?

3 A. No, I didn't.

4 Q. Okay. When you spoke with law enforcement and
5 you knew that Fresh and Red Nose shot --

6 A. Right.

7 MR. WILLIAMS: Objection; leading --

8 MS. FULLER: And how do you --

9 MR. MAULDIN: Join in --

10 MS. FULLER: It's just a foundational question.

11 THE COURT: Hold on a second. What did you
12 ask?

13 MS. FULLER: Asked him about a statement that
14 he made, and now I'm asking how did he know.

15 THE COURT: Right, okay. Overruled.

16 BY MS. FULLER:

17 Q. How did you know that they shot and able to
18 tell law enforcement that?

19 A. I just felt like them being in front of them
20 with the gun, I just felt they was the one that
21 shot.

22 Q. Okay. And if there's any confusion over what
23 you said or anything like that, it is they're
24 standing -- just so I'm clear, they're standing in
25 front of you, the comments were made, and then the

1 shots went off?

2 A. Right.

3 Q. Were you looking at the gun when the shooting
4 started?

5 A. I ain't -- it was a blur.

6 Q. Okay. And so what do you recall doing once you
7 heard the shots go off?

8 A. I got shot, like, instantly. Like, I -- when I
9 hit the ground, that was it.

10 Q. Okay. And then what do you remember from
11 there?

12 A. Praying to God that I don't die, crawl around
13 the car, crawl under the car, and just pray that it
14 stop.

15 Q. Okay. After that, what do you remember
16 happening?

17 A. My cousin, they was about to leave. And they
18 realized I was under the car, so we got in the --
19 got me in the car. And I told him drive me to the
20 light; get me from down here. So we drove with the
21 tires shot out and went to Hill View.

22 Q. You say your cousin, who are you referring to?

23 A. Dominique.

24 Q. And this would be in her Dodge Charger?

25 A. Yes, ma'am.

1 Q. And when you said you crawled under the car, is
2 that the same car you're referring to?

3 A. Yes, ma'am.

4 Q. And then you indicated you drove to the Hill
5 View.

6 A. She drove.

7 Q. Correct. She drove to the Hill View.

8 A. Right.

9 Q. Approximately how far is that from The Spot?

10 A. Probably -- maybe two miles, a mile and a half.
11 Right up the hill.

12 Q. Okay. Once you got there, do you recall EMS
13 and law enforcement coming?

14 A. Yes.

15 Q. I'm going to show you a few things. First, I'm
16 going to show you State's Exhibit 285. I'm going to
17 show you State's Exhibit 285 and ask if you
18 recognize it.

19 A. Yes, I do.

20 Q. What do you recognize this to be?

21 A. The Spot.

22 Q. Does this fairly and accurately represent an
23 overview of The Spot?

24 A. Yes, it does.

25 Q. And then you see Parrish Road on the map as

1 well?

2 A. Yes.

3 MS. FULLER: At this time, Your Honor, the
4 State seeks to introduce State's Exhibit 285.

5 MR. WILLIAMS: No objection on behalf of my
6 client, Your Honor.

7 MR. MAULDIN: None either, Your Honor.

8 THE COURT: Very well. State's Exhibit 285 is
9 admitted in evidence.

10 (State's Exhibit No. 285 admitted into
11 evidence.)

12 MS. FULLER: Your Honor, can you inquire of the
13 jury?

14 THE COURT: Ladies and gentlemen, do you have
15 any trouble seeing the exhibit as it's currently
16 situated?

17 You mean, you can't see or you can?

18 THE JURY: We can.

19 THE COURT: Everybody can see. Okay. Good.

20 BY MS. FULLER:

21 Q. I'll hand this to you. Mr. Jeffery, can you
22 also see the exhibit?

23 A. I can see it.

24 Q. Okay. Can you point using that pointer and
25 show the jury where The Spot is?

1 A. Yes.

2 MS. FULLER: And let the record reflect he's
3 pointing to, looks like, a house on this aerial
4 marked 1150 Parrish Road, Leesville, South Carolina.

5 BY MS. FULLER:

6 Q. During your testimony, you described where you
7 parked. Do you see that area on this map?

8 A. Looks like I see it.

9 Q. Okay. Okay. And down here, what is this area
10 considered?

11 A. A parking lot.

12 Q. Okay. Why didn't you guys park down here?

13 A. Just in case anything break out, we can get on
14 out of there.

15 Q. Okay. So this over here, is this the entrance?

16 A. (Nonverbal response.)

17 Q. Okay. So you parked closer to the
18 entrance/exit versus down here closer to The Spot?

19 A. Right.

20 Q. During your testimony -- I'm going to show you
21 State's Exhibit 286.

22 Looking at 286, do you also see on this map
23 down here the area of The Spot?

24 A. Yes, I do.

25 Q. And then you testified going to the Hill View,

1 your cousin driving you there. Do you also see it
2 on here?

3 A. Down there.

4 Q. So The Spot is down here?

5 A. Uh-huh.

6 Q. And then do you recall where the Hill View is?

7 A. Back by the interstate, right here.

8 MS. FULLER: So that's 286 for ID.

9 BY MS. FULLER:

10 Q. So just right up the road from The Spot?

11 A. Right.

12 Q. Just for ID at this time -- you can keep those.

13 I'm going to show you State's Exhibit 1. And
14 looking at State's Exhibit 1, does this appear to be
15 the general area of where you all parked at The
16 Spot?

17 A. Yes, ma'am.

18 Q. And do you see where the Dodge Charger is on
19 this diagram?

20 A. Yes, I do.

21 Q. Is that accurately where you all were parked
22 when you were there?

23 A. Yes.

24 MS. FULLER: And that's just State's 1 for ID.

25 Judge, here's your copy.

1 THE COURT: Thank you.

2 BY MS. FULLER:

3 Q. Also, looking at State's 287 for ID, do you
4 also see the Dodge Charger on here?

5 A. Yes, I do.

6 Q. And is that the general area of where you all
7 parked?

8 A. Yes.

9 MS. FULLER: That's 287 for ID.

10 BY MS. FULLER:

11 Q. I'll show you State's Exhibit 3 before I
12 introduce it and ask if you generally recognize it.

13 A. Yes, I do.

14 Q. And what do you recognize this as, generally?

15 A. Where we parked.

16 MS. FULLER: At this time, Your Honor, the
17 State seeks to introduce State's 3 into evidence.

18 THE COURT: Without objection?

19 MR. WILLIAMS: I have no objection to 3.

20 MR. MAULDIN: No, Your Honor.

21 THE COURT: All right. State's Exhibit 3 is
22 admitted into evidence.

23 (State's Exhibit No. 3 admitted into evidence.)

24 BY MS. FULLER:

25 Q. I'm going to show you State's Exhibit 14 and

1 ask you if recognize it. And what do you recognize
2 this to be?

3 A. Where we parked at.

4 MS. FULLER: At this time, Your Honor, the
5 State seeks to introduce State's 14 into evidence.

6 MR. WILLIAMS: Your Honor, on behalf of
7 Mr. Brannon, we would object to this because it
8 shows additional items on this picture other than
9 what he's testifying to.

10 THE COURT: Bring it up. Let me see it.

11 (Sidebar conference.)

12 BY MS. FULLER:

13 Q. Then showing you State's 14 again, there are
14 other things in this photograph. But, generally,
15 this is where the cars were parked?

16 A. Right.

17 THE COURT: All right. State's Exhibit 14
18 admitted into evidence, subject to Defendant's
19 objection.

20 (State's Exhibit No. 14 admitted into
21 evidence.)

22 MS. FULLER: State's 12.

23 MR. WILLIAMS: Your Honor, if we could approach
24 again?

25 THE COURT: Okay.

1 (Sidebar conference.)

2 BY MS. FULLER:

3 Q. Showing you State's Exhibit 12 and ask you if
4 you recognize this.

5 A. Yes.

6 Q. What do you recognize this as?

7 A. Driveway.

8 Q. Driveway to where?

9 A. The Spot.

10 Q. And, on this, can you tell which side of this
11 driveway you were parked on?

12 A. Yes.

13 Q. And which side is that?

14 A. Left.

15 MS. FULLER: At this time, Your Honor, the
16 State seeks to introduce State's 12 into evidence.

17 THE COURT: State's Exhibit 12 admitted in
18 evidence, subject to Defendant's objection.

19 (State's Exhibit No. 12 admitted into evidence.)

20 BY MS. FULLER:

21 Q. Ask you a couple questions about these.
22 Looking -- publishing State's 14.

23 Looking here, I asked you about State's 14,
24 where you were parked. Looking at this car right
25 here, do you recognize that vehicle?

1 A. Yeah. That's Teddy P car.

2 Q. And, Mr. Jeffery, I'll ask you to speak into
3 the microphone.

4 A. That's Teddy's car.

5 Q. And then looking at State's 3, you testified
6 earlier that the car was a Dodge Stratus. Is that
7 reflected here in State's 3?

8 A. Yes.

9 Q. And looking at State's 3 also, there's a Dodge
10 Charger. Is that generally where you guys were
11 parked?

12 A. Right.

13 Q. Looking at State's 14, the Dodge Charger is not
14 in this photograph, correct?

15 A. Right.

16 Q. But this is where you were parked?

17 A. Right.

18 Q. Looking at State's 12, go ahead and describe to
19 the jury what -- where you were parked in this
20 exhibit?

21 A. Parked, like, right there.

22 Q. Okay. And now, looking at this exhibit, when
23 you were testifying, you described walking up the
24 hill. Can you show the jury what you meant by
25 walking up the hill?

1 A. Right here.

2 Q. Okay. So we're calling it a hill. But there's
3 a slight incline and decline on either side; is that
4 correct?

5 A. Right.

6 Q. But it's not this vast hill?

7 A. Right.

8 Q. And when you talked about while you were
9 walking up the hill and you had heard such-and-such
10 comment made, approximately where did you see who
11 you knew as Fresh and Red Nose when you heard that
12 comment? Where were they when you heard that
13 comment?

14 A. About right up here.

15 Q. Okay. Now going back to State's 3 -- first,
16 looking at 14 for orientation on where the cars were
17 and where that -- would you call this an unpaved
18 road?

19 A. Right.

20 Q. Looking at 12, just orientation, this is where
21 you're talking about, correct?

22 A. Right.

23 Q. Now, using State's 3, can you point out to the
24 jury where you were standing around the vehicles
25 prior to this happening?

- 1 A. About right there.
- 2 Q. And can you also point out to the jury where
3 Shine was standing when this happened?
- 4 A. Probably somewhere right up here.
- 5 Q. I'll ask you to keep your voice up.
- 6 A. Okay. Somewhere about right there.
- 7 Q. And it may be off the image, but where did you
8 see Fresh and Red Nose, using this image?
- 9 A. Probably right up here.
- 10 Q. Okay. Do you recall where OB was at the time?
11 If you don't, it's okay. But do you remember?
- 12 A. He was over here on this side over here.
- 13 Q. And do you recall where Dee Dee was?
- 14 A. In the car.
- 15 Q. And do you recall where Teddy P was?
- 16 A. On the passenger's side over here.
- 17 Q. Okay. I'm going to show you State's 79 and ask
18 you if you recognize it, generally.
- 19 A. Oh, yeah.
- 20 Q. What do you recognize this as?
- 21 A. Dominique's car.
- 22 Q. That's the Dodge Charger?
- 23 A. Yes.
- 24 Q. And where is it parked in this photograph?
- 25 A. That's at the Hill View.

DIRECT EXAMINATION OF BRANDON JEFFERY BY MS. FULLER

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1 MS. FULLER: At this time, Your Honor, the
2 State seeks to introduce State's 79 into evidence.

3 MR. WILLIAMS: Without objection.

4 MR. MAULDIN: No objection.

5 THE COURT: Very well. State's Exhibit 79 is
6 admitted into evidence.

7 (State's Exhibit No. 79 admitted in evidence.)

8 BY MS. FULLER:

9 Q. I'm going to show you State's 80 and ask if you
10 recognize it.

11 A. Yes, I do.

12 Q. And how do you recognize it?

13 A. Shot up.

14 Q. What is?

15 A. Dominique's car.

16 Q. Where is this parked?

17 A. Hill View.

18 MS. FULLER: At this time, Your Honor, the
19 State seeks to introduce State's 80 into evidence.

20 MR. WILLIAMS: Without objection.

21 MR. MAULDIN: Without objection.

22 THE COURT: State's Exhibit 80 admitted into
23 evidence.

24 (State's Exhibit No. 80 admitted into
25 evidence.)

1 MS. FULLER: Publishing State's Exhibit 79.

2 THE COURT: Very well.

3 BY MS. FULLER:

4 Q. When I was up there, I asked you what this is a
5 photograph of. This is Dominique's Dodge Charger;
6 is that correct?

7 A. Yes.

8 Q. You testified about -- it's clearer on the TV
9 than on the overhead. But you testified about the
10 tire. Is that the tire you're referring to, looking
11 at State's 80?

12 A. Yes.

13 Q. And while we were using State's 3, you
14 described where you were standing. Looking at
15 State's 79 as well as 80, do you also see the
16 general area of where you were standing in relation
17 to the vehicle?

18 A. Yes, I do.

19 Q. We'll go back to State's 79. Can you point out
20 to the jury generally where you were standing next
21 to this vehicle?

22 A. Right in there.

23 Q. You also testified that you crawled underneath
24 the Dodge Charger. Obviously, this is at the Hill
25 View down the road. But while it was parked at The

1 Spot, how were you able to crawl under the car?

2 A. I crawled all the way around to the back, then
3 I crawled all the way under. I couldn't even hold
4 my head up under it, it was that low to the ground.

5 Q. How were you able to get out from underneath
6 the Charger?

7 A. When she got ready to pull off, they seen I was
8 under there.

9 Q. And when you say they, who is they?

10 A. OB and them.

11 Q. Okay. And did they have to assist you out from
12 under there?

13 A. I actually had enough adrenalin to get in the
14 car myself.

15 Q. Okay. I'm going to show you State's 27 and 28
16 and ask if you recognize them.

17 A. Yes.

18 Q. And what do you recognize this to be?

19 A. My hat.

20 Q. And where is your hat?

21 A. On the ground behind the car.

22 Q. Is this at The Spot?

23 A. That's at The Spot.

24 MS. FULLER: Your Honor, at this time, the
25 State seeks to introduce 27 and 28 into evidence.

1 I'm showing counsel.

2 MR. WILLIAMS: Without objection on behalf of
3 Brannon, Your Honor.

4 MR. MAULDIN: And Robertson.

5 THE COURT: All right. State's Exhibits 27 and
6 28 are admitted into evidence.

7 (State's Exhibit Nos. 27 and 28 admitted into
8 evidence.)

9 BY MS. FULLER:

10 Q. Publishing State's 27. Mr. Jeffery, can you
11 point out what you were able to identify in this
12 photograph?

13 A. My hat.

14 Q. And, generally, is this the same area you
15 described earlier where the Dodge Charger was
16 parked?

17 A. Yes.

18 Q. And this is at The Spot?

19 A. Yes.

20 Q. Looking at State's 28, is that the same image,
21 just zoomed in?

22 A. Yes, ma'am.

23 Q. On that day, do you remember anything about
24 what Fresh and/or Red Nose was wearing?

25 A. Yes.

1 Q. Who do -- who do you remember?

2 A. Both.

3 Q. Okay. What do you recall Fresh wearing?

4 A. I remember he had a red bandanna shirt on.

5 Q. And what do you recall Red Nose -- or what, if
6 anything, do you recall about --

7 A. He had on some white joggers with black stars.

8 Q. And how are you able to remember that now, six
9 years later?

10 A. Excuse me?

11 Q. How do you remember that now? Are you sure
12 about what you remember?

13 A. Yeah. I wrote it in my statement.

14 Q. Okay. And just so it's clear, joggers, what
15 are joggers?

16 A. What are joggers?

17 Q. Yeah.

18 A. Basically like sweatpants.

19 Q. Okay. I'm going to show you State's 218 and
20 ask if you recognize, specifically, the person --
21 the pants in this photograph?

22 A. Yes.

23 Q. How do you recognize this?

24 A. That's Red Nose.

25 Q. Okay. And what, if anything, about the clothes

1 do you recognize?

2 A. The pants with the stars.

3 Q. Okay. And do these pants appear to be what you
4 recall him wearing the late night of June 6th, that
5 morning?

6 A. Yes. Yes.

7 MS. FULLER: Showing counsel, but the State
8 seeks to introduce Exhibit 218.

9 MR. WILLIAMS: We have a matter to take up with
10 the Court in reference to this particular exhibit.

11 THE COURT: Ladies and gentlemen, we're going
12 to go ahead and take our midmorning break, get you
13 down to the jury room and refresh yourselves and get
14 you back up here in a few minutes. Thank you.
15 Please don't discuss the case while you're out.

16 (The jury exits the courtroom at 10:20 AM.)

17 MS. FULLER: Your Honor, I'll hand you the
18 photograph. I don't know it -- their objection is
19 that it might be a gang sign. Of course, they can
20 state that. I didn't recognize it to be one, but I
21 don't know all of them.

22 MR. WILLIAMS: On behalf of Mr. Brannon, we
23 would object to it because of the gang sign that is
24 showing. We would additionally object to it because
25 it is showing him with alcohol, and there's no

1 relevance in showing a picture of him with alcohol.

2 The purpose and the solicitor's intent is to
3 show that he possessed a pair of trousers that looks
4 like what he had on the night before. We also
5 object to the foundation that's being laid
6 because -- in terms of relevance in time. Because
7 without knowing when and where he might have
8 purchased these pants, it might not be the same. I
9 have two gray suits that look similar to each other.

10 So there's no one who has established when this
11 picture was taken. So if it's not taken in close
12 proximity to the time which this occurred, then
13 there may be a foundation issue. Actually, I
14 started to put on a different gray suit today, and
15 it's almost identical.

16 THE COURT: All right.

17 MS. FULLER: Your Honor, that confuses the
18 issue. That's the weight versus admissibility. If
19 the jury wants to say that picture was taken 30
20 years from today, they can.

21 In terms of what the purpose was of this
22 witness is, he already testified to what he was
23 wearing. There's a photograph of the defendant
24 wearing similar pants. Weight versus admissibility
25 here.

1 In terms of the gang sign, I don't know if they
2 made the argument in terms of that wholly, but if
3 they're saying that is a gang sign, I can redact
4 that. I need a proposed redaction to it. And we
5 can redact the Bud Light, I don't care about it. I
6 mean, the purpose of this photograph introducing is
7 the outfit and, specifically, the pants.

8 THE COURT: Right. So the redactions are
9 still -- the point is --

10 Ma'am?

11 MS. FULLER: I apologize, Your Honor. Also,
12 just for the record, I normally like to put this on
13 the record: This is a screenshot from Facebook. I
14 did redact the comment posted with it, as well as
15 the comments. And I'll show Your Honor, just so you
16 know, since it's not the original image.

17 MR. WILLIAMS: Your Honor, the screenshot was
18 two years later.

19 THE COURT: Correct -- well, the photograph was
20 published. Now, the screenshot -- I don't know
21 about the screenshot. But the day it was published
22 on social media was May 17th, 2017. And this is
23 Alejandro. That would be --

24 MS. FULLER: His middle name.

25 THE COURT: Okay.

1 I think also for Facebook -- let's see here.

2 Madam Solicitor, obviously, you had asked --
3 well -- I think with the redactions of the unknown
4 hand gesture, I'll refer to it as, and the alcohol,
5 I think the picture is suitable, under the
6 circumstances particularly, if it's identified as
7 which account was used to post that picture.

8 MS. FULLER: Your Honor, do you want it
9 black-redact?

10 MR. MAULDIN: Well, not red.

11 THE COURT: I don't know how to tell you how to
12 redact something.

13 MS. FULLER: I mean, I just want to --

14 THE COURT: If you could, make it not appear.

15 MS. FULLER: Okay.

16 THE COURT: Mr. Williams?

17 MR. WILLIAMS: Your Honor, a white-redact over
18 the fingers would probably blend into the white
19 shirt.

20 THE COURT: Okay. And a green-redact over the
21 Bud Light would probably blend in with the sidewalk.

22 MR. WILLIAMS: And move it back in time to two
23 years, it might be more relevant in terms of
24 foundation.

25 THE COURT: Well, your objection will be

1 certainly noted.

2 MR. WILLIAMS: Your Honor, may we take a short
3 break while she's making redactions?

4 THE COURT: Certainly.

5 Did we remark the redacted exhibit?

6 MS. FULLER: That's correct, Your Honor.

7 THE COURT: Okay. So we have -- we're still on
8 break, about to bring the jury back up.

9 Mr. Williams made an objection on a proposed
10 exhibit from the State on several levels, including
11 foundational and use of the appearance of potential
12 hand signals and carrying of alcohol.

13 Counsel discussed some options and we spoke on
14 the record. At this point, the picture has been
15 redacted to remove the person's hand so you can't
16 see hand signals, as well as the case of beer that
17 was being carried.

18 Also, the State noted that the comments on the
19 Facebook post were already redacted due to any
20 potential incendiary language in the post itself
21 from the defendant's -- Mr. Robertson's Facebook
22 page. So obviously, subject to objection, but I
23 think additional efforts have been made to redact
24 any unfair inferences towards the defendant.

25 I know you have more questions to ask before

1 it's admitted -- or I think you do. We've done what
2 we can do, and counsel's objection is noted.

3 MR. MAULDIN: And I join in, Your Honor.

4 THE COURT: And Mr. Mauldin has joined in the
5 objection.

6 All right. Anything else before I bring the
7 jury back up?

8 MS. FULLER: State is ready, Your Honor.

9 THE COURT: Mr. Williams?

10 MR. WILLIAMS: Defendant Brannon is ready.

11 MR. MAULDIN: Yes, Your Honor.

12 (The jury enters the courtroom at 10:37 AM.)

13 THE COURT: All right. Madam Forelady, ladies
14 and gentlemen of the jury, welcome back. I hope you
15 had a chance to refresh yourselves. We'll continue
16 where we left off.

17 Madam Solicitor.

18 MS. FULLER: Thank you, Your Honor.

19 BY MS. FULLER:

20 Q. I'm going to show you what's been marked for ID
21 as State's 295 and ask you if you recognize it.

22 A. Yes.

23 Q. And who do you recognize this to be a picture
24 of?

25 A. Red Nose.

1 Q. And specifically, about the pants, what do you
2 recognize in this photograph the pants as?

3 A. White with stars.

4 Q. Does this appear to be the similar pants that
5 he was wearing that day?

6 A. Yes.

7 Q. Any doubt in your mind?

8 A. No doubt.

9 MS. FULLER: At this time, Your Honor, the
10 State seeks to introduce State's Exhibit 295 into
11 evidence?

12 THE COURT: Subject to defendant's objections,
13 Exhibit 295 will be admitted.

14 (State's Exhibit No. 295 admitted into
15 evidence.)

16 BY MS. FULLER:

17 Q. Publishing. If you'd use the laser pointer and
18 point out for the jury the pants that you're
19 describing.

20 A. (Witness complies.)

21 MS. FULLER: Let the record reflect he's
22 pointing to the pants in State's 295.

23 BY MS. FULLER:

24 Q. And those are the white joggers with the black
25 stars; is that correct, Mr. Jeffery?

1 A. Yes, ma'am.

2 Q. And that's what you remember him wearing?

3 A. Yes, ma'am.

4 THE JUROR: I'm sorry, Your Honor. That's in
5 the way.

6 THE COURT: Thank you for telling us.

7 Ladies and gentlemen, if there's any time where
8 you can't see an exhibit, let me know; or if you
9 can't hear the witness, let me know.

10 I appreciate that. Thank you.

11 BY MS. FULLER:

12 Q. After this happened, do you recall meeting with
13 the police to show them images on your phone?

14 A. Yes.

15 Q. About images on your phone, do you remember
16 that?

17 A. Yes.

18 Q. And what, if anything, was relevant about those
19 photographs? Why did you tell the police about
20 them?

21 A. What you mean?

22 Q. I know that was poor.

23 Do you recall meeting with the police about
24 photos on your phone?

25 A. Right.

1 Q. How did you come in possession of those
2 photographs?

3 A. I had a friend send it to me.

4 Q. And what was the purpose of telling the police
5 about those photographs?

6 A. About -- that's who they -- talking about --

7 Q. Why did you tell the police about the
8 photographs?

9 A. Oh, to let them know that's who it was.

10 Q. Okay. Thank you. I'm going to show you
11 State's Exhibit 216 and 217, just for ID at this
12 point. Do you recognize these as photographs that
13 you had on your phone?

14 A. Yes.

15 Q. Okay. And did you take these photographs
16 yourself?

17 A. No.

18 Q. How did you come in possession of these
19 photographs?

20 A. A friend sent them to me.

21 Q. And the reason being that it was related to
22 this case?

23 A. Right.

24 Q. And you gave the police your phone?

25 A. Right.

1 MS. FULLER: At this time, Your Honor, 216 and
2 217 for ID purposes only.

3 MR. WILLIAMS: Your Honor, could defense
4 counsel see what's been listed for ID purposes?

5 MS. FULLER: I apologize.

6 Q. Earlier you described being shot. Do you
7 recall exactly where you were shot?

8 A. Yeah.

9 Q. And can you describe to the jury your injuries?

10 A. I got shot in both knees, my knee and my lower
11 leg. I had one bullet went through and through and
12 I had one bullet that only hit my femur.

13 Q. And when you said one bullet went through and
14 through and one bullet hit your femur, what happened
15 to that bullet? Did it stay in your leg?

16 A. Yeah, it stayed in my leg five years. It came
17 out last year.

18 Q. What did you do with that bullet when it came
19 out?

20 A. Told the doctor I ain't want it.

21 Q. So do you know what the doctor did with it?

22 A. Probably trashed it.

23 Q. Okay. But it remained in your leg five years?

24 A. Yes.

25 Q. I'm going to show you what's been pre-marked

1 State's 209 through 215. Take your time and look
2 through them. And ask if you recognize them and
3 I'll ask you questions.

4 A. (Witness complies.)

5 Q. Do you recognize these photographs?

6 A. Yeah, of my legs.

7 Q. And specifically, are these photographs about
8 your injury?

9 A. Yes.

10 Q. And your legs?

11 A. Yes.

12 MS. FULLER: Showing defense counsel.

13 And that's State's 209 through 215.

14 Q. And Mr. Jeffery, these photographs, were they
15 taken the night that you were injured?

16 A. Yes.

17 Q. So that would be on June 6th?

18 MR. WILLIAMS: Your Honor, we do have an
19 objection to the photographs in terms of being
20 overly inflammatory. He's already testified about
21 being shot in the leg.

22 THE COURT: Let me see them, please.

23 (Sidebar conference.)

24 THE COURT: Did you already move to admit
25 these? You did, I think.

1 MS. FULLER: Yes.

2 THE COURT: Go ahead.

3 MS. FULLER: Your Honor, at this time, the
4 State seeks to introduce the exhibits 209 through
5 215.

6 THE COURT: All right. The State [sic]
7 sustains the objections as to Exhibits 211 --
8 State's 211 and 215. The others exhibits are
9 admitted subject to objection.

10 MS. FULLER: For the record, that's 209, 210,
11 212, 13 and 14.

12 THE COURT: Thank you.

13 (State's Exhibit Nos. 209, 210, 212 through 214
14 admitted into evidence.)

15 BY MS. FULLER:

16 Q. Looking at State's 209, do you recognize this
17 image, Mr. Jeffery?

18 A. Yes, ma'am.

19 Q. Now, were you wearing full-length pants when
20 this happened?

21 A. Yes.

22 Q. Do you recall what happened to your pants?

23 A. They got cut off.

24 Q. And looking at State's 210, is that the injury
25 that you just described?

1 A. Yes.

2 Q. And then also looking at 213, is that the
3 injury you described?

4 A. Yes.

5 MS. FULLER: Your Honor, may we approach?

6 (Sidebar conference.)

7 Q. While you were at the car -- going back now to
8 when this happened, you testified earlier about
9 where you were standing, where Shine was standing.
10 Did you ever in that moment see Shine with a gun in
11 his hand?

12 A. No.

13 Q. At any moment, did you see Shine pull out a
14 gun?

15 A. No.

16 Q. Did you see Shine shoot a gun?

17 A. No.

18 Q. In that moment when Fresh and Red Nose were
19 standing in front of Shine just a short distance
20 from you, did you have any doubts in terms of where
21 the gunshots were coming from?

22 A. No.

23 Q. Where were the gunshots coming from?

24 A. From my prospective, it was coming from them.
25 They was standing right in front of us.

1 Q. And that's where you heard them coming from?

2 A. Right.

3 Q. So just to be clear, your testimony isn't per
4 se that you looked at the barrel of the gun, is it?

5 A. Excuse me?

6 Q. Did you look at the barrel --

7 MR. WILLIAMS: Objection, question has been
8 asked and answered.

9 THE COURT: Overruled.

10 Q. Did you look at the barrel of the gun when the
11 trigger was pulled?

12 A. No.

13 MR. WILLIAMS: Objection, leading.

14 THE COURT: Overruled.

15 Q. Do you have any concerns in your ability to
16 identify who Fresh and Red Nose are?

17 MR. WILLIAMS: Objection --

18 THE COURT: That was -- I heard the question
19 before we had a big gap, so I'm going to overrule
20 your objection. However, I don't think we'll hear
21 that again, that question.

22 Q. I'm going to show you what's been marked as
23 State's 293 and ask you if you recognize it?

24 A. Yes.

25 Q. What do you recognize this as?

1 A. Cars.

2 Q. And there are names on here. Do you recognize
3 all those names?

4 A. Yes.

5 Q. Looking at this column over here, the Dodge
6 Charger, does this list out the names of people in
7 the Dodge Charger?

8 A. Yes.

9 Q. Looking at this column over here, does this
10 list out the names of the people in the Dodge
11 Stratus?

12 A. Yes.

13 Q. And you testified already as to who Fresh is,
14 correct?

15 A. Yes.

16 Q. And you testified already as to who Red Nose
17 is?

18 A. Yes.

19 MS. FULLER: At this time, Your Honor, the
20 State seeks to introduce State's Exhibit 293 into
21 evidence.

22 MR. WILLIAMS: Objection, Your Honor, because,
23 clearly, he wasn't asked about other individuals,
24 which are incorporated on this exhibit -- on this
25 exhibit.

1 Can we please approach?

2 (Sidebar conference.)

3 Q. Showing you the exhibit again, State's 293,
4 down here you testified as to who Fresh is; is that
5 correct?

6 A. Yes.

7 Q. Do you see this name down here?

8 A. Yes.

9 Q. Donovan Tirrell Brannon?

10 A. Yes.

11 Q. And over here, you testified who Red Nose is?

12 A. Yes.

13 Q. Do you see his name here?

14 A. Yes.

15 MS. FULLER: At this time, Your Honor, the
16 State seeks to introduce 293.

17 MR. WILLIAMS: Subject to the prior objections,
18 Your Honor.

19 MR. MAULDIN: We object as well, Your Honor.

20 THE COURT: Subject to defendant's prior
21 objections, 293 is admitted in evidence.

22 MS. FULLER: Thank you, Your Honor.

23 (State's Exhibit No. 293 admitted into
24 evidence.)

25 Q. Publishing for the jury. Mr. Jeffery, looking

1 at 293 just so the jury can see what we're talking
2 about --

3 MS. FULLER: Your Honor, can you inquire --

4 THE COURT: Everyone see okay? I'm getting
5 head nods for yes.

6 Q. Looking over here, Mr. Jeffery, do you see the
7 name here, the type of car?

8 A. Yes.

9 Q. What kind of car is that?

10 A. Dodge Stratus.

11 Q. There's a name under it, whose name is that?

12 A. Andy Barnes.

13 Q. And what's his nickname?

14 A. Teddy P.

15 Q. And under that?

16 A. William Tyrone Gantt, Shine.

17 Q. And over here, what kind of car?

18 A. Dodge Charger.

19 Q. And the name?

20 A. Dominique Williams, Dee Dee.

21 Q. This is who was driving?

22 A. Yes.

23 Q. And the here?

24 A. O'Brien Gilliam.

25 Q. And that's who you call OB?

- 1 A. OB.
- 2 Q. And the name here?
- 3 A. Brandon Jeffery, Pedro.
- 4 Q. And that's you?
- 5 A. That's me.
- 6 Q. Talking about Shine, when you were shot, do you
- 7 know where Shine was or what happened to him?
- 8 A. No.
- 9 Q. Okay. But you do know what happened to Shine?
- 10 A. Right.
- 11 Q. And before you left -- before they pulled you
- 12 out the car -- from underneath the Dodge Charger,
- 13 did you see Shine before you left?
- 14 A. No.
- 15 Q. Okay. Down here, do you see the name Donovan
- 16 Tirrell Brannon?
- 17 A. Yes.
- 18 Q. And the nickname?
- 19 A. Fresh.
- 20 Q. And over here, do you see the name?
- 21 A. Yes.
- 22 Q. And what's the name?
- 23 A. Red Nose.
- 24 Q. And that's Shantrez --
- 25 A. Shantrez.

1 Q. -- Robertson?

2 A. Right.

3 Q. Mr. Jeffery, if you saw who you know as Fresh
4 and Red Nose in the courtroom today, could you
5 identify them?

6 A. Yes.

7 MS. FULLER: Your Honor, request permission for
8 Mr. Robertson and Mr. Brannon to stand briefly and
9 remove their masks.

10 THE COURT: Very well.

11 MR. MAULDIN: I renew my objection from last
12 Friday, Your Honor.

13 THE COURT: So noted. You can put more on the
14 record on it later.

15 All right. If the defendants would please
16 stand briefly and remove their masks.

17 BY MS. FULLER:

18 Q. Mr. Jeffery, can you identify Donovan Tirrell
19 Brannon, also known as Fresh, in the courtroom by
20 pointing him out?

21 A. Yes. Right there.

22 MS. FULLER: Let the record reflect he's
23 pointing to first counsel table.

24 BY MS. FULLER:

25 Q. For the record, can you identify Shantrez

1 Alejandro Robinson?

2 A. Right over there.

3 MS. FULLER: Let the record reflect he's
4 pointing to second defense counsel table.

5 Thank you.

6 No further questions at this time.

7 MR. WILLIAMS: May it please the Court?

8 THE COURT: Yes, sir. Cross-examination?

9 CROSS-EXAMINATION

10 BY MR. WILLIAMS:

11 Q. Let me kind of start you off, since this is the
12 exhibit that's up here right now. Can you see this
13 exhibit okay?

14 A. Yes.

15 Q. It's Pedro, right, not Pedro? So stop me if I
16 put the A, because I'm from the South of the Border.
17 Deal?

18 A. Right.

19 Q. Well, I'm not from there, but I'm from Marion,
20 which is near Lada.

21 So are these three individuals the ones you say
22 that arrived at that location -- at that location in
23 a Dodge Charger?

24 A. Yes.

25 Q. Are these two individuals the persons you said

1 arrived at that location in a Dodge Stratus?

2 A. Yes.

3 Q. Now, when we were looking -- when you were
4 showing earlier, there was a third vehicle in a
5 different exhibit, which has been marked as --
6 well --

7 THE COURT: Is that Exhibit 3?

8 MR. WILLIAMS: Yes.

9 BY MR. WILLIAMS:

10 Q. So Exhibit 3 -- there was an Exhibit 3, which
11 had another vehicle on it side by side, right? Do
12 you remember seeing --

13 MR. WILLIAMS: Well, it's a copy, Judge. I'm
14 looking for the original. I don't know where the
15 original is. It's been placed in evidence
16 somewhere.

17 There we go.

18 BY MR. WILLIAMS:

19 Q. So you had three vehicles, which are posted up
20 here: A Charger, a Stratus, and a Kia Optima.
21 Right?

22 A. Right.

23 Q. Okay. Who was in the Kia Optima?

24 A. Don't know.

25 Q. But on that night, there was a Kia Optima.

1 And you never saw anybody around that particular
2 vehicle?

3 A. No.

4 Q. Okay.

5 Now, as you were describing this location --
6 you still got your little pen?

7 A. Yes, sir.

8 Q. What -- Pedro, when you were describing your
9 location as to where y'all backed in, you said that
10 y'all backed in -- you show me where y'all backed
11 in.

12 A. (Indicating.)

13 Q. Right there. So if this is the main road --
14 this is Parrish Road; this is 178 right here. And
15 back up that way is where the truck stop is, about
16 two miles up that way, and then there's I-20
17 crossing over. Right here is the entrance. That is
18 The Spot. And y'all pulled in -- show me again.

19 A. Pulled in right here and parked right up in
20 there.

21 Q. So you're parked going that way, correct?

22 A. Huh?

23 Q. You said you parked up in here, right? Or up
24 in here?

25 A. Right.

- 1 Q. You show me. You got the pen.
- 2 A. It's hard to keep it steady.
- 3 Q. I know. Use two hands.
- 4 Right here?
- 5 A. (Indicating.)
- 6 Q. Okay. And when you parked that way, are you
- 7 parked towards the dirt road?
- 8 A. We backed in.
- 9 Q. Okay. You backed in. But the front of your
- 10 vehicle is towards the dirt road?
- 11 A. Right.
- 12 Q. Okay. And this Kia Optima would be on this
- 13 side or that side? Is it closer to the main road or
- 14 is it closer to The Spot?
- 15 A. On the picture, it's closer to the road.
- 16 Q. Okay. So the Kia Optima is over here, it's
- 17 closer. You'd have Kia Optima, Stratus, and then
- 18 Charger, right?
- 19 A. Right.
- 20 Q. And that's the way it was that night?
- 21 A. I couldn't tell you about the Kia Optima.
- 22 Q. You never saw the Kia Optima?
- 23 A. I never saw it.
- 24 Q. You've never seen the Kia Optima?
- 25 A. No.

1 Q. So when you were there, the Kia Optima wasn't
2 there?

3 A. I don't know.

4 Q. Okay. Was there anything on the side of your
5 Charger? Was there anything on the side of the
6 Stratus?

7 A. Not that I remember.

8 Q. So there was no vehicle on either side?

9 A. Of what car?

10 Q. Of the Stratus or the Charger.

11 A. Not that I know of.

12 Q. Okay. So you made the comment that when you
13 pulled up there, you backed in because you wanted to
14 be ready to get out if there was some kind of
15 trouble.

16 A. Right.

17 Q. You were expecting trouble that night?

18 A. No. That's just the way it go.

19 Q. So there's a lot of trouble up there in that
20 area?

21 A. Sometimes.

22 Q. Sometimes. So, now, you're from Monetta?

23 A. Yep.

24 Q. And this is -- how far is this from Monetta?

25 A. Probably 20 minutes.

- 1 Q. Because you'd have to go --
- 2 A. Get on I-20.
- 3 Q. Get on I-20 instead of going down number 1?
- 4 A. Right.
- 5 Q. Okay. So on that particular night, who was
- 6 riding with you to -- why did you go to The Spot, by
- 7 the way?
- 8 A. My cousin Dominique wanted to go for some guy
- 9 from Saluda.
- 10 Q. Somebody from Saluda?
- 11 A. Right. They had a party that night.
- 12 Q. Was it a birthday party?
- 13 A. Right.
- 14 Q. Whose birthday was it?
- 15 A. I can't remember.
- 16 Q. So it wasn't a friend of yours?
- 17 A. No.
- 18 Q. So you and Dominique and who went down there?
- 19 A. OB.
- 20 Q. OB?
- 21 A. And Teddy P and Shine.
- 22 Q. Y'all had two different vehicles?
- 23 A. Right.
- 24 Q. And Shine was with Teddy P?
- 25 A. Right.

1 Q. And you were with Dominique and who?

2 A. OB.

3 Q. So what time did you get down there?

4 A. Probably around one-something.

5 Q. 1:00 in the morning?

6 A. Right.

7 Q. When you got there, how many vehicles were down
8 there?

9 A. I couldn't tell you.

10 Q. Was the parking lot full?

11 A. There was a crowd.

12 Q. It was crowded. And when you say it's a crowd,
13 they are parked -- that may be distracting. I
14 didn't mean to do that. Let me just take that off.

15 When you say it was a crowd, were there as many
16 as 30 cars down there?

17 A. I can't remember.

18 Q. You didn't have room to turn around really, did
19 you? You had people parked up against the wood
20 line; you had people parked all the way down to
21 where The Spot is, right?

22 A. Yeah.

23 Q. All you had room to do was walk, right, down
24 that driveway?

25 A. No. You could have drove a car down there.

1 Q. You could. Could you turn around once you got
2 there?

3 A. Yeah. You should have been able to.

4 Q. But you weren't driving that night?

5 A. Right.

6 Q. And had you been drinking while y'all were
7 playing Madden?

8 A. Yeah. I drunk a few beers.

9 Q. How many beers you think you drunk that night?

10 A. Probably three or four.

11 Q. Could it have been more than three or four?

12 A. I can't remember.

13 Q. Okay. So -- and that's why you weren't
14 driving; that's why she was driving?

15 A. Right.

16 Q. So she drove y'all down there. Did you say you
17 took a gun with you?

18 A. I didn't even own a gun.

19 Q. So you didn't take a gun with you?

20 A. No.

21 Q. But you went down there and -- when you got
22 down to The Spot, was Fresh at The Spot when you got
23 down there?

24 A. Yeah.

25 Q. He was already in The Spot, right?

1 A. Right.

2 Q. When I refer to The Spot, I'm not talking about
3 the area; I'm talking about the building.

4 A. Right.

5 Q. When you went into The Spot, was there somebody
6 in charge of checking people?

7 A. Right.

8 Q. And that's normal?

9 A. Normal.

10 Q. And, explain to the jury, what do you mean when
11 you're talking about people checking people?

12 A. They pat you down before you go inside the
13 club.

14 Q. And what are they looking for?

15 A. Weapons.

16 Q. That's right. So when you go in this place,
17 somebody checks everybody for guns?

18 A. Right.

19 Q. And do you know if Mr. Gantt had to go back out
20 from the club because he had his gun with him?

21 A. I can't prove it.

22 Q. What do you mean you can't --

23 A. Because I didn't see it.

24 Q. You didn't see it?

25 A. Right.

1 Q. Did he walk in with you?

2 A. Nope.

3 Q. Who did he walk in with?

4 A. Teddy P.

5 Q. All right. So Teddy P would be the one to know
6 that, right?

7 A. Right.

8 Q. So when you got in there, Fresh was already in
9 the club, right?

10 A. Right.

11 Q. Inside?

12 A. Inside.

13 Q. Okay. So when y'all were up there, y'all were
14 playing music; you found a little corner; you were
15 looking for a girl?

16 A. No. I was just really chillin'.

17 Q. And did you have anything to drink while you
18 were there?

19 A. Yep.

20 Q. How much?

21 A. Probably just a beer.

22 Q. And were you doing anything else besides
23 drinking?

24 A. Nah.

25 Q. Okay. What time did you decide to leave?

- 1 A. I can't recall. I wasn't watching the clock.
- 2 Q. Approximately, you got down there, what, 1:30?
- 3 A. Yeah, one-something.
- 4 Q. One-something?
- 5 A. Yeah.
- 6 Q. So you stick around there for about an hour?
- 7 A. Could have been.
- 8 Q. Okay. Is that about right?
- 9 A. I don't remember.
- 10 Q. You don't remember how long you were there?
- 11 A. Right. It wasn't long.
- 12 Q. So it wasn't even an hour?
- 13 A. I'm pretty sure it was an hour.
- 14 Q. Right at an hour?
- 15 A. Right. They stay open until 5:00.
- 16 Q. So if it was about an hour, you would have been
- 17 leaving about 2:00, right?
- 18 A. Two-something probably.
- 19 Q. Okay. When you walked out, when you were
- 20 leaving, was Fresh still in the building?
- 21 A. I guess.
- 22 Q. You guess?
- 23 A. Yeah. He could have been sitting outside. I
- 24 don't know.
- 25 Q. You didn't see him?

1 A. No. I seen him when he came up the hill.

2 Q. All right. Well, let's talk about coming up
3 the hill.

4 When he was coming up the hill, you said -- you
5 say up the hill. It is a hill, isn't it?

6 A. Or whatever you call it.

7 Q. No. It's a hill, isn't it? You have to walk
8 an incline, don't you, to get up there?

9 A. Right.

10 Q. If you're walking up the hill, your vehicles
11 would have been on what side?

12 A. Right side.

13 Q. So it would have been over here?

14 A. Right.

15 Q. So he got -- I think you've already pointed it
16 out with the little red pointer over there. His
17 location was about to where the vehicle was, about
18 even with you, right?

19 A. Right.

20 Q. And then that's when you heard some
21 conversation?

22 A. Right.

23 Q. So he's walking up and he keeps walking, right?

24 A. Right.

25 Q. And you hear the conversation. And he's

1 already past where you're exactly standing, right?

2 A. Past? No.

3 Q. All right. Where is he?

4 A. No. He's walking up the hill.

5 Q. Where is he in location to you?

6 A. In front of me, once he got up the hill.

7 Q. Okay. Well, you would have to agree, would you
8 not, that when you go up a hill, if you're over
9 here, he would have some space on this side? So he
10 could be in front of you, but he would be past you,
11 if you're looking from going up the hill, wouldn't
12 he? You following what I'm saying?

13 A. No, I'm not.

14 Q. Okay. All right. If the vehicles are -- if
15 this is the hill -- I mean, the driveway, and this
16 is your car, in proximity to where you are, where
17 would he be?

18 A. Can you put the picture up there?

19 Q. Sure. Which one you want? You want the big
20 screen one? You want this one?

21 All right. So this is the driveway?

22 A. Right.

23 Q. You're parked over here?

24 A. Right.

25 Q. We've already shown that. Your vehicle is

- 1 backed in. He's walking up the hill?
- 2 A. Right.
- 3 Q. And you said that he was right about level here
- 4 when you hear the conversation. He's about parallel
- 5 to you, right?
- 6 A. Which conversation?
- 7 Q. The conversation where he's with Shine. You
- 8 said he had a conversation with Shine, right?
- 9 A. Right.
- 10 Q. So he's about parallel there, right?
- 11 A. Right.
- 12 Q. Does he still keep moving up the hill?
- 13 A. No.
- 14 Q. What happened?
- 15 A. He stood right in front of Shine.
- 16 Q. So he turns and he's talking to Shine?
- 17 A. Right.
- 18 Q. He's perpendicular to Shine?
- 19 A. You're using all this --
- 20 Q. He's straight with Shine? He's straight with
- 21 Shine?
- 22 A. Yeah.
- 23 Q. I don't mean straight with him --
- 24 A. He's about like this right here.
- 25 Q. Okay. All right. So he's looking at Shine.

1 Where is Shine in relationship to the car?

2 A. In front of the car.

3 Q. Directly in front of the car?

4 A. No.

5 Q. In what direction from the car?

6 A. To the right.

7 Q. So he's to the right of the car?

8 A. Right.

9 Q. And we're talking about the Challenger, right?

10 A. Right.

11 Q. Or the Charger, I should say.

12 A. Charger.

13 Q. I know. Who knows. But that's the gray car.

14 That's Dominique's car, right?

15 A. Right.

16 Q. Okay. So he's to the side of the Charger,

17 talking about Shine, and Fresh is straight with

18 Shine, and they're both to the side of the Charger,

19 right?

20 A. No. They never was straight. It was like this

21 right here, like a triangle.

22 Q. Okay.

23 A. Shine right here and both of them on the side,

24 like, in front of them. I want to say both of them

25 could have been at his shoulders.

1 Q. Okay. If you had to show from what side of the
2 Charger that Fresh would be, which side of the
3 Charger would he be on?

4 A. Coming up the hill or going down the hill?

5 Q. Well, he's coming up the hill, right?

6 A. Right.

7 Q. So which side would he be on?

8 A. He'd be on the left side of Shine.

9 Q. So he'd be on the left side of Shine. And what
10 side of the car is Shine on?

11 A. The right side.

12 Q. Okay. So -- and I think we've already
13 established when he was talking -- and I refer to
14 he. When Fresh was talking to Shine, he said, Not
15 you?

16 A. Right.

17 Q. So it wasn't Shine he was looking for?

18 A. That's what he said.

19 Q. That's what he said. As a matter of fact, that
20 night, there's -- absolutely nothing happened inside
21 the club, right?

22 A. Not that I recall.

23 Q. Okay. So Fresh is just walking up the hill,
24 speaks to Shine because Shine says something to him.
25 Shine initiates that conversation after he makes

1 that comment. He said, who you talking about,
2 right?

3 A. Right. Right.

4 Q. He says, Not you?

5 A. Right.

6 Q. And then the next thing -- the next thing that
7 you observe or hear or notice is a bunch of shots
8 ringing out?

9 A. Right.

10 Q. You never see Fresh raise a gun at any point in
11 time, did you?

12 A. Right.

13 Q. You never see -- you call him Red Nose. Do you
14 ever see Red Nose raise a gun?

15 A. Nope.

16 Q. You never see either one of these two
17 individuals raise a gun?

18 A. No.

19 Q. As you were -- and I'm certainly not making
20 light of this. As you were diving underneath the
21 car because you had already been shot, did you hear
22 the different numbers of locations of where the
23 sounds were coming from, the shots?

24 A. No.

25 Q. But there were a bunch, weren't there?

1 A. That's right.

2 Q. All over the parking lot?

3 A. Right.

4 Q. Could you tell if it was from cars closer to
5 the -- to The Spot that you were hearing the sounds
6 coming from, the shots that were coming?

7 A. I can't remember.

8 Q. But it was a bunch?

9 A. It was a bunch.

10 Q. 40 or 50 shots --

11 A. Right.

12 Q. -- from all over the place. It wasn't just
13 coming from that spot where you were at?

14 A. Oh, they came from other places?

15 Q. Do you know?

16 A. I don't know. I'm asking you.

17 Q. See, I wasn't there. I wasn't there.

18 A. You got your evidence or whatever.

19 Q. See, I don't have to produce evidence. They
20 have to do that.

21 A. Oh, 10-4.

22 Q. Since we're talking about evidence and
23 producing evidence, you clearly know that when you
24 have a case, you're supposed to produce evidence and
25 maintain evidence so that people like this jury can

1 look at it, don't you?

2 A. Right.

3 Q. So you remember that leg that you got shot in,
4 right, the one that the bullet came out of, was it
5 last year?

6 A. Right.

7 Q. Did you let law enforcement know that they were
8 cutting that bullet out of your leg?

9 A. No.

10 Q. Well, you knew that bullet was important,
11 didn't you?

12 A. I didn't. I thought the case was over.

13 Q. You thought the case was over?

14 A. Yeah.

15 Q. You hadn't gone to court, had you?

16 A. No.

17 Q. You just thought it was over?

18 A. Right. Six years, ain't nobody said nothing,
19 so I thought it was over.

20 Q. So no law enforcement, solicitors, or anything
21 had come by to say anything to you about that bullet
22 that you had in your leg?

23 A. Right.

24 Q. Well, you know if you get a bullet in your leg
25 that people can sometimes determine where it came

1 from?

2 A. Right.

3 Q. You knew that?

4 A. Right.

5 Q. But nobody saved that bullet to see where it
6 came from?

7 A. I don't think the hospital kept it.

8 Q. Well, since you've learned about this case
9 coming to trial today, did you check with the
10 hospital to see if they still had it somewhere?

11 A. No.

12 Q. So it might be somewhere now?

13 A. It might.

14 Q. Now, if you know what bullet was in your leg
15 and if you could match that bullet to a specific gun
16 and you could match a specific gun to a particular
17 individual, you'd be half the way home with knowing
18 who actually shot that gun, wouldn't you?

19 A. I guess.

20 Q. Now, you remember giving a statement, a written
21 statement, to law enforcement on the 8th of June,
22 which would have been, what, two days later when you
23 were in the hospital, Room 519?

24 A. Okay.

25 Q. You remember then, you were consistent;

1 meaning, you said you heard a gunshot and you
2 climbed under the car. Right?

3 A. Right.

4 Q. And you also talked about that Shine had been
5 with Andy Barnes, right?

6 A. Yes.

7 Q. And they were in a Chrysler Sebring?

8 A. I thought it was a Chrysler.

9 Q. You thought it was a Chrysler?

10 A. It's a Dodge. Dodge, Chrysler, Jeep, all of
11 them the same to me.

12 Q. So you were mistaken about what car they were
13 in, right?

14 A. Right.

15 Q. And I'm not blaming you. People mistake cars
16 all the time, don't they?

17 A. Right.

18 Q. But it's just people make mistakes, right?

19 A. Right.

20 Q. When you gave your first written statement on
21 June the 6th, you didn't know who shot you that
22 night either, did you?

23 A. Right.

24 Q. Now, I'm going to say something I know the
25 answer to, but I'm going to ask you anyway: You

1 dabbed Fresh when you went in there, right?

2 A. Right.

3 Q. Tell the jury what dapping means.

4 A. Gave each other five.

5 Q. That's right. And that's an indication of
6 friendship, right?

7 A. Right.

8 Q. Nothing unusual happened after you dapped him,
9 right?

10 A. Nope.

11 Q. When you were under the car, you couldn't even
12 see where Fresh was, could you?

13 A. Nope.

14 MR. WILLIAMS: Just a couple more minutes, Your
15 Honor, just two more questions.

16 BY MR. WILLIAMS:

17 Q. Did you see -- you said you saw Fresh with a
18 gun. Which hand did he have the gun in?

19 A. It had to be the right.

20 Q. Had to be his right hand?

21 A. Right.

22 Q. But not his left hand?

23 A. I can't remember.

24 Q. So you don't really know?

25 A. Oh, I know he had it. I don't know which hand.

1 Q. It wouldn't make a difference, would it?

2 A. That's right.

3 Q. Or left?

4 A. Excuse me?

5 MR. WILLIAMS: That's all I have, Your Honor.

6 THE COURT: Mr. Mauldin?

7 MS. FULLER: I don't do redirect?

8 THE COURT: Y'all approach real quick.

9 And while we're at it, ladies and gentlemen,
10 I'd like y'all to stand up by your chairs and move
11 your bodies around a little bit and get your blood
12 flowing.

13 (Sidebar conference.)

14 THE COURT: All right. Mr. Mauldin.

15 MR. MAULDIN: Thank you.

16 CROSS-EXAMINATION

17 BY MR. MAULDIN:

18 Q. Mr. Jeffery, how are you doing? You doing all
19 right?

20 A. Yes, sir.

21 Q. A little scary being in court. Not as scary as
22 The Spot, though, I reckon?

23 A. Right.

24 Q. Okay. Now, I know the Government had a crack
25 at it and Theo had a crack at it. But I think I'm

1 going to try to make sense of all this, if I can.

2 All right. Exhibit 285, the overhead of The
3 Spot, right?

4 A. Right.

5 Q. That's what that is. I think we got three --
6 okay. You got the -- that's as much as it zooms
7 out, so we're just going to have to do it like that.

8 Okay. So when you pointed at the map, the 285,
9 off of Parrish Road, there's a little dirt road that
10 kind of goes up diagonal towards the top left of the
11 exhibit. That's a dirt road that leads to The Spot,
12 which is the red building, right?

13 A. Right.

14 Q. Okay. And this is a main, I guess, parking
15 area here, this big empty spot to the bottom and
16 slightly to the left of the red building, right?

17 A. Right.

18 Q. And y'all weren't parked there, right?

19 A. Right.

20 Q. Now, y'all had parked -- going back to the dirt
21 road coming off Parrish Road going towards The Spot,
22 you parked on this side here before the opening; is
23 that right?

24 A. Right.

25 Q. Okay. So there's like kind of a clearing with

1 the road, and then the trees joined together. Y'all
2 were right here in this area; is that right?

3 A. Right.

4 Q. Right before the trees join back together, kind
5 of where the road is nearest to that.

6 And you say you come from Ridge Spring-Monetta,
7 you come up 20; is that right?

8 A. Right.

9 Q. And you get off the interstate at exit -- was
10 it 39?

11 A. Yes.

12 Q. Okay. That's where that truck -- that Hill
13 View truck stop is. And it's nothing but a dip down
14 to here. It's like three minutes or something like
15 that?

16 A. Right.

17 Q. Not very far. And then, of course, there was
18 that driving back with a flat tire. And that's as
19 far as it could go because of the flat tire. It was
20 only like three minutes away. You're lucky you made
21 it three minutes away, right?

22 A. Right.

23 Q. So as to that map, I guess we can kind of angle
24 it like that to match the road. These are the way
25 your cars were parked. And the club would be above

1 those; is that right?

2 A. Right.

3 Q. On Exhibit 3, I have Exhibit 3 upside down with
4 the Dodge Charger on top, facing to the right; the
5 Dodge Stratus in the middle, facing to the right.
6 So the club would be that way, is that right, above
7 the exhibit as it is upside down on the screen, to
8 the left of the Dodge Charger?

9 A. Right.

10 Q. So the Dodge Charger is closest to the club,
11 right?

12 A. Right.

13 Q. Dodge Stratus is next closest, right?

14 A. Right.

15 Q. And then it's the Kia; is that correct?

16 A. Right.

17 Q. So if somebody is walking up the hill from the
18 club, they're going to come across the Dodge Charger
19 first?

20 A. Right.

21 Q. Is that right? And that was the car that you
22 and Dee Dee and OB were in, right?

23 A. Right.

24 Q. And Dee Dee was in the driver's seat of that
25 car, the Dodge Charger?

1 A. Right.

2 Q. At the time this is happening. And OB was in
3 the back of the car -- was he in the car or out of
4 the car?

5 A. He was out of the car.

6 Q. And was he -- I'm going to point here. Was he
7 towards the left-side rear of the car or was he
8 towards the right-side rear of the car?

9 A. The left side.

10 Q. So he was over here, probably close to where
11 the exhibit sticker is on the left-side rear; is
12 that right?

13 A. Right.

14 Q. And I think you indicated you were right about
15 there; is that correct?

16 A. No.

17 Q. Were you further back or forward? So you were
18 at the passenger door?

19 A. Right.

20 Q. Kind of near the rearview mirror of the Dodge
21 Charger; is that right?

22 A. Right. Right.

23 Q. Now, the Stratus was the car that Shine and
24 Teddy P were in; is that right?

25 A. Right.

1 Q. So you were -- now, this doesn't really show --
2 I mean, you can't tell how far apart the cars are on
3 this. It's just showing that they're next to each
4 other; is that right?

5 A. Right.

6 Q. Okay. Do you reckon the Stratus was closer to
7 the Charger or further away, the way it's looking,
8 or do you know? You don't remember?

9 A. About the same. Maybe a little bit further,
10 but about the same.

11 Q. Do you think you could have parked a car in
12 between those two cars?

13 A. I can't remember.

14 Q. Okay. All right. So if somebody was walking
15 up the hill, say -- like you say Fresh and Red Nose
16 was, they'd be coming, on this exhibit, from the
17 left front of the Charger. And I guess you're
18 saying they went towards the Dodge Stratus to talk
19 to Shine; is that right?

20 A. No. Shine walked away from the Dodge Stratus.

21 Q. Okay. Because you said he was at the door?

22 A. I said I was at the door.

23 Q. Okay. You were at the door. So Shine wasn't
24 touching the door, according to you?

25 A. No. He was up here.

1 Q. Okay. Up here where? I'm sorry. I missed it.

2 So you say he was closer to the Charger, but
3 between the Charger and the Stratus near the front?
4 Is that what you're saying?

5 A. Yeah.

6 Q. Okay. And so these guys come up here. And you
7 say that if Shine was the glass at the court
8 reporter, that Fresh got about this far away from
9 him, or is it closer or further?

10 A. About like that.

11 Q. Okay. And I reckon that's about four to five
12 feet in that area; is that right?

13 A. Right.

14 Q. Okay. And so if Shine was standing right about
15 here, kind of close to the front of the Dodge
16 Charger, Fresh would almost be kind of up here, is
17 that right; in front of the Charger, but towards the
18 left-side headlight? Is that right?

19 A. When?

20 Q. When they had this verbal exchange regarding
21 where are these kind of people at.

22 A. No. They didn't have a verbal exchange right
23 there.

24 Q. Oh. Where did they have the verbal exchange
25 at?

1 A. The verbal exchange, Shine never had it with
2 me. That's when --

3 Q. So you're saying that Shine walked away from --
4 back down the hill to meet up with Fresh --

5 A. No, sir.

6 MS. FULLER: I'm sorry. The witness wasn't
7 finished speaking before he asked his next question.
8 If he could finish, please.

9 THE COURT: You may need to ask the question
10 again.

11 MR. MAULDIN: All right.

12 BY MR. MAULDIN:

13 Q. So kind of refresh. You were here by the
14 rearview mirror at the passenger door of the
15 Charger, right?

16 A. Right.

17 Q. And you had seen Shine come up near the front
18 of the Charger, like he was walking towards the
19 Stratus; is that right?

20 A. Like he walking towards the Stratus?

21 Q. Yeah, the car he was in.

22 A. You said Shine was walking towards the Stratus?

23 Q. Okay. You said you saw Shine up in this area
24 near the front of the Dodge Charger; is that right?

25 A. Right.

1 Q. And Shine is the guy that ended up deceased; is
2 that correct?

3 A. Right.

4 Q. All right. So did Shine move from that spot
5 before Fresh and, you say, Red Nose walked out?

6 A. Actually, Shine was at the car. And when he
7 heard Red Nose and Fresh coming up the hill, that's
8 when Shine ended up meeting them at the same spot
9 where you pointed at.

10 Q. So you're saying Shine was here?

11 A. Right.

12 Q. At the driver's door of the Dodge Stratus?

13 A. Right.

14 Q. And then when the chatter started, he walked
15 back over this way?

16 A. Right, right here.

17 Q. Okay. Right here. What were you doing at the
18 time? Were you looking at your phone? Were you
19 texting with ladies?

20 A. No. When I heard the chatter, I was trying to
21 see what's going on. That's when I seen the gun. I
22 was like, ain't no way all these people out here and
23 they about to do something like that.

24 Q. So Shine is that way. He's facing back down
25 the hill, right?

1 A. What?

2 Q. Which way is Shine facing?

3 A. He's facing Fresh and Red Nose right here.

4 Q. So you're saying they walked up the hill and
5 were in front of the car and the exchange took place
6 here in front of the car on the right side?

7 A. Yeah.

8 Q. Okay. All right. And then you heard shots,
9 you felt one in your leg, and you crawled under the
10 Dodge Charger or the Dodge Stratus?

11 A. I climbed around the car, under the car.

12 Q. Okay. And that would be the Charger?

13 A. The Charger.

14 Q. Okay. Now, I know Mr. Williams talked to you
15 about having a few beers. I know you said during
16 the solicitor's presentation with you that you had
17 gone to tip a homeboy's drink. What does that mean?

18 A. What?

19 Q. Something like you tipped a homeboy's
20 something? I couldn't hear what the last part of it
21 was.

22 A. A tip?

23 Q. Yeah. Something. You said -- you know, there
24 was something with the bathroom, and then you went
25 to tip a homeboy's drink or something, a homeboy's

1 something. What does that mean?

2 A. I don't know nothing about the tip.

3 Q. Okay. Well, I don't know what tip means. It
4 might mean something to you. To me, it means
5 something different probably.

6 A. That's the first time I heard tip.

7 MS. FULLER: The objection would be
8 mischaracterizing testimony. I never heard tip,
9 so --

10 THE COURT: Well, he never admitted testifying
11 to it --

12 MS. FULLER: Right. He was just posing the
13 question as if it was stated.

14 THE COURT: Okay.

15 MS. FULLER: I don't know what it is.

16 BY MR. MAULDIN:

17 Q. All right. And you're saying that you didn't
18 know who shot first; is that right?

19 A. Right.

20 Q. And you're saying that Shine didn't have a gun?

21 A. I never saw it if he did.

22 Q. You never saw it. But he was facing away from
23 you, wasn't he?

24 A. Right.

25 Q. And what about Teddy P? Did you see him or

1 were you paying attention to the chatter and the --

2 A. Paying attention to the chatter.

3 Q. Yeah. So you don't know who shot first; is
4 that right?

5 A. Right.

6 Q. Okay. Now, that night was the first night you
7 had seen Shantrez Robertson in person; is that
8 right?

9 A. Right.

10 Q. You had never seen him before. You had seen
11 him on a Facebook page a couple weeks ago, weeks
12 before that, that your cousin had showed you; is
13 that right?

14 A. No. I didn't know nothing about him until
15 after that night.

16 Q. So you didn't know anything about him until
17 after that night?

18 A. Right.

19 Q. Okay. And you never told any law enforcement
20 that your cousin, Aiesha Brannon, had showed you
21 those pictures of Mr. Robertson a couple weeks
22 before the incident?

23 A. After.

24 Q. She showed them to you after the incident?

25 A. Right.

1 Q. Okay. And I notice that sometime after the
2 incident, as it was mentioned, that you contacted
3 law enforcement -- I think it was Mr. Marthers
4 here -- and you went and showed him those pictures
5 on your phone that they talked about; is that right?

6 A. Right.

7 Q. And that was because you weren't able to pick
8 out Mr. Robertson from a lineup and you wanted to
9 show him who he was; is that right?

10 A. No. I really picked him out. I just knew
11 everybody on there except him. That black-and-white
12 kind of had me throwed off.

13 Q. But you did make a positive identification at
14 the time; is that right?

15 A. Right.

16 Q. It was only after you were shown Facebook page
17 pictures of Mr. Robertson; is that right?

18 A. Right.

19 Q. And, of course, you had seen Mr. Robertson in
20 the club with Fresh before the shooting incident; is
21 that right?

22 A. Right.

23 Q. And he was wearing those pants then?

24 A. Right.

25 Q. Okay. And speaking of the pants, we're going

1 to go back to State's 295. I'll show it this way.

2 Focus a little bit there. And the little date

3 caption by that photo, what does that say?

4 A. May 17th, it looks like.

5 Q. And what year is that?

6 A. 2017.

7 Q. Okay. And this thing at The Spot happened in

8 2015; is that right?

9 A. Right.

10 Q. You didn't take that picture, right?

11 A. Nope.

12 Q. You have no idea when it was a taken; is that

13 right?

14 A. Nope. Right.

15 Q. Okay.

16 MR. MAULDIN: No further questions, Your Honor.

17 THE COURT: Redirect?

18 REDIRECT EXAMINATION

19 BY MS. FULLER:

20 Q. Just to clear up a few things, do you recall

21 when I was asking you questions on direct in terms

22 of when I asked you a question about who shot first?

23 You remember when I asked you that question,

24 correct?

25 A. Right.

1 Q. Just to be clear, so it's in context, what I
2 was asking you -- can you see this board?

3 A. Yes.

4 Q. Did -- did you see Teddy P shoot before you
5 heard gunshots?

6 A. No.

7 Q. Did you see Shine shoot before you heard
8 gunshots?

9 A. No.

10 Q. Did you see Dee Dee shoot before you heard
11 gunshots?

12 A. No.

13 Q. Did you see OB shoot before you heard gunshots?

14 A. No.

15 Q. Did you shoot before you heard gunshots?

16 A. No.

17 Q. Did you shoot period?

18 A. Didn't have a gun.

19 Q. Okay. So in terms of who shot -- when I asked
20 you the question in context of who shot first, I was
21 specifically asking between --

22 A. I thought you was talking about between those
23 two.

24 Q. You thought I was talking about between
25 Mr. Robertson and Mr. Brannon, correct?

1 A. Right.

2 Q. And I was. Okay. Okay. Just wanted to clear
3 that up.

4 But between these two shooting first, you
5 didn't see who actually shot first?

6 A. Right.

7 Q. That night, early morning hours of June 6th --
8 you don't know the time and that's fine -- did you
9 see them with guns in their hands?

10 A. Right.

11 Q. Did you see them standing close to you?

12 A. Yes.

13 Q. In front of you?

14 A. Yes.

15 Q. Okay. In looking at the vehicles, looking at
16 State's 14, just to reiterate for the record, this
17 is Teddy P's car, correct?

18 A. Right.

19 Q. Your car that you rode in would have been
20 parked here?

21 A. Right.

22 Q. And on this picture, is The Spot this way or
23 this way?

24 A. Down the hill.

25 Q. Down the hill. And the perfect exhibit for

1 that, looking at State's 12, cars over here?

2 A. Right.

3 Q. Down the hill that way?

4 A. Right.

5 Q. And just so it's clear, when Shine -- not

6 Shine -- when Fresh walked up and said the

7 such-and-such comment we talked about, can you

8 clarify where he was when you heard him make that

9 comment?

10 A. Coming up the hill.

11 Q. Okay. And at that time, you see the cars here.

12 This is just another diagram. You see the position

13 of the cars?

14 A. Yes.

15 Q. You see the cars here, correct?

16 A. Yes.

17 Q. And you were standing around here when this

18 happened, correct?

19 A. Right.

20 Q. Looking at the picture of the Dodge Charger,

21 which is a good exhibit for this, State's 79, where

22 were you standing prior to getting -- while you were

23 attempting to get in the car? That was the goal,

24 right?

25 A. Right.

1 Q. Go ahead and point again.

2 A. (Indicating.)

3 Q. So then looking back at State's 3, that's here,
4 correct?

5 A. Right.

6 Q. Looking back at State's 12, that's here,
7 correct?

8 A. Right.

9 Q. That wasn't a conversation between Fresh and
10 anybody you were with, correct?

11 A. Excuse me?

12 Q. When you heard Fresh asking for such-and-such
13 or that comment that you heard him make --

14 A. Right.

15 Q. -- was he having a conversation with you five
16 when he made that comment?

17 A. I didn't think so. But --

18 Q. Okay. Then at that point, you testified that
19 Shine was pretty much at the door of the Dodge
20 Stratus; is that correct?

21 A. Yes.

22 Q. And then what did Shine say or do?

23 A. Hold on a minute; let me see what they're
24 talking about.

25 Q. And at that point, Shine left from the door; is

1 that correct?

2 A. Right.

3 Q. And just stepped out into what we would refer
4 to as the roadway, is that correct, or just in front
5 of the car?

6 A. Right.

7 Q. And what did he say?

8 A. What did who say? Shine?

9 Q. Shine.

10 A. Who y'all talking about? Who you looking for?

11 Q. And who responded?

12 A. Fresh.

13 Q. What did Fresh say?

14 A. We ain't looking for you.

15 Q. And then what happened?

16 A. Gunshots start.

17 Q. Immediately?

18 A. Right.

19 Q. Okay. Any doubt in your mind where the initial
20 sound of gunshots came from?

21 A. No.

22 Q. Okay. And where were they coming from?

23 A. They was right there in that area.

24 Q. Right where Brannon and Robertson --

25 MR. MAULDIN: Objection; leading on that.

1 THE WITNESS: Right.

2 THE COURT REPORTER: Wait, wait, wait, wait.

3 THE COURT: The objection was for leading.

4 Overruled.

5 MS. FULLER: Thank you.

6 BY MS. FULLER:

7 Q. Right where Brannon and Robertson were
8 standing, correct?

9 A. Right.

10 Q. Now, this photo lineup that was presented to
11 you, we didn't talk about it. You recall being
12 presented with that photo lineup, correct?

13 A. Excuse me?

14 Q. You recall the officer presented you with the
15 photo lineup?

16 A. Right.

17 Q. At any point, did he tell you that the person
18 that you knew -- you identified already to law
19 enforcement as Red Nose or Robertson, did he tell
20 you that he would be in this photograph?

21 A. Right.

22 Q. No? Yes?

23 A. You said did he tell me what?

24 Q. Did he tell you that he would be in --

25 A. Oh, no.

1 Q. Okay. Just wanted to make sure that part was
2 clear. And then he showed you the photograph?

3 A. Right.

4 Q. And you were testifying on cross that you
5 eliminated five. What does that mean? What did you
6 do?

7 A. I looked at all of them, and I was like, this
8 is the closest one right here, but I couldn't really
9 tell because it was black-and-white.

10 Q. And when you looked at the other five, tell me
11 whether or not you were able to eliminate those
12 people.

13 A. I did.

14 Q. And the person that you were set on, did law
15 enforcement ever tell you if you were stuck on that
16 person or no?

17 A. No.

18 Q. Did they even tell you who that person was?

19 A. No.

20 Q. Tell me this: You recognize that image. Is
21 it -- and tell me if I'm wrong. You just weren't
22 comfortable circling it because of the
23 black-and-white?

24 MR. WILLIAMS: Objection; leading.

25 THE WITNESS: Right.

1 THE COURT: Overruled. The question was posed
2 properly.

3 BY MS. FULLER:

4 Q. When you spoke to law enforcement back in 2015,
5 you were able to describe the pants that Robertson
6 was wearing, correct?

7 A. Right.

8 Q. So this photograph -- what is your testimony
9 about the photograph of the pants now? That it
10 appears to be or they were the ones -- when he asked
11 you about this photograph and you didn't take it,
12 did you understand why I was showing you this
13 photograph?

14 A. Right; were those the pants he had on.

15 Q. And I was specifically asking if they appeared
16 to be the ones you recall, correct?

17 A. Right.

18 Q. I wasn't suggesting that this was that night,
19 correct?

20 A. Right.

21 Q. Did you take it that I was suggesting to you
22 that this was the exact outfit that night?

23 A. Right.

24 Q. Okay. It was just about the pants?

25 A. Right.

1 MS. FULLER: No further questions.

2 THE COURT: Recross?

3 RE CROSS-EXAMINATION

4 BY MR. WILLIAMS:

5 Q. I'm going to speak a little slower. So when
6 you made the comment that you heard the sound in
7 that area, you never saw either one of these two
8 individuals point the gun and shoot the gun, did
9 you?

10 A. Never saw it.

11 Q. The only thing you heard that night was a
12 sound?

13 A. Right.

14 Q. And you actually heard the sound before you
15 were shot, right?

16 A. Right.

17 Q. And how many sounds did you hear?

18 A. I couldn't tell you.

19 Q. You just heard a sound?

20 A. Yeah. Heard bullets.

21 Q. You heard bullets?

22 A. Shots.

23 Q. You heard a sound, didn't you?

24 A. Well, if that's what you call it.

25 Q. Okay. Just one more follow-up question with

1 regards to -- when the solicitor was talking to you
2 about Shine and you said something about he was
3 coming up this way, is that what you said?

4 A. Shine or who?

5 Q. I thought you said Shine.

6 A. Coming up where?

7 Q. Coming from where that blue area is. If I was
8 a painter, I would paint that blue and coming up
9 through that yellow tape. Of course, that yellow
10 tape wasn't there that night. Was he coming up to
11 this area, which is a higher area?

12 A. Shine?

13 Q. Yeah.

14 MS. FULLER: Objection, Your Honor. Just maybe
15 clarify, is he referring to Fresh or Shine, because
16 he never --

17 THE COURT: Hold on just one second.

18 Use the pointer. Take the one from the witness
19 stand, that way we can be clear what we're talking
20 about.

21 BY MR. WILLIAMS:

22 Q. So you indicated that someone was coming up
23 this way, right?

24 A. Right.

25 Q. Were you referring to Fresh or were you

1 referring to Shine?

2 A. Fresh.

3 Q. All right. So what is back down that way?

4 A. What did you say?

5 Q. What is back down that way?

6 A. The club.

7 Q. And there are no light poles here, are there?

8 There are no light poles here, are there? There are
9 no lights here?

10 A. I can't remember. I think it was an orange
11 light out there, the streetlight.

12 Q. So the closest thing to a light would have been
13 where, back this way toward the road or would it be
14 near the club?

15 A. It would be closer towards the road.

16 Q. So there was no light in that area, except for
17 a light that was closer to the road?

18 A. Right, I guess.

19 Q. Which would have been behind me. There's the
20 club; no lights down there. This is going up the
21 hill. The highway is up here, and the light is back
22 behind us. There's no light out in this area, is
23 there?

24 A. Not down in that area, down the hill.

25 Q. There's none right here, is there?

1 A. No.

2 Q. None right here?

3 A. It ain't a light pole there, but it was lit.

4 Q. Lit with what?

5 A. It was a light out there.

6 Q. So you're telling me there's a light pole next
7 to the road?

8 A. Got to be somewhere down there.

9 Q. Got to be, why?

10 A. Because it's an orange light out there. It
11 ain't pitch black right there.

12 Q. Did anybody have headlights on in that area?

13 A. At that time? Should have been. We probably
14 had ours on.

15 Q. But you don't remember?

16 A. I don't remember.

17 MR. WILLIAMS: That's all the question I have,
18 Your Honor.

19 THE COURT: All right. Mr. Mauldin?

20 MR. MAULDIN: Thank you, Your Honor.

21 RE CROSS-EXAMINATION

22 BY MR. MAULDIN:

23 Q. The solicitor was talking to you about some
24 statements you made in 2015. I know you talked to a
25 lot of cops back then, right? Do you remember

1 talking to that cop that came to the hospital with
2 the lineup?

3 A. Yes.

4 Q. Do you remember telling him that there was no
5 problems or fights in the club that night and
6 everyone was getting along?

7 A. Right.

8 Q. Okay. You did tell him that. All right. And
9 the solicitor kept saying the person you know as Red
10 Nose -- did you know him as Red Nose that night or
11 just Robertson? How did you know him that night?

12 A. I didn't know him at all that night.

13 Q. Okay. So you didn't know his name or nothing?

14 A. Right.

15 Q. Okay. So you couldn't have given his name to
16 anybody until later on?

17 A. Right.

18 Q. And, finally, the solicitor asked you if you
19 shot a gun and you said no; is that right?

20 A. Right.

21 Q. Did the police ever do a gunshot residue test
22 on you to prove that you didn't shoot a gun?

23 A. I don't think so. I don't remember.

24 MR. MAULDIN: No further questions.

25 THE COURT: All right. The witness may step

1 THE COURT: Mr. Williams?

2 MR. WILLIAMS: Defendant Brannon is ready, Your
3 Honor.

4 THE COURT: Mr. Mauldin, are you ready to go,
5 sir?

6 MR. MAULDIN: Yes, Your Honor.

7 THE COURT: Let's bring them up, please.

8 (The jury enters the courtroom at 12:03 p.m.)

9 THE COURT: All right. Madam Forelady, members
10 of the jury, welcome back. We'll continue on with
11 the next witness in the State's case in chief.

12 MS. FULLER: Thank you, Your Honor. The State
13 calls Demetrich Harris.

14 DEMETRICH HARRIS

15 being first duly sworn, testified as follows:

16 THE WITNESS: Uh-huh.

17 THE CLERK: You can remove your mask. If
18 you'll state your name and spell your last name for
19 the record, please.

20 DIRECT EXAMINATION

21 BY MS. FULLER:

22 Q. Go ahead and state your name for the record and
23 spell your last name.

24 A. Demetrich Harris, H-A-R-R-I-S.

25 Q. And, Ms. Harris, you're under subpoena to be

1 here today, correct?

2 A. Uh-huh.

3 Q. You just have to state a word.

4 A. Yes.

5 Q. You don't want to be here today?

6 A. Huh-uh.

7 Q. This is going to be very brief. Back on June
8 6th of 2015, where were you living at that time?

9 A. Creek View Apartments.

10 Q. Is that on Willis Street in
11 Batesburg-Leesville?

12 A. Yes.

13 Q. And that night, do you recall seeing something
14 that you shared with the police?

15 A. Yes.

16 Q. What did you -- were you in your home or were
17 you outside that night?

18 A. I was outside.

19 Q. And what did you see that you shared with the
20 police?

21 A. It was a burgundy Crown Vic drove up, four
22 people got out.

23 Q. I'm going to slow you down just so it's clear.
24 You said a burgundy Crown Vic?

25 A. Uh-huh.

1 MS. FULLER: Permission to approach, Your
2 Honor?

3 THE COURT: Yes, ma'am.

4 BY MS. FULLER:

5 Q. I'm going to move the microphone just a little
6 because you're soft spoken. So you said a burgundy
7 Crown Vic?

8 A. Uh-huh.

9 Q. And you saw this with your own eyes?

10 A. Yes.

11 Q. How many people did you see in the car?

12 A. Like, four.

13 Q. And then what did you hear or what happened
14 next?

15 A. I just heard a girl say, Strip your clothes
16 off --

17 Q. I'm going to slow down from there. When the
18 car pulled --

19 MS. FULLER: I'll move on, Your Honor.

20 THE COURT: Okay.

21 BY MS. FULLER:

22 Q. When the car pulled in, where did it go?

23 A. Past where I stay at, a little further down.

24 Q. And when you say a little further down, is this
25 a parking lot or on the street?

1 A. Like, in the road.

2 Q. In front of the apartment building?

3 A. Uh-huh.

4 Q. When you saw the car at that point, you saw
5 four people in the car?

6 A. Yes.

7 Q. And what did you see next? Did you see other
8 cars?

9 A. Another car, like a truck, SUV pulled up, and
10 another car.

11 Q. And what did you observe happening?

12 A. I heard a female screaming saying, Strip all
13 your clothes off.

14 Q. And then what happened next?

15 A. After that, two cars pulled up, a truck and a
16 car; looked like somebody got in the car, and then
17 they pulled off. And that's all I saw.

18 Q. Okay. And --

19 THE COURT: I do want to -- please don't
20 testify to what other people said --

21 THE WITNESS: Okay.

22 THE COURT: -- when you're answering the
23 question. Okay? Thank you.

24 MS. FULLER: Thank you, Your Honor.

25 BY MS. FULLER:

1 Q. When you heard -- in response to the comment
2 you heard and clothes and all of that, did you see
3 the people --

4 MR. WILLIAMS: Your Honor, I would object and
5 move to strike. The Court has already instructed
6 about making comments from other people, and then
7 the prosecutor is referencing the comment that you
8 had indicated not to be said.

9 MS. FULLER: Your Honor, I can rephrase and --
10 or --

11 THE COURT: Yeah. Try that.

12 BY MS. FULLER:

13 Q. After you heard the comment, what did you see
14 happening?

15 A. That's it.

16 Q. Like, what did you see? We have to describe
17 what you saw with your own eyes.

18 A. Looked like somebody taking off their shirt,
19 probably long pants, or something like that.

20 Q. When you say they, were these people coming
21 from the burgundy car that you saw?

22 A. Yeah. There was, like, a couple people
23 surrounding the car.

24 Q. Did people from in that car end up leaving?

25 A. Look like two people got in another vehicle.

1 Q. What did that vehicle do?

2 A. Leave. Leave the scene.

3 Q. Okay.

4 MS. FULLER: I believe that's all I have.

5 MR. WILLIAMS: I don't think I have any
6 questions, Your Honor.

7 THE COURT: Very well.

8 Mr. Mauldin?

9 CROSS-EXAMINATION

10 BY MR. MAULDIN:

11 Q. Ms. Harris, do you remember talking to a police
12 officer on the night of the 6th back in '15?

13 A. Yes.

14 Q. The one from -- the Lexington County one that
15 took a minute to get there?

16 A. Yeah.

17 Q. Because Batesburg came first, but it took a
18 minute for Lexington County to get there?

19 A. Yes.

20 Q. Didn't you tell him that you just saw two
21 people get out of the burgundy vehicle?

22 A. No. I said four, but two was standing around
23 the car.

24 Q. So there was two standing --

25 A. And it was a long time ago. I can't remember a

1 lot of things.

2 Q. Okay. And you told him that the people had
3 their backs turned to you so you couldn't --

4 A. Yeah. I told him I couldn't see faces, I just
5 heard names.

6 Q. And you said that after the burgundy car came
7 in, an SUV and another car came in?

8 A. Yes.

9 Q. And then some people left in those cars; is
10 that right?

11 A. Yes. Yes.

12 Q. But there was a lot of milling around and --

13 A. Yeah. A lot of people hanging out.

14 Q. -- it's hard to tell who got in what --

15 THE COURT: Try not to talk over each other.

16 BY MR. MAULDIN:

17 Q. It was hard for you to tell who got in what,
18 who went where, and who did what?

19 A. Yes.

20 Q. You saw the two cars come and then people leave
21 in the cars?

22 A. Yes.

23 Q. Okay.

24 MR. MAULDIN: No further questions.

25 THE COURT: Redirect?

1 MS. FULLER: Briefly.

2 REDIRECT EXAMINATION

3 BY MS. FULLER:

4 Q. Ms. Harris, I'm going to approach and show you
5 State's 2 of your statement. Are you able to read
6 your handwriting here, this first sentence?

7 A. Right here?

8 Q. This second line right here. That would be
9 you. What does it start with? I --

10 A. I saw a burgundy --

11 Q. Go ahead. What did you write here?

12 A. I saw a burgundy car pull up. People --

13 MR. WILLIAMS: Your Honor --

14 THE COURT: You approached her with a
15 statement. Can --

16 MS. FULLER: Well, Your Honor, defense counsel
17 asked on cross, tried to suggest that she said two
18 people were in the car and referenced her statement,
19 and I'm publishing her sentence.

20 THE COURT: I'm asking you to start with a
21 question.

22 MS. FULLER: Okay. I apologize.

23 MR. WILLIAMS: Your Honor, could we have a
24 small side bar or --

25 (Sidebar conference.)

1 BY MS. FULLER:

2 Q. Ms. Harris, you recall speaking -- when defense
3 counsel was asking you about your written statement,
4 you recall that, correct?

5 A. Uh-huh.

6 Q. And the date down here is what?

7 A. Sixth day of June.

8 Q. And that's the day you observed what happened,
9 correct?

10 A. Uh-huh.

11 Q. This portion that's highlighted, can you go
12 ahead -- and you wrote this yourself, correct?

13 A. Uh-huh.

14 Q. Go ahead and read this portion of the statement
15 that's highlighted.

16 A. I saw a burgundy car pull up and people jump
17 out. It was four in the car.

18 Q. Okay. And you wrote this on June 6th, correct?

19 A. Yeah.

20 Q. So you never said that there was only two
21 people in the car when you saw it?

22 A. No. There was two people standing behind the
23 car, but four people pulled up in the car.

24 MS. FULLER: Thank you. That's all I wanted to
25 clarify. Thank you so much.

1 THE COURT: Recross, Mr. Mauldin?

2 MR. MAULDIN: No.

3 MR. WILLIAMS: None from Defendant Brannon.

4 THE COURT: Witness may step down. Thank you.

5 MS. FULLER: Thank you, Your Honor. May I call
6 my next witness?

7 THE COURT: Yes, ma'am.

8 MS. FULLER: The State calls Deepak Harpalani.

9 DEEPAK HARPALANI

10 being first duly sworn, testified as follows:

11 THE CLERK: State your name and spell your last
12 for the record, please.

13 THE WITNESS: Deepak Harpalani,
14 H-A-R-P-A-L-A-N-I.

15 DIRECT EXAMINATION

16 BY MS. FULLER:

17 Q. Where do you work, Mr. Harpalani?

18 A. I'm employed with the Batesburg-Leesville
19 Police Department.

20 Q. What is your current rank there?

21 A. Corporal.

22 Q. Okay. So is it okay if I call you Corporal
23 Harpalani?

24 A. That's fine.

25 Q. And back in June of 2015; where were you

1 employed?

2 A. Batesburg-Leesville.

3 Q. Back on June 6th, 2015, do you recall
4 responding to Creek View Apartments?

5 A. Yes, I do.

6 Q. And is that [REDACTED] Willis Street?

7 A. Yes.

8 Q. And when you responded to Creek View Apartments
9 in Batesburg-Leesville, what were you responding to?

10 A. The dispatch call was a -- go back to the CAD
11 right here -- stated that a subject in a red car had
12 pulled up in a parking lot, and an ambulance was
13 needed for a gunshot victim who had wounds to the
14 neck.

15 Q. Okay. And at what time did that call come in?

16 A. Start time was 0326 in the morning.

17 Q. So that's 3:26 a.m. on June 6th of 2015; is
18 that correct?

19 A. That's correct.

20 Q. And what time was Batesburg-Leesville on scene?

21 A. Officers sent to the scene, arrival was 0330 in
22 the morning.

23 Q. When you arrived on scene, did you, indeed,
24 meet with a gunshot wound individual?

25 A. Yes, we did.

1 Q. And who was that individual?

2 A. He was identified as Antonio Stroman.

3 Q. Okay. And where did you see Antonio Stroman
4 when you arrived on scene?

5 A. He was sitting in the back -- the passenger's
6 side in the back of the vehicle.

7 Q. Okay. And what kind of vehicle was it?

8 A. It was a burgundy-in-color Grand Marquis,
9 Mercury Grand Marquis.

10 Q. And Mercury Grand Marquis. Can you tell me
11 whether or not they're sometimes confused with Crown
12 Victoria --

13 MR. WILLIAMS: Objection.

14 MS. FULLER: Whether or not.

15 THE COURT: What's your objection?

16 MR. WILLIAMS: It appears to be some sort of
17 leading question in reference to cars.

18 MS. FULLER: Whether or not.

19 THE COURT: All right. Madam solicitor, I
20 didn't hear the whole question.

21 MS. FULLER: He objected before I finished the
22 question, Your Honor.

23 THE COURT: What is the question?

24 MS. FULLER: The question was, Can you tell me
25 whether or not. That's not leading. Whether or not

1 Mercury Grand Marquises are confused with Crown
2 Victorias.

3 MR. WILLIAMS: Objection; foundation. No basis
4 for him to make that assertion in regards to
5 differences within vehicles unless he's qualified as
6 some sort of specialist in the knowledge of cars.

7 THE COURT: Overruled.

8 MS. FULLER: Thank you.

9 THE WITNESS: Can you repeat the question one
10 more time?

11 BY MS. FULLER:

12 Q. Thank you. Can you tell me whether or not,
13 because the make and model of a Mercury Grand
14 Marquis, it can be confused with a Crown Victoria,
15 the shape of the vehicle?

16 A. I believe so.

17 Q. And those vehicles are commonly driven by law
18 enforcement -- well, back in the day?

19 A. Yes.

20 Q. While on scene, did you have an opportunity to
21 observe Donovan Tirrell Brannon?

22 A. He was present.

23 Q. Where was he when you saw him?

24 A. Standing out the vehicle.

25 Q. When you say out of the vehicle, you're

1 referring to the Grand Marquis?

2 A. Yes.

3 Q. And do you know another name that Donovan
4 Tirrell Brannon goes by, a nickname?

5 A. They call him Fresh.

6 Q. Okay. And can you describe Fresh for the jury?
7 How was he acting when you were on scene?

8 A. He was yelling and screaming --

9 Q. Okay.

10 A. -- wanted to know why the ambulance was not on
11 scene.

12 Q. Okay. And while on scene, do you recall what
13 Fresh was wearing?

14 A. Red color shorts with some design --

15 Q. Okay.

16 A. -- and -- I was more concerned about security
17 and not paying attention to what he was wearing.
18 But all I knew was he had a red shirt with some type
19 of a design on it.

20 Q. Okay. And then we'll get to that as well. You
21 said you were concerned with security. Why were you
22 concerned with security?

23 A. Just to make sure that everything was okay and
24 not going to explode.

25 Q. Okay.

1 A. We didn't want any more situations over there.

2 Q. Back in 2015, did Batesburg-Leesville have body
3 cameras at the time?

4 A. Yes, we did.

5 Q. And as it relates to responding to Creek View
6 that night, did you have an opportunity to review
7 body cam footage of that night?

8 A. Yes, I did.

9 Q. Okay. And these are portions -- I'm going to
10 show you --

11 MS. FULLER: Beg the Court's indulgence.

12 BY MS. FULLER:

13 Q. I'm going to show you what's been marked as
14 State's Exhibit 219 and ask if you recognize this.

15 A. I do.

16 Q. And what do you recognize this as?

17 A. The scene of where we were at.

18 Q. Okay. And these are just portions of the body
19 cam footage?

20 A. Yes, ma'am.

21 Q. And does the footage fairly and accurately show
22 the scene, people around the vehicle?

23 A. Yes.

24 Q. Did it appear to be altered in any way?

25 A. I don't think so.

1 Q. In watching the footage now, preparing for
2 trial, does it fit in your recollection of
3 responding to the scene that night?

4 A. Yes.

5 Q. Nothing appears to be altered?

6 A. No.

7 MS. FULLER: At this time, Your Honor, the
8 State seeks to introduce and publish State's Exhibit
9 219. Previously provided these clips to defense
10 counsel.

11 MR. WILLIAMS: May we approach again, Your
12 Honor?

13 (Sidebar conference.)

14 THE COURT: All right. Ladies and gentlemen,
15 we've reached a breaking point for lunch. Your
16 lunch is waiting for you downstairs. We'll let you
17 go down to the jury room. Try to relax, refresh
18 yourselves. You should be able just to stay in that
19 area.

20 If something comes up, let me know. But,
21 otherwise, we'll get you back up here after lunch,
22 and we'll continue on with this witness at that
23 time. Please don't discuss this case or anyone
24 involved in this case while you're in your jury
25 room. Thank you.

1 (The jury exits the courtroom at 12:27 PM.)

2 THE COURT: All right. Since we're breaking
3 for lunch, obviously you're still on the stand. I'd
4 ask you not to discuss your testimony with anyone.
5 You certainly don't have to sit there during your
6 lunch break. But if you move around the courthouse,
7 please don't discuss your testimony.

8 THE WITNESS: Yes. I understand.

9 THE COURT: I'll try to look into this quickly.
10 I know the State has already indicated to me they're
11 pre-marking additional exhibits. Please tackle that
12 as expeditiously as you can during your lunch break.
13 If anyone has any information they want to provide
14 me during this break regarding this, I'd be happy to
15 look at it.

16 MR. WILLIAMS: I couldn't hear everything you
17 said, Judge. I'm sorry.

18 THE COURT: If anyone has anything they want to
19 provide me regarding the body cam issue that I can
20 look at during the break, I would be pleased to look
21 at it. I know that y'all are pre-marking exhibits
22 for the afternoon during lunch. I know it's a lot;
23 just do it as expeditiously as you can. I asked the
24 witness not to discuss his testimony with anyone
25 during the lunch break.

1 Anything else for the moment?

2 MS. FULLER: How long is the break?

3 THE COURT: Well, you'd asked earlier for an
4 hour and a half.

5 MS. FULLER: Okay.

6 THE COURT: But I'd like it to be quicker. All
7 I can do is ask you to do it as expeditiously as
8 possible. I can't say it any better than that.
9 We'll get started when we get started, but, in a
10 perfect world, would be an hour or less.

11 MS. FULLER: Your Honor, we'll just start when
12 you want to start. We'll just mark as we go.

13 THE COURT: Okay. Well, the jury's got their
14 lunch. It's 12:30 right now, so let's be prepared
15 to start at 1:15.

16 (Luncheon recess 12L29 PM - 1:27 PM.)

17 THE COURT: Just prior to -- just before we
18 came back out, I did meet with the attorneys in
19 chambers. When we broke for lunch, Corporal
20 Harpalani was on the stand and there was foundation
21 being laid for body cam footage.

22 On counsel's objection, the corporal identified
23 the body cams weren't just his, but they were other
24 officers' from the Batesburg-Leesville Police
25 Department. So I wanted to take a closer look as

1 far as what Corporal Harpalani was going to be
2 testifying to and if it was video that would have
3 been potentially far removed from him and his body
4 cam.

5 Having looked at all three videos -- I call it
6 the walking video because that's the file that was
7 produced to me. The Fresh video and beginning
8 videos are all videos that are either his specific
9 body cam or they're body cams where he's present and
10 would have personal knowledge being that he's either
11 next to or in the vicinity of the officer's body
12 cam.

13 So those three, subject to any other objections
14 they have, will be admitted. The full video had --
15 I think had some additional material. It's my
16 understanding, Madam Solicitor, you're not seeking
17 to admit that one.

18 MS. FULLER: That's correct, Your Honor.

19 THE COURT: Very well. We need to do this
20 stipulation as far as the video?

21 MS. FULLER: Yes. So publishing -- I haven't
22 marked it yet, but it's listed as file 0012.

23 Just for the record, since the witness has not
24 had an opportunity to review this actual disc and
25 there's no markings on it with his signature and a

1 date, I'm displaying the file names on the overhead
2 projector, and I'm just requesting of the Court, and
3 defense counsel will allow him to acknowledge, that
4 those are the titles of the clips that he watched on
5 the other disc.

6 THE WITNESS: That's correct.

7 MS. FULLER: Is that okay?

8 THE COURT: Mr. Williams?

9 MR. WILLIAMS: Yes, Your Honor. It's just that
10 one disc of excerpts that we --

11 THE COURT: You don't have any objection to --

12 MR. WILLIAMS: No, Your Honor.

13 THE COURT: And the fact that he's readdressing
14 the new file. Okay?

15 MS. FULLER: Okay.

16 THE COURT: Anything else from Mr. Mauldin?

17 MR. MAULDIN: Nothing from Mr. Mauldin, Your
18 Honor.

19 MS. FULLER: Putting in the second disc now,
20 file -- which is just handwritten right now, file
21 0056. And we'll have a -- an exhibit label shortly.

22 Similarly, as soon as it loads, publishing the
23 contents of this disc on the overhead projector and
24 just requesting the Court and counsel for the
25 witness on the stand to confirm the file names are

1 the ones he watched on the other disc.

2 THE WITNESS: Yes.

3 THE COURT: Okay.

4 MS. FULLER: Thank you, Your Honor.

5 THE COURT: Any objection?

6 MR. WILLIAMS: No, Your Honor.

7 MR. MAULDIN: No, Your Honor.

8 THE COURT: Thank you. Are we ready to

9 proceed?

10 MS. FULLER: Yes, Your Honor.

11 THE COURT: There may be some new people in the
12 courtroom that were not here this morning. I'm not
13 sure. I know people have been coming and going. So
14 just to be clear, we're going to begin our afternoon
15 testimony here. If you hear any testimony that
16 makes you have some sort of feeling or emotion, I
17 just would remind everyone to keep that emotion to
18 yourself and don't express it while you're in the
19 courtroom.

20 And you shouldn't be making any sort of audible
21 noises or gestures in the courtroom. The only thing
22 that should be making any sound, other than the
23 lawyers and the witness, are me for the jury to
24 focus on. Okay? Thank you.

25 Are we ready to bring the jury up, Madam

1 Solicitor?

2 MS. FULLER: The State is ready, Your Honor.

3 THE COURT: Okay. Bring them up.

4 MS. FULLER: And, for the record, 219 is just
5 for ID.

6 (State's Exhibit No. 219 marked for
7 identification.)

8 (The jury enters the courtroom at 1:36 PM.)

9 THE COURT: All right. Madam Forelady, ladies
10 and gentlemen of the jury, welcome back. I hope you
11 had a nice lunch, had a chance to refresh
12 yourselves. We're just going to pick up where we
13 left off with this witness before he broke for
14 lunch.

15 Madam Solicitor?

16 MS. FULLER: Thank you, Your Honor.

17 CONTINUED DIRECT EXAMINATION

18 BY MS. FULLER:

19 Q. Corporal Harpalani, prior to showing you these,
20 I'm going to show you a couple of photos. Showing
21 you State's 223, 224, and ask you if you recognize
22 them. Do these appear to be still shots --

23 A. Is that inside the car?

24 Q. Well, I can't answer that question.

25 A. This is Mr. Stroman.

1 Q. Okay. And that appears on, before we broke,
2 the body cam that you watched?

3 A. Yes.

4 Q. And this appears to be still shots from them?

5 A. I believe so.

6 Q. Okay.

7 A. Yes, ma'am.

8 Q. Any concern? Sorry. I just need to be clear
9 for the record. Are these still shots as the way
10 you saw him that night?

11 A. I cannot see the background too clear. I don't
12 know if that's a car or gurney. I have no idea.

13 Q. Okay.

14 A. But I know that's Mr. Stroman.

15 Q. Okay. That's fine.

16 A. I cannot identify if he's in a car or if he's
17 on a gurney. I have no idea.

18 Q. We'll publish shortly, but that's Antonio
19 Stroman?

20 A. Yes.

21 Q. And then looking at the date on this clip, do
22 you see the date here?

23 A. 06/06/2015.

24 Q. Now, the time. Can you tell me whether or not
25 that time is accurate?

1 A. I don't believe so.

2 Q. Okay. And why don't you believe that time is
3 accurate?

4 A. From what I have in the CAD and looking at that
5 particular time on the photograph, it is not
6 correct.

7 Q. Okay. And the time on the CAD, what time --
8 what time would -- again, what time was the call
9 placed?

10 A. Starting time was 0326 in the morning, so 3:26
11 in the morning.

12 Q. Okay. And then what time was -- what time was
13 law enforcement on scene with Batesburg-Leesville?

14 A. 3:30, 0330 in the morning.

15 Q. Okay. I'm going to now -- we talked about you
16 had -- that Batesburg-Leesville Police Department
17 had body cam footage back then; is that correct?

18 A. Yes, we do.

19 MS. FULLER: And, I guess, by stipulation, I'm
20 going to publish now 374, which is labeled as file
21 0012, to lay the foundation and authentication of
22 the disc.

23 THE COURT: Very well.

24 (State's Exhibit No. 374 published to his Honor
25 and the jury and admitted into evidence.)

1 BY MS. FULLER:

2 Q. Can you go ahead and describe to the jury --

3 A. I believe that's me standing by the car.

4 Q. I'll back it up. Describe to the jury, where
5 is this body cam -- I apologize. What location is
6 this?

7 A. It's Creek View Apartments.

8 Q. Okay. And previously, before the break, you
9 testified this is where you responded to a gunshot
10 wound victim?

11 A. Correct.

12 Q. Okay. And can you go ahead describe to the
13 jury --

14 A. That is me standing there by the car, and
15 that's Donovan Brannon.

16 Q. Okay. I'm going to hand you a laser pointer.
17 And, if you can, point out the car that you're
18 referring to.

19 A. That's the car.

20 Q. Okay. And what kind of car is that?

21 A. The Grand Marquis.

22 Q. And what color is it?

23 A. Burgundy.

24 Q. And you also were attempting to point out --
25 was it yourself?

1 A. That's myself.

2 Q. Okay. And you also mentioned Donovan Brannon.

3 Where is he?

4 A. That's him right there.

5 Q. And are you pointing to an individual wearing a
6 hat?

7 A. I believe so.

8 Q. Okay. Hold on. Let me close out and come back
9 in. It's jumbled for some reason.

10 And pausing it there, who is that in the car?

11 A. That's going to be Mr. Stroman, Antonio
12 Stroman.

13 Q. And I'll show you again State's 223 and 224.
14 See if you recognize it.

15 A. Yes. That's the car seat. That right there is
16 the back of the car, and he's lying in the back.
17 That's what this picture shows me.

18 Q. Okay. And then looking at 224, is that just
19 the other side of the back seat now? Or I can keep
20 playing.

21 A. Please play it.

22 Q. Okay.

23 So now looking at State's 220 -- you recognize
24 that as the other side of the car?

25 A. Yes, it is. It is, based on that.

1 Q. And that's where you were standing, correct?

2 A. Yes.

3 Q. And, again, when we saw the time up there, it
4 said 2:06. But you know this is the body cam
5 footage from that night in response to the 3:26
6 call, correct?

7 A. Right.

8 MS. FULLER: At this time, Your Honor, the
9 State seeks to introduce 223 and 224 to evidence.

10 THE COURT: 223 and 224, correct?

11 MR. WILLIAMS: Without objection, Your Honor.

12 MR. MAULDIN: No objection, Your Honor.

13 THE COURT: So it's 223 and 224 admitted into
14 evidence.

15 (State's Exhibit Nos. 223 and 224 admitted into
16 evidence.)

17 BY MS. FULLER:

18 Q. And then publishing -- looking at 223, this is
19 what I showed you when I approached the stand,
20 Corporal?

21 A. Yes, correct.

22 Q. And then looking at 224, that's the back seat,
23 correct?

24 A. Correct.

25 (State's Exhibit No. 224 published to his Honor

1 and the jury.)

2 MS. FULLER: I apologize. I don't know what's
3 wrong with the second clip.

4 THE COURT: Madam Solicitor, is that plugged
5 into a hard line or Wifi?

6 MS. FULLER: It's a disc, though.

7 THE COURT: Well, that's true.

8 MS. FULLER: No. It's probably something in
9 the final saving of the disc. We can fluff it out
10 before it's over.

11 BY MS. FULLER:

12 Q. And that second clip was from Creek View as
13 well?

14 A. That's correct.

15 MR. WILLIAMS: Your Honor, we have a matter of
16 law to take up with the Court.

17 THE COURT: Can y'all approach real quick?

18 (Sidebar conference.)

19 BY MS. FULLER:

20 Q. Now publishing State's Exhibit 373, file 0056,
21 and here, once it plays, I want you to describe to
22 the jury what's going on. Okay?

23 A. Okay.

24 Q. Now, looking at this angle, is this coming from
25 your body camera?

1 A. I believe so, yes. I think so.

2 Q. Sorry?

3 A. Yes.

4 Q. And we're still at Creek View here?

5 A. Correct.

6 Q. Now, that ambulance, that was there for
7 Antonio, Stroman, correct?

8 A. Yes.

9 Q. Go ahead and describe to the jury what happens
10 after I play this.

11 (Video played.)

12 (State's Exhibit No. 373 admitted into
13 evidence.)

14 BY MS. FULLER:

15 Q. So here, what prompted you to walk to the
16 vehicle? Why did you walk to the vehicle?

17 A. I was standing between the ambulance and
18 towards the vehicle. And that is Corporal Smith.
19 That lady right there, she's a corporal. She is
20 watching two people walk towards the left, as you
21 can see her.

22 And it appears to be Brannon -- Donovan
23 Brannon, from the clothing description, walking
24 towards the left of the vehicles up there. And she
25 turns around, and I'm standing in between. And she

1 tells me to go to the car, walk up to the car.

2 MR. WILLIAMS: Your Honor, objection to any
3 hearsay.

4 THE COURT: Overruled.

5 MS. FULLER: Your Honor, I believe he can
6 testify about that police action. I think it's fair
7 game.

8 THE COURT: It's also in the video, audibly
9 present, so overruled.

10 MS. FULLER: Thank you, Your Honor.

11 THE WITNESS: So I was told to go to the car by
12 the corporal, and that's why I headed back towards
13 the car. And I told him, Hey, don't get in the car,
14 something like that. I didn't want anybody getting
15 into the car.

16 BY MS. FULLER:

17 Q. Okay.

18 A. That's basically what happened.

19 Q. And who were you speaking to when you said
20 don't get in the car or don't go towards the car?

21 A. I didn't mention a name, but I just mentioned
22 out loudly, Don't go towards the car. I didn't
23 mention anybody's name.

24 Q. You didn't say a name. But who, generally,
25 were you speaking to?

1 A. I cannot say. My thing was there were a lot of
2 people up there. There were males and females
3 walking towards that area. There was no specific
4 name.

5 Q. Right. I'm not asking you a name. I'm just
6 saying who -- people. Who were you talking to?

7 A. To Donovan -- to Donovan Brannon.

8 Q. Okay. And I'm going to play here. It has no
9 sound. Right here, where you're pointing -- that's
10 a different shot now. Okay. That's who you
11 described wearing --

12 A. From the shirt he was wearing, yes, that was
13 Donovan Brannon.

14 Q. And you recall seeing him there that day,
15 correct?

16 A. Yes. I was standing in between, in that area
17 right there.

18 Q. Okay. Showing you still shots 220, 221, and
19 222, and take a moment to look at them. Do these
20 appear simply to be still shots from the video that
21 we just watched from your body cam?

22 A. The one you just showed me is that one right
23 there.

24 Q. Okay.

25 A. The one I'm looking at right now is Corporal

1 Smith and the vehicle.

2 Q. Okay. And you see the individual --

3 A. Donovan Brannon right there by the left. And
4 this one here is further down, but Donovan Brannon,
5 you can see him walking towards the left area.

6 Q. When you say see him walking down, would he
7 have been walking in the direction towards the
8 vehicle?

9 A. Towards the vehicle, right.

10 MS. FULLER: Your Honor, the State seeks to
11 introduce 220, 221, and 222 into evidence.

12 MR. MAULDIN: No objection, Your Honor.

13 MR. WILLIAMS: Can I see them?

14 MS. FULLER: Yes. I showed them to you.

15 MR. WILLIAMS: No objection, Your Honor.

16 THE COURT: All right. State's Exhibits 220,
17 221, and 222 admitted into evidence.

18 (State's Exhibit Nos. 220, 221, 222 admitted
19 into evidence.)

20 BY MS. FULLER:

21 Q. Looking at 220, for the record, can you point
22 out Donovan Brannon in this shot?

23 A. (Indicating.)

24 Q. Are you pointing at the individual in the red
25 shirt?

1 A. Yes.

2 Q. And looking at 221, can you point out Donovan
3 Brannon in this shot as well?

4 A. (Indicating.)

5 Q. You're pointing at the same individual.
6 And then in 222?

7 A. (Indicating.)

8 Q. And these are all from your body cam, correct?

9 A. Yes.

10 Q. Now playing the video more.

11 (Video played.)

12 BY MS. FULLER:

13 Q. Now, we're back getting closer to the car. Did
14 you, indeed, stand by that area until Lexington
15 County showed up on scene?

16 A. I was standing by the passenger side of the
17 door, and Sergeant Jeremy Murke was standing by the
18 driver's side.

19 Q. Okay. And you stood by securing it until
20 Lexington County Sheriff's Department came out,
21 correct?

22 A. Correct.

23 Q. And just so it's clear, the purpose of you
24 walking there, what was your understanding? Why
25 were you walking over to that car?

1 A. Because I was told by Corporal Smith to walk
2 over to the car.

3 Q. Okay. Showing you State's Exhibit 244, I'll
4 ask you if you can identify it.

5 A. I was not there at that time, but that's
6 Donovan Brannon.

7 Q. Okay. Does this appear to be how he was
8 dressed when you did see him?

9 A. That is correct.

10 Q. And when you said there at this time, where is
11 this?

12 A. This is the booking room of the
13 Batesburg-Leesville Police Department.

14 Q. But in terms of what he's wearing, is this what
15 we see on the body cam?

16 A. That is correct.

17 MS. FULLER: At this time, Your Honor, the
18 State seeks to introduce 244 into evidence.

19 MR. WILLIAMS: Without objection, Your Honor.

20 MR. MAULDIN: No objection, Your Honor.

21 THE COURT: State's Exhibit 244 is admitted
22 into evidence.

23 (State's Exhibit 244 admitted into evidence.)

24 BY MS. FULLER:

25 Q. And this is the outfit that we see on the

1 video, correct?

2 A. That's correct.

3 MS. FULLER: Beg the Court's indulgence.

4 BY MS. FULLER:

5 Q. And just two more questions. While you were on
6 scene and -- did you have an opportunity to speak
7 with Fresh, like -- have a conversation with Donovan
8 Brannon? I apologize.

9 A. No. He wouldn't listen to anybody. He was
10 yelling and screaming.

11 Q. Okay. And in that moment, did he ever mention
12 or indicate to you anything about a gun or being
13 involved -- him being involved in a shooting?

14 A. No.

15 Q. Okay.

16 MS. FULLER: No further questions.

17 THE COURT: Cross-examination?

18 MR. WILLIAMS: No questions on my behalf, Your
19 Honor.

20 THE COURT: Mr. Mauldin?

21 MR. MAULDIN: Thank you, Your Honor.

22 CROSS-EXAMINATION

23 BY MR. MAULDIN:

24 Q. The solicitor mentioned about -- asked you a
25 question about confusing different kinds of car

1 models; is that right?

2 A. She did.

3 Q. Okay. Unless -- you know, unless somebody is
4 color blind, do you think it would be odd for them
5 to confuse burgundy and white? Would somebody
6 confuse a burgundy car for a white car and vice
7 versa?

8 A. I don't know. They could. It's possible.

9 Q. Okay. Did you, like, document what you saw or
10 heard in any kind of report around that time?

11 A. No, sir, I did not.

12 Q. Did Officer Smith, who was with you, document
13 it?

14 A. There's a report here, yes, sir.

15 Q. Okay. All right. And going back to these
16 exhibits here -- let's see.

17 So you pointed out the fellow in the red shirt
18 in the bottom left-hand corner of Exhibit 222 as
19 Donovan Brannon; is that correct?

20 A. Yes.

21 Q. And the fellow wearing white pants and a white
22 shirt, is that Dreshawn Adams?

23 A. I don't recognize him at all.

24 Q. Okay. And there's no stars on those pants, are
25 there?

1 A. Sir?

2 Q. There's no stars on those pants, are there,
3 like a pattern? It's just white pants?

4 A. From here, yes, absolutely.

5 Q. Okay. All right.

6 MR. MAULDIN: No further questions.

7 THE COURT: Any redirect?

8 MS. FULLER: No, Your Honor.

9 THE COURT: The witness may step down.

10 MR. MCNAIR: Your Honor, the State calls
11 Investigator Mike Phipps.

12 MICHAEL PHIPPS

13 being first duly sworn, testified as follows:

14 THE WITNESS: I do.

15 THE CLERK: Have a seat. State your name and
16 spell your last for the record, please.

17 THE WITNESS: Michael Phipps, P-H-I-P-P-S.

18 DIRECT EXAMINATION

19 BY MR. MCNAIR:

20 Q. Investigator Phipps, will you tell the jury
21 where you're currently employed and a little bit
22 about your background in law enforcement?

23 A. I work for the Lexington County Sheriff's
24 Department. I'm an investigator. My current
25 assignment is in a lab doing visual forensics.

1 Previously, I served 14 years in the Crime
2 Scene Unit, and I have 24 years of law enforcement
3 experience.

4 Q. What was your position back in June of 2015?

5 A. Crime scene investigator.

6 Q. On June 6th of 2015, did you respond to the
7 Creek View Apartments in Batesburg?

8 A. I did.

9 Q. Do you recall what time you got on scene?

10 A. I don't know the exact time. I know it was
11 late afternoon.

12 Q. Had the scene been secured at that point?

13 A. It was. When I arrived on scene, I think there
14 were units from our department and
15 Batesburg-Leesville.

16 Q. And what was your role once you got there?
17 What did you do?

18 A. I was asked to process or document a vehicle
19 that had been roped off by law enforcement.
20 Previously, they had discovered a firearm close to
21 that vehicle, close to the apartment complex. So my
22 role was to collect any items of evidence that I
23 found around the vehicle, to photograph it and
24 document that.

25 Q. All right. Now, did you ever make contact with

1 the defendant, Donovan Brannon?

2 A. I did.

3 Q. And for what purpose?

4 A. I was sent to the police department at
5 Batesburg-Leesville where this individual was being
6 detained. And my recollection is that he had some
7 items, personal artifacts on him, one being a cell
8 phone that they were wanting collected. And they
9 were wanting a kit -- a gunshot residue kit executed
10 on this person as well.

11 Q. All right. Can you describe, I guess, how you
12 perform or how you collect a gunshot residue kit?

13 A. The kit is a prepackaged kit that has little
14 adhesive tabs on it. And these tabs are placed over
15 the individual's hands. There's a single tab for,
16 say, the left palm, left back of hand, right palm,
17 right back of hand.

18 These tabs are collected and put into an
19 envelope that's a prepackaged system that SLED takes
20 in, in addition to identifying who I'm collecting
21 them from, writing their personal information on the
22 intake sheet, packaging that up, sealing it, and
23 submitting it to our evidence unit.

24 Q. So you performed a gunshot residue kit on
25 Mr. Brannon's hands?

1 A. Yes.

2 Q. What is the purpose of doing a gunshot residue
3 kit?

4 A. They, ultimately, look at these adhesive tabs
5 that get dabbed on the individual's hands, and they
6 look at them under a scanning electron microscope.
7 And they're looking for residues that are present
8 when someone is present when a gun is discharged.

9 Q. So gunshot residue are particles that may be
10 admitted from firing a firearm or being around a
11 firearm?

12 A. Yes, sir.

13 Q. All right. Now, you took -- you mentioned you
14 took photos in this case of a vehicle.

15 A. Yes, sir.

16 Q. And a gun that was ultimately collected?

17 A. Yes, sir.

18 THE COURT: Ladies and gentlemen, while we have
19 a moment here, I want everybody to just stand up.
20 Reach your arms up, get the blood flowing, move your
21 body around a little bit. All right.

22 MR. WILLIAMS: On behalf of Defendant Brannon,
23 we have no objection to any of those photos.

24 MR. MAULDIN: And on behalf of Robertson, we do
25 not as well.

1 MR. MCNAIR: Your Honor, the State offers
2 State's Exhibits 225 through 246 into evidence.

3 THE COURT: All right. State's Exhibits 225
4 through 246 are admitted into evidence without
5 objection.

6 (State's Exhibit Nos. 225, 226, 227, 228, 229,
7 230, 231, 232, 233, 234, 235, 236, 237, 238, 239,
8 240, 241, 242, 243, 244, 245, 246 admitted into
9 evidence.)

10 BY MR. MCNAIR:

11 Q. This is State's 225. What does this depict?

12 A. It's the parking lot area of the apartment
13 complex, [REDACTED] Willis Street in Batesburg-Leesville
14 area. And that shows the vehicle -- when I arrived,
15 it was already cornered off with tape, as you see it
16 there.

17 Q. 227, is that another close-up of that vehicle?

18 A. It is, yes, sir.

19 Q. 228, what are you taking a photograph of here?

20 A. It's an area of damage on the right rear door
21 that appears to be from some type of projectile
22 strike.

23 Q. 229, is that just a close-up of the same thing?

24 A. Yes, sir.

25 Q. State's 230, what are we looking at here?

1 A. It's documenting the vehicle, the paper tag.
2 And there's areas of damage on the rear trunk lid
3 and rear window as well.

4 Q. You mentioned the rear trunk lid. This is
5 State's 231. Are you referring to this area right
6 here?

7 A. Yes, sir.

8 Q. What did that appear to be?

9 A. It appeared to be a bullet hole.

10 Q. And the same with the rear windshield?

11 A. Yes, sir.

12 Q. State's 232, again, just a close-up of the rear
13 windshield?

14 A. Yes, sir.

15 Q. State's 233?

16 A. In this photo, I was trying to show there's a
17 green cone against the apartment there. That is
18 marking the location of a handgun. So I'm trying to
19 get a prospective view of the vehicle and the
20 handgun.

21 Q. So that's where the handgun was recovered,
22 right in front of this burgundy Grand Marquis?

23 A. Yes, sir.

24 Q. State's 234, what is this showing?

25 A. It shows the left side of that vehicle. And

1 again, there's some damage to the left rear door.

2 Q. Are you referring to this area right here at
3 the top?

4 A. Yes, sir.

5 Q. State's 235, is that just a close-up of that
6 area?

7 A. It is.

8 Q. What does that appear to be?

9 A. It appeared to be some type of projectile
10 strike.

11 Q. And that's on the driver's side of that
12 vehicle?

13 A. It is.

14 Q. 236, just a close-up of the same thing?

15 A. Yes, sir.

16 Q. State's 237?

17 A. Just a reference shot from the front of the
18 vehicle.

19 Q. 238, is this the cone that you just testified
20 to?

21 A. Yes, sir.

22 Q. And that's the location where the firearm was
23 recovered?

24 A. It is.

25 Q. State's 239?

- 1 A. Again, showing it from a distance.
- 2 Q. 240, same gun?
- 3 A. Yes, sir.
- 4 Q. That's kind of blurry.
- 5 241, just a close-up of the gun in the same
- 6 location?
- 7 A. It is.
- 8 Q. And what type of gun was that?
- 9 A. It's a Ruger LC9, nine-millimeter.
- 10 Q. When you recovered this gun -- first of all,
- 11 how many bullets does this gun hold?
- 12 A. The particular magazine for this held seven
- 13 rounds, potentially.
- 14 Q. Were any rounds in this gun when you recovered
- 15 it?
- 16 A. There were not. It was empty.
- 17 Q. 242?
- 18 A. This is after I picked it up, just showing the
- 19 opposite side of the pistol as it was laying on the
- 20 ground.
- 21 Q. What is this that appears to be debris on the
- 22 gun?
- 23 A. It's the sand from where it was laying in the
- 24 dirt.
- 25 Q. Was there also moisture?

1 A. Yes, sir.

2 Q. 243?

3 A. Close-up of -- I've wiped the area where the
4 serial number is to make it legible in the photo.

5 Q. This is already in evidence, but State's 244,
6 is this a photograph that you took that day?

7 A. It is, at Batesburg-Leesville Police
8 Department.

9 Q. Okay. Did you also take a photo of some
10 personal items that were on Mr. Brannon that day?

11 A. I did.

12 Q. State's 245, what does this show?

13 A. These were personal effects that I was told
14 were removed off of him and put in this tub.

15 Q. That included a cell phone?

16 A. It does.

17 Q. What type of cell phone was that?

18 A. It's a Motorola cell phone.

19 Q. 246?

20 A. I was just trying to get the ball cap without
21 touching it.

22 Q. Okay. I'm going to show you State's 297 and
23 ask if you can identify this.

24 A. Yes, sir.

25 Q. What is that?

1 A. This is the envelope that contains the GSR kit
2 on Donovan Brannon.

3 MR. MCNAIR: Your Honor, we'd offer State's 297
4 into evidence at this time.

5 MR. WILLIAMS: Without objection on behalf of
6 Defendant Brannon.

7 MR. MAULDIN: No objection, Your Honor.

8 THE COURT: State's Exhibit 297 admitted into
9 evidence.

10 (State's Exhibit 297 admitted into evidence.)

11 BY MR. MCNAIR:

12 Q. I show you State's Exhibit 298 and ask if you
13 can identify this.

14 A. Yes, sir, I can.

15 Q. All right. What is that?

16 A. This is the Ruger LC9 handgun that was
17 collected from the apartment complex.

18 Q. All right. And does it include the magazine?
19 Will you hold that up for the jury, please? And the
20 magazine.

21 A. Yes, sir.

22 MR. MCNAIR: We'd offer State's 298 at this
23 time.

24 MR. MAULDIN: I have no objection, Your Honor.

25 MR. MCNAIR: You want to see it?

1 MR. WILLIAMS: Yes.

2 We do have an objection, Your Honor, with
3 regards to this particular item, until a better
4 foundation is laid.

5 (Sidebar conference.)

6 BY MR. MCNAIR:

7 Q. Investigator Phipps, is this the gun that you
8 took photographs of on scene?

9 A. Yes, sir, it's the same one.

10 Q. Did you collect the gun from that location?

11 A. I did, yes, sir.

12 MR. MCNAIR: Your Honor, at this time, we'd
13 offer State's 298 into evidence.

14 THE COURT: Subject to the objection.

15 MR. MCNAIR: Subject to the objection.

16 THE COURT: State's 298 admitted into evidence.

17 (State's Exhibit No. 298 admitted into
18 evidence.)

19 MR. MCNAIR: Beg the Court's indulgence.

20 Your Honor, that's all the questions I have for
21 Investigator Phipps, subject to recall later during
22 this trial.

23 MR. WILLIAMS: May it please the Court?

24 THE COURT: Yes, sir, cross-examination.

25 CROSS-EXAMINATION

1 BY MR. WILLIAMS:

2 Q. How are you doing, Investigator Phipps?

3 A. I'm fine, sir. Thank you.

4 Q. Good. I'm just going to ask you a few kind of
5 questions. You've been with the sheriff's
6 department how many years?

7 A. 24 years.

8 Q. 24 years?

9 A. Yes, sir.

10 Q. And in your time at the sheriff's department,
11 you have been -- you've done scenes, forensic stuff,
12 right?

13 A. Yes, sir.

14 Q. Tell the jury all the jobs you've had at the
15 sheriff's department.

16 A. Like most people, I started out on the road,
17 became a corporal road supervisor for a period of
18 time. At that time, I transitioned into our Crime
19 Scene Unit. I worked it for 14 years before
20 transitioning into my current duties.

21 Q. How many years was that for crime scene?

22 A. Well, 14 years is full time in crime scene.

23 Q. Did you train other people in crime scene
24 investigation?

25 A. Yeah. I mean, it's part of our process when we

1 have a new-hire come into the unit. Everyone takes
2 a role in giving on-the-job training.

3 Q. So we've seen a bunch of exhibits and pictures
4 and things. I guess we saw some pictures at the
5 apartment complex. And one of them showed a pistol
6 which was out there on some dirt -- or, I guess,
7 rock. Is it crush and run -- you don't call it
8 crush and run?

9 A. Yeah, some type of loose, course gravel, sand.

10 Q. Of course, it was daylight, right?

11 A. Yes, sir.

12 Q. So what time did you receive notification of
13 the crime scene being put up? And it was dark and
14 all that when this car was secured and all this
15 other stuff happened, right? Wasn't it like 3:30,
16 something like that, or 4:00?

17 A. I don't think I was even told exactly when they
18 initially were out with that vehicle or when the
19 pistol was found.

20 Q. So what time were you out there?

21 A. It was in the afternoon.

22 Q. So -- afternoon of June the 6th?

23 A. Yes, sir.

24 Q. When you say afternoon, you mean after 12:00?

25 A. Yes, sir.

1 Q. So if Batesburg-Leesville had been out there,
2 say, 3:30 or 4:00 in the morning, that would have
3 been, at least, eight hours or nine hours after they
4 had been at that scene; is that right?

5 A. Yes, sir.

6 Q. And you note that there is some sort of marking
7 system that is used to designate location of items
8 and that's some kind of little block or something
9 showing where the pistol was?

10 A. Right. That marker is just a place marker for
11 visual reference and photo.

12 Q. Did you place that visual marker there?

13 A. No, sir, I did not.

14 Q. Who placed that visual marker there?

15 A. My assumption was it was Batesburg-Leesville
16 Police Department.

17 Q. But you don't know who or when it was placed
18 there?

19 A. No, sir.

20 Q. In your view of that -- you said you didn't get
21 out till the afternoon. The burgundy Grand Marquis
22 had been placed in that parking lot early morning
23 hours, 3:00, 4:00 in the morning; is that correct?

24 A. I don't have any direct knowledge of the case
25 really, other than my involvement in responding out

1 there.

2 Q. And when you got out there, the crime scene
3 tape was already up there, right?

4 A. Yes.

5 Q. You had not placed the crime scene tape there?

6 A. I had not.

7 Q. Which law enforcement agency had placed the
8 crime scene markers -- the tape?

9 A. I don't know that I know specifically. I think
10 my recollection and assumption was it was
11 Batesburg-Leesville.

12 Q. So, essentially, you come out some eight hours
13 later to view the area and to take possession of
14 certain items and then to process those items?

15 A. Yes, sir.

16 Q. Who was at the scene when you arrived at the
17 Creekside Apartments [sic]?

18 A. There was a Lexington County deputy, which I
19 don't have -- know his name, and there was also a
20 Batesburg-Leesville officer on the scene.

21 Q. Do you know the Batesburg-Leesville officer
22 that was on the scene?

23 A. No, sir, I don't.

24 Q. And those were the only two officers there?

25 A. Yes, sir.

1 Q. Were there any neighbors out there who lived in
2 the apartment complex?

3 A. I don't recall. I mean, I think there were
4 some people walking around. Just typical apartment
5 complex. Yes, sir.

6 Q. So what you first did, if I'm correct, is you
7 went ahead and processed that scene; is that
8 correct?

9 A. Actually, I went to the Batesburg-Leesville
10 Police Department first because it was on the way to
11 that scene.

12 Q. Okay. So you actually met with an individual
13 at Batesburg-Leesville Police Department before you
14 went to the scene?

15 A. Yes, sir.

16 Q. Which individual was that?

17 A. Mr. -- was it Donovan? Yes.

18 Q. Donovan?

19 A. Brannon, Donavon T. Brannon.

20 Q. And that was the picture of the gentleman with
21 the red outfit on that we've already introduced the
22 picture, right?

23 A. Yes, sir.

24 Q. And I believe one of the items that we've
25 already placed into evidence was a gunshot residue

1 kit which you did on the front of his hands and back
2 of his hands; is that correct?

3 A. Yes, sir.

4 Q. Now, he had clothing on in that picture which
5 appeared to be some sort of red shirt and some blue
6 jeans and some red shoes; is that correct?

7 A. Yes, sir.

8 Q. And I would assume that it was your
9 understanding that those were the same clothes he
10 had on when he was taken down to
11 Batesburg-Leesville; is that right?

12 A. Again, I was a secondary back-up crime scene
13 investigator, so I was called to fill in.

14 So I was just directed to go there for the
15 purpose of collecting a phone, executing the GSR,
16 and then responding to the apartment complex to
17 photograph and collect a pistol that they already
18 knew was present. And that was kind of the way it
19 was given to me before I even left our department,
20 to go in that direction.

21 Q. I got you. So you did not seize his red shirt,
22 his blue jeans, or his tennis shoes to process those
23 materials to see if they had gunshot residue on
24 them?

25 A. No, sir.

1 Q. Now, how long have you been dealing with
2 gunshot residue?

3 A. Ever since I got in law enforcement.

4 Q. A long time?

5 A. Yes, sir.

6 Q. If you want to examine for gunshot residue, are
7 there more areas that you can examine other than
8 just the palms and the backs of people's hands?

9 A. Yes. The kit is specific to those parts of the
10 body. That's the only place we can execute that kit
11 on a person. As far as collecting clothing articles
12 for examination, that's a possibility as well.

13 Q. Do you have training in taking those items and
14 taking them to either SLED or to -- do you have a
15 facility that examines gunshot residue at the
16 sheriff's department?

17 A. We do not.

18 Q. So you would have to take that to SLED?

19 A. Yes, sir.

20 Q. And you've done that before?

21 A. Yes, sir.

22 Q. In this particular case, did you take any of
23 the clothing that Mr. Brannon had to examine it for
24 gunshot residue?

25 A. I did not.

1 Q. Now, you have some expertise in gunshot
2 residue, would you say?

3 A. I've been a crime scene investigator for 14
4 years. Yes, sir.

5 Q. How long does gunshot residue stay on material?

6 A. Depends on the circumstances. Obviously, if
7 it's in an environment where it isn't being
8 interacted with by anything, then it could be
9 potentially a very long time.

10 Q. Almost like forever?

11 A. Yes, sir.

12 Q. In regards to gunshot residue on hands, I would
13 assume you can wash that off?

14 A. Yes, sir, very easily.

15 Q. So it would remain on clothing much longer than
16 on the hands and palms and stuff like that?

17 A. Potentially.

18 Q. All right. So you did the gunshot residue on
19 the hands and the palms. Did you do any fingerprint
20 analysis or do any -- take any fingerprints from
21 Mr. Brannon?

22 A. I can't recall with this one because I think
23 there is a potential to use that as identification
24 purposes if we can't identify them. I'd have to see
25 the kit and disassemble the kit to be able to --

1 Q. Yeah, I don't want you to tear anything up. I
2 just saw the GOJO sitting up there in the picture.
3 I didn't know if you had done something or if that's
4 just something Batesburg had done.

5 Can you just look at the outside and see if you
6 did any fingerprints?

7 A. Well, the card that gets submitted to --
8 possibly.

9 Q. Okay.

10 MR. WILLIAMS: May I approach, Your Honor?

11 A. That's the pistol for the GSR kit.

12 Q. Where is the GSR kit? Is this it?

13 MR. MCNAIR: That's it.

14 Q. It's awful small.

15 A. Yeah. I don't think the card is in there. I
16 think SLED keeps the card. There's a card that's
17 filled out when this is submitted with the personal
18 information of the individual that we're collecting
19 from. There is a provision on the card that if we
20 don't have positive identification, they're not
21 being cooperative, we don't have any -- like a photo
22 ID of them, that we can use a thumbprint or
23 something for the identification purposes. But I
24 don't recall whether that was the case in this
25 instance.

1 Q. If you don't feel that hard card in that
2 package, would you assume that everybody knew who
3 this individual was who gave the gunshot residue?

4 A. Well, SLED removes it when they process it.

5 Q. Gotcha. So it could have been there, but it's
6 not there now?

7 A. Yes, sir.

8 Q. All right, sir. On the weapon, the
9 nine-millimeter Ruger, which carries, you said, how
10 many shots?

11 A. Seven rounds.

12 Q. Did you do any testing on this Ruger?

13 A. No, sir. I just collected it and packaged it
14 for submission to SLED.

15 Q. And what agency and what type of individuals
16 would do testing on this Ruger?

17 A. Well, we sent it to SLED. I'm not sure what
18 lab requests were requested at that time.

19 Q. Could have been DNA, fingerprints?

20 A. Could have been.

21 Q. Could you test it to see when it had been
22 fired?

23 A. I don't believe there's any such test for that.
24 No, sir.

25 Q. Gotcha. Meaning, it could have been fired an

1 hour ago or ten hours ago, you wouldn't know the
2 difference; it's just you would know it's been
3 fired. There could be some evidence, if you will,
4 of gunshot residue in the barrel maybe?

5 A. Right. If it had not been cleaned, yes, sir.

6 Q. So it's just a question of whether it was
7 cleaned?

8 A. Yes, sir.

9 Q. Now, after you secured that -- those items, I
10 guess, the gunshot residue and the pistol, what did
11 you do then?

12 A. I returned to our headquarters with these
13 items, filled out a chain of custody, submitted them
14 to our evidence unit, and secured them.

15 Q. I guess I was questioning because I thought you
16 had gone to Batesburg-Leesville Police Department
17 before you had actually gone to the scene and
18 processed the car.

19 A. Right. Yes, sir. So in this instance, I would
20 have come away from Batesburg-Leesville with this
21 sealed envelope as well as a cell phone, and then
22 those items would have been secured in my crime
23 scene truck while I was processing the scene at the
24 apartment complex.

25 Q. So you did seize those items, put them in a

1 secure place, then went to the scene for the car and
2 processed the car?

3 A. That is correct, yes, sir.

4 Q. Now, on the cell phone which you seized, you
5 had the name of it, which was a Motorola; is that
6 correct?

7 A. Yes, sir.

8 Q. Did you process that to determine -- or did you
9 do anything like fingerprints or anything like that
10 to determine who actually had used that cell phone?

11 A. No, sir.

12 Q. But if you wanted to find out the user of that
13 cell phone or at least the person who most often
14 used it, as a detective, what would you normally do?

15 A. Well, we would verify the phone number that
16 belongs to that phone and obtain cell phone records
17 for that service provider, as well as do an exam,
18 forensic exam, on the phone to see patterns of use
19 on the device itself.

20 Q. That would lead you to who the owner of the
21 phone is; is that correct?

22 A. Yes, sir.

23 Q. There's no big sign on that cell phone that
24 says this is Donovan Brannon's phone. It's just a
25 Motorola phone that is in his possession at the time

1 that it was seized?

2 A. That is correct.

3 Q. Now, when you went to the vehicle, the
4 Marquis -- it's a Marquis, right?

5 A. Correct.

6 Q. There's no question; it's not a Crown Victoria,
7 is it?

8 A. No, sir.

9 Q. When you went there, did you process -- we've
10 seen a lot of pictures. But did you process
11 any items in there -- did you find any bullet
12 fragments inside that vehicle?

13 A. No, sir. I was told that the vehicle was going
14 to be towed, a search warrant was going to be
15 obtained for the vehicle and processed at a later
16 point. So I was only documenting the vehicle as it
17 sat in the parking lot prior to being towed.

18 Q. Because you would have needed a search warrant
19 before you could go inside that vehicle and process
20 that?

21 A. Well, I'm not sure of the circumstances. I was
22 told that a search warrant was going to be obtained.

23 Q. So you didn't do any processing of that
24 particular vehicle?

25 A. No, sir.

1 Q. Now, I noted that there appears to be damage
2 that was done on really the back -- the rear window,
3 the -- do you need to -- let me hand these all up to
4 you.

5 A. It was both rear doors, the trunk lid, and the
6 rear window.

7 Q. All right. Which are the large indentations
8 that appear to be on the back rear of that vehicle;
9 is that correct?

10 A. Yeah, on both doors. Yes, sir.

11 Q. Did you see any damage to the front of that
12 vehicle?

13 A. I don't recall. I mean, I looked --

14 Q. Would you like to see it?

15 A. -- and I don't recall seeing any -- I didn't
16 take any close-up photos or any damage or notice any
17 at the time.

18 Q. So you saw no damage to the front of the
19 vehicle, correct? As far as there would be
20 indication of gun fire?

21 A. I did not while I was there, no, sir.

22 Q. Well, you didn't go back and check it at
23 another time, did you?

24 A. No. But I was told that a search warrant -- a
25 more detail search of the vehicle was going to be

1 done.

2 Q. So the only indication of damage to the
3 burgundy Marquis was all done on the sides and on
4 the rear of the vehicle?

5 A. Yes, sir.

6 Q. You can't tell anything from, I guess, the
7 dents, as far as -- you've been in it a long time.
8 You can tell the difference between pistol damage to
9 a car and rifle damage to a car?

10 A. Not really.

11 Q. I guess, the rear windshield, it's an innie and
12 not an outie, so you would assume somebody shot into
13 the car, right?

14 A. Yes, sir.

15 MR. WILLIAMS: I beg the Court's indulgence.

16 Thank you, sir.

17 THE COURT: Mr. Mauldin?

18 CROSS-EXAMINATION

19 BY MR. MAULDIN:

20 Q. Detective Phipps, you testified you did a
21 gunshot residue wipe for Mr. Donovan Brannon; is
22 that right?

23 A. Yes.

24 Q. Did you do one for an Andy Barnes?

25 A. No, sir.

1 Q. Did you do one for a William Gantt?

2 A. No, sir.

3 Q. Did you do one for a Dominique Williamson?

4 A. No, sir.

5 Q. Did you do one for O'Brien Gilliam?

6 A. No, sir.

7 Q. Did you do one for Brandon Jeffery?

8 A. No, sir.

9 MR. MAULDIN: No further questions.

10 THE COURT: Any redirect?

11 MR. MCNAIR: No redirect, Your Honor.

12 THE COURT: All right. The witness may step
13 down.

14 MS. FULLER: Thank you, Your Honor. Now, the
15 next witness is long, so...

16 THE COURT: We'll go ahead and take a short
17 break then. We've been going a little over an hour.

18 We'll take a short break, ladies and gentlemen.
19 Refresh yourselves. Please don't discuss the case.
20 Let's try to be ready to come back up here in no
21 more than ten minutes. Thank you.

22 (The jury exits the courtroom at 2:33 PM.)

23 THE COURT: Are we ready to roll?

24 MR. WILLIAMS: Defendant Brannon is ready.

25 MR. MAULDIN: Yes, Your Honor.

1 MS. FULLER: Yes, Your Honor.

2 THE COURT: Bring the jury up, please.

3 (The jury enters the courtroom at 2:51 PM.)

4 THE COURT: All right. Madam Forelady, ladies
5 and gentlemen of the jury, welcome back. We will
6 continue on with the next witness in the State's
7 case in chief. You walked by some candy on the way
8 in. I think everyone grabbed a piece if they wanted
9 it. But I hope you enjoy that candy.

10 All right. Next witness.

11 MS. FULLER: Thank you, Your Honor. The State
12 calls Glenn Ross.

13 GLENN ROSS

14 being first duly sworn, testified as follows:

15 THE WITNESS: Yes.

16 THE CLERK: State your name and spell your last
17 for the record.

18 THE WITNESS: My name is Glenn Ross.

19 DIRECT EXAMINATION

20 BY MS. FULLER:

21 Q. And, if you could, spell your last name for the
22 record.

23 A. R-O-S-S.

24 Q. Thank you. Where are you currently employed?

25 A. I'm a contractor for Homeland Security.

1 Q. And back in 2015, where were you employed?

2 A. Lexington County Sheriff's Department.

3 Q. And what was -- can you describe to the jury,
4 what was your role at Lexington County Sheriff's
5 Department back in 2015?

6 A. I was a crime scene investigator.

7 Q. And how long were you in law enforcement?

8 A. 26 years.

9 Q. And specifically as a crime scene investigator,
10 how long were you a crime scene investigator?

11 A. Between Lexington County and the City of
12 Columbia, 16 years.

13 Q. Can you generally explain to the jury your
14 crime scene processing method?

15 A. Generally, when you show up to a crime scene --
16 a crime scene is just like if you bought a jigsaw
17 puzzle at the store. You have a big puzzle. And I
18 start working from the outside in, starting to
19 gather information and pieces of the puzzle between
20 photography and evidence collection and
21 documentation. And through that, you start trying
22 to put the pieces of the puzzle together in order to
23 get a picture of what actually took place before you
24 got there.

25 Q. And now jumping straight into this case, did

1 you have an opportunity to respond to 1150 Parrish
2 Road in the Leesville area of Lexington County?

3 A. I did.

4 Q. Was that on June 6th, 2015?

5 A. Yes, ma'am.

6 Q. What time approximately did you arrive on
7 scene?

8 A. Make reference to my report here. 5:35 in the
9 morning.

10 Q. In your report, does it indicate what time the
11 call was received for crime scene investigation?

12 A. I received the call at 4:00 in the morning.

13 Q. And you arrived on scene at 5:35. And how long
14 were you on scene?

15 A. About five hours. I left at 10:30.

16 Q. When you arrived to the incident location, can
17 you describe it for the jury? What did you observe?
18 What did you do?

19 A. In reference to the whole scene?

20 Q. Yes; when you first arrived on scene.

21 A. Basically, it was an outside scene, a parking
22 lot next to a wooded area. There was a club farther
23 down the road from that property. I really didn't
24 go down to that area much because, mainly, what I
25 pertained to where the incident took place, which

1 was right there at the exit of the property in the
2 parking lot, part of the parking lot.

3 Q. And when you arrived at the scene, is it your
4 custom to take photographs when you first arrive?

5 A. Yes. I do initial walkthrough to see,
6 generally, what you may have. And then after that,
7 I start doing general photographs of the outside and
8 work -- I work my way in, is what I do.

9 Q. Okay.

10 A. And then I go from general photographs to more
11 close-up photographs of individual items, things
12 such as that.

13 Q. I'm going to show you what's been marked for ID
14 as State's 4 through 9 and ask you if you recognize
15 them.

16 A. Yes, ma'am.

17 Q. How do you recognize them?

18 A. These are initial photographs, I believe, when
19 we first got there.

20 Q. And do they appear to be altered in any way?

21 A. No, ma'am.

22 MS. FULLER: At this time, Your Honor, the
23 State seeks to introduce State's Exhibits 4 through
24 9.

25 MR. WILLIAMS: Without objection on behalf of

1 Defendant Brannon.

2 MR. MAULDIN: No objection, Your Honor.

3 THE COURT: State's Exhibit 4 through 9
4 admitted into evidence.

5 (State's Exhibit Nos. 4, 5, 6, 7, 8, 9 admitted
6 into evidence.)

7 BY MS. FULLER:

8 Q. Publishing State's 4 -- and I believe there
9 might be a laser pointer up there. If you can
10 orient the jury and describe to them what you're
11 looking -- oh, it's not up there. I apologize.

12 Can you describe to the jury what they're
13 looking at and the angle, orient them with the crime
14 scene at this point?

15 A. Depends on whether I can work this or not.
16 This is the crime scene tape to keep folks out. And
17 this is the general area of the roadway going back
18 to the club that way, I believe.

19 Q. And now looking at State's Exhibit 5, can you
20 orient the jury as well?

21 A. That's going towards the club. There's a
22 little area of woods right there. And the roadway
23 on the other side of these patrol vehicles is going
24 down in there, and the victims' vehicles are over
25 there.

1 Q. Looking at State's 6, just another angle, can
2 you also orient the jury, looking at State's 6, as
3 well?

4 A. It's just a different angle of the same
5 photograph. Here's the tape, the paved roadway out
6 here, and this is the roadway going down to the
7 club.

8 Q. And another angle looking at State's 7?

9 A. Roadway is here and this is going down to the
10 club. So we're on this side of the dirt road.

11 THE COURT: Madam Solicitor, are we creating
12 that glare or is that just on the photograph?

13 MS. FULLER: The lighting is.

14 THE COURT: Try one more light. Oh, well, it's
15 not helping. Forget it. Turn the light back on.

16 Never mind. Sorry. I was trying to help with
17 the courtroom lighting. But no big deal.

18 MS. FULLER: Beg the Court's indulgence.

19 BY MS. FULLER:

20 Q. Then, just for the record, it's a little less
21 light on the TV monitors if there's any issues.

22 So I apologize. I don't remember if you
23 described State's 7. I lost track. Did you?

24 A. Yes, ma'am.

25 Q. You can go ahead. I apologize.

1 A. It's the roadway going towards the club from
2 the paved highway on the other side of the dirt
3 road.

4 Q. There are two vehicles parked on the right side
5 in this photograph. What kind of vehicle is the
6 first one parked closest to us?

7 A. I've got to look to make sure. I believe one
8 is a Stratus. Looking at these diagrams here, one
9 is a Stratus.

10 Q. And then the second vehicle?

11 A. Looking here, a Kia.

12 Q. And, specifically, is that a Kia Optima?

13 A. I just have a 2009 Kia in my notes here.

14 Q. And then the Stratus, is that a Dodge Stratus?

15 A. Yes, ma'am.

16 Q. Okay. Looking at State's Exhibit 8, just a
17 different angle, it's really dark now. I don't
18 know -- and just for orientation purposes, this is
19 facing the club now; is that correct?

20 A. Yes, ma'am. The club is through this grove of
21 trees back in here. It's just a dirt road leading
22 to it.

23 Q. And then looking at State's 9, this angle, the
24 club now, I guess, would be behind the camera?

25 A. I'm in the grove of trees, shooting back

1 towards the main road.

2 Q. Okay.

3 A. That's where I'm standing now. The club is
4 back behind me now, back here.

5 Q. I'm going to show you now State's 73, 74, and
6 75 and ask you if you recognize it.

7 A. Yes, ma'am.

8 Q. What do you recognize these to be photos of?

9 A. The Kia.

10 Q. Okay. And these photos were taken at the crime
11 scene as well?

12 A. Yes, ma'am.

13 MS. FULLER: At this time, Your Honor, the
14 State seeks to introduce 73, 74, and 75.

15 MR. WILLIAMS: Without objection on behalf of
16 Brannon.

17 MR. MAULDIN: No objection, Your Honor.

18 THE COURT: State's Exhibits 73, 74, and 75 are
19 admitted into evidence.

20 (State's Exhibit Nos. 73, 74, 75 admitted into
21 evidence.)

22 BY MS. FULLER:

23 Q. Publishing State's 75. Can you describe to the
24 jury what they're looking at in this photograph?

25 A. It's the driver's side, and you have -- a

1 gunshot apparently shot out the window here, and
2 then the projectile hit there.

3 Q. And then for orientation purposes, looking back
4 at State's 9, that would be the Kia parked there?

5 A. Yes, ma'am.

6 Q. And that would be --

7 A. The Dodge Stratus.

8 Q. Next to the Dodge Stratus?

9 A. Uh-huh.

10 Q. Looking at State's 74, is this just another
11 angle of that defect in the Kia?

12 A. Yes, ma'am.

13 Q. And this is how it was when you arrived on
14 scene?

15 A. Yes, ma'am.

16 Q. Also looking at State's 73, is this just
17 another angle of the defect on the driver's side of
18 the Kia?

19 A. Yeah, the driver's door. Yes, ma'am.

20 Q. Driver's door. And this is how it was when you
21 arrived on scene?

22 A. Yes, ma'am.

23 Q. I'm going to show you some photographs that's
24 already in evidence and just ask you to identify
25 them.

1 And for the record, that's State's 12, 27, 28,
2 and 14.

3 A. Yes, ma'am.

4 Q. And do you recognize those photographs?

5 A. I do.

6 Q. How do you recognize them?

7 A. The one is the parking lot with numbers and
8 placards put down by pieces of evidence. The other
9 one is just a different angle of the same shot. And
10 then one is, I believe, a hat, a ball cap.

11 Q. Okay. Now looking at State's 14, the jury has
12 already seen this photograph. But it's also -- for
13 this witness, also orient the jury as well.

14 Can you describe -- looking at this photograph,
15 is The Spot going to be on the driver's side or the
16 passenger's side of the Dodge Stratus?

17 A. The Spot, the club itself is going to be on
18 this side.

19 Q. So that would be towards the driver's side?

20 A. Yes.

21 Q. And then looking at State's 12, another angle,
22 The Spot would be --

23 A. Right down here.

24 Q. And then just so the jury sees what I showed
25 you, State's 27 and 28. Looking at State's 27, can

1 you orient the jury with the location of this hat?

2 A. The Spot roadway going here through the grove,
3 and this is the edge of the wood line right here
4 where the hat is.

5 Q. Now I'm going to show you -- I'm going to show
6 you another set of photographs, State's 10 for the
7 record, and just have you identify it along with 13,
8 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, and 26.

9 A. Yes, ma'am.

10 Q. And how do you recognize these photographs?

11 A. These are all photographs of the crime scene.

12 Q. Okay. Do they appear to be altered in any way?

13 A. No, ma'am.

14 MS. FULLER: The State seeks to introduce
15 State's Exhibits 10, 13, and then 15 through 26 into
16 evidence.

17 MR. WILLIAMS: Without objection, Your Honor.

18 MR. MAULDIN: No objection, Judge.

19 THE COURT: All right. State's Exhibits 10,
20 13, and 15 through 26 are admitted into evidence.

21 (State's Exhibit Nos. 10, 13, 15, 16, 17, 18,
22 19, 20, 21, 22, 23, 24, 25, 26 admitted into
23 evidence.)

24 BY MS. FULLER:

25 Q. Mr. Ross, looking at State's 10, I'm going to

1 have you look at this. And I'm not going to publish
2 it on the overhead, but I want you to go ahead and
3 describe to the jury what they're looking at here.

4 A. It's the victim at the time of arrival that was
5 deceased in the back of the vehicle.

6 Q. And where -- next to what vehicle was he
7 located?

8 A. The Dodge Stratus.

9 Q. And that would be on --

10 A. On the driver's side.

11 Q. The driver's side of the Dodge Stratus.

12 A. Dodge Stratus. Towards the rear, towards the
13 trunk.

14 Q. And when you arrived on scene, this is where he
15 was located?

16 A. Yes, ma'am.

17 Q. Looking at State's 13, we talked about the
18 placards that are down. Can you go ahead and
19 describe to the jury the purpose and what those
20 represent?

21 A. What those are for is when you find a piece of
22 evidence, it's to document. It's a scale. It has a
23 number and letters. Just like children do in
24 building blocks with ABCs, you give them the small
25 blocks, it's basically the same thing.

1 And what you do is you place that by a piece of
2 evidence that has a scale in it and, that way, you
3 can tell the general size of it. And that's for
4 photography purposes and also for documentation and
5 collection of the item.

6 Q. And looking at just generally these placards,
7 how many of them are depicted in these photographs?
8 And I'll go through State's 13, 15, 16. Do you have
9 a count of how many numbered placards you have on
10 scene?

11 A. I believe the total number of numbered ones was
12 40. And then we had to go to letters because we
13 tried to distinguish the difference between shell
14 casings because we had so many and just other items
15 of evidence, so we gave them a letter.

16 Q. And how many letters did you have on scene?

17 A. We had A through H. I believe that's an A.
18 And one of those was a shell casing, because we ran
19 out of numbers, and had to assign it a letter.

20 Q. And then regarding the other items, A through
21 H, were any of those other items either shell
22 casings or projectiles?

23 A. In A through H?

24 Q. Yes.

25 A. No, ma'am, just one.

1 Q. Was a casing?

2 A. One projectile, which was G, and then there was
3 one casing, which was H.

4 Q. What's the difference between a projectile and
5 a casing?

6 A. A projectile is the part that leaves the
7 weapon, that does all the damage, commonly referred
8 to as a bullet. And then the shell casing that
9 holds the powder is the part that ejects, or if it's
10 an old-style wheel gun, the revolver stays in the
11 gun. So your shell casing is what ejects out from
12 the side and lands on the ground.

13 Q. So when you said you were distinguishing, you
14 were ensuring you distinguished casings from other
15 items as well as casings from projectiles?

16 A. Yes. If we were able to find them and
17 distinguish them, yes.

18 Q. Displaying State's 16. Is this just another
19 angle of all the casings that you recovered on
20 scene, some of them?

21 A. Yes, ma'am.

22 Q. Okay. Also, in State's 17; is that correct?

23 A. Yes, ma'am.

24 Q. And now looking at State's 18.

25 A. Yes, ma'am.

1 Q. And then State's 19, another angle?

2 A. Yes, ma'am.

3 Q. And in State's 20, another angle?

4 A. Yes, ma'am.

5 Q. And in State's 21, another angle?

6 A. Yes, ma'am.

7 Q. And looking at 22.

8 A. Yes, ma'am.

9 Q. Another angle.

10 And 23?

11 A. Yes, ma'am.

12 Q. And looking at 24 as well?

13 A. Yes, ma'am.

14 Q. And 25?

15 A. Yes, ma'am.

16 Q. And now looking at State's 26, if we're going
17 to orient the jury using State's 14, showing the two
18 vehicles, where is this group of placards indicating
19 casings in State's 26 located if you can point it
20 out on State's 14?

21 A. Right here in this area towards the passenger
22 rear of the Kia right in here.

23 Q. And going back to State's 26, that's what we
24 see here? That's the Kia, and those are the casings
25 towards the rear of the Kia; is that correct?

1 A. Yes, ma'am. Yes, ma'am.

2 Q. I'm going to have you take your time and look
3 through this stack of photographs, and then I'll ask
4 you some questions.

5 A. (Witness complies.)

6 Q. Do you recognize that stack of photographs?

7 A. Yes, ma'am.

8 Q. What do you recognize them as?

9 A. 1 through 40 with an H, I believe, on some of
10 them.

11 Q. And in these photographs, when you say one
12 through 40 and H, are you indicating the placards we
13 just referenced in those overheads?

14 A. Yes, ma'am.

15 Q. And these are also the casings that you
16 described?

17 A. Yes, ma'am.

18 MS. FULLER: At this time, Your Honor, the
19 State seeks to introduce State's 29, I believe,
20 through 72.

21 MR. WILLIAMS: Without objection, Your Honor,
22 on behalf of Brannon.

23 MR. MAULDIN: No objection.

24 THE COURT: State's Exhibits 29 through 72 are
25 admitted into evidence.

1 (State's Exhibit Nos. 29 through 72 admitted
2 into evidence.)

3 BY MS. FULLER:

4 Q. I'm going to show you State's Exhibit 1 and ask
5 you if had an opportunity to review this.

6 A. I did.

7 Q. And what does this represent?

8 A. It's basically an overhead diagram not drawn to
9 scale of the crime scene that night, of the
10 placards, the cars, the victim, and the roadway.

11 MS. FULLER: At this time, Your Honor, the
12 State seeks to introduce State's Exhibit 1 into
13 evidence.

14 MR. WILLIAMS: Without objection on behalf of
15 Brannon, Your Honor.

16 MR. MAULDIN: Without objection, sir.

17 THE COURT: State's Exhibit 1 admitted into
18 evidence.

19 (State's Exhibit No. 1 admitted into evidence.)

20 BY MS. FULLER:

21 Q. Mr. Ross, can you go ahead and orient the jury
22 and describe this Court Exhibit to them?

23 A. It is the crime scene from an overhead view.
24 This is Parrish Road and the crime scene tape. And
25 this is the dirt road that leads back to the club in

1 the woods. This is the wood line back here and the
2 three vehicles and the victim. And this is all the
3 evidence that was in the middle.

4 Q. And then, just so it's clear for the purposes
5 of this exhibit, we've had a witness testify already
6 about the position of this Dodge Charger. Looking
7 at State's 14, that's not in this image, correct?

8 A. No, ma'am.

9 Q. But the Dodge Stratus and the Kia, those
10 vehicles were on scene when you arrived?

11 A. Yes, ma'am.

12 Q. And there aren't any other vehicles captured in
13 these photographs; is that correct?

14 A. No, ma'am.

15 Q. What was the purpose of keeping the Dodge
16 Stratus and the Kia on scene while processing the
17 crime scene?

18 A. For one, the Dodge Stratus had the victim lying
19 next to it. And they also had apparent gunshots to
20 the vehicles themselves, had possible evidence that
21 could be retained from them.

22 Q. Once you finished processing this crime scene,
23 what, if anything, happened with those vehicles?

24 A. I believe they were towed to headquarters and
25 held for further processing.

1 Q. So it's safe to say these vehicles were kept
2 behind because they were essentially part of the
3 crime scene?

4 A. Yes, ma'am.

5 MS. FULLER: Your Honor, for the purposes of
6 the rest of the testimony, I'm going to publish this
7 document from the laptop -- it will be the same
8 exhibit -- and then use the document reader for the
9 photographs and the exhibits.

10 BY MS. FULLER:

11 Q. I'm going to hand you the package that the
12 contents have been collectively labeled as State's
13 303, and the contents from that package, and ask if
14 you recognize it.

15 MS. FULLER: For the record, all of these
16 exhibits were pre-marked, so they were opened to be
17 marked.

18 THE WITNESS: My writing with my initials.

19 BY MS. FULLER:

20 Q. And just so it's clear, looking at State's 303,
21 which would be the contents of this bag, looking at
22 303, you recognize your writing and initials on this
23 package?

24 A. Yes, ma'am.

25 Q. And in this packaging, how many shell casings

1 are logged in this packaging?

2 A. Should be 40. But I'm looking to see if H --

3 Q. It's separate.

4 A. All right. So it should be the first one.

5 MS. FULLER: The contents as a whole, showing
6 defense counsel State's Exhibit 303.

7 MR. WILLIAMS: Your Honor, I know she's going
8 to attempt to put this in evidence right now, but I
9 have a motion that goes to the introduction of all
10 of these. It's probably not a sidebar kind of
11 thing. I need to put it on the record.

12 THE COURT: Okay. Could you approach real
13 quick?

14 (Sidebar conference.)

15 BY MS. FULLER:

16 Q. Showing you State's Exhibit 303 again and the
17 contents, also referencing the photographs you just
18 looked at, your testimony is that State's 29 through
19 72, which also includes H, are casings located at
20 the scene, correct?

21 A. Yes, ma'am.

22 Q. And these are photographs taken by you,
23 correct?

24 A. Yes, ma'am.

25 Q. And these are casings located by you, correct?

1 A. Yes, ma'am.

2 Q. Now, there were other people assisting as well,
3 correct?

4 A. Yes, ma'am.

5 Q. But placing the placards with the casing, who
6 would have been responsible for that?

7 A. Primarily, my job.

8 Q. Okay. And now, these casings, with the
9 exception of H because it's separate, are these
10 basically -- these physical items are reflected in
11 these photographs?

12 A. Yes, ma'am.

13 Q. And you've already testified to this, but
14 you've indicated you see your initials on this
15 packaging, correct?

16 A. Yes, ma'am.

17 Q. And what does that indicate?

18 A. That I packaged and sealed them and signed my
19 initials to where that kept the chain of custody.

20 Q. Thank you.

21 MS. FULLER: Your Honor, I believe I've
22 clarified it and I believe that's enough.

23 (Sidebar conference.)

24 BY MS. FULLER:

25 Q. Mr. Ross, were you on scene when each of those

1 1 through 40 placards were placed down?

2 A. Yes, ma'am.

3 MR. WILLIAMS: In regards to what we discussed,
4 Your Honor, that's sufficient. I would like time at
5 a later time to put my formal objection on the
6 record.

7 THE COURT: I understand. So noted.

8 MR. WILLIAMS: Thank you.

9 (State's Exhibit No. 303 admitted into
10 evidence.)

11 THE COURT: You may continue, Counsel.

12 BY MS. FULLER:

13 Q. Going through the contents of the bag, this
14 first package is marked as State's Exhibit 304. Do
15 you recognize your handwriting on that package?

16 A. I do.

17 Q. And what are the contents of this bag?

18 A. Items 1 through 10.

19 Q. And what are items 1 through 10?

20 A. Shell casings.

21 Q. Looking at bag collectively marked as State's
22 Exhibit 315, what are the contents of this bag?

23 A. Items 11 through 20. They are shell casings.

24 Q. Looking at State's Exhibit 326, what are the
25 contents of this bag?

1 A. Items 21 through 30. They are shell casings.

2 Q. Looking at State's Exhibit 337, what are the
3 contents of this bag?

4 A. Items 31 through 40 that are shell casings.

5 Q. I'm going to ask you to open this packaging.
6 For the record, there appears to be sand falling out
7 of the package; is that correct?

8 A. Yes, ma'am.

9 Q. And that's from?

10 A. The parking lot.

11 Q. Okay. Do you recognize the package
12 collectively marked as State's 304, the individual
13 items of items 1 through 10 from the crime scene?

14 A. Yes.

15 MS. FULLER: And for the record, item 10 is
16 marked as State's 305; item 9 is marked as State's
17 306; item 8 is marked as State's 307; item 7 is
18 marked as State's 308; item 6 is State's 309; item 5
19 is State's 310; item 4 is State's 311; item 3 is
20 State's 312; item 2 is State's 313; and item 1 from
21 the crime scene is State's 314.

22 Q. And these are shell casings that you packaged
23 yourself?

24 A. Yes, ma'am.

25 Q. And you recognize your initials as well?

1 A. Yes, ma'am.

2 MS. FULLER: For the record, placing them back
3 in State's 304.

4 BY MS. FULLER:

5 Q. Similarly, looking at State's 315, which is
6 marked as State's CSI items 11 through 20, I'll go
7 ahead and ask you if you can verify them.

8 A. Yes, ma'am.

9 Q. And these are all casings that you collected
10 from the scene?

11 A. Yes, ma'am.

12 MS. FULLER: And this might be out of order,
13 I'll just call them out. Item 20 is State's 325;
14 item 19 is 324; item 18 is State's 323; item 17 is
15 State's 322; item 16 is State's 321; item 15 is
16 State's 320; item 14 is State's 319; item 13 is
17 State's 318; item 12 is State's 317; item 11 is
18 State's 316. For the record, placing them back in
19 the packaging of State's 315.

20 BY MS. FULLER:

21 Q. Similarly looking at packaging, State's 326,
22 that's marked items 21 through 30, ask you if you go
23 ahead and recognize them.

24 A. Yes, ma'am.

25 Q. And how do you recognize them?

1 A. Items 12 through 30 are shell casings --

2 Q. Items 21 through 30?

3 A. Oh, 21 through 30, yes.

4 Q. And these are shell casings that you collected
5 from the scene?

6 A. Yes, ma'am.

7 MS. FULLER: For the record, item 30 is 336;
8 item 29 is 335; item 28 is 334; item 27 is 333; item
9 26 is 332; item 25 is 331; item 24 is 330; item 23
10 is 329; item 22 is 328; item 21 is 327. For the
11 record, I'm putting them back in packaging of
12 State's Exhibit 326.

13 BY MS. FULLER:

14 Q. And, last, looking at packaging marked State's
15 Exhibit 337, marked collectively as 31 through 40,
16 I'm going to ask you, do you recognize them?

17 A. 31 through 40, shell casings.

18 Q. Shell casings. And these would be items that
19 you collected from the scene?

20 A. Yes, ma'am.

21 MS. FULLER: For the record, CSI item 40 is
22 347; CSI item 39 is 346; item 38 is State's 345;
23 item 37 is State's 344; item 36 is State's 343; item
24 35 is State's 342; item 34 is State's 341; item 33
25 is State's 340; item 32 is State's 339; and item 31

1 is State's 338. Placing collectively back in
2 State's Exhibit 337.

3 BY MS. FULLER:

4 Q. Showing you now State's 299, and ask you if you
5 recognize it.

6 A. It's item H, a shell casing.

7 Q. And this is what you would have collected from
8 the crime scene?

9 A. Yes, ma'am.

10 Q. And you recognize your writing as well?

11 A. Yes, ma'am.

12 MS. FULLER: Your Honor, at this time, the
13 State seeks to introduce into evidence State's
14 Exhibit 303 that contains CSI items 1 through 40 as
15 well as H.

16 State seeks to introduce packaging -- State's
17 Exhibit 304 that contains CSI items 39 through -- 29
18 through 38 that are marked State's Exhibit 314, 313,
19 312, 311, 310, 309, 308, 307, 306, 305.

20 The State seeks to introduce State's Exhibit
21 315 with CSI items 11 through 20.

22 And I want to make sure I say this correct, so
23 I'll go back. State's Exhibit 304 is CSI items 1
24 through 10. For State's Exhibit 315, it's CSI items
25 11 through 20 that are marked as State's Exhibit

1 316, 317, 318, 319, 320, 321, 322, 323, 324, and
2 325.

3 State seeks to introduce State's Exhibit 326,
4 containing CSI items 21 through 30. And they are
5 marked State's Exhibit 327, 328, 329, 330, 331, 332,
6 333, 334, 335, 336.

7 And the State seeks to introduce State's
8 Exhibit 337, containing CSI items 31 through 40,
9 which are marked 338, 339, 340, 341, 342, 343, 344,
10 345, 346, 347.

11 And the State seeks to introduce CSI item H
12 marked as State's Exhibit 299 into evidence.

13 THE COURT: Okay. Subject to previous
14 objection.

15 MR. WILLIAMS: Yes, sir.

16 THE COURT: Joined by Mr. Mauldin.

17 MR. MAULDIN: Correct, Your Honor.

18 THE COURT: Without repeating every one of
19 those numbers again, those exhibits are admitted
20 into evidence as noted on the record.

21 (State's Exhibit Nos. 299, 303 through 347
22 admitted into evidence.)

23 MS. FULLER: Thank you, Your Honor. And I
24 apologize for how long it's taking.

25 BY MS. FULLER:

1 Q. Okay. Mr. Ross, looking at the crime scene
2 Court's Exhibit here on the projector, I'm going to
3 go ahead and display in order. And if you can,
4 point to the jury where each item was collected
5 starting with marker 1. Looking at the photo that's
6 displayed on the TV that's marked State's 29, and
7 also displaying State's Exhibit 314, could you
8 please show the jury where that's found?

9 A. Down there.

10 Q. And that's at the bottom left side of the
11 diagram?

12 A. Yes, ma'am.

13 Q. Looking at State's 30, that's marker 2,
14 publishing on the TV screen State's 313, can you
15 also point to the jury where that is on the diagram?

16 A. Number 2 is right there.

17 Q. If you can, when you're describing, can you
18 point just positionally where it is on the diagram?

19 A. There, outside of the dirt pathway, roadway.

20 Q. Looking at State's 31, which is marker 3,
21 publishing casing 312, State's Exhibit 312, can you
22 also point to the jury where that is?

23 A. Going closer to the dirt road there.

24 Q. Looking at State's 32, photograph and
25 publishing State's Exhibit 311, can you point out to

1 the jury where marker 4 is on the diagram?

2 A. Here in the dirt road.

3 Q. Looking at State's 33 and publishing 310 with
4 it, can you point to the jury where that is on the
5 diagram?

6 A. Right here in the dirt road.

7 Q. And I'm having a hard time hearing you. I'm
8 sorry.

9 A. In the dirt road.

10 Q. Thank you. And that's CSI item 5.

11 Looking at orientation photo, which is in
12 State's 34, and also looking at State's 35,
13 publishing along with it State's 309 on the TV
14 screens, can you point on the diagram where that
15 item was collected?

16 A. Right here in the dirt road.

17 Q. Looking at State's 36, which is placard 7,
18 publishing also State's 308, can you point to the
19 jury on the diagram where that is as well?

20 A. Also in the dirt road.

21 Q. Looking at State's 37, indicating placard 8 as
22 well as State's Exhibit 307, can you point to the
23 jury where that is?

24 A. Right here in the diagram on the dirt road.

25 Q. Publishing State's 38, showing 9 as well as

1 306?

2 A. Right here in the dirt road.

3 Q. State's 39 and 305?

4 A. Right here in the dirt road.

5 Q. Looking at State's 40, along with 316, can you
6 show the jury where that is?

7 A. Here in the dirt road.

8 Q. Looking at placard 11 in State's 41 as well as
9 State's 317?

10 A. Here in the dirt road.

11 Q. Looking at placard 14, State's 42, along with
12 State's Exhibit 318?

13 A. Here in the dirt road.

14 Q. Looking at State's 43, it's placard 14, along
15 with State's 319, can you show the jury as well?

16 A. Here in the dirt road.

17 Q. Looking at State's 44, placard 15, along with
18 State's 320?

19 A. Here in the dirt road.

20 Q. And State's 45, you also see that there along
21 with State's 321?

22 A. Here in the grass, close to the dirt road.

23 Q. That's placard 16. Looking at 17, State's
24 Exhibit 46 and 322, item 17?

25 A. Here in the dirt road.

1 Q. And 18, which is State's 47 and 323?

2 A. Here in the dirt road.

3 Q. 19 and 324 and State's 48?

4 A. Here in the dirt road.

5 Q. And these are all items that you located and
6 collected?

7 A. Yes, ma'am.

8 Q. Did I do that one? 49, sorry. State's 49 and
9 325, placard 20?

10 A. Here in the dirt road.

11 Q. Placard 21, publishing State's 50 and 327,
12 placard 21?

13 A. Here in the dirt road, close to the pavement.

14 Q. Looking at State's 51 and 328?

15 A. In the grass on the other side of the dirt
16 road.

17 Q. Looking at State's 52 and State's 329?

18 A. In the grass on the vehicle side of the road.

19 Q. Okay.

20 MS. FULLER: Your Honor, maybe we could stand
21 and take a break, because I know it's a lot. If we
22 could take a standing break.

23 THE COURT: All right. Everybody stretch your
24 arms and your legs a little bit, take a deep breath
25 or two.

1 MS. FULLER: Thank you, Your Honor. I

2 apologize.

3 BY MS. FULLER:

4 Q. Publishing State's 53, which is placard 24, and
5 State's 330, that's also reflected here close to the
6 dirt road?

7 A. Yes, ma'am, in the grass on the vehicle side of
8 the dirt road.

9 Q. And looking at State's 54, placard 25, along
10 with State's 331, also somewhere in the dirt road?

11 A. On the vehicle side of the dirt road.

12 Q. Looking at State's Exhibit 55, placard 26 as
13 well as casing 332, that's also reflected there?

14 A. On the vehicle side of the dirt road.

15 Q. Looking at State's 56, placard 27, along with
16 State's 333, that's also reflected there?

17 A. Yes, ma'am.

18 Q. And State's 57, placard 28, along with casing
19 State's Exhibit 334, that's also in this diagram?

20 A. Yes, ma'am, right here on the dirt road.

21 Q. And looking at State's 58, placard 29, along
22 with State's 335, that's also in this diagram?

23 A. Here on the grass.

24 Q. Almost there. State's 59, placard 30 and
25 State's Exhibit 336?

1 A. Right here on the grass, vehicle side.

2 Q. And then looking at State's 31 -- sorry,
3 placard 31, State's Exhibit 60, as well as
4 displaying 338, you also see that here?

5 A. In the grass, towards the rear of the vehicle.

6 Q. And the rear of the vehicle, we're talking
7 about what's labeled as the Kia?

8 A. Yes, ma'am.

9 Q. Looking at State's 61, placard 32, marked also
10 casing 339, is that also reflected in this diagram?

11 A. Right here towards the tree line behind the
12 vehicle.

13 Q. Looking at State's 62, placard 33, Court's
14 Exhibit 340, and where is that?

15 A. Behind the vehicle in the grass.

16 Q. And looking at State's 63, placard 34, casing
17 341, you recognize that as well? Do you see it?

18 A. Behind the vehicles in the grass.

19 Q. And then looking at State's 64, placard 35,
20 marker -- casing packaging State's Exhibit 342, is
21 that also behind that Kia?

22 A. Yes, sir -- yes, ma'am, right there in the
23 grass.

24 Q. Okay. Looking at State's 65, marker 36,
25 State's Exhibit 343, is that also in the area to the

1 rear of the vehicle?

2 A. Right here in the grass.

3 Q. Looking at State's 66, marker 37, Exhibit 344,
4 is that also to the rear of that vehicle?

5 A. Right here next to the vehicle in the grass.

6 Q. Looking at State's 67, marker 38, State's
7 Exhibit 345, is that also -- where is that located?

8 A. Right here in the grass next to the roadway,
9 vehicle side.

10 Q. Looking at State's 39 -- not State's 39.

11 Looking at State's 68, marker 39, and also
12 casing marking State's 346, do you also see that
13 reflected in this diagram?

14 A. In the grass next to the roadway, vehicle side.

15 Q. Now showing an orientation photo, State's 69,
16 and then State's 70 as well as publishing State's
17 346, marker 40, do you see that reflected here as
18 well?

19 A. Right there in the grass, vehicle side, next to
20 the roadway.

21 Q. Okay. Now, when we look at State's 71 and then
22 State's 72, there's only one placard in these
23 photographs. What was the purpose of this and can
24 you explain to the jury how did you get to H?

25 A. H is located right here next to the roadway in

1 the grass. We had ran out of numbers at that time
2 and we're walking around to make sure that we were
3 completely done and also found that item, which was
4 H. And we gave it a letter instead of a number
5 because we were out of numbers. And we collected
6 that towards the end.

7 Q. While you're collecting items, are you also
8 taking notes at the same time?

9 A. Yes, ma'am.

10 Q. And in your notes, it reflects also the
11 position of H? Do you recall?

12 A. It's a rough diagram that I drew. Yes, ma'am.

13 Q. Okay. But the position here, even though we
14 don't have a full orientation picture like the ones
15 we looked over before, H is in the general area
16 where it is on this diagram?

17 A. It's in the general area, yes, ma'am.

18 Q. Okay. And that will be State's 72?

19 A. Yes, ma'am.

20 Q. I'm going to show you State's 76, 77, 78, as
21 well as State's 300 and ask if you recognize them.

22 A. Yes, ma'am.

23 Q. What do you recognize these to be?

24 A. That's a projectile, item G.

25 Q. Okay. And the photographs?

1 A. Yes, ma'am.

2 Q. Okay. And who collected this item?

3 A. I did.

4 MS. FULLER: At this time, Your Honor, the
5 State seeks to introduce 76, 77, 78, and State's 300
6 into evidence.

7 THE COURT: Without objection.

8 MR. WILLIAMS: Without objection -- well,
9 subject to the prior objections that have been made.

10 THE COURT: Very well.

11 MR. MAULDIN: Similarly, Your Honor.

12 THE COURT: So admitted, State's 76, 77, 78 and
13 300.

14 (State's Exhibit Nos. 76, 77, 78 and 300
15 admitted into evidence.)

16 BY MS. FULLER:

17 Q. Now, looking at this overview, is it safe to
18 say that the markers indicated here are only
19 casings?

20 A. Yes, ma'am.

21 Q. Okay. I'll use a photograph as well, but for
22 orientation purposes, looking at State's 76, can you
23 orient the jury with where G was located?

24 A. It's the Dodge Stratus driver's side and The
25 Spot going back in this direction.

1 Q. Okay. And then also, State's 77 and 78, are
2 these just close-up photographs?

3 A. Yes, ma'am.

4 Q. And publishing also State's 300. Is this what
5 you described as a projectile that you located on
6 scene?

7 A. Yes, ma'am.

8 Q. And it was located next to that Dodge Stratus,
9 correct?

10 A. Yes, ma'am.

11 Q. For identification purposes at this time, I'm
12 going to show you State's Exhibit 287. Is this a
13 similar just slightly different diagram than what we
14 just looked at?

15 A. Yes, ma'am.

16 Q. Okay. Now I'm going to show you State's
17 Exhibit 288, 289, 290, and 291 and ask you if you
18 recognize these.

19 A. Yes, ma'am.

20 Q. And what do you recognize these as different
21 images of?

22 A. Photographs taken towards the vehicles of items
23 of evidence and placards.

24 Q. When we say towards the vehicles, we're talking
25 about at the crime scene?

1 A. Yes, ma'am.

2 MS. FULLER: At this time, Your Honor, the
3 State seeks to introduce State's Exhibit --
4 BY MS. FULLER:

5 Q. So it's clear, these are similar to the
6 photographs here, just enlarged; is that correct?

7 A. Yes, ma'am.

8 MS. FULLER: State's Exhibit 288, 289, 290, and
9 291 into evidence.

10 MR. WILLIAMS: As long as it's the same
11 photographs, we have no objection.

12 THE COURT: All right. State's Exhibits 288,
13 289, 290, and 291 are admitted into evidence.

14 (State's Exhibit Nos. 288, 289, 290, 291
15 admitted into evidence.)

16 MS. FULLER: And just for the record, the
17 vehicles are cropped out, but it's the same
18 placards. Okay?

19 BY MS. FULLER:

20 Q. Looking at State's 288 along with 289, just so
21 the jury saw what I showed you as well, these are
22 the placards that we just talked about; is that
23 correct?

24 A. Yes, ma'am.

25 Q. And this is just enlarged, but the vehicles are

1 cropped out of this image?

2 A. Yes, ma'am.

3 Q. And this shows the dirt road as well?

4 A. Yes, ma'am.

5 Q. And then looking at State's 289, is this also
6 with the vehicles kind of cropped out here, but
7 enlarged of the placards that we just described?

8 A. Yes, ma'am.

9 Q. And then similarly with State's 291 and 290,
10 are these just a different angle?

11 A. Yes, ma'am.

12 Q. As well as 290?

13 A. Yes, ma'am.

14 MS. FULLER: And then publishing to the jury so
15 they can see just enlarged photographs, publishing
16 291 as well as 290.

17 Beg the Court's indulgence.

18 BY MS. FULLER:

19 Q. I skipped this. But just so it's on the record
20 as well, State's 285 here, do you recognize this as
21 an aerial of Parrish Road?

22 A. Yes.

23 Q. And if you can use the laser pointer and point
24 out to the jury the general area of your crime
25 scene?

1 A. Right here.

2 MS. FULLER: Let the record reflect he's
3 pointing towards the entranceway of The Spot.

4 No further questions at this time, Your Honor.

5 THE COURT: All right. Cross-examine.

6 MR. WILLIAMS: May it please the Court?

7 THE COURT: Yes, sir.

8 CROSS-EXAMINATION

9 BY MR. WILLIAMS:

10 Q. Good to see you again. Your rank is -- you're
11 with Homeland Security now. So do you have a rank
12 with Homeland Security?

13 A. No, sir. Just a private contractor.

14 Q. Just a private contractor. You're just Joe
15 Blow working for Homeland Security?

16 A. For a while.

17 Q. When you were at Lexington -- I guess I should
18 wait.

19 When you were with Lexington County in June 6th
20 of 2015, were you an investigator? I know you did
21 CSI, but were you titled investigator?

22 A. You're a crime scene investigator.

23 Q. Crime scene investigator.

24 A. You have major crimes investigators, property
25 crimes investigators, crime scene investigators.

1 It's more divisioned out on doing particular
2 dynamics of each kind.

3 Q. I gotcha. So you were the head CSI guy with
4 Lexington County at the time?

5 A. I wouldn't say that, no, sir.

6 Q. You weren't?

7 A. No.

8 Q. Were you over Phipps or was Phipps over you?

9 A. Lieutenant Scotty Friar was over everybody.

10 Q. Okay. All right. So let me ask you, I guess,
11 about your initial involvement. I heard you got the
12 call about 4:00 to come out to the scene. And then
13 it took you, what, maybe an hour and a half to get
14 on out there?

15 A. Yes.

16 Q. Did you have anybody with you when you came out
17 there about 5:30 in the morning?

18 A. I believe -- of course, there were folks
19 already out there that had set up the tape and were
20 waiting for us to get there. I believe Heather
21 Clary was the primary that night.

22 But there were several scenes because of
23 several vehicles and individuals shot, so there were
24 several places to go. And I ended up getting
25 assigned to crime scene and she got sent to several

1 other areas by Scotty Friar to do other things. She
2 was there with me for a while.

3 Q. Okay. She's with crime scene investigations,
4 also?

5 A. Yes, sir.

6 Q. So when you were out there -- and it was dark
7 then, dark at 5:30 in the morning. We've seen the
8 pictures and it shows the crime scene tape up. How
9 many vehicles, other than Lexington County Sheriff's
10 Department vehicles, were out there on the scene?
11 Other than Lexington County.

12 A. Well, as far as inside the scene, I only
13 remember those two -- two or three. As far as
14 outside, I'm not aware. They would have taken care
15 of that before I got there.

16 Q. All right. So when you got there, we note in
17 those pictures that it was dark, meaning there was
18 no streetlight there along with the highway, was
19 there?

20 A. Not that I'm aware of. It's pretty rural out
21 there.

22 Q. So when you got there, it was just dark and --
23 except for when you got there with the Sheriff's
24 Department headlights and stuff like that. That
25 would be the only thing lighting it up for a little

1 while till you could do your checking, right?

2 A. Yes, sir. We had lights and things such as
3 that.

4 Q. Did you begin your search for, I guess, shell
5 casings, projectiles, other evidence as soon as you
6 got there in the dark or did you wait until it got
7 light? Because, clearly, the pictures that we've
8 seen with the placards were taken after it turned
9 light.

10 A. My usual protocol is when I get to a crime
11 scene, I'll do a walkthrough. I did a walkthrough,
12 got some general information of what we had as far
13 as actually the crime itself. And then I do a
14 walkthrough to see what we have and get a general
15 idea of how I'm going to orientate, like I said
16 earlier, primarily because I manage the crime scene,
17 and that's mine.

18 So when I say primarily, I collected evidence.
19 But I was also managing everything at that point
20 when I got there. So I'm overlooking things. And I
21 basically waited till it did get daylight because it
22 was so late when I got there. It would have made
23 sense to wait.

24 Q. And if you just walk around in the dark, you're
25 liable to stumble across it, step on it, squish it

1 in the sand, or any number of things?

2 A. It might still be there.

3 Q. Might still be there, looking wherever you
4 squished it in the sand by walking on it?

5 A. Yes, sir.

6 Q. So what effect, if any, would it have if you
7 had a parking lot that had 30 vehicles in there
8 speeding down the dirt road, trying to get out of
9 there? What effect to those shell casings would
10 that have in terms of where they were found versus
11 where they were originally lying?

12 A. You can tell in some of the photographs that I
13 took that because of foot traffic and vehicle
14 traffic, that they were mashed down in the dirt.
15 But that also means that some could have been moved
16 by tires and foot traffic also. That's not uncommon
17 in a situation like that.

18 When I was at the City, we had more pavement
19 and it was much easier for it to happen and get
20 damaged. These probably press down more closer to
21 where they were in the dirt. But it's common. You
22 had a lot of foot traffic, a lot of vehicle traffic.

23 Q. It's easier to blow trash off a pavement than
24 it is a dirt road, essentially?

25 A. Absolutely.

1 Q. So in looking at the shell casings and the
2 placards that are put out there, these are placards
3 that were placed out there during the daylight hours
4 when you were able to observe either shell casings,
5 items of evidence, or projectiles because some --
6 you found some projectiles that you marked, right?

7 A. Yes, sir.

8 Q. All right. So I'm assuming that you work as a
9 team. I mean, you're good, but I assume you have
10 more than one person that helps you find the
11 projectiles?

12 A. You usually do.

13 Q. Okay. So how many people did you have out
14 there finding projectiles and shells?

15 A. Like I said, initially, I had Heather that was
16 assisting me. And then she was pulled off.

17 Q. Okay.

18 A. And it was me.

19 Q. And it was you?

20 A. Not a very big team.

21 Q. No. It's not a very big team.

22 So how many of these projectiles and shells did
23 Heather find before she was pulled off? Or did she
24 find any?

25 A. We didn't dictate that in the notes. Like I

1 said, a team effort until she pulled off. So I have
2 no idea.

3 Q. You have no idea how many she actually found
4 versus how many you actually found?

5 A. No. But if she was there and we were working
6 together, I assure you we communicated that.

7 Q. So when she was pulled off by -- was he a
8 lieutenant then?

9 A. Yes.

10 Q. Scotty is not a lieutenant anymore, is he?

11 A. No, he's not.

12 Q. What is he now?

13 A. He works at the academy.

14 Q. That's what I thought.

15 So when she was pulled off, did she give you
16 any notes as to where she found some of these items,
17 or did she put placards down -- I guess what I'm
18 trying to figure out is how did that information get
19 passed along to you?

20 A. I had my own notes where mine were the primary
21 notes for this scene. And she would have given me
22 information. I would have written it down in my
23 notes. She had her notes to the primary items of
24 evidence she was working at the scene that she
25 worked.

1 Q. Okay. But she was working the same scene that
2 you were working for a period of time?

3 A. Yes. If she found something, she would tell me
4 and I would document it.

5 Q. So she wouldn't have had her own individual
6 notes, she would have come running to you and say
7 look, I found -- she would stop what she was
8 doing --

9 A. That's the way it's supposed to be done.

10 Q. Okay. So that's the way she would handle it?

11 A. Yes, sir.

12 Q. Did she take any pictures of any items that she
13 found in the roadway, on the grass, or what have
14 you?

15 A. I was the photographer on the scene.

16 Q. She wouldn't have taken any pictures?

17 A. No, sir.

18 Q. And she was gone when y'all were -- or was she
19 gone during the daylight time?

20 A. I'm not sure what time she left. That would
21 depend on her notes as far as when they pulled her
22 off to do some stuff. I don't believe she returned.
23 I went ahead and finished out the scene at that
24 point.

25 Q. The placards that are placed out on the -- you

1 have many on the roadway, some on each side of the
2 roadway. Were you the one that physically placed
3 all the placards that are seen on these pictures?

4 A. Yes, sir.

5 Q. And I think you said -- did your numbers just
6 go to 40?

7 A. Yes, sir.

8 Q. The alphabet's only got 26 letters in it,
9 right?

10 A. Right. And I had a few of those.

11 Q. So when you placed those down, it was obviously
12 in daylight hours, or was it?

13 A. It was. You couldn't go looking till it was
14 daylight.

15 Q. You took pictures of each and every item that
16 you found with the placard there, then you moved on
17 to the next one; is that right?

18 A. Yes, sir.

19 Q. So you were out there about, I think you said,
20 four hours?

21 A. Five.

22 Q. Five hours. You seized a cell phone which was
23 on the hood of one of those vehicles, didn't you?

24 A. I don't know if I collected that or not. Is
25 that in the notes?

1 Q. I can't help you.

2 A. Uh-huh. I do see a cell phone, item B.

3 Q. Okay. Did you collect that cell phone?

4 A. I did.

5 Q. And in that, you seized that cell phone -- it
6 was cracked, wasn't it?

7 A. I'd have to see a photograph, but I believe it
8 was. I don't have it dictated as far as damage to
9 the phone here in my notes.

10 Q. So what did you do with that cell phone once
11 you seized it?

12 A. It would have been bagged and tagged and put in
13 my vehicle to take to put in evidence just like the
14 rest of the items.

15 Q. And you would have taken it to Lexington County
16 and then somebody else would have dealt with that in
17 terms of what information they wanted off the cell
18 phone?

19 A. Yes, sir. Now, that would have gone to Mike
20 Phipps.

21 Q. Gotcha. So how many shell casings did you
22 find?

23 A. I believe we have 41.

24 Q. 41 shell casings. Are you able to testify
25 under oath as to the types of the shell casings or

1 do we need to wait on some gun expert to testify
2 about what kind?

3 A. I can tell you the head stamp of each one from
4 my list.

5 Q. Okay.

6 A. I would have to look at that. But I do have a
7 list of what they are. Do you wish me to go through
8 each one?

9 Q. Not -- no. I'm not going to do each and every
10 one of them.

11 Can you tell me the different types of head
12 stamps that you were able to tell?

13 A. There were several. You have a Perfecta
14 nine-millimeter Luger, an FC nine-millimeter Luger,
15 GFL 40-caliber, a Winn 40-caliber, GFL 40-caliber.
16 I covered that. Let me see, go farther down and
17 there's a CBC nine-millimeter, S&B 14 by 9 by 19,
18 and then an NFCR nine-millimeter Luger. So there's
19 seven.

20 Q. And those are all the different types of shell
21 casings that you found, not counting the numbers of
22 whatever it is?

23 A. Yes. It's the head stamp of the manufacturer
24 company.

25 Q. I gotcha. And in that, you referenced

1 nine-millimeter. Those would be fired by a
2 nine-millimeter. And you referenced a 40-caliber or
3 something like that?

4 A. Yes, sir.

5 Q. That would be fired by something that fired a
6 40-caliber?

7 A. Yes, sir.

8 Q. And you referenced something earlier in terms
9 of shell casings versus projectiles. How many
10 projectiles were you able to find?

11 A. I believe we only found one on the scene in my
12 notes. I only see one and I'm looking through here
13 to scan just to make sure. But I believe there's
14 only one and that would be item G.

15 Q. So you had 40 shell casings found and only one
16 projectile, which means -- because you don't
17 normally find a lot of projectiles because that's
18 the end part of the bullet that's shot out, isn't
19 it?

20 A. Yes, sir.

21 Q. There is the possibility that you could have
22 fired -- or someone could have fired a
23 nine-millimeter weapon that did not leave shell
24 casings on the ground, isn't there?

25 A. That would depend on where they were when they

1 shot.

2 Q. Well, is there such a thing as a
3 nine-millimeter revolver?

4 A. I've never had one.

5 Q. Do you know?

6 A. There may be one.

7 Q. What is the distinction between a revolver and,
8 say, a nine-millimeter automatic?

9 A. Just like I said before, when you have shell
10 casings that eject from the weapon, that would be
11 considered a semi-automatic. And then an old school
12 wheel gun or revolver like I used to carry back in
13 the day stays in the weapon. It does not eject.
14 You have to eject it yourself.

15 Q. So in regards to your testimony of what you
16 found, you can only testify to those shell casings
17 that would have been ejected from weapons that were
18 fired at some point in time at that location, but
19 not two other weapons, obviously, that are
20 revolver-type weapons?

21 A. No, sir.

22 Q. Because they wouldn't leave their shell casings
23 behind?

24 A. No, sir.

25 MR. WILLIAMS: I beg the Court's indulgence one

1 moment.

2

3 BY MR. WILLIAMS:

4 Q. Do you have a head stamp that has NFCR on it?

5 A. Yes, sir.

6 Q. All right.

7 A. We have at least four.

8 Q. So that would be seven types of head stamps
9 that you have?

10 A. I didn't count how many I had. But, yeah,
11 you've got multiple.

12 Q. Can you tell from your list if you've got
13 seven?

14 A. I believe that's seven. I believe that's
15 right.

16 Q. Yes, sir.

17 MR. WILLIAMS: Your Honor, I believe that's all
18 I have at this time.

19 THE COURT: Mr. Mauldin?

20 MR. MAULDIN: Thank you, Your Honor.

21 CROSS-EXAMINATION

22 BY MR. MAULDIN:

23 Q. Let's go over these head stamps just again to
24 make sure. You've got Perfecta nine-millimeter; is
25 that right?

- 1 A. Yes, sir.
- 2 Q. You've got FC nine-millimeter?
- 3 A. Yes, sir.
- 4 Q. That's two. Does FC stand for something?
- 5 A. I don't know what company it is.
- 6 Q. FC nine-millimeter. And you've got a GFL
- 7 40-caliber; is that right?
- 8 A. Yes, sir.
- 9 Q. You got a Winston 40-caliber?
- 10 A. Yes, sir.
- 11 Q. You got a CBC nine-millimeter?
- 12 A. Yes, sir.
- 13 Q. NFCR nine-millimeter?
- 14 A. Yes, sir.
- 15 Q. A Winston nine-millimeter?
- 16 A. I believe we covered that one. But, yes, sir.
- 17 Q. Yes, sir. And an S&B 14 9 times 19?
- 18 A. Okay.
- 19 Q. So that's 8?
- 20 A. Okay.
- 21 Q. So that's eight kind of head stamps and eight
- 22 different kinds of shell casings wearing the 22
- 23 calibers; is that right?
- 24 A. Yes, sir.
- 25 Q. And the 9 by 19 is, basically, the same as

1 nine-millimeter; it's the same thing by a different
2 name, going by the diameter and the length there.

3 Now, when you and Clary are locating these
4 bullets, did you do that with a walk around and
5 looking for them? Is that what you did?

6 A. Yes, sir.

7 Q. Did you use a metal detector or anything?

8 A. No, sir.

9 Q. So there could have been bullets that you
10 missed?

11 A. I don't believe I did, sir.

12 Q. Could there -- did you check for bullets closer
13 to the roadway, Parrish Road?

14 A. Yes, sir.

15 Q. Bullets were coming from that way?

16 A. I walked down in the ditch, yes, sir.

17 Q. What about, did you check for bullets down in
18 the parking lot of the club -- or shell casings?

19 A. I didn't go down there because everything
20 information-wise we had from witnesses is that it
21 did not transpire down there. None of the shooting
22 took place down there.

23 Q. Do you always believe your witnesses?

24 A. I believe my investigators when they talk to
25 the witnesses and they get information. Yes, sir.

1 Q. And, of course, you don't know what -- you
2 weren't there, so you can't say what happened
3 between the event of these shells being shot out and
4 the time it was secured by the Lexington County
5 Sheriff's Department?

6 A. No, sir.

7 Q. As far as you know, anything could have
8 happened. People could have been driving cars
9 through people, like we have said; people could have
10 been picking things up off the ground. Anything
11 could have happened like that?

12 A. Yes, sir.

13 Q. I'm not going to go with flying saucers or
14 anything like that, but more realistic. And going
15 over the exhibit --

16 THE COURT: Folks, while we're looking for
17 something, everybody stand up and get some fresh
18 air. Move your body around a little bit.

19 BY MR. MAULDIN:

20 Q. Going back to State's 1. All right. When
21 we're looking at this thing here, here at the
22 bottom, it says not to scale. And that means that
23 it is a rough approximation of where these shell
24 casings were found; is that right?

25 A. Yes, sir.

1 Q. Now, you did conduct some measurements at the
2 scene, didn't you?

3 A. Yes, sir.

4 Q. And what were they?

5 A. Those were measurements of where the victim was
6 located in relation to the vehicle.

7 Q. Okay.

8 A. And, also, where the vehicles were located in
9 reference to a tree I believe that was also there.
10 We used the tree to measure where the victim was
11 also just so you could place them back at that
12 location.

13 Q. Okay. Now, did you prepare this diagram here?

14 A. No, sir.

15 Q. Okay. But you have prepared a previous diagram
16 in this case?

17 A. Yes, sir.

18 Q. And you reviewed that before your testimony
19 today?

20 A. This one, yes, sir.

21 Q. How about your own?

22 A. Yes, sir.

23 Q. Okay. Now, didn't -- on your diagram, didn't
24 you put number 27 way over here, right above 30?

25 A. I see that in the one that was done on the

1 computer.

2 Q. Yes, sir.

3 A. And I am looking in the hand notes, and it is
4 over to the front of the vehicles. So probably what
5 was taking place there was when you use the program
6 on the computer and you do the little box to do your
7 number and your letters, you drag it over. And I
8 take it for granted that that didn't drag when I was
9 working on that diagram.

10 Q. Oh.

11 A. But that does happen.

12 Q. Okay. I mean, you can't really say how far
13 apart 9 and 25 are here?

14 A. No. We did not measure between each placard,
15 no, sir.

16 Q. Or between 1 and this Kia Optima?

17 A. No, sir.

18 Q. Or 1 and 2, you can't say how far apart they
19 are?

20 A. No, sir.

21 Q. Or -- so -- okay. Well, they showed some
22 pictures, I guess. What do you call it when you
23 first take the pictures, it's establishment?

24 A. Just general photos, outside perimeter.

25 Q. Establishment. And I think one of those photos

1 was of the deceased next to the car; is that
2 correct?

3 A. Say it again.

4 Q. The deceased next to the car?

5 A. Yes.

6 Q. Did you ever perform a GSR test on him, a GSR
7 wipe to determine whether or not he had shot a gun?

8 A. I do not see that in my notes that one was
9 performed.

10 Q. Did you ever do one on a Brandon Jeffery?

11 A. I don't see that on my notes.

12 Q. Did you do one on an O'Brien Gilliam?

13 A. I don't know that I did, sir.

14 Q. Did you do one on an Andy Barnes?

15 A. I do not see that I did a GSR on anyone.

16 Q. All right. And kind of go back to what Theo
17 was saying, if somebody had a revolver and shooting
18 and didn't unload the revolver and dump the shells
19 on the grounds, those shells wouldn't be on the
20 ground; is that right?

21 A. That's right.

22 MR. MAULDIN: No further questions.

23 THE COURT: Redirect?

24 MS. FULLER: Yes, Your Honor.

25 REDIRECT EXAMINATION

1 BY MS. FULLER:

2 Q. On cross, you were asked a question about sand.
3 I just want to be clear, as it relates to sand and
4 pavement, I want to make sure your testimony was
5 clear when you stated this: In terms of where
6 casings were located by you on that early morning,
7 your testimony -- I want to make sure I heard it
8 clearly -- was that if someone was walking over or
9 driving that it's more likely that where the casing
10 fell is where it was pressed into the sand as
11 opposed to pavement? Is that correct?

12 A. Yes. It's more likely when you have soft dirt
13 and have something heavy stepping onto an item like
14 that, it would press down where it was. It can
15 travel, but more than likely, it will press down.

16 When you work in an area like the city of
17 Columbia and it's mostly pavement, they go
18 everywhere; you hit them and they have all kind of
19 damage and are like marbles.

20 Q. So based on where you placed these placards --
21 and you heard me when we opened the packaging, some
22 fell out, was that because when you recovered and
23 packaged the casing, they were -- some of them were
24 pressed down in the sand?

25 A. Yes, ma'am.

1 Q. Okay. You were also asked about -- the length
2 of time you were on scene, which was approximately
3 five hours, you said?

4 A. Yes, ma'am.

5 Q. And how long have you been in law
6 enforcement -- or was in law enforcement?

7 A. I retired 26 years total with this, but
8 Homeland, about 30 or 31.

9 Q. And how long of that have you spent processing
10 crime scenes?

11 A. Sixteen.

12 Q. And of those 16 years, based on that experience
13 and you processing this crime scene for over five
14 hours, do you believe you missed any casings?

15 A. To the best of my knowledge, no.

16 Q. Okay. And five hours on a crime scene, is that
17 a long amount of time or a short amount of time?

18 A. It can be longer and it can be shorter, but
19 that's a considerable amount of time to spend in one
20 location.

21 Q. And that's time that you spent there, correct?

22 A. Yes, ma'am.

23 Q. And when you were asked about this team, I just
24 want to make sure I understand this correctly. You
25 have handwritten notes from processing this crime

1 scene; is that correct?

2 A. Yes, ma'am.

3 Q. And so when another investigator was out there
4 assisting you, can you walk me through what that
5 process would have been like? And I'll give the
6 example: Heather Clary would have found a casing.
7 What, if anything, did you do if she said, hey, I
8 found a casing?

9 A. Protocol that I follow with my crime scenes, if
10 I'm the head crime scene person that manages it,
11 like in this case, if you find something, you stop
12 and tell me, and we'll put a placard by it. I will
13 document it, which means it goes in my notes, and
14 then we photograph it.

15 Now, it's similar to the way a search warrant
16 works where if you find something, you tell someone;
17 they document it, and you collect it from there.
18 That's how I do mine. So I'm the one that writes
19 down the notes and I'm the one that collects it.
20 They are just assisting me to tell me they found it.
21 Hold your hand up like a child in class.

22 Q. And hold your hand up, and they wait for you to
23 come to where they are?

24 A. That's right. Don't touch it.

25 Q. It's your crime scene?

1 A. Unlike TV.

2 Q. Because it's your crime scene, you're
3 controlling this crime scene?

4 A. Right.

5 Q. Looking at State's Exhibit 1 that was generated
6 for the purposes of the court. And, yes, it's not
7 to scale, but, generally, do you see where CSI
8 marker 19 is reflected where I'm pointing?

9 A. Yes, ma'am.

10 Q. And in relation to the vehicle, do you see
11 where it is?

12 A. Yes, ma'am.

13 Q. Looking at State's 288, do we also have the
14 photograph to rely on to see where 19 is in this
15 photograph?

16 A. In the general area, yes, ma'am.

17 Q. And looking at the general area of where 19 is
18 in this photograph, is that generally reflected on
19 that crime scene diagram that was generated for
20 court here today?

21 A. Yes, ma'am.

22 Q. Looking also at 27, and I'll point to it here,
23 do you see that here?

24 A. Yes, ma'am.

25 Q. And you see it in relation to the vehicles?

1 A. Yes, ma'am.

2 Q. Also, looking at the diagram -- sorry, the
3 photograph that's enlarged, State's 288, do you see
4 27 in this photograph as well?

5 A. Yes, ma'am.

6 Q. And this would have been photographs that you
7 yourself -- I don't know if that's the correct
8 phrasing. You took these photographs?

9 A. Yes, ma'am.

10 Q. And you see 27 there as well?

11 A. Yes, ma'am.

12 Q. And where it's reflected on that diagram for
13 court, you can rely on the photograph for it's
14 position as well, correct?

15 A. Yes, ma'am.

16 Q. And so on cross, the software error was just an
17 error. And you can rely on your notes and
18 photographs, as far as where casings were recovered,
19 correct?

20 A. Yes, ma'am.

21 Q. Generally looking at the -- I don't want to
22 call it paved road or unpaved road. In this
23 photograph here, looking back at 288, the camera
24 where you were standing would be in front of that
25 Stratus, correct, or in front of the vehicles?

1 A. Yes, ma'am.

2 Q. And, approximately, looking at this, do you
3 recall what the width and length of that roadway
4 would have been on the day that you processed it? I
5 guess, generally the dirt part?

6 A. I'm looking to see if we measured it, and I do
7 not see it.

8 Q. Tell me what measurements you do have --

9 A. Well, the measurements we have is just where
10 the victim was laying at the time he was found, from
11 a tree as a base and then where the Stratus and the
12 Kia was located. The roadway -- the reason we
13 didn't measure it, I can tell you, was because it
14 was so erratic. It's not like the paved road out
15 front, so you're not going to get a really good
16 measurement. So we didn't measure it width-wise.

17 Q. So what I'm referring to is from the Stratus
18 to, I guess, maybe where the grass starts here, you
19 don't have a measurement?

20 A. We do have one measurement from 19; to the
21 front of the car was 20 foot, nine inches.

22 Q. And that's from -- and I'm pointing for the
23 jury marker 19 to the Dodge Stratus?

24 A. Yes, ma'am.

25 Q. And that would be the width of this roadway

1 that's in this photograph?

2 A. Generally.

3 Q. Generally.

4 MS. FULLER: No further questions.

5 MR. WILLIAMS: Just one question in recross.

6 RE CROSS-EXAMINATION

7 BY MR. WILLIAMS:

8 Q. Her name is -- Heather was your helper that
9 day?

10 A. Yes, sir.

11 Q. Did Heather deal with the vehicles? You said
12 Scotty gave her something to do. Did she --

13 A. She did take care of all the vehicles. I
14 believe she went and took photographs and then
15 processing. And they were also towed to
16 headquarters, some of those, or they met us later.
17 I believe she did those.

18 Q. So she would have been the ones to deal with
19 the items inside the vehicles, the measurements
20 where the fragments would have been located in terms
21 of on the vehicles that had been shot?

22 A. Yes, sir.

23 Q. That's all her stuff, right?

24 A. Yes, sir.

25 MR. WILLIAMS: I think that's all I have, Your

1 Honor.

2 THE COURT: All right.

3 Mr. Mauldin?

4 MR. MAULDIN: I have no further questions.

5 THE COURT: All right. The witness may step
6 down.

7 Y'all come up real quick.

8 (Sidebar conference.)

9 THE COURT: Ladies and gentlemen, at this point
10 today, instead of starting another witness, we're
11 going to break for the day now. What I'm going to
12 ask is be back in your jury room again tomorrow
13 morning at 8:45. And we didn't quite start at 9:00
14 like I wanted to this morning. That's on me. We'll
15 shoot to do that tomorrow morning.

16 And please don't discuss the case while you're
17 out tonight. Don't discuss the case or anyone
18 involved with the case while you're still in the
19 courthouse today or after you exit. You know, it's
20 4:40, but it's been a long day. Get some rest
21 tonight, come back recharged tomorrow morning ready
22 to listen to more testimony.

23 Otherwise, y'all have a good night. See you in
24 the morning, 8:45 in the jury room.

25 (The jury exits the courtroom at 4:40 PM.)

1 THE COURT: Just for tomorrow, in our effort to
2 try to streamline things, we'll order lunch again
3 for the jury tomorrow with an attempted time of
4 delivery around 12:30. I realize we don't know
5 where witness testimony is going to go, but to the
6 extent we can plan around that, let's try.

7 I recognize that may not work out exactly
8 right, but that's okay. We'll ask it to be
9 delivered at 12:30 and, hopefully, it will be
10 reasonably on time.

11 Mr. Williams?

12 MR. WILLIAMS: Your Honor, thank you. While we
13 had the jury, I think I commented I would like to
14 place a formal objection in regards to the
15 introduction that had to do with the foundation of
16 the shells and the locations that were -- that this
17 witness was entering -- was identifying and placing
18 into evidence.

19 Your Honor, that foundation I think has become
20 clearer, if you will, based on his testimony when he
21 indicated that he had a helper there by the name of
22 Heather and that she actually discovered some of the
23 shells. But he didn't designate which ones she
24 discovered.

25 So, Your Honor, my objection would actually go

1 to the fact that he was identifying -- and placed --
2 and items were being placed in evidence of shells
3 which somebody else actually found as opposed to
4 having that individual present who could testify to
5 those shells when they were placed into evidence.

6 THE COURT: Any response from the State?

7 MS. FULLER: No response, Your Honor.

8 THE COURT: We've talked about it at our bench
9 conference, and I attempted to get a little bit more
10 information. He testified he was there for when all
11 the placards were being placed, and photographed
12 them all. He was on the scene. In my opinion, he's
13 fine to testify to it and the proper foundation was
14 made.

15 Your objection is noted for the record.

16 MR. WILLIAMS: Thank you, Your Honor.

17 THE COURT: Anything else for today?

18 MS. FULLER: Nothing from the State, Your
19 Honor.

20 MR. WILLIAMS: 8:30 in the morning, Your Honor?

21 THE COURT: Will the courtroom open at 8:30 in
22 the morning, is that what you're asking?

23 MR. WILLIAMS: No. I was asking, do you want
24 us here at 8:30 in the morning?

25 THE COURT: I want the jury here by 8:45. As

1 long as you're here by 8:44, I think you're safe.

2 Anything else for the record?

3 MS. FULLER: Nothing from the State, Your
4 Honor.

5 THE COURT: All right.

6 (The following proceedings were held November
7 17, 2021.)

8 THE COURT: Are we ready to go?

9 MS. FULLER: Yes. The State is ready.

10 THE COURT: Mr. Williams, Mr. Mauldin, are
11 y'all ready to go?

12 MR. MAULDIN: Absolutely, Your Honor.

13 MR. WILLIAMS: Yes, sir.

14 THE COURT: Well, let's bring them on up.

15 MS. FULLER: Wait. My victims aren't in here.

16 THE COURT: We'll give them another minute.

17 (Brief pause in the proceedings.)

18 THE COURT: All right. Bring them in.

19 (The jury enters the courtroom at 9:11 AM.)

20 THE COURT: All right. Madam Forelady, ladies
21 and gentlemen of the jury, welcome back. Hope you
22 had a nice evening, got some rest. We will continue
23 where we left off yesterday with the next witness in
24 the State's case in chief.

25 Madam Solicitor.

1 MS. FULLER: The State calls Heather Clary.

2

3 HEATHER CLARY

4 being first duly sworn, testified as follows:

5 THE WITNESS: I swear.

6 THE CLERK: Have a seat take your mask off.

7 State your name and spell your last name for the

8 record.

9 THE WITNESS: Heather Clary, C-L-A-R-Y.

10 DIRECT EXAMINATION

11 BY MS. FULLER:

12 Q. Ms. Clary, where are you currently employed?

13 A. The Greenwood County Sheriff's Office.

14 Q. And back in June of 2015, where were you
15 employed?

16 A. The Lexington County Sheriff's Office.

17 Q. And what was your position there?

18 A. I was a crime scene investigator.

19 Q. And how long were you a crime scene
20 investigator?

21 A. I have been a crime scene investigator since
22 September 2014.

23 Q. Okay. And in law enforcement, how long have
24 you been in law enforcement total?

25 A. This April will be ten years.

1 Q. Okay. Back in June of 2015, were you involved
2 in this case?

3 A. Yes.

4 Q. Starting with responding to Palmetto Health
5 Richland, do you recall responding there?

6 A. Yes.

7 Q. What was the purpose of responding there?

8 A. There was a victim at the hospital that needed
9 his injuries photographed, his clothing collected,
10 and a GSR kit collected from him.

11 Q. And just for the record, what date did you
12 respond to Palmetto Health Richland?

13 A. June 6th, 2015.

14 Q. And who was the individual that you met with
15 while you were there?

16 A. Antonio Stroman.

17 Q. And when you met with Antonio Stroman, what, if
18 anything, did you collect from him specifically?

19 A. Specifically, I collected his clothing and
20 photographs and a GSR kit.

21 Q. I'm going to hand you what's been pre-marked as
22 State's Exhibit 348 and ask you if you recognize it.

23 A. Yes.

24 Q. And how do you recognize that?

25 A. This is the GSR kit that I collected. I

1 recognize it by my handwriting, as well as the case
2 number.

3 Q. And for the record, State's 348.

4 And who is the individual named on there?

5 A. Antonio Stroman.

6 MS. FULLER: At this time, Your Honor, the
7 State seeks to introduce State's Exhibit 348 into
8 evidence.

9 MR. WILLIAMS: Without objection on behalf of
10 Brannon, Your Honor.

11 MR. MAULDIN: No objection, sir.

12 THE COURT: State's Exhibit 348 admitted into
13 evidence.

14 (State's Exhibit No. 348 admitted into
15 evidence.)

16 BY MS. FULLER:

17 Q. What is GSR?

18 A. Gunshot residue.

19 Q. Can you briefly describe your method of
20 collecting a sample?

21 A. These kits come pre-sealed with four canisters
22 that have a removable top. Inside the top is an
23 adhesive, almost like a tape surface. And they are
24 marked left palm, left back, right palm, right back.

25 And you just use the adhesive from the left

1 palm and dab it all over the left palm and close
2 that container. The same for the left back, for the
3 right palm, and the right back. Then you seal the
4 kit.

5 Q. And that's what you did in this case?

6 A. Yes.

7 Q. Moving on to the Hill View Truck Stop, did you
8 have an opportunity to respond there as it relates
9 to this case?

10 A. Yes.

11 Q. What is the address of the Hill View Truck
12 Stop?

13 A. 2656 Ben Franklin Road.

14 Q. And what was the purpose of responding there?

15 A. I was advised that there was a car there that
16 was involved in this incident that needed
17 photographed before being towed.

18 Q. Do you remember approximately what time you
19 arrived there?

20 A. At 0620 hours.

21 Q. And when you arrived on scene, what, if
22 anything, did you observe?

23 A. There was a gray Dodge Charger in the parking
24 lot. It had a damaged right -- correction,
25 passenger front tire.

1 Q. Okay. I'm going to show you what's already in
2 evidence, photograph, State's Exhibits 79 and 80,
3 and ask if you recognize it.

4 MS. FULLER: I apologize, Your Honor. I didn't
5 ask permission to move about the courtroom.

6 THE COURT: Proceed.

7 MS. FULLER: Thank you.

8 BY MS. FULLER:

9 Q. Showing you State's Exhibits 79 and 80 and ask
10 if you recognize it.

11 A. Yes.

12 Q. How do you recognize them?

13 A. These are the photos that I took of the Charger
14 at the Hill View Truck Stop.

15 MS. FULLER: Publishing again today for the
16 record, showing 79.

17 BY MS. FULLER:

18 Q. When you arrived to the Hill View Truck Stop,
19 was the vehicle or that area secured by other law
20 enforcement officers?

21 A. Yes.

22 Q. And what would that mean for you?

23 A. It means that once they responded and provided
24 First Aid, they didn't allow anybody else to enter
25 that area to make sure no evidence would be

1 disturbed.

2 Q. And this photograph is of the vehicle once you
3 arrived on scene?

4 A. Yes.

5 Q. And also, State's 80, just another close-up of
6 the front passenger side?

7 A. Yes.

8 Q. I'm going to show you what's also been marked
9 for ID as State's 81, 82, 83, and 84.

10 MS. FULLER: I previously showed defense
11 counsel these photos yesterday.

12 BY MS. FULLER:

13 Q. Do you recognize these photographs?

14 A. Yes. These are also photographs of the Charger
15 at the Hill View.

16 Q. Do they appear to be altered in any way?

17 A. No.

18 Q. And these are photos that you took yourself?

19 A. Yes.

20 MS. FULLER: Your Honor, at this time, the
21 State seeks to introduce State's 81, 82, 83, 84 into
22 evidence.

23 MR. WILLIAMS: Your Honor, if we could just
24 look at them before they go. We saw some photos
25 yesterday, and we just want to make sure we're

1 dealing with the same ones.

2 On behalf of Defendant Brannon, we have no
3 objection, Your Honor.

4 MR. MAULDIN: No objection, Your Honor.

5 THE COURT: State's Exhibit Nos. 81, 82, 83,
6 and 84 admitted into evidence.

7 (State's Exhibit Nos. 81 through 84 admitted
8 into evidence.)

9 MS. FULLER: Now publishing State's 81.

10 BY MS. FULLER:

11 Q. Can you go ahead and describe to the jury what,
12 if anything, of significance was in this photograph?

13 A. This photograph shows the damage to the tire as
14 well as the defects in the passenger's side.

15 And I'm not sure if you can see it clearly, but
16 there is a marker on the ground next to the
17 passenger door.

18 Q. Okay. And going into 82, is that the marker
19 you're describing?

20 A. Yes.

21 Q. Then going into 83, is that a close-up of the
22 marker?

23 A. Yes.

24 Q. And then also 84, the contents, what was in the
25 marker?

1 A. That is the projectile that was located within
2 the marker.

3 Q. Okay. I'm going to show you State's Exhibit
4 302 --

5 MS. FULLER: Beg the Court's indulgence.

6 BY MS. FULLER:

7 Q. All right. Showing you what's been marked
8 State's Exhibit 302 and ask if you recognize it.

9 A. Yes.

10 Q. And what do you recognize that to be?

11 A. That is the projectile that was next to the
12 Dodge Charger.

13 Q. And you collected this yourself?

14 A. Yes.

15 Q. And is this your handwriting on the packaging?

16 A. Yes.

17 MS. FULLER: At this time, Your Honor, State
18 seeks to introduce State's Exhibit 302 into
19 evidence.

20 MR. WILLIAMS: Without objection.

21 MR. MAULDIN: No objection, sir.

22 THE COURT: State's Exhibit No. 302 is admitted
23 into evidence.

24 (State's Exhibit No. 302 admitted into
25 evidence.)