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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Beaufort County

Honorable Heath P. Taylor, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

DELMAR RACORY SANDERS,

APPELLANT

APPELLATE CASE NO. 2022-001243

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THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

COURT’S EXHIBIT #3 (DEFENDANT’S INTERVIEW)

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

IN THE COURT OF COMMON PLEAS
FOR THE 14th JUDICIAL CIRCUIT
2021-GS-07-01219 - 01221

State of South Carolina,

Plaintiff,

vs.

Delmar R. Sanders,

TRANSCRIPT OF JURY TRIAL
VOLUME I
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Defendant.

August 22, 2022
Beaufort, South Carolina

B E F O R E:

The Honorable Heath P. Taylor, Judge Presiding

Kymberlee M. Williams, CSR/RPR
Official Circuit Court Reporter III
Post Office Box 8091
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MONDAY, August 22, 2022

BEAUFORT, SOUTH CAROLINA

(The following proceedings were heard in open court. The defendant was present along with his attorney as well as the attorney for the State of South Carolina.)

* * *

JURY SELECTION

THE COURT: Madam Clerk, are we ready to proceed on State v. Delmar Sanders?

MADAM CLERK: All jurors are present, Your Honor.

THE COURT: All right. Now, I have some
voir dire from the defense.

Anything additional from the State?

MS. JONES: No additional voir dire, Your Honor.

THE COURT: Okay. Good morning, ladies and gentlemen.

JURORS: Good morning.

THE COURT: We are about to begin the trial of the case of the State of South Carolina v. Delmar Sanders. I know you'all were in here

1 when Judge Mullen selected the last jury, but I
2 have a similar set of questions that I have to
3 ask you all, as we proceed.

4 MS. JONES: Your Honor, I haven't called
5 the case yet.

6 THE COURT: Okay, sorry. Go ahead.

7 MS. JONES: Thank you, Your Honor.

8 Your Honor, the State calls Delmar Sanders.
9 He is here before the Court on three
10 indictments, 2021-GS-07-1219, 1220 and 1221.

11 He is here for the charges of attempted
12 murder, murder, and possession of a weapon
13 during the commission of a violent crime. Thank
14 you.

15 THE COURT: All right. Thank you.

16 MS. PAULK: Your Honor, Seth Paulk for the
17 defense. I represent my client, Mr. Delmar
18 Sanders, who is also here today.

19 THE COURT: Do we have a witness list?
20 Okay.

21 Ms. Jones, would you like to enter these?

22 MS. JONES: Yes, thank you, Your Honor.

23 THE COURT: Please continue.

24 MS. JONES: Good afternoon, my name is Mary
25 Jones, and I'm an Assistant Solicitor here in

1 Beaufort County. As Ms. said earlier, that it's
2 just a fancy term for prosecutor. Seated with
3 me this week is Makia Janis, she is also an
4 Assistant Solicitor in Beaufort County, as well
5 as Investigator James Tunis, who's with the
6 Beaufort County Sheriff's Office.

7 You may also see another man seated with us
8 here is my investigator with my office, the
9 Fourteenth Circuit Solicitor's Office. Thank
10 you.

11 THE COURT: Madam Clerk, is the panel
12 sworn?

13 MADAM CLERK: Yes, Your Honor.

14 THE COURT: Okay. All right, ladies and
15 gentlemen, I'm gonna have a series of questions
16 like you heard earlier.

17 Is anyone related by blood or marriage to
18 Mr. Delmar Sanders?

19 Does any member of the jury panel have a
20 close personal or social relationship with Mr.
21 Sanders?

22 The following is a list of potential
23 witnesses in this case, and it's lengthy, and
24 some of them may be duplicative, so I'm sorry if
25 I read them twice.

1 Allyson Moriera, Daniel Boone, Owen Lamb,
2 Adam Draison, Dustin Kline, Cody Fulcher, Taryn
3 Swalm, Daniel Oelschlager, Stuart Mankin, Craig
4 Garcia, William Gray, Nick Thomas, Sean Toomey,
5 Adam Jezewski, J-E-Z-E-W-S-K-I, Daniel Ireland,
6 Kyle Byrd, James Tunis, Todd Duncan, Pat Murphy,
7 David Tafoya, Edie Aiken, Dylan Hightower,
8 Jennifer Nates, June Mulligan, James Galloway,
9 Matthew Pastore, Neal Patel, Sam Patel, Rhonda
10 Randall, Gerald Moultrie, Michael Middleton,
11 Yolanda Yvette Young-Riley, Dr. Erin Presnell,
12 Todd Duncan, Robert Byrd, Daniel Boone, Stuart
13 Mankin, Owen Lamb, Greg Garcia, William Gray,
14 Andrew Garinger, Allyson Moriera, David Ott,
15 Dylan Hightower, Derek Nelson, Delmar Sanders,
16 Adrien Johnson, Tanisha Johns, Robert
17 Brownfield, Ernest Williams, Gerald Moultrie,
18 Keith Johnson, Erin Presnell, Jamie Garden,
19 Leslie Terrell, David Terrell, Tiffany Lovette,
20 Douglas Tisdale, that's all those.

21 Is anyone related by blood or marriage to
22 any of the folks I just listed, or does anyone
23 ever had a close personal or social relationship
24 with any of these people? Yes, sir?

25 JUROR 299: 299, I know David Ott from him

1 working at the Coroner's Office, me working at a
2 funeral home.

3 THE COURT: Who?

4 JUROR 299: David Ott.

5 THE COURT: David Ott? Would that
6 relationship with Mr. Ott prevent you from being
7 fair and impartial in this case?

8 JUROR 299: No, sir.

9 THE COURT: Has any member of the jury
10 panel ever been represented by any of the
11 attorneys involved in this case? Is anyone
12 related by blood or marriage, or have a close
13 personal or social relationship with any of the
14 attorneys involved in this case? Has any member
15 -- oh, yes, ma'am.

16 JUROR 1: Juror number 1.

17 THE COURT: Yes, ma'am.

18 JUROR 1: I play tennis with Courtney
19 Gibbes.

20 THE COURT: Would playing tennis with Ms.
21 Gibbs prevent you from being fair and impartial
22 in this case?

23 JUROR 1: No.

24 THE COURT: Has any member of the jury
25 panel formed or expressed an opinion about any

1 issue or matter involved in this case? Is any
2 member of the jury panel aware of any bias or
3 prejudice towards either State or the Defendant
4 in this case? Is there any member of the jury
5 panel that was a member of the Grand Jury which
6 issued the indictment in this case? Does any
7 member of the jury panel have any knowledge of
8 this case, or any potential witnesses, whether
9 personal knowledge, or through social, print or
10 broadcast media? Is any member of the jury, or
11 anyone close to you a member of a law
12 enforcement agency, including a federal or
13 military law enforcement agency? Have you, or a
14 family member, or a close personal friend ever
15 been represented -- oh, sorry.

16 JUROR 283: My daughter was a military
17 police at the Police Academy.

18 THE COURT: Okay, what is your juror
19 number?

20 JUROR 283: 283.

21 THE COURT: Would that prevent you from
22 being fair and impartial in this case?

23 JUROR 283: No.

24 JUROR : Previous law enforcement or
25 current law enforcement?

1 THE COURT: Current or previous.

2 JUROR 27: Previous, my father-in-law was a
3 police detective in Beaufort County.

4 THE COURT: Okay, and what is your --

5 JUROR 27: Juror number 27, sorry.

6 THE COURT: 27.

7 JUROR 27: He is retired.

8 THE COURT: All right.

9 JUROR 100: Juror 100, retired police
10 officer.

11 THE COURT: And, ma'am --

12 JUROR 27: Yes.

13 THE COURT: -- can you still be fair and
14 impartial --

15 JUROR 27: Yes.

16 THE COURT: -- despite that?

17 JUROR 27: Yes.

18 THE COURT: All right.

19 JUROR 27: He's been retired for a while.

20 THE COURT: All right. Sir, you're juror
21 number 100?

22 JUROR 100: 100.

23 THE COURT: And you're retired law
24 enforcement?

25 JUROR 100: Yes.

1 THE COURT: Do you believe you can still be
2 fair and impartial to both sides in this case?

3 JUROR 100: Yes, I do.

4 THE COURT: All right. And the one in the
5 blue shirt.

6 JUROR 20: Juror 20.

7 THE COURT: 20.

8 JUROR 20: My brother was the former
9 Sheriff of Colleton County.

10 THE COURT: Do you believe you can be fair
11 and impartial in this case?

12 JUROR 20: I believe I can.

13 THE COURT: All right. Yes, sir?

14 JUROR 136: 136. My mom is retired now,
15 but she was a police officer for the Air Force.

16 THE COURT: Do you believe you can be fair
17 and impartial in deciding this case?

18 JUROR 136: I do.

19 THE COURT: Yes, ma'am?

20 JUROR 161: 161, I have a brother-in-law
21 who's an officer with Port Royal, and another
22 brother-in-law who's an officer with Florence.

23 THE COURT: All right. Having that in
24 mind, do you believe you can be fair and
25 impartial moving forward?

1 JUROR 161: Yes.

2 THE COURT: Yes, ma'am?

3 JUROR 263: 263, my brother-in-law is with
4 Bluffton P.D.

5 THE COURT: Okay.

6 JUROR 263: Bluffton, I'm sorry.

7 THE COURT: Do you believe you can be fair
8 and impartial in this case?

9 JUROR 263: Yes.

10 THE COURT: Yes, ma'am.

11 JUROR 21: I am number 21, my mom's a
12 retired undercover detective.

13 THE COURT: Do you believe you can be fair
14 and impartial with both sides in this case?

15 JUROR 21: Uh-huh, yes.

16 COURT REPORTER: Is that a yes?

17 JUROR 21: Yes.

18 THE COURT: No more Yes, ma'am.

19 JUROR 317: 317, I have a brother that's in
20 the military, I have a cousin that's in the
21 military, a cousin, and the current gentleman
22 that I date was injured in the line of duty,
23 which now he's disabled from his injuries.

24 THE COURT: Having that in mind, do you
25 believe you can be fair and impartial in this

1 case?

2 JUROR 317: Yes.

3 THE COURT: Have you, a family member, or a
4 close personal friend ever been represented by a
5 Solicitor's Office, or other law enforcement
6 office, as a victim in a criminal case? Have
7 you ever participated in a ride-along, or other
8 training program with law enforcement? Does any
9 member of the jury panel follow the Fourteenth
10 Circuit Solicitor's Office, Beaufort County
11 Sheriff's Office, Beaufort City Police
12 Department, or Port Royal Police Department on
13 social media? Yes, ma'am?

14 JUROR 35: 35, I follow the Sheriff's
15 Department.

16 THE COURT: Yes, ma'am?

17 JUROR 161: 161, Sheriff's Office on
18 Facebook.

19 THE COURT: Do you believe that would
20 prevent you from being fair and impartial in
21 this case?

22 JUROR 161: No.

23 THE COURT: Yes, ma'am?

24 JUROR 142: Same, just follow on Instagram
25 and and Facebook.

1 THE COURT: What --

2 JUROR 142: 142. It shouldn't be.

3 THE COURT: Do you believe that would
4 prevent you from being fair and impartial?

5 JUROR 142: No.

6 THE COURT: Yes, ma'am?

7 JUROR 116: 116, follow them on Facebook as
8 well.

9 THE COURT: Do you believe that would
10 prevent you from being fair and impartial?

11 JUROR 116: No.

12 THE COURT: Does any member of the panel
13 have such strong feelings for or against law
14 enforcement officers, that you would be unable
15 to give the Defendant or the State a fair trial?
16 Is there any member of the jury panel who has a
17 family member or friend, and this is kind of
18 personal, so if you need to come forward, I'm
19 okay with that.

20 Is there any member of the jury panel who's
21 had a family member or friend who has overdosed,
22 been admitted, or received treatment for drug
23 use?

24 THE COURT: All right. All right, we're
25 about done, folks.

1 Is there any member of the jury panel who's
2 a member of or a contributor to any group which
3 has, as its primary concern, the promotion of
4 law enforcement or victims' rights? These
5 groups would include, but certainly not be
6 limited to Mothers Against Drunk Driving,
7 Students Against Drunk Driving, Citizens Against
8 Violent Crime, various organizations that
9 promote shelters for domestic violence?

10 Yes, ma'am?

11 JUROR 55: 55. I contribute to Mothers
12 Against Drunk Driving.

13 THE COURT: Do you believe that would
14 prevent you from being fair and impartial in
15 this case? Is that a no?

16 JUROR 55: No.

17 THE COURT: Okay, thank you. Yes, sir?

18 JUROR 38: Number 38, our church has
19 contributed to CAVA.

20 THE COURT: Do you believe that would
21 prevent you from being fair and impartial in
22 this case?

23 JUROR 38: No.

24 THE COURT: Yes, ma'am?

25 JUROR 322: 322, I've donated to CAVA.

1 THE COURT: Do you believe that would
2 prevent you from being fair and impartial in
3 this case?

4 JUROR 322: No, sir.

5 THE COURT: Yes, sir?

6 JUROR 340: Juror 340, I'm close friends
7 with the Legal Director for the ACLU, and I
8 sympathetic and donate to the cause.

9 THE COURT: Do you believe that would
10 prevent you from being fair and impartial in
11 this case?

12 JUROR 340: No.

13 THE COURT: Yes, ma'am?

14 JUROR 191: Hi, 191, I'm a contributor to
15 Mothers Against Drunk Driving.

16 THE COURT: Do you believe that would
17 prevent you from being fair and impartial in
18 this case?

19 JUROR 191: No, it will not.

20 THE BAILIFF: I think you have one more.

21 THE COURT: Yes, sir. One final one,
22 ladies and gentlemen, has any member of the jury
23 ever had a close personal, or social
24 relationship, or related by blood or marriage to
25 Deonne McLendon.

1 CLERK: Ladies and gentlemen, when your
2 number is called, please stand. The State and
3 the defense will either accept you, or seat you,
4 and if you are selected, please come join us in
5 the jury box, and bring all your belongings.
6 Juror 195, what say the State?

7 MS. JONES: Please present the juror.

8 CLERK: What say the defense?

9 MR. PAULK: Please seat this juror.

10 THE BAILIFF: Come right into the jury box,
11 ma'am.

12 CLERK: Juror number 317. What say the
13 State?

14 MS. JONES: Please present the juror.

15 MR. PAULK: Please excuse this juror.

16 THE BAILIFF: Have a seat, ma'am.

17 CLERK: Juror 147. What say the State?

18 MS. JONES: Please present the juror.

19 CLERK: What say the defense?

20 MR. PAULK: Please seat this juror.

21 THE BAILIFF: Please come to the jury box,
22 sir.

23 CLERK: Juror number 38. What say the
24 State?

25 MS. JONES: Please excuse this juror.

1 THE BALIFF: Please have a seat, SIR.
2 CLERK: Number 65.
3 THE BAILIFF: Number 65.
4 CLERK: What say the State?
5 MS. JONES: Please present the juror.
6 CLERK: What say the defense?
7 MR. PAULK: Please excuse this juror.
8 THE BAILIFF: Please have a seat, sir.
9 CLERK: Number 136. What say the State?
10 MS. JONES: Please present this juror.
11 CLERK: What say the defense?
12 MR. PAULK: Please seat this juror.
13 THE BAILIFF: Please come to the jury box,
14 sir.
15 CLERK: Number 62. What say the State?
16 MS. JONES: Please present this juror.
17 CLERK: What say the defense?
18 MR. PAULK: Please seat this juror.
19 THE BAILIFF: Please come to the jury box,
20 ma'am.
21 CLERK: Number 304. What say the State?
22 MS. JONES: Please present this juror.
23 CLERK: What say the defense?
24 MR. PAULK: Please seat this juror.
25 THE BAILIFF: Please come to the jury box,

1 sir.

2 CLERK: 243. What say the State?

3 MS. JONES: Please present this juror.

4 CLERK: What say the defense?

5 MR. PAULK: Please excuse this juror.

6 THE BAILIFF: Please have a seat, ma'am.

7 CLERK: Juror 314. What say the State?

8 MS. JONES: Please present this juror.

9 CLERK: What say the defense?

10 MR. PAULK: Please seat this juror.

11 THE BAILIFF: Please come to the jury box,

12 sir.

13 CLERK: Juror 150. What say the State?

14 MS. JONES: Please present this juror.

15 CLERK: What say the defense?

16 MR. PAULK: Please excuse this juror.

17 BAILIFF: Please have a seat, ma'am.

18 CLERK: Juror 167. What say the State?

19 MS. JONES: Please present this juror.

20 CLERK: What say the defense?

21 MR. PAULK: Please seat this juror.

22 THE BAILIFF: Please come to the jury box,

23 ma'am.

24 CLERK: Number 27. What say the state?

25 MS. JONES: Please present the juror.

1 CLERK: What say the defense?

2 MR. PAULK: Please excuse this juror.

3 THE BAILIFF: Please have a seat, ma'am.

4 CLERK: Number 218. What say the State?

5 MS. JONES: Please excuse the juror.

6 THE BAILIFF: Please have a seat, sir.

7 CLERK: 283. What say the State?

8 MS. JONES: Please present the juror.

9 CLERK: What say the defense?

10 MR. PAULK: Please excuse this juror.

11 THE BAILIFF: Please have a seat.

12 CLERK: Number 181. What say the State?

13 MS. JONES: Please present the juror.

14 CLERK: What say the defense?

15 MR. PAULK: Madam Clerk, is this juror

16 number 181?

17 CLERK: That is correct.

18 MR. PAULK: Please excuse this juror.

19 THE BAILIFF: Please have a seat, sir.

20 CLERK: Number 331. What say the State?

21 MS. JONES: Please present this juror.

22 CLERK: What say the defense?

23 MR. PAULK: Please excuse this juror.

24 THE BAILIFF: Please have a seat, sir.

25 CLERK: 114. What say the State?

1 MS. JONES: Your Honor, may we approach?

2 THE COURT: Yes. All right, we're gonna
3 strike 114.

4 THE CLERK: Juror 100. What say the State?

5 MS. JONES: Please present the juror.

6 CLERK: What say the defense?

7 MR. PAULK: Please strike for cause. Your
8 Honor, the juror was a prior officer for 26
9 years. I understand that he says he can be fair
10 and impartial, but I think the facts of the case
11 are such that his prior experience in law
12 enforcement might lend him to be biased when
13 listening to the testimony.

14 THE COURT: Now, you're welcome to use your
15 strikes, but I mean I don't think prior --

16 MR. PAULK: We'll strike, Your Honor.

17 THE COURT: Okay.

18 MR. PAULK: That's fine.

19 THE COURT: Thank you.

20 THE BAILIFF: Please have a seat, sir.

21 CLERK: Juror number 1. What say the
22 State?

23 MS. JONES: Please present this juror.

24 CLERK: What say the defense?

25 MR. PAULK: Please excuse this juror.

1 THE BAILIFF: Please have a seat.
2 CLERK: Juror 282. What say the State?
3 MS. JONES: Please present this juror.
4 CLERK: Strike for cause?
5 MR. PAULK: No cause.
6 THE BAILIFF: Please come to the jury box,
7 sir.
8 CLERK: Juror 208. What say the State?
9 MS. JONES: Please present this juror.
10 CLERK: Strike for cause?
11 MR. PAULK: No cause.
12 THE BAILIFF: Please come to the jury box,
13 sir.
14 CLERK: Number 319. What say the State?
15 MS. JONES: Please present this juror.
16 CLERK: Strike for cause?
17 MR. PAULK: No cause.
18 THE BAILIFF: Please come to the jury box,
19 ma'am.
20 CLERK: Number 95. What say the State?
21 MS. JONES: Please present this juror.
22 CLERK: Strike for cause?
23 MR. PAULK: Please present this jury, no
24 cause.
25 THE BAILIFF: Please come up to the jury

1 box, ma'am.

2 CLERK: 221. What say the State?

3 MS. JONES: Please present this juror.

4 CLERK: Strike for cause?

5 MR. PAULK: No cause.

6 THE BAILIFF: Please come to the jury box,

7 sir.

8 CLERK: Choosing alternate number one,

9 juror number 20. What say the State?

10 MS. JONES: Please present this juror.

11 CLERK: What say the defense?

12 MR. PAULK: Please excuse this juror.

13 THE BAILIFF: Please have a seat, sir.

14 CLERK: Number 164. What say the State?

15 MS. JONES: Please present this juror.

16 CLERK: What say the defense?

17 MR. PAULK: Please seat this juror.

18 THE BAILIFF: Come to the jury box, please,

19 ma'am.

20 CLERK: Alternate number two, number 41.

21 What say the State?

22 MS. JONES: Please present this juror.

23 CLERK: What say the defense?

24 MR. PAULK: Please seat this juror.

25 THE BAILIFF: Please come to the jury box,

1 sir.

2 CLERK: And then alternate number three,
3 juror number 342. What say the State?

4 MS. JONES: Please present this juror.

5 CLERK: What say the defense?

6 MR. PAULK: Please excuse this juror.

7 THE BAILIFF: Please have a seat, ma'am.

8 CLERK: Number 340. What say the State?

9 MS. JONES: Please excuse this juror.

10 THE BAILIFF: Please have a seat, sir.

11 CLERK: Number 263. Direct for cause?

12 MS. JONES: No, please present this juror.

13 CLERK: What say the defense?

14 MR. PAULK: Please excuse this juror.

15 THE BAILIFF: Please have a seat, ma'am.

16 CLERK: Number 322. Strike for cause?

17 MS. JONES: No, please present this juror.

18 CLERK: Strike for cause?

19 MR. PAULK: No cause.

20 THE BAILIFF: Please come to the jury box,
21 ma'am.

22 THE COURT: Do you want to release the
23 remainder of the panel? How do you want to
24 handle that?

25 THE COURT: Counsel, any issues with the

1 selection?

2 MS. JONES: None from the State, Your
3 Honor.

4 MR. PAULK: None from the defense, Your
5 Honor.

6 THE COURT: All right, ladies and
7 gentlemen, the remainder of you may be released
8 for the remainder of the day. You will need to
9 call back after 6:00 for further instructions.
10 There are two Judges, obviously, you know that
11 now, here handling General Sessions matters, so
12 there may be additional cases this week; so even
13 though you weren't lucky enough to get in the
14 first two, you've still got a shot. So call
15 back after 6:00 and enjoy the rest of your day.

16 (Prospective jurors leave the courtroom.)

17 THE COURT: Ladies and gentlemen, what
18 we're gonna do today is, there are a number of
19 pretrial issues that come up before a case can
20 get started. Hopefully, as we go through those
21 things, that makes your life a little bit
22 easier, from a trial perspective. So what we're
23 gonna do today is, we're gonna release you all
24 for the day.

25 I want you back at 9:30 tomorrow morning,

1 and we will begin the trial of this case.
2 Hopefully, like I said, we can go through these
3 motions this afternoon, and streamline the
4 issues for you, and we don't interrupt anymore
5 of your life than necessary; but, again, there
6 are just things we have to take up pretrial,
7 and, obviously, outside of your presence.

8 And we don't want to -- I thought we were
9 hoping to maybe get started today, but I don't
10 want to tell you'all to come back here at 2:30
11 or 3 o'clock, and you sit in the jury room
12 waiting on us, and we're still out here doing
13 our legal work, and wasting the rest of your
14 day.

15 Now you'll have the opportunity to go take
16 care of some personal issues with work, or
17 anything like that. Again, we just want to
18 inconvenience you as little as possible. Now,
19 before you leave I want to caution you on one
20 more thing. Please do not do any research on
21 this case, no Googling, no looking anywhere on
22 the internet, news -- I don't know if there's
23 gonna be any news coverage of this case or not,
24 but if you happen to see something on the front
25 page of the paper in the morning, please don't

1 read it. Everything that you're going to need
2 to know about this case will come from that
3 witness stand, or whatever exhibits the parties
4 put in.

5 And I'll caution you about that a little
6 bit more as we get started tomorrow, but,
7 please, don't go out and do any research on your
8 own. Don't research the law, just enjoy your
9 evening, and understand you're probably gonna be
10 here for a couple days after that; but, again,
11 please, in an effort to remain impartial, don't
12 do any homework, or anything on this case prior
13 to actually -- you won't do any homework, we'll
14 give you everything you need to know in this
15 courtroom, okay? So be back here tomorrow at
16 9:30, and we will do our best to get all this
17 done, so we can be punctual, and, again, not
18 interrupt anymore of your lives than necessary.
19 Have a good afternoon.

20 THE BAILIFF: Okay, if you'll follow me,
21 please.

22 (Jury exits courtroom.)

23 THE COURT: All right, we're back on the
24 record for State v. Delmar Sanders. The first
25 thing I'm gonna do, I see a lot of folks in the

1 courtroom that are interested in this trial, and
2 with good reason. Somebody -- or some folks who
3 lost a loved one, and someone's on trial for a
4 very serious offense. One thing we're not gonna
5 do is, have any outbursts, any problem at all
6 this week. If there's any kind of outburst,
7 anybody make any unnecessary racket, threats,
8 anything like that, you're out of here, okay?
9 So we're all here for a very serious reason.
10 There are folks on both sides of the courtroom
11 that are here for different reasons, but it's
12 serious to both of them and we're gonna treat it
13 that way, and we're gonna be respectful of one
14 another all week, okay?

15 All right, I understand we have some
16 pretrial stuff. I got, Mr. Paulk, your list of
17 potential motions, and Ms. Jones had sent me
18 some last week. Who wants to go first?

19 MR. PAULK: Your Honor, the only thing that
20 I left off for my pretrial motions was just a
21 motion to sequester. That was an oversight on
22 my part.

23 THE COURT: Okay. All right, I've got that
24 down as well. Do you want to go first, Ms.
25 Jones?

1 MS. JONES: We certainly can, Your Honor.
2 I don't know if maybe Mr. Paulk's first motion
3 is the motion to renew his immunity, his
4 protection of Persons and Property Act. I think
5 that might be the way to start.

6 THE COURT: All right.

7 MS. JONES: I, of course, would object. I
8 think that it has already been ruled upon by
9 Judge Miller back on April 22nd of this year.

10 THE COURT: But that was my understanding
11 as well.

12 MS. JONES: It was, we had a hearing, both
13 sides put up witnesses, there was direct and
14 cross from both sides. Judge Miller listened to
15 the testimony and denied it, and I think under
16 Rules of Criminal Procedure 4, I think that
17 because it has already been ruled upon, it
18 stands as is.

19 THE COURT: Mr. Paulk, let me hear from
20 you.

21 MR. PAULK: Your Honor, there was not a
22 written order in this case. There was a ruling
23 from the Bench, and I understand that; however,
24 I do believe that you're the Trial Judge, and
25 under the purview of what is fact at that

1 hearing is under your sound discretion, and
2 should reasonably be put forth before you.

3 THE COURT: Well, it's my understanding
4 Judge Miller ruled on the motion, and unless,
5 you know, there's some -- if you can point me to
6 something to the contrary, that's the law of the
7 case, at this point. You know, sitting as a
8 Circuit Court Judge, I don't have any oversight
9 over what another Circuit Judge does.

10 MR. PAULK: Yes, Your Honor.

11 THE COURT: I mean I understand you're
12 making that to protect your record, and we've
13 got all day to protect your record, so -- and if
14 you want to put something up, I'm fine with that
15 too, but I'm, you know, I think, at this point,
16 I don't have any authority to address his
17 ruling, at this point.

18 MR. PAULK: Yes, Your Honor, and we
19 understand and appreciate your ruling. I just
20 would like to bring it up for appeal purposes.

21 THE COURT: Yes. All right, so for the
22 record, the motion to renew the motion for
23 immunity is denied. What's next?

24 MS. JONES: Your Honor, I'm happy just to
25 go down Mr. Paulk's list. It looks like he then

1 has a motion to renew. Rule 5 is to require a
2 disclosure of evidence, etcetera.

3 THE COURT: All right. What you got to say
4 about that, Mr. Paulk?

5 MR. PAULK: Your Honor, if we could just
6 run through the evidence that has been given to
7 the defense by the State? I understand it'll
8 take a minute, it's quite voluminous, but we can
9 just run through it real quick, and get on the
10 record all the evidence that has been turned
11 over from the State to the defense?

12 THE COURT: Sure, if you need to do that.

13 MS. JONES: Your Honor, while he's pulling
14 up -- and I'm not sure how you want to do this.
15 I can certainly go through my discovery
16 responses, or Mr. Paulk can go through his. I
17 will say that anything I had in my possession I
18 did provide to Mr. Paulk. He did -- I asked him
19 what his -- what was missing, so to say, from
20 his discovery packet for this case, while right
21 before we broke for lunch, or while we were --
22 over the lunch break, and he indicated a
23 coroner's report, as well as an EMS report.
24 There were two victims in this case, Your Honor.
25 One is deceased, Mr. Deonne McLendon, one did

1 survive, Rhonda Randall. Both were seen by
2 separate paramedics, separate EMS transported
3 both of them. We did not have the report for
4 Ms. Randall, she survived. I have her live
5 testimony, so, no, I did not turn that over; and
6 I did not turn over the coroner's report, again,
7 something that I didn't have. We never have in
8 a murder case. We did have the pathology
9 report, and I did turn that over to Mr. Paulk,
10 but we can go through the 500 and some odd files
11 that I did disclose.

12 THE COURT: Mr. Paulk?

13 MR. PAULK: Your Honor, the documents that
14 Ms. Jones has referenced are the ones that I do
15 have issue with. Just briefly, there are
16 somewhere between four and 500 images from the
17 crime scene, there are images from the autopsy.
18 There's an autopsy report. There is a Delmar
19 Sanders transport sheet. There are multiple
20 purge folders. There's metadata for the
21 officers that were wearing bodycams. There are
22 NP4 documents to include in-car recordings. We
23 have bodycams from Officer Jezewski, Mankin,
24 Lamb, Oelschlager, Thomas, Garcia, Gray, Boone,
25 Green, Jezewski again. We have metadata for all

1 of those officers. We have audio recorded
2 interviews. We have EMS Dispatch. And this was
3 all in the initial disclosure from the State.
4 Next up we have, roughly, 100 images from the
5 autopsy. There are two important property
6 records on April 21st of this year, which are
7 crime scene sketches. On October 28th of last
8 year a criminal history for Mr. Deonne McLendon
9 was submitted, as well as a supplemental
10 incident report.

11 On March 9th, '22 there is a DNA report
12 from the lab, a forensic report from Mr.
13 McLendon's autopsy, as well as the motion for a
14 speedy trial that I filed. On March 10, '22
15 there is a other agency report from Camden
16 County, a Camden County incident report. On
17 5/17/22 there is a zip file, as well as a rough
18 draft of a transcript of Mr. Sanders' interview
19 with Investigators Duncan and Tunis. One note
20 about this, the zip file I was able to open it
21 and extract it. I then had IT for our office
22 and for Beaufort County come and take a look at
23 it. He was unable to get anything of any
24 evidentiary value off of the zip file. From
25 what I understand it may have been an attempt at

1 a phone dump from SLED, but there again, nothing
2 has opened for me on that file. There is an
3 application that has a very small amount of data
4 on it, that will not open.

5 When I press any of the other folders, they
6 also will not open, but my understanding is that
7 SLED was unsuccessful in their attempts to dump
8 the cell phone, so I don't foresee there being
9 anything of evidentiary value on those zips. I
10 would just like to confirm that with the
11 Solicitor's Office, since I was unable to fully
12 explore those, even with the F-cart information
13 Technology Department.

14 THE COURT: Ms. Jones?

15 Ms. JONES: That's right, they couldn't get
16 into SLED, again, also for County. And I
17 thought Mr. Paulk knew this, but if he can't
18 open any of our files, I'm certainly happy to
19 help him in the future.

20 MR. PAULK: On 7/11/22 we have gunshot
21 residue lab results, as well as two email
22 attachments that came on the 7/22. On 7/18
23 there is an EMS, Fire Rescue report for Mr.
24 Deonne McLendon that was delivered to us.
25 There's also an email attachment that was

1 scanned from a xerox printer on 7/18 that was
2 delivered to us. On 7/22 the search warrant for
3 the Dodge Durango that is involved in this
4 incident was provided to us, as well as a zip
5 file, property number 238851. On 8/01/22 we
6 were delivered another zip file, property number
7 240347, and I believe that these zip files
8 contained the extractions performed via
9 Cellebrite by the Beaufort County Sheriff's
10 Office, which we were able to review.

11 An autopsy diagram was delivered on August
12 3rd, '22. And, finally, on August 11th of '22
13 there is a criminal history for Ms. Rhonda
14 Randall. My renewed Rule 5 request was also
15 included, and a subpoena that we sent out was
16 also included for Incident Number 21-S148933.
17 Your Honor, the pieces of evidence that I
18 contend are missing from this file are to
19 include a EMS report that was prepared on behalf
20 of Ms. Rhonda Randall by Beaufort County EMTs.
21 The companion report for Mr. Deonne McLendon was
22 submitted to us on July 18th. The report for
23 Rhonda Randall I'm happy to hand up a copy to
24 Your Honor and to your Clerk.

25 Your Honor, the defense's contention is

1 that this document was known, or should have
2 been known by the Solicitors, and should have
3 been disclosed to the defense, due to its
4 exculpatory nature, and impeaching nature. I
5 will also be handing up a copy of the subpoena
6 that we submitted, along with our request, and I
7 have multiple copies. And I have a copy for
8 your Clerk as well.

9 Your Honor, I would ask that these be
10 marked for identification purposes, as Court's
11 Exhibit 1.

12 THE COURT: Did you provide one to the
13 Court Reporter?

14 MR. PAULK: I will provide one to the Court
15 Reporter as well, Your Honor.

16 THE COURT: Or never mind, Mr. Paulk, she
17 can just mark mine, so we don't have --

18 MR. PAULK: Thank you, Your Honor.

19 THE COURT: -- extra copies floating
20 around. Thank you.

21 COURT REPORTER: Yes, sir.

22 (Court's Exhibit 1 was admitted into
23 evidence.)

24 MR. PAULK: Your Honor, the state of -- the
25 case of Riddle v. Osmond outlines here for Brady

1 violations. That cite is 631SE2d70SC 2006. "An
2 individual asserting a Brady violation must
3 demonstrate that evidence favorable to the
4 accused was in the possession of, or known by
5 the prosecution, was suppressed by the State,
6 and that that information would have been
7 material to the accused's guilt, or innocence,
8 or was impeaching."

9 This Court goes onto say that it's
10 unrealistic to require the petitioner, in this
11 case, the defense and his attorneys to
12 reinterview all officers and investigators in
13 the days before trial, but that is not what
14 Brady requires. The burden is on the Solicitor
15 to disclose material evidence, which is
16 exculpatory or impeaching. If I could point
17 Your Honor to the EMS document.

18 If you go to the second page of that
19 document, down to the narrative from the EMT,
20 Ms. Tiffany Lovette, the second to the last
21 sentence clearly states, "That patient confessed
22 to being awake for over 24 hours on a cocaine
23 binge, and does not recall the events -- the
24 details of the shooting during transport." The
25 face of that statement itself is obviously

1 impeachable material. We believe it's obviously
2 exculpatory material. We believe that it's
3 material that should have been handed over to
4 us. I understand the Solicitor's contention is
5 that this document was not in their possession;
6 however, the companion document for Mr. Deonne
7 McLendon was in their possession, and was given
8 to us on July 18th over a month ago. I came to
9 be in possession of this document through the
10 power of subpoena, after subpoenaing Beaufort
11 EMS to provide this document.

12 I have been in possession of this document
13 since last Wednesday, Your Honor. My contention
14 is not that I'm unprepared to use this document
15 in defense of my client. My contention is that
16 there was a violation of the rules, when this
17 document was not handed over in discovery.

18 THE COURT: Ms. Jones?

19 MS. JONES: Thank you, Your Honor. Your
20 Honor, Beaufort County Fire and Rescue are not
21 agents of the State. I did not have this
22 document. I did not request this document. Mr.
23 Sanders is accused of shooting Ms. Rhonda
24 Randall, hence, the charge for attempted murder.
25 I have her live testimony to attest to her

1 injuries that night, and what happened that
2 night. Mr. Paulk has the same ability to access
3 this document just as I would have. I would
4 have had to send a subpoena separate from me
5 receiving discovery from the Sheriff's Office,
6 because, again, not an agent of the State.
7 Additionally, he pointed you to a statement that
8 was written in that report.

9 Ms. Randall actually says that same thing
10 in her recorded interview with Investigators
11 Byrd, while she is at the hospital being
12 interviewed. She is apprehensive to do a photo
13 lineup at that point. She says her hands are
14 shaking, because she has been on a binge, and
15 has been up I think she says for days.

16 So this is not, again, while this piece of
17 paper may be new to him, that information that
18 he pointed out was provided in her recorded
19 interview; but, again, not an agent. I never
20 had the document. This is the first I'm seeing
21 of it. I did provide Deonne McLendon's EMS
22 report, because part of my proof is to show that
23 this injuries occurred in Beaufort County. It
24 is common practice to put up the paramedic of
25 who reported to the shooting, when the person

1 has been deceased, to put that person up, the
2 paramedic up, and say, "Yes, I responded to a
3 gunshot wound victim at this address.

4 Yes, it happened in Beaufort County. We
5 transported that person to Beaufort Memorial,
6 that's all I did." And then we have the
7 pathologist. And I provided all of that to Mr.
8 Paulk. I wouldn't exactly say it's a companion
9 report, it's a separate request for every single
10 EMS report. It's not one blanket request I
11 could make. And, finally, I've seen no
12 prejudice by Mr. Paulk, he has the document.
13 He's relying on a one-sentence statement in the
14 document that is already in evidence. It's
15 already in discovery.

16 MR. PAULK: Your Honor, respectfully,
17 nowhere else in evidence does Ms. Randall recant
18 her testimony, or say that she does not recall
19 the events of the shooting, and this is 30
20 minutes after this incident occurred.

21 THE COURT: All right, so what are you
22 asking me to do?

23 MR. PAULK: Your Honor, I would make a
24 motion to dismiss, at this time, for a Brady
25 violation, and for misconduct under the rules.

1 I think that it brings into question the
2 fairness, and brings into question the integrity
3 of the Solicitor's Office. Are we to wonder
4 what else has been left out there, that is not
5 responded to under a Rule 5, or a supplemental
6 Rule 5?

7 A supplement Rule 5 that I mentioned, that
8 was provided back to me in evidence, was filed,
9 specifically, requesting any medical reports,
10 any lab reports, any scientific documents that
11 may have existed. Your Honor, if they knew that
12 Deonne McLendon's EMS report existed, they
13 clearly knew that Rhonda Randall's EMS report
14 existed.

15 THE COURT: Well, I don't necessarily
16 disagree with that proposition, but I don't
17 think this is someone, or this is an entity
18 under the State's control like it would be such
19 as SLED, or another law enforcement agency. I
20 agree with you, I researched this issue for a
21 capital PCR one time, and anybody that's under
22 the law enforcement umbrella is hers, whether
23 she has it or not.

24 I tend to think under this specific set of
25 facts, with it being a medical provider, again,

1 I think just like you got it through a subpoena,
2 I think it works both ways. Like she would have
3 to subpoena it. So I don't find that it is a
4 Brady violation, because I don't believe medical
5 providers are under their control. And if you
6 have something to the contrary --

7 MR. PAULK: Your Honor, the pushback that I
8 would give on that is, that I've been on the
9 phone with the County Attorney since this issue
10 came up this afternoon, representing the EMS
11 Station. It is Beaufort County Emergency
12 Medical Services.

13 It is an arm of the government, it is an
14 arm of the State. They are the ones who have
15 been speaking directly with me about who we need
16 to get here, in case we had to have some
17 testimony about how I came to be in possession
18 of this document. Your Honor, I think that just
19 the fact that this is not evidence that came
20 from strictly a judiciary body that is a
21 prosecuting body, I don't think that that is
22 necessarily relevant.

23 I think that what is relevant is that this
24 exculpatory impeachment evidence existed, and
25 was either willfully not gotten, or negligently

1 not gotten and turned over to the defense. It
2 contains statements which clearly call in
3 question the veracity and credibility of the
4 witness, and it's the only time that I had seen,
5 in reviewing all of this evidence, where Ms.
6 Randall states that she does not remember what
7 happened, and could not remember the events.
8 And if we had not sent out this subpoena and
9 received it back last Wednesday, we still
10 wouldn't have it.

11 We would be going forward in front of you
12 today, without the benefit of having that piece
13 of evidence, without the benefit of being able
14 to introduce it at trial, and we would have a
15 Brady violation motion on the backend, if this
16 was ever found. Your Honor, the Court says that
17 it doesn't matter if it was in good faith, or if
18 it was bad faith on the part of the Solicitor.
19 It doesn't matter if it was willful, or if it
20 was negligent, it still breaks the letter of the
21 rule. And to that effect, Your Honor, there is
22 another document, if you would like to wait to
23 go through that document, but there's another
24 document that I also did not receive in
25 discovery, which I allege I should have received

1 in discovery, but we can handle those one at a
2 time, or we can go into it however you want to.

3 THE COURT: Yeah, go ahead, let's do them
4 all.

5 MR. PAULK: I met with Dr. Presnell, along
6 with Collin Hamilton, as a witness, oh, gosh,
7 probably two weeks ago, possibly three weeks
8 ago. We went down to Charleston to review her
9 autopsy report. While we were reviewing the
10 autopsy report, Ms. Presnell continued to direct
11 me to a document, which was not in my
12 possession.

13 She was referencing an NMS drug report,
14 which was completed by a toxicology expert, Ms.
15 Garven, of the forensic scient network. Dr.
16 Presnell informed me that whenever she turned
17 over her autopsy report to the Coroner, that
18 this NMS drug report, which interprets the
19 decedent's toxicology results, was attached to
20 her coroner's report, or to her autopsy report,
21 that was delivered to the Coroner.

22 I did not receive this evidence in
23 discovery. I did not receive this evidence from
24 Dr. Presnell. I submitted a subpoena directly
25 to Ms. Garven, who prepared the report.

1 She complied with the subpoena and provided
2 it to me. I additionally subpoenaed the
3 Coroner's file from Mr. David Ott. Mr. David
4 Ott handed over his whole file under subpoena,
5 and the EMS drug report was contained in that
6 subpoena, just as Dr. Presnell said it would be.
7 Your Honor, the report here interprets the
8 findings of the toxicology.

9 It shows her opinions about the effects of
10 the drugs that were in the system of Mr. Deonne
11 McLendon that night; and I believe that hiding
12 it from the defense, not turning it over to the
13 defense, willful or not, is, again, a Brady
14 violation, Your Honor. And once again, my
15 supplement Rule 5 request asked for any and all
16 scientific documents, tests, results, anything
17 of that nature, and this was not provided to me.

18 THE COURT: Ms. Jones?

19 MS. JONES: Your Honor, yet again, the
20 Coroner is not an agent of the State. I never
21 have a coroner's report. The toxicology report
22 that Mr. Paulk is referencing is summarized in
23 Dr. Presnell's pathology report, which was
24 handed over. It says was reviewed by Garven,
25 and asked for credentials, so her name was in

1 there, the summary of her report was in there,
2 and that was handed over.

3 Again, he had access to it, the same way I
4 would have had access to it by subpoenaing it.
5 I did not think it was relevant to this case.
6 The summary was already in the pathology report,
7 and, again, the Coroner and Garven are agents of
8 the State that I have unfettered access to.

9 MR. PAULK: Exactly, Your Honor, the
10 Coroner is an agent of the State. The Coroner
11 is an elected official, who is chosen to
12 represent the State, in certifying deaths and
13 autopsies, and you know the rules that -- you
14 know what a coroner does, it's clearly a
15 government office. There again, I don't think
16 that that argument holds much weight. This is,
17 as she says, referenced in the autopsy report.
18 That means that she knew about it. That means
19 that she should have disclosed it.

20 I don't understand how the decedent's --
21 because Dr. Garven did not do independent
22 testing. Dr. Garven took the results from the
23 forensic pathologist, and gave her opinion on
24 what those toxicology results showed. Had I not
25 gone to meet with Dr. Presnell, I would never

1 know that this document existed. Had I not
2 subpoenaed the Coroner's file, I would have
3 never known that this document existed. The
4 fact that it is referenced in an autopsy report
5 that was given to me by the State, but then the
6 report detailing and outlining a expert's
7 opinions, as to the intoxication level of Mr.
8 McLendon was not given to me.

9 I think that that is something that is very
10 serious in this case, where the State is
11 alleging that my client was so paranoid from
12 using cocaine that he just shot to people.
13 Whereas, we have one EMS report, where Ms.
14 Randall is admitting to being on a cocaine binge
15 for at least -- and awake for 24 hours, and the
16 toxicology results that were reviewed by an
17 expert, showed that Mr. McLendon had cocaine,
18 THC, alcohol and everything else in his system,
19 as well as cocaethylene, which is a metabolite
20 of cocaine and alcohol, that shows that they
21 were consumed at the same time. I don't think
22 that there's any way that either of these
23 documents are not relevant, exculpatory or
24 material to impeachment, or to otherwise further
25 the theory of my case.

1 THE COURT: Ms. Jones, did you have the
2 toxicology report?

3 MS. JONES: No, sir. I just had the
4 pathology report from Dr. Presnell, and it
5 references the victim's toxicology.

6 THE COURT: But you didn't have the
7 Coroner's report?

8 MS. JONES: No.

9 THE COURT: All right, I appreciate your
10 motions, Mr. Paulk, I certainly understand where
11 you're coming from. I will agree with the
12 State, it does not sound like there's any
13 prejudice at this point, because you've done
14 such a good job preparing your case and finding
15 these documents ahead of time.

16 I do have some question, as to whether or
17 not it is the State's obligation to get those.
18 Again, if this was something that SLED had done,
19 or a law enforcement officer had done, then,
20 yeah, it's the State's obligation in every
21 single case; but if she didn't have the
22 Coroner's report, and didn't have the EMS
23 report, I don't find that there's a material
24 violation.

25 MR. PAULK: Your Honor, with respect to the

1 Court's ruling, I would just like to ask that
2 perhaps as some form of remedy, that the State
3 not be allowed to use either of these documents
4 in their direct examination.

5 THE COURT: Well, I don't think -- I'll
6 deny your motion there, as well. All right,
7 what's next?

8 MS. JONES: Mr. Paulk has a motion, it's
9 number three, motion to exclude any and all
10 evidence, essentially, 404B are Lyle evidence.
11 Testimony regarding Defendant's propensity to
12 carry a gun. I'm not admitting -- I'm not
13 eliciting that form of testimony, so I agree
14 with that.

15 THE COURT: Okay.

16 MS. JONES: Other pending charges are
17 investigations of the Defendant, again, will not
18 be eliciting testimony regarding that. And,
19 third, is the Defendant's drug use. The only
20 reference to drug use will be drug use from the
21 night of the murder, because it is so related to
22 time and the place of the murder that you cannot
23 separate the two, but I will not reference any
24 prior drug usage, or prior drug convictions, or
25 anything outside of what happened when these

1 three individuals were together.

2 THE COURT: Mr. Paulk?

3 MR. PAULK: Your Honor, the other thing I
4 would like to address is, how the Defendant's
5 prior convictions are to be addressed in front
6 of the jury. The Defendant does have a prior
7 conviction for domestic violence of a high and
8 aggravated nature. It's our contention that
9 that is not a crime of moral turpitude. It does
10 not go towards his veracity.

11 I think that if that charge were read out
12 to the jury, that it would go towards the
13 Defendant's propensity for violence, and I don't
14 think that that's appropriate here. There's
15 charges over the convictions that are nine-
16 years-old, and I understand that it's within
17 then ten-year window. I would just ask that if
18 the State -- if my client testifies, and the
19 State feels that they are inclined to ask him
20 about that, that they be allowed to ask, if he
21 has been convicted of a felony before.

22 THE COURT: Ms. Jones?

23 MS. JONES: I'm fine with not saying
24 specifically what his conviction was. I think
25 that's fair.

1 THE COURT: That's it?

2 MR. PAULK: Yes, Your Honor.

3 MS. JONES: Your Honor, next Mr. Paulk has
4 a motion to exclude any and all evidence
5 regarding lineup of Defendant's mugshot. I am
6 not gonna do the lineup. And the cell tower
7 location of the Defendant, we do not have that
8 either, so will not be admitting that. Neil v.
9 Biggers, because I'm not admitting the lineup,
10 we will not be having a Neil v. Biggers hearing.
11 Number six, Jackson v. Denno, we can take up at
12 the appropriate time.

13 Going to number eight his motion to sell
14 records. We have one lay witness with a prior
15 record, Your Honor, and I provided that to Mr.
16 Paulk, that's Ms. Randall.

17 THE COURT: Okay.

18 MS. JONES: Motion to review redactions of
19 recordings the State intends to introduce. Your
20 Honor, that is in reference to the interview of
21 Mr. Sanders. Your Honor was provided the full
22 copy of the interview unredacted. As you're
23 aware, there are multiple references in that
24 interview, where Mr. Sanders is speaking about
25 how he knows various members of the Beaufort

1 County Sheriff's Office. He specifically asked
2 for one investigator by name. There's a
3 discussion between him and Investigator Duncan
4 about how, "Hey, I know you, I recognize you.
5 You used to date this woman, I know you." All
6 can imply prior involvement with law
7 enforcement.

8 I have taken all of that out of the
9 interview. Any prior reference to him also
10 being in prison, there was a conversation about
11 having weapons in prison. And I think he was
12 talking about how when he was in prison, someone
13 tried to sell a gun for \$100,000. Again, taken
14 out of the video, I agree that's highly
15 prejudicial and not relevant. I did, and I
16 think this is where argument may come in, I did
17 also redact any reference that Mr. Sanders made
18 to Mr. McLendon, and more specifically, Mr.
19 McLendon's friends and family, who, if we're
20 gonna confuse ourselves, is also Mr. Sanders'
21 family, being in a gang, and being gang members.

22 There are, I believe -- I know there's only
23 one reference referencing Mr. McLendon himself
24 being in a gang, and it is where Mr. Sanders
25 says something to the extent of, because of who

1 he is and what he represents. Every other
2 reference is regarding his friends and family
3 being in a gang. I think that is highly
4 prejudicial. I think it's irrelevant. And I do
5 have a case that -- I have a couple cases that
6 talk about where gang evidence is admissible,
7 and then one that talks about where it's clearly
8 not admissible.

9 And I'll be happy to provide copies to
10 everybody for that. It's ironic that the State
11 is arguing not to have gang evidence admitted,
12 so I had to think backwards a little bit, Your
13 Honor, here.

14 THE COURT: You asked them the better part
15 of last Monday, that the State was trying to get
16 it into evidence, so --

17 MS. JONES: And, typically, that's where I
18 am. Unsuccessfully so far, but, typically,
19 that's where we stand, unfortunately, here in
20 Beaufort County. But I did want to direct
21 everybody to State v. Sovers, Your --

22 THE COURT: I've got it.

23 MS. JONES: You have that case, Your Honor?

24 THE COURT: Yeah.

25 MS. JONES: And I'm not sure if you're

1 familiar with it, but, essentially, the Court
2 said that there was no relevance, and there was
3 no continuity, there was no connection between
4 the gang evidence that the Defendant wanted to
5 admit of the victim, again, this was a victim
6 gang evidence, and the shooting itself. In that
7 case, the victim was -- or the Defendant, my
8 apologies, was, according to him, attacked by a
9 mob, and somebody ended up dying; but he was
10 never able to say that the mob was the gang.
11 And because of their membership of the gang is
12 why he was afraid.

13 If you listen to Mr. Sanders' interview,
14 all of his fear is for future retaliation. It
15 is -- it has nothing to do with he was -- had a
16 heightened sense of fear that night, because Mr.
17 McLendon was in a gang. He never even really
18 says Mr. McLendon was in a gang. And I would
19 disagree, I have witnesses who say he wasn't in
20 a gang. I just think it's highly prejudicial.
21 I don't think it's appropriate.

22 I think it is confusing to the jury.
23 They're gonna hear gang, and their minds are
24 gonna go everywhere. There are a couple cases,
25 Johnson and Liberman, where it was admissible,

1 but in those cases it's admissible to show
2 motive, intent. It is clearly admissible under
3 the 404B exceptions, as prior bad acts, prior
4 bad evidence, and in those cases, but for the
5 gang evidence, the State wouldn't have been able
6 to tell the whole story, wouldn't have been
7 able to tell the motive.

8 We don't have that here. We have a couple
9 references by Mr. Sanders, saying, "Essentially,
10 I'm scared of what those people are gonna do
11 now," and he gets pretty descriptive in what he
12 thinks they're going to do; but, again, this has
13 nothing to do with Deonne McLendon, the night of
14 the shooting, and I think that it is irrelevant.
15 I think it's prejudicial, and I think it's
16 inadmissible.

17 THE COURT: Mr. Paulk?

18 MR. PAULK: And, Your Honor, when the
19 Defendant has raised the issue of self-defense,
20 the defense is well within their right to bring
21 up some of the bad acts and propensity of
22 violence, and reputation for violence of the
23 deceased, of the victim. I could point you
24 towards State v. Hill, State v. Atchinson, as
25 well as the Cobera opinion holding, Your Honor.

1 In all of these cases, in addition, State v.
2 McDaniel, the reputation of the decedent for
3 violence is admissible, when the defense is
4 pleading self-defense. However, general
5 reputation of violence is admissible, but not
6 specific acts.

7 I think the fact that if Mr. Sanders knew
8 that Mr. McLendon was in a gang, if Mr. Sanders
9 knew that Mr. McLendon carried a gun, that Mr.
10 Sanders knew things about Mr. McLendon that
11 would give him cause or give him reason to act
12 in the way that he acted, I believe that we are
13 allowed to get into those conversations.

14 I believe that we're allowed to get into
15 not necessarily that the decedent was acting
16 inconformity therewith, that's improper
17 propensity, but the decedent is known to the
18 victim, or, excuse me, the decedent is known to
19 the Defendant, and the Defendant has reason to
20 judge his actions more harshly I believe is the
21 wording that the Court uses, and we should be
22 allowed to get into some of those statements.

23 THE COURT: I don't disagree with you, as
24 far as some of the propensity evidence that
25 you're talking about. I do, however, have an

1 issue with the specific gang stuff, for lack of
2 a better term. The case she's talking about,
3 the Sovers case, while they didn't say you
4 couldn't, they said you had to prove its
5 relevance, number one; and then you have the
6 Johnson case coming in, like I said, we spent
7 the better part of last Monday in Greenville
8 arguing about this, pretty much a day. They put
9 up a gang expert.

10 We testified about how he puts them on gang
11 net and all that, so I had more gang stuff than
12 I wanted last week.

13 MR. PAULK: Yes, Your Honor.

14 THE COURT: So -- but, you know, the
15 standard for the State to get it in, is clear
16 and convincing. I mean it's, obviously, above
17 the preponderance. There's no real guidance for
18 us either way, but I would think you would have
19 to have some pretty substantial evidence of gang
20 activity to get that type of evidence in.

21 I agree with you on your other evidence, as
22 far as if you're able to make out the elements
23 of self-defense, then I think all that stuff
24 likely comes in; but I am, again, because the
25 Courts have been so particular about gang

1 activity, I don't want to use lob that grenade
2 in the jury box, and then everybody walk away.

3 MR. PAULK: Yes, Your Honor. The other --

4 THE COURT: Because you know it could
5 actually prejudice him too.

6 MR. PAULK: It could, Your Honor.

7 THE COURT: They think he's running around
8 with gang members, you know --

9 MR. PAULK: Yes, Your Honor.

10 THE COURT: -- at least according to his
11 statement, and, you know, that I watched, I mean
12 he was voluntarily with him. The jury then
13 says, "Well, heck, if he's running around with
14 gang members, he might be one too." You know,
15 so I'd rather keep the gang stuff out of here.

16 MR. PAULK: Yes, Your Honor.

17 THE COURT: And I think that benefits your
18 client, as well, in the long-run.

19 MR. PAULK: Your Honor, the only other
20 argument that I would make is, that I believe
21 that the State intends to probably request a
22 jury charge that flight is evident, that Mr.
23 Sanders' flight to Georgia, where he turned
24 himself in the next day, is evidence of guilt.
25 I would argue that his flight was not a evident

1 of a guilty conscience, or consciousness of
2 guilt, but that his flight was out of, one, fear
3 for retaliation, and, two, fear due to an
4 ignorance of the law, which this is a separate
5 issue, it has nothing to do with gangs.

6 But I believe that Mr. Sanders' testimony,
7 during the recording that you watched, that he
8 thought that since he wasn't supposed to be in
9 possession of a gun, that he was automatically
10 done for, and it didn't matter what the facts
11 are. We would be trying to use the fear of the
12 gangs, the fear of retaliation, the fear of not
13 understanding the law, and thinking that, oh, my
14 God, I had to shoot somebody, but I'm not
15 allowed to have a gun.

16 You know, we know that the law says that
17 under Burris, if you're allowed to arm yourself
18 in self-defense, it doesn't matter if you're
19 allowed to have a gun or not. If a need arises
20 at that time, you're allowed to use a gun. Mr.
21 Sanders doesn't know that. The fear that Mr.
22 Sanders felt is what predicated his flight to
23 Georgia. A short flight to Georgia I might ad.

24 THE COURT: Yeah.

25 MR. PAULK: But I believe that the gang

1 testimony would be relevant, in showing that he
2 was not fleeing, because he had a guilty
3 conscious, that he was not fleeing because of
4 anything that he thought that he did wrong. He
5 was fleeing, because he was worried that the
6 people in this world, that none of us live in or
7 know about, were going to harm him or his family
8 members.

9 THE COURT: And I, again, I don't disagree
10 with where you're headed with that, assuming the
11 evidence gets you there, but what I'm concerned
12 about is just -- it seems like the Appellate
13 Courts have been concerned about is, simply just
14 saying gang, therefore, it must be true.

15 You know, in the Johnson case they put the
16 State to a very high burden, you know, of clear
17 and convincing evidence. If you want to present
18 a witness for me to consider, like we did last
19 week with a gang expert, you know, he was on the
20 stand for about four hours it seemed like, you
21 know, talking about how they assess, how SLED
22 finds gang members, how they put them on the
23 website, what all the signs, hand gestures, you
24 name it, I heard about it last week. And if you
25 have some evidence of that nature that you want

1 to put up, I'm happy to listen to it; otherwise,
2 I think we can't just say gang, and not
3 substantiate it somehow or another.

4 MR. PAULK: Yes, Your Honor. And then I
5 would request that, if during the pendency of
6 the trial there is a witness that is able to
7 corroborate the gang testimony, perhaps someone
8 from the Intel Division of the Beaufort County
9 Sheriff's Office, if that evidence comes out,
10 and I'm happy to proffer it before we ever put
11 it in front of the jury, but if we're able to
12 get that out, that we be allowed to testify.

13 THE COURT: That would be fine.

14 MR. PAULK: Okay.

15 THE COURT: I'm comfortable with that, and,
16 you know, I think that Sovers case, while it
17 approved the suppression of gang evidence, it
18 did have the caveat in there, that if there was
19 proof that there was some relevance, then the
20 gang evidence could potentially come in. So if
21 you can show me some real -- easy for me to say,
22 relevance, and that it is, in fact, factual,
23 I'll certainly consider it.

24 MR. PAULK: Thank you, Your Honor.

25 THE COURT: All right.

1 MS. JONES: Your Honor, I think that is all
2 we have for that, aside from the Jackson v.
3 Denno.

4 MR. PAULK: Could I ask one question real
5 quick look. The portion of the redacted video,
6 where Mr. Duncan -- Investigator Duncan
7 references his prior run-ins with Delmar, I
8 mean, certainly, you know, we don't want prior
9 instances of run-in with law enforcement,
10 however, Mr. Duncan's appraisal and assessment
11 of Mr. Sanders in that testimony, as I'm sure
12 you've heard in the unredacted version is, "This
13 isn't something that you would do. This isn't
14 anything like what you would do.

15 We've had -- I've dealt with you before,
16 you know, this isn't you, what in the world's
17 going on." I understand that if that is
18 redacted from the video, then am I still
19 permitted to ask Investigator Duncan about that
20 on the stand, if I so choose?

21 THE COURT: I don't see why not. I mean if
22 you're willing to -- I mean it could be a
23 double-edged sword for you.

24 MR. PAULK: I understand.

25 THE COURT: But, certainly, I don't have a

1 problem with that.

2 MR. PAULK: And I understand, your Honor.
3 We're not trying to hide from Mr. Sanders' past.
4 I think, in fact, we're trying to explain it,
5 and explain that this is something that is
6 uncharacteristic for him. That this is not
7 something that he would do.

8 That this is only a severe measure that
9 would be taken to save his own life, and I think
10 that, you know, there's a chance that the jury
11 sees it that way. Thank you.

12 MS. JONES: Your Honor, while we are
13 talking about Mr. McLendon's reputation --
14 propensity and reputation, whatever we're
15 talking about, there was a prior instance, and
16 I'm not sure if Mr. Paulk intended on asking law
17 enforcement questions about this; but I just
18 want to make sure that it's ruled upon in
19 pretrial. There's a prior instance, where Mr.
20 McLendon was shot in the foot. It happened
21 about three months prior to this shooting.
22 Totally unrelated at that.

23 During that case, Mr. McLendon and a friend
24 were at the friend's home, and Mr. Paulk is
25 familiar with this, so correct me on any facts I

1 may mistake, but they were at a friend's home,
2 some people had some car trouble. They pulled
3 up, happened to be on that friend's property,
4 the friend told them to get out of there, to
5 leave. There were some words exchanged, I don't
6 even believe by Mr. McLendon, and the broken
7 down car group, I guess you could call them,
8 ended up shooting at Mr. McLendon and the friend
9 who was the property owner.

10 The only person that is involved today is
11 Mr. McLendon. He was a victim there. I just
12 don't think it's relevant. I think it's
13 confusing, and I think all it would do would
14 confuse the jury. And I just bring that up,
15 because it has been referenced in prior motions
16 in different hearings for this case.

17 MR. PAULK: Your Honor, in the interview,
18 which you've watched, this incident that was
19 referenced by the Solicitor, is actually
20 referenced by Investigator Duncan. I believe
21 that his exact testimony in the video is, "Now,
22 we know that Deonne's no saint, I mean he was
23 just involved in a shooting a month or two ago."
24 Your Honor, obviously, I'm not gonna get an
25 officer to get on the stand, and give my theory

1 of the case as for that, but the facts of the
2 case, which the Solicitor just recited from the
3 State's perspective, are mostly correct. I also
4 happened to represent the individual who shot
5 Mr. McLendon in this incident.

6 Both clients have signed the conflict
7 waivers, that is all on the up-and-up, they're
8 aware that I represent each other. I have their
9 best interest in mind for both of their cases,
10 however, I thought that I should bring that to
11 the Court's attention, before I go any further.
12 In that case, there was my other client, his
13 nine-month pregnant girlfriend, a one-year-old,
14 and a four-year-old in the car. Their tire blew
15 out, they pulled over on the side of the road.
16 They were accosted by Mr. McLendon and another
17 individual. Mr. McLendon wound up getting shot.
18 A pistol was found near Mr. McLendon's person,
19 with eyewitness testimony, that Mr. McLendon
20 took the pistol and threw it into the bushes
21 during this case. I believe that if we were
22 allowed to get into that, I'm never gonna get an
23 officer to get on the stand and testify that Mr.
24 McLendon was trying to rob these people. I'm
25 never gonna get that out, I know that.

1 If I were to get anybody on the stand to
2 talk about this incident, it would be that
3 Deonne McLendon had a gun that night. That
4 Deonne McLendon tried to hide a gun that night,
5 and that Mr. McLendon was involved in a shooting
6 just two months prior to this shooting. I would
7 also be interested to ask Investigator Duncan
8 about his statement, that Deonne McLendon is not
9 a saint, and that he was involved in a shooting
10 just a couple months prior. I understand that
11 it my be unfruitful ground, and that I may be
12 climbing up a hill on that one, but I'd like to
13 see where it would go.

14 THE COURT: All right, we'll just take it
15 up, but I mean I'm inclined to let you go into
16 that, assuming you get to the point, where you
17 are presenting a defense, and you're in the
18 propensity by that.

19 MR. PAULK: Yes, Your Honor.

20 THE COURT: We'll take it up, I think, at
21 that time.

22 MS. JONES: Thank you. And I just want,
23 just so we're clear, and Mr. Paulk did reference
24 a little earlier, when we're talking about Mr.
25 McLendon's reputation, or even Ms. Sanders'

1 reputation, more specifically I guess for Mr.
2 McLendon though, because I imagine they're going
3 to portray him as the aggressor here. Specific
4 incidents of conduct are not admissible, unless
5 they were directed at Mr. Sanders, or were so
6 close in time to this shooting, that they would
7 give Mr. Sanders reasonable fear. And if he
8 intends to elicit any sort of testimony
9 regarding that, I would just ask what it is, so
10 we can have a Court ruling that it is -- it does
11 fall under one of those two categories.

12 MR. PAULK: And, Your Honor, just to inform
13 everybody, under State v. Day, 341SC410, acts of
14 violence by the victim four months prior was a
15 close enough in time. The Court considered acts
16 of violence by the victim in a murder trial,
17 where the defendant was pleading self-defense
18 against a third-party, and they found that four
19 months prior was close enough.

20 THE COURT: Yeah, I know --

21 MS. JONES: Your Honor, I actually have --

22 THE COURT: -- that case too.

23 MS. JONES: I'm sorry. I actually have the
24 Day --

25 THE COURT: Yeah.

1 MS. JONES: -- case, I was going to argue
2 it as well, if you would like a copy of it. I
3 think what we do, what is important about the
4 Day case is, that the Day case is kind of a
5 funny set of facts. A man hired another man to
6 kill his girlfriend, and he ends up killing his
7 friend instead.

8 The girlfriend and him were canoodling in
9 on their own, and it showed that the reason that
10 that four-month earlier instance was allowed, or
11 was admissible is, because it showed that the
12 defendant in that case responded violently, when
13 he felt he was deceived, when he felt that there
14 was deception going on. And that's exactly what
15 Day and the girlfriend were doing is, they were
16 deceiving him, and that's why it as admissible.
17 I think it's a factual question, and, again, I
18 would just ask if he intends to elicit it, let's
19 just hear it at pretrial before it goes in front
20 of a jury.

21 THE COURT: Absolutely, and I think that's
22 fair, but I am familiar with that case. My
23 friend, Judge Weston tried that case. He was
24 the last -- he served in Calhoun County 25 years
25 ago now. He was my Calhoun County friend. So

1 it stuck out, when I saw Judge Weston's name in
2 it last week.

3 What else?

4 MS. JONES: Before we get into the Jackson
5 v. Denno, there is a dying declaration. I did
6 show it. I sent the copy to Your Honor. I sent
7 the full video, I believe it's 40 minutes.

8 I redacted it down to a four minute and 32
9 second clip. I think that gets out what I need
10 to get. It takes away most of the emotion that
11 the rest of the video portrays. The rest of the
12 video shows the exact time that Mr. McLendon
13 loses consciousness. They don't need to see
14 that. Nobody back here needs to see it. And I
15 just wanted everybody to be aware that the four
16 minute, 32 video was the one that I would be
17 admitting through Gray.

18 THE COURT: Mr. Paulk?

19 MR. PAULK: Your Honor, I would love to
20 stand up here and argue in front of you that
21 this is not a dying declaration, but this is one
22 if I've ever seen it, so I don't believe that
23 I've got any good footing to come in front of
24 you. I'm not going to waste your time with a BS
25 argument.

1 THE COURT: I would tend to agree. I've
2 been doing this 24 years, and that's the first
3 one -- that's about as close as it gets --

4 MR. PAULK: Yes, Your Honor.

5 THE COURT: -- to the actual letter and
6 spirit of the rule, so you're right. Are you
7 okay with the redacted version of --

8 MR. PAULK: I'd prefer the redacted
9 version, Your Honor.

10 THE COURT: Also just making sure. All
11 right.

12 MS. JONES: Your Honor, I think our last
13 motion would be the Jackson v. Denno, and
14 Investigator Tunis is here. I'm going to turn
15 it over to Ms. Jones to handle that here, and I
16 don't think there's anything else.

17 MS. JONES: And, Your Honor, the State
18 would call Investigator Tunis from the Beaufort
19 County Sheriff's Office.

20 * * *

21 JAMES TUNIS

22 * * *

23 being first duly sworn, testifies as
24 follows:

25 DIRECT EXAMINATION

1 BY MS. JONES:

2 Q. Good afternoon, Investigator Tunis.
3 Can you tell me where you're currently employed?

4 A. Yes, ma'am. Right now I'm currently
5 employed with the Beaufort County Sheriff's
6 Office, in the Criminal Investigation section.

7 Q. Okay, and how long have you been with
8 the Sheriff's Office in total?

9 A. The Sheriff's Office -- I've been with
10 the Sheriff's Office for about seven years.

11 Q. Okay, and as an Investigator, how long
12 have you been in that role?

13 A. Two years as an Investigator.

14 Q. Okay. And as your role as an
15 Investigator, did you have an opportunity to
16 interview Mr. Sanders in July of 2021?

17 A. Yes, ma'am, I did.

18 Q. Okay. Do you remember exactly what
19 date that interview was conducted?

20 A. I believe July 26th.

21 Q. Okay. And at this time, who was Delmar
22 Sanders go you? Why were you interviewing him?

23 A. We were interviewing Mr. Sanders
24 because he was the main suspect in the murder of
25 Deonne McLendon.

1 Q. Okay. So you provided the date. Where
2 did this interview take place?

3 A. The interview took place at our -- or
4 in our office. We have an interview room.

5 Q. Okay, can you describe the interview
6 room for me?

7 A. Yes, ma'am. So the Investigations
8 office is in-house, and it's set up with offices
9 and a kitchen area. It is where our interview
10 room is. There's a window, a door, and, you
11 know, basic kitchen stuff, like a sink and a
12 refrigerator, and the table that we were
13 conducting the interview.

14 Q. Okay, and who was present during this
15 interview?

16 A. Present during the interview was
17 myself, Investigator Duncan, and Mr. Sanders.

18 Q. Okay. When you're speaking with Mr.
19 Sanders does he appear to be under the influence
20 of drugs or alcohol, to the point where his
21 abilities to understand what was going on was
22 impaired?

23 A. No.

24 Q. Did he appear to have any mental or
25 physical disability that would impair his

1 ability to understand what was being asked of
2 him?

3 A. No, ma'am.

4 Q. During this interview -- well, how long
5 did the interview lasted?

6 A. The interview lasted, I believe, just
7 under an hour.

8 Q. Okay. Was Mr. Sanders denied the
9 ability to go to the restroom?

10 A. No, ma'am.

11 Q. Was he denied the ability to have
12 water?

13 A. No, ma'am.

14 Q. Was he denied access to a phone?

15 A. No -- no, ma'am, he was not.

16 Q. Okay. Were any threats made to Mr.
17 Sanders during this interview?

18 A. Were any threats made?

19 Q. Any threats?

20 A. No, ma'am.

21 Q. Any promises?

22 A. No, ma'am.

23 Q. Any promises?

24 A. No, ma'am.

25 Q. By yourself or Investigator Duncan?

1 A. No.

2 Q. Okay. During this interview was Mr.
3 Sanders under arrest?

4 A. Yes, ma'am.

5 Q. Okay.

6 A. Well, he was in custody.

7 Q. Okay, so he wasn't formally under
8 arrest, at that time?

9 A. Well, we hadn't served the warrants to
10 him, but he was already arrested on the fugitive
11 for justice warrant and extradited back to South
12 Carolina for our warrants.

13 Q. Okay. Was he aware of the nature of
14 this interview before it started?

15 A. Yes, ma'am.

16 Q. Okay. And was he advised of his
17 Miranda rights prior to this interview being
18 conducted?

19 A. Yes, he was.

20 Q. And how did you do that?

21 A. I advised Mr. Sanders of his Miranda
22 rights, using our standardized Miranda warning
23 form for the Sheriff's Office. I read him his
24 rights verbatim from the form. He initialed
25 next to each right saying he understood. And

1 then he initialed saying that he was willing to
2 talk to us, and then he signed the form.

3 (Court Reporter marks State's Exhibit
4 Number 1, Miranda Warning Form, as attached
5 hereto.)

6 THE COURT: That's fine.

7 BY MS. JONES:

8 Q. Investigator Tunis, I'm handing you
9 what's been marked as Court's Exhibit Number 2.
10 Do you recognize that document?

11 A. Yes, ma'am.

12 Q. And what is that?

13 A. This is the Miranda warning form that I
14 had agreed --

15 Q. Okay.

16 A. -- that was signed by myself and Mr.
17 Sanders.

18 Q. Okay, and you mentioned that he
19 initials by every right on that form?

20 A. Yes, ma'am.

21 Q. Do you see those initials on that form?

22 A. Yes, ma'am.

23 Q. Okay, and is that a fairly depicted
24 form that was executed by yourself and the
25 Defendant on that date?

1 A. Yes, ma'am.

2 Q. Whenever you read this form and you
3 both signed it, did he appear to under his
4 rights, Mr. --

5 A. Yes, ma'am.

6 Q. -- Sanders? Okay. And his responses
7 to you, did they appear to be rational?

8 A. Yes, ma'am.

9 Q. Okay. Did he ask for an attorney, at
10 any point, during the interview?

11 A. No, ma'am.

12 Q. And he agreed to continue speaking with
13 you throughout the entire interview?

14 A. Yes, ma'am.

15 Q. To the best of your recollection, were
16 his statements freely and voluntarily given to
17 you?

18 A. Yes, they were.

19 Q. And to the best of your recollection,
20 he knew what he was discussing with you that
21 day?

22 A. Yes, ma'am.

23 MS. JONES: Move to enter Court's Exhibit
24 2.

25 (Court's Exhibit 2 was admitted.)

1 Q. Okay, and this entire interview with
2 him discussing, would this have been audio and
3 video recorded?

4 A. Yes, it was. It was both audio and
5 video recorded.

6 Q. Okay, and prior to your testimony
7 today, were you asked to review this interview
8 of that recording?

9 A. Yes, I was.

10 Q. Okay, and did you make any markings on
11 the interview, to show that you reviewed it?

12 A. I did, I initialed the bottom of the
13 DVD.

14 Q. Okay, and that video, did it fairly and
15 accurately depict the interview that we heard on
16 July 26th, 2021?

17 A. Yes, ma'am, it did.

18 Q. Okay.

19 MS. JONES: Your Honor, permission to
20 approach.

21 (Court Reporter marks State's Exhibit
22 Number 3, DVD, as attached hereto.)

23 BY MS. JONES:

24 Q. I'm showing you what's been marked as
25 State's Exhibit Number 3; is that the DVD we've

1 just been discussing?

2 A. Yes, ma'am, it is.

3 Q. Okay, and how are you able to recognize
4 it?

5 A. Because I initialed it on the bottom,
6 and I read it.

7 MS. JONES: Your Honor, I assume you've
8 already had this video to watch, I'm not sure.
9 Those are all the questions I have to the
10 witness about the video. I don't know if you
11 want to, because we've all watched it.

12 THE COURT: Yeah, I'll just note, for the
13 record, that I was provided the video ahead of
14 time, and I, along with my Law Clerk, did review
15 it.

16 MS. JONES: Thank you.

17 THE COURT: Mr. Paulk?

18 MR. PAULK: Your Honor, I would ask that we
19 make the video a court exhibit for the record.

20 THE COURT: I think she just marked it.

21 MS. JONES: It is.

22 MR. PAULK: Okay.

23 THE COURT: Okay.

24 MR. PAULK: Perfect.

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CROSS-EXAMINATION

BY MR. PAULK:

Q. Good afternoon, Investigator Tunis, how are you?

A. Good, good afternoon.

Q. You say that Mr. Sanders had been served a fugitive from justice warrant, and was there in that respect, so he was under arrest for that; but that the other warrants for murder, attempted murder, and possession of a weapon during a violent crime had not been served on him yet?

A. They were not served on him yet.

Q. Okay, had they been --

A. At that point of the interview they were not.

Q. Okay. Had they been obtained at that point?

A. Yes. Yes, they were already obtained and in the system, which is why he got the fugitive from justice warrant.

Q. Okay. Did you receive a phone call from a Ms. Christy Estrada at the Public Defender's Office, prior to interviewing Mr. Sanders?

1 A. I'm not sure if I did or not.

2 Q. If I handed you a copy of your
3 handwritten notes, would that refresh your
4 recollection?

5 A. It may.

6 MR. PAULK: Now, would the Court like a
7 copy of this?

8 THE COURT: Yes, please.

9 MR. PAULK: I'll take a moment for you to
10 review this.

11 THE COURT: Yeah, are you going to mark
12 that, Mr. Paulk?

13 MR. PAULK: Yes, Your Honor, Court's
14 Exhibit 3, 4?

15 CLERK: 4.

16 COURT REPORTER: 4.

17 (Court Reporter marks Court's Exhibit
18 Number 4, Handwritten Notes, as attached
19 hereto.)

20 BY MR. PAULK:

21 Q. Did you receive a phone call from
22 Christy Estrada at the Public Defender's Office,
23 before you interviewed Delmar Sanders?

24 A. I remember writing the note, but I
25 don't remember the exact time I received that

1 call, whether it was before or after.

2 Q. Okay.

3 A. I really can't say --

4 Q. Sure.

5 The remainder of that note, could you read
6 under Seth Paulk --

7 A. Uh-huh.

8 Q. -- what that note says?

9 A. "Called and stated they were looking
10 for Delmar."

11 Q. So, presumably, based off of the note,
12 we did not know that he was in custody yet.

13 If we were still looking for him, would you
14 have assumed that this was before you had
15 interviewed Mr. Sanders?

16 A. Yeah, it's possible.

17 Q. Okay. And I also see the incorrect
18 spelling of my name, but my name written there
19 as well, it says, Seth Paulk?

20 A. I do.

21 Q. So at the time that you interviewed Mr.
22 Sanders, you were aware that he was represented?

23 A. No, I wasn't. He never made mention
24 that he had any kind of representation.

25 Q. I understand that he didn't make

1 mention that he had any kind of representation,
2 but whenever he was speaking with you, you had
3 been informed that he was represented, and that
4 we wanted -- you were informed that he was
5 represented by Christi?

6 A. No, I mean she never spoke to me about
7 what -- why you were looking for him, or any of
8 that. I mean --

9 Q. Okay.

10 A. I don't even remember if this was
11 before those. I'm assuming, based off what you
12 said, that it could have been before, but I
13 don't -- I didn't know he was represented by
14 anybody.

15 Q. Okay.

16 A. Plus, like I said, he never made
17 mention that he had representation.

18 Q. Sure. So is it your testimony today
19 that you did not know that Delmar Sanders was
20 currently represented by counsel, when you
21 interviewed him?

22 A. That's correct.

23 Q. Okay. Despite the fact that your
24 handwritten note says, "Seth Paulk, Public
25 Defender, looking for Delmar Sanders," correct?

1 A. Correct.

2 Q. Okay. Was Mr. Sanders in handcuffs and
3 shackles during this interview?

4 A. He arrived in handcuffs and shackles,
5 and I believe we moved the cuffs around to the
6 front, yeah.

7 Q. Okay. But he knew that he was not free
8 to leave?

9 A. Yes.

10 Q. He never would have been under the
11 assumption that he would have been free to get
12 up and walk out, and terminate the interview at
13 any time that he wanted?

14 A. That's correct.

15 Q. He was unaware that he could terminate
16 the interview?

17 A. I advised him of the rights, so he
18 should have been aware that he could have
19 stopped answering questions at any time --

20 Q. Okay.

21 A. -- as to the initial --

22 MR. PAULK: Your Honor, I have no further
23 questions for this witness.

24 THE COURT: Anything else from the State?

25 MS. JONES: No, Your Honor.

1 THE COURT: Mr. Paulk?

2 MR. PAULK: Your Honor, the Defendant, or
3 excuse me, can this witness be excused?

4 THE COURT: Absolutely.

5 MR. PAULK: If there's nothing further from
6 the State, the defense would call Ms. Christi
7 Estrada to the stand.

8 * * *

9 CHRISTI ESTRADA

10 * * *

11 being first duly sworn, testified as
12 follows:

13 BY MR. PAULK:

14 Q. Good afternoon, Christi. Where do you
15 work?

16 A. I am with the Fourteenth Circuit Public
17 Defender's Office.

18 Q. And how long have you worked there?

19 A. Eight years.

20 Q. Do you have a specific job description,
21 or are you a jack of all trades?

22 A. Jack of all trades, but I do -- I'm the
23 Judicial Coordinator and the Investigator.

24 Q. Do you remember a conversation that you
25 had, during the course of this investigation,

1 regarding the representation of Mr. Delmar
2 Sanders?

3 A. I do.

4 Q. Could you explain that to the Court?

5 A. Sure. On July 26th of 2021, I
6 contacted Investigator Tunis at the Sheriff's
7 Office. That happened at 12:53 is when I made
8 the note, so it would have occurred right before
9 that. And I warned him that we were looking for
10 Delmar Sanders. It was my understanding that he
11 was being transported. It was my understanding
12 that he was not in custody, at that time, and I
13 advised him that he was represented by you, Seth
14 Paulk.

15 Q. Thank you, ma'am.

16 MR. PAULK: No further questions for this
17 witness, Your Honor.

18 THE COURT: Anything from the State?

19 MS. JONES: No, Your Honor, thank you.

20 MR. PAULK: Your Honor, the defense next
21 calls Mr. Delmar Sanders to the stand. And,
22 Your Honor, I think this goes without saying,
23 but we're all on the same page, that the only
24 purpose of his statement today is for this
25 hearing, and not to be used in the pendency of

1 the trial.

2 MS. JONES: Your Honor?

3 THE COURT: Yes.

4 MS. JONES: With the exception that he
5 takes the stand, and presents an impeachment
6 issue, I believe the Defendant would be
7 inadmissible.

8 THE COURT: Yes, and if he -

9 MR. PAULK: If he says something different
10 than he's saying right now --

11 THE COURT: Yeah.

12 MR. PAULK: -- like understood.

13 THE COURT: Yeah, okay.

14 BY THE COURT:

15 Q. Mr. Sanders, you -- I'm sure Mr. Paulk
16 has told you, you understand you have a right
17 not to testify here today?

18 A. I do.

19 Q. You have an absolute constitutional
20 right, under the Fifth Amendment, not to say a
21 word here today.

22 A. Yeah.

23 Q. Do you understand that?

24 A. I do.

25 Q. Are you willing to go forward?

1 A. Yes, sir.

2 Q. All right.

3

4

5

* * *

6

DELMAR SANDERS

7

* * *

8

9

being first duly sworn, testified as follows:

10

DIRECT EXAMINATION

11

BY MR. PAULK:

12

13

Q. Good afternoon, Delmar. Did you -- do you recall this interview on July 27th, I believe, the day of this interview?

14

15

A. I do.

16

17

18

Q. Do you recall speaking with Investigator Duncan and Tunis at the investigations?

19

A. I do.

20

21

Q. Did they have you sign a Miranda waiver form?

22

A. They did.

23

24

Q. Did you understand that form when you signed it?

25

A. I did not at the time.

1 Q. Did you understand that you could have
2 ended the interview at any time that you want?

3 A. I did not.

4 Q. Did you understand that an attorney
5 would have been appointed to you to be present
6 for any questioning at the time?

7 A. I did, but I didn't know I already had
8 one.

9 Q. If you would have been informed that
10 you had an attorney, would you have invoked your
11 right to counsel?

12 A. Yes.

13 Q. Please speak up for the Court Reporter,
14 she's --

15 A. Yes.

16 Q. -- taking down everything you say. Did
17 you feel like you were free to leave at this
18 time?

19 A. No.

20 Q. What was your -- how were you situated
21 physically in the room? Were you handcuffed,
22 or --

23 A. I was handcuffed, yes, just handcuffed.

24 Q. Did you have ankle shackles on as well?

25 A. I don't believe I did.

1 Q. Okay.

2 MR. PAULK: No further question for this
3 Defendant, Your Honor.

4 ***

5 CROSS-EXAMINATION

6 BY MS. JONES:

7 Q. Mr. Sanders, can you tell me your
8 highest level of education?

9 A. I have some college.

10 Q. Some college?

11 A. Yes.

12 Q. Okay. And tell me about your
13 employment history.

14 A. I climb trees for a living. I'm an
15 arborist.

16 Q. Okay. I'm going to circle back, you
17 said some college, how far do you think you
18 went?

19 A. A year.

20 Q. A year?

21 A. Yes.

22 Q. Okay. But you graduated high school --

23 A. Yes.

24 Q. -- and went to college? Okay. So you
25 can read, you can write?

1 A. Yes.

2 Q. Okay.

3 MS. JONES: Can I have permission to
4 approach the witness, Your Honor?

5 THE COURT: Yes, sure.

6 BY MS. JONES:

7 Q. Okay, I'm showing you what's been
8 marked as Court's Exhibit Number 2. Do you
9 recognize that?

10 A. Yes.

11 Q. And where have you seen that before?

12 A. I've seen that at the interview.

13 Q. Okay. Is that your signature on that?

14 A. It is.

15 Q. And are those also your initials?

16 A. It is.

17 Q. Okay, and you signed that yourself?

18 A. I did.

19 Q. How many times do you see your initials
20 on that?

21 A. Six.

22 Q. Okay. And was that read to you?

23 A. I'm not sure at the moment.

24 Q. Okay.

25 A. Again, yeah, I'm not sure.

1 Q. Okay. But you signed it?

2 A. I did.

3 Q. And that was -- somebody went over it
4 with you?

5 A. I'm not sure. I was just handed this
6 paper.

7 Q. And you just signed it?

8 A. Yes.

9 Q. Okay. So you weren't advised that you
10 didn't have to speak?

11 A. I was.

12 Q. You were advised?

13 A. I was.

14 Q. Okay. And you were also advised that
15 you could have an attorney appointed for you?

16 A. I was.

17 Q. Okay, and you still signed that form?

18 A. I did.

19 Q. Okay. During this interview, were you
20 denied the ability to go to the bathroom?

21 A. No.

22 Q. Okay. Were you denied access to food
23 or water?

24 A. No.

25 Q. Okay, and I just want to talk about

1 your background. You've been convicted of a
2 crime before, correct?

3 A. Yes.

4 Q. Okay, and through that process you've
5 been provided your Miranda warnings?

6 A. I'm not sure.

7 Q. Okay. Have you ever had interviews
8 with law enforcement prior to this?

9 A. This is my first one.

10 Q. Okay. And throughout this interview
11 you had, you never asked for an attorney?

12 A. Never.

13 Q. You never asked to stop speaking to law
14 enforcement?

15 A. Never.

16 Q. okay, and you never said, you know,
17 "Can I leave this room?"

18 A. Never.

19 Q. Okay.

20 MS. JONES: I beg the Court's indulgence.

21 BY MS. JONES:

22 Q. Mr. Sanders, you've been arrested by
23 law enforcement multiple times, correct?

24 A. Yes.

25 Q. Okay, so you've had numerous

1 interactions with them?

2 A. Yes.

3 Q. And you've agreed to speak with law
4 enforcement numerous times?

5 A. Yes.

6 Q. Okay.

7 MS. JONES: Nothing further, Your Honor.

8 MR. PAULK: A brief redirect, Your Honor?

9 THE COURT: Sure.

10 ***

11 REDIRECT EXAMINATION

12 BY MR. PAULK:

13 Q. The occasions that you have been
14 arrested and spoken with law enforcement, when
15 you spoke with them, was it in a formal
16 interview setting, such as this?

17 A. No, it was not.

18 Q. Was it ever an interview for murder?

19 A. Never.

20 Q. And your prior contact with law
21 enforcement, whenever you were speaking with
22 them, did you ever have to sign a Miranda
23 warning?

24 A. No.

25 Q. Do you recall during your interview

1 requesting to speak with a Officer Malphrus?

2 A. Yes. Yes, I do.

3 Q. Were you promised that you would be
4 able to speak with him?

5 A. I was promised.

6 Q. Did you ever get to speak with Officer
7 Malphrus?

8 A. I never got to speak to him.

9 MR. PAULK: No further questions, Your
10 Honor.

11 THE COURT: Any recross?

12 MS. JONES: Nothing further.

13 THE COURT: I think you can step down, Mr.
14 Sanders.

15 MR. PAULK: Your Honor, based on the
16 service of the fugitive from justice warrant
17 that was served upon Mr. Sanders, and was what
18 was holding him in the Investigations office on
19 that day, I believe that Mr. Sanders' Sixth
20 Amendments right to counsel attached at that
21 time, whenever he was served with documents,
22 notifying him that he was being prosecuted as a
23 fugitive from justice.

24 At the time that his Sixth Amendment rights
25 were attached, he had the right to be assisted

1 by counsel, and to have counsel present for any
2 and all questions that were to be asked by law
3 enforcement. This is not necessarily a Miranda
4 issue, it is a Sixth Amendment right to counsel
5 issue. The right to counsel attached as soon as
6 proceedings against Mr. Sanders were initiated,
7 service of that fugitive justice warrant was at
8 the beginning of those proceedings.

9 Additionally, it sounds as though the arrest
10 warrants were not served on him yet, but they
11 had already been written out, sworn out, and we
12 can assume that as soon as those warrants were
13 served, his Sixth Amendment right to counsel
14 likewise attached. And another thread, State v.
15 Rochester, which is 301SC196, 1990, states,
16 "That a statement may not be extracted by any
17 source of threats or violence, or obtained by
18 any direct or implied promises however slight."
19 Your Honor, I understand that the only promise
20 that was made to Mr. Sanders was, that he would
21 be allowed to speak with a Officer Malphrus,
22 that he specifically requested to speak with
23 Officer Malphrus, and that if he spoke with
24 officers, that they would get to -- that he
25 would get to speak with Officer Malphrus,

1 eventually. Your Honor, that promise never came
2 to fruition.

3 It could be that the enticement of that
4 promise to speak with Officer Malphrus, somebody
5 that Delmar, presumably, trusted and knew, could
6 have enticed him to speak with officers. It
7 could have enticed him to say, "Well, I'll talk
8 to them, but, you know, that's only so that I
9 can speak with Mr. Malphrus later." The case
10 law that I just quoted, State v. Rochester,
11 says, "Promises however slight constitutes
12 improper influence."

13 THE COURT: Refresh my memory on that.
14 Like what's this Friday morning? And if I'm
15 wrong, I'll go back and watch it again, but it
16 seemed like they were saying they would try to
17 help him get in touch with him. He wasn't
18 necessarily with the agency anymore. I don't
19 remember anything -- and, again, if I'm wrong, I
20 certainly don't mind admitting I'm wrong. I
21 don't remember an explicit promise. I remember
22 it more as, "Yeah, we'll try. He's not really -
23 -- I think he's now supervising a bunch of road
24 deputies," I think is what they said, and they
25 would try to get him. Was there an explicit

1 promise?

2 MR. PAULK: Your Honor, it's the State's --
3 or it's the defense's contention that there was
4 an explicit promise, or an implied promise. You
5 know, the case law right here says if there's
6 any implied promise, however slight. I believe
7 that this can certainly go to an implied
8 promise, that if you talk with us, that, yes,
9 we'll do whatever we can to get you in touch
10 with Officer Malphrus.

11 THE COURT: Okay.

12 MS. JONES: Your Honor, if I may?

13 THE COURT: Yes, ma'am.

14 MS. JONES: I believe your recollection of
15 the video is accurate. Investigators told Mr.
16 Sanders that Deputy Malphrus is now in charge of
17 road deputies, he's no longer Investigations.
18 That they would try to reach out to him, and try
19 to get the message to him, but there were
20 absolutely no promises made. And, again, he
21 wasn't threatened, there was no promises made,
22 and they said that throughout the entire
23 interview, "We can promise you anything.

24 We don't -- we can't tell you what's gonna
25 happen from this." I think that the interview

1 it speaks for itself. He arrived, they even
2 give him a bottled water. He talks during the
3 entire time. He executes a Miranda form with
4 law enforcement, and he's willing to speak with
5 them freely, voluntarily, and he knows what is
6 going on. It's the State's position that,
7 absolutely, he knew exactly what he was doing.
8 He was really there doing that with law
9 enforcement. There was no threats, no promises,
10 and that these statements were voluntarily
11 provided.

12 THE COURT: And what -- the date of the
13 interview was the 27th?

14 MS. JONES: The 26th, Your Honor.

15 THE COURT: Oh, the 26th. I thought --

16 MR. PAULK: That was my mistake, Your
17 Honor, I said 27th earlier on --

18 THE COURT: Okay.

19 MR. PAULK: -- direct.

20 THE COURT: What time was the interview?

21 MS. JONES: About 5 o'clock in the evening.
22 Your Honor, and just to address Mr. Paulk's
23 Sixth Amendment argument, the right to counsel
24 is if it's often specific; and so just because
25 they may have been appointed on one charge, that

1 does not automatically go into an unrelated
2 matter, or an unindicted matter in this case.

3 THE COURT: Yeah, I mean I think there's
4 some case law out there I may want to take a
5 minute to look at it, but I am concerned that
6 they had reached out, and they conducted the
7 interview anyway. You know, if the interview
8 was at 10:00, and he writes this message at
9 1:00, then it's different I think. That'd be
10 assuming, I believe, the way they spoke from the
11 PD's office you know, this is about four hours
12 prior that the officer was given a note saying
13 that Mr. Paulk might represent him.

14 Can you'all elaborate on that any?

15 MS. JONES: Your Honor, that was provided
16 -- it doesn't have a date on it, it doesn't have
17 a time, so we can just merely go off of what Ms.
18 Compton's testimony was of when she reached out
19 to investigators.

20 Unfortunately, you know, the note that was
21 shown, and it's a Court's exhibit, we don't have
22 a date or a time, and Investigator Tunis, you
23 know, does not have a recollection of what
24 exactly was said on the phone call, or when that
25 note was made.

1 MR. PAULK: And, Your Honor, if that's
2 something that the Court would like, I'm more
3 than happy to print out our notes from Defender
4 Data, specifically that one, obviously,
5 excluding any other work product; but from Ms.
6 Estrada, with her contemporaneous note of this
7 event.

8 THE COURT: Well, I mean I think her
9 testimony is clear enough, and he testified that
10 he didn't remember when it was. I know there
11 are instances, where folks can, even though they
12 have an attorney, still waive their right to
13 counsel. Any -- let me -- I'm gonna think about
14 this for a minute, because we've been going
15 about an hour and a half.

16 Is there anything, other than this one?
17 Anything left? All right, well, let's do this,
18 let's take about a 15-minute break, and we'll
19 come back out and finish up on that. We've been
20 going about an hour and a half, so I don't like
21 to work everybody to death, everybody needs a
22 bathroom break, and all that good stuff, so
23 we'll be back at say 4:15.

24 MR. PAULK: Thank you, Your Honor.

25 (Recess.)

PROCEEDINGS CONTINUED

THE COURT: Yes, ma'am?

MS. JONES: Your Honor, if I may? Just during the brief break I was able to do some research, and I do have a couple cases, I'm not sure if Your Honor have reviewed them, but State v. Compton, and State v. Reid, that address, one, the Sixth Amendment right to counsel attaches, and the admissibility of statements in similar situations.

THE COURT: Sure, I'll take a look at that. All right, I appreciate the arguments -- are we back on the record?

COURT REPORTER: Yes, sir.

THE COURT: All right, I appreciate the arguments of counsel. And I want to say this, this is probably the old defense lawyer in me, I don't like the fact that there may have been a message that he had a lawyer, and he was still interrogated; however, the law is regardless of whether or not he was -- he had a lawyer, he could certainly still waive it, or waive his right to counsel.

There's the Montajo case is actually cited

1 by State v. Reid here, that states that when the
2 Court appoints counsel for an indigent
3 defendant, in the absence of any request on his
4 part, there's no basis for a presumption that
5 any subsequent waiver of a right to counsel will
6 be involved here, and that's Montajo v.
7 Louisiana, 556US778. So even though Mr. Sanders
8 had been apparently appointed a Public Defender,
9 he can certainly still waive the right to
10 counsel, and voluntarily issue a statement.

11 As far as the Rochester case, I appreciate
12 the argument on that, counsel, but I believe
13 that's more along the lines of promises, or of
14 leniency. I think in Rochester it went they
15 promised him leniency. Another case they cite
16 in there, they promised to keep the death
17 penalty off the table, so I don't believe those
18 apply as well.

19 As I understand it, I've got to make four
20 findings on the Jackson v. Denno issue first,
21 was did the Defendant make a statement?
22 Obviously, the State has proven by proof of
23 ponderance of the evidence that he did, in fact,
24 make a statement. Was the Defendant advised of
25 Miranda warnings before he was questioned by law

1 enforcement?

2 I find that based upon my review of the
3 video, as well as the document that Mr. Sanders
4 acknowledges he signed, that he was, in fact,
5 advised of his Miranda rights. Third, did the
6 Defendant knowingly and intelligently waive his
7 constitutional rights? I believe he did, based
8 upon, again, my own review of the video, as well
9 as the testimony here today. He does not appear
10 to be an unsophisticated man. He indicated that
11 he has a year of college.

12 You know, they offered him water, they went
13 and found a cigarette for him, took him outside
14 to smoke, so I believe he did knowingly and
15 intelligently waive his constitutional rights.
16 And, finally, was the statement given
17 voluntarily? And I find, based upon the
18 testimony as well as, again, my review of the
19 video that by preponderance of the evidence that
20 the statement was also voluntary. Is there
21 anything else we need to do?

22 MR. PAULK: Nothing from the defense, Your
23 Honor.

24 MS. JONES: Not from the State, Your Honor.

25 THE COURT: All right, well, if you'all

1 come up with anything overnight, I will -- I can
2 probably be here at 8:30, if you'all need me
3 here that early, or we have the jury coming in
4 at 9:00, no, 9:30.

5 So why don't we plan on -- I'll be in
6 Chambers by 9:00, if you guys have anything for
7 me, if anything comes up overnight. You know,
8 if you'all need to address anything, you want to
9 talk to me in Chambers. I know every Judge does
10 that a little bit different. I'm fine with
11 talking with lawyers in Chambers, so, you know,
12 anything I can do to make your lives a little
13 bit easier, I'm happy to do. Let me know.

14 MS. JONES: Thank you, Your Honor.

15 MR. PAULK: Thank you, Your Honor.

16 THE COURT: All right, we will be adjourned
17 until tomorrow morning.

18 (At 4:52 p.m. the proceedings were
19 continued until the following day without
20 interruption.

21 ***

22 END OF VOLUME I

23

24

25

.....

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

IN THE COURT OF COMMON PLEAS
FOR THE 14th JUDICIAL CIRCUIT
2021-GS-07-01219 - 01221

State of South Carolina,

Plaintiff,

vs.

Delmar R. Sanders,

TRANSCRIPT OF JURY TRIAL
VOLUME II
PAGES 106 - 314

Defendant.

August 23, 2022
Beaufort, South Carolina

B E F O R E:

The Honorable Heath P. Taylor, Judge Presiding

Kymberlee M. Williams, CSR/RPR
Official Circuit Court Reporter III
Post Office Box 8091
Beaufort, South Carolina 29903

A P P E A R A N C E S

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1 PROCEEDINGS

2 ***

3 TUESDAY, AUGUST 23, 2022

4 BEAUFORT, SOUTH CAROLINA

5 (The following proceedings were heard in
6 open court. All parties were present.)

7 THE COURT: Good morning. Let's bring in
8 the jury.

9 (Jury enters courtroom)

10 THE BAILIFF: The jury's seated, Your
11 Honor.

12 CLERK: Will you all please rise for me?
13 Raise you right hand, do you solemnly swear or
14 affirm that you shall well and truly try and
15 true deliverance made between the State of South
16 Carolina and the accused, and a true verdict
17 given according to the evidence, so help you
18 God?

19 JURORS: Yes.

20 THE COURT: Good morning, ladies and
21 gentlemen. I want to, before we get started,
22 introduce myself. Things were a little
23 different yesterday, because Judge Mullen and I
24 were wearing different hats, and she qualified
25 you. My name is Heath Taylor, I am a Circuit

1 Judge from the First Circuit, which is Calhoun,
2 Orangeburg and Dorchester Counties. Seated to
3 my right is my Law Clerk, Jessica Thompson, and
4 we are happy to be visiting with you'all this
5 week, and, yeah, I wanted to formerly introduce
6 myself, but this case is not about me. The case
7 we're here to try today is the State v. Delmar
8 Sanders.

9 I have some instructions for you, and if it
10 sometimes seems like I'm reading to you, it's
11 because I am. There's a lot of things I have to
12 tell you, with regard to the proceedings and the
13 trial itself, so, again, I'm not -- I don't mean
14 to seem demeaning, but I have to read some of
15 this stuff, to make sure we get it all in,
16 because it's a lot. This trial is a solemn and
17 serious proceeding necessary for the protection
18 and preservation of citizens' rights, to what
19 many have called the greatest justice system
20 ever created.

21 The attorneys here before you are advocates
22 for the parties they represent, but first and
23 foremost they are officers of the Court. They
24 are sworn to uphold the integrity and fairness
25 of our judicial system. They are professional,

1 competent and ethical in the representation of
2 their clients. Remember, you've taken an oath
3 to try this case and reach a verdict, and you
4 are also expected to be professional, reasonable
5 and ethical.

6 I want to thank you for accepting the
7 courtroom responsibility of jury service, and
8 for your contribution today to our justice
9 system. Without people like you willing to
10 serve, our justice system simply cannot
11 function. These instructions are an
12 introduction to this trial. These remarks are
13 not a charge on the law in this case. I will
14 instruct you on the law applicable at the end of
15 the trial, before you consider your verdict.
16 This is merely an explanation of the procedure
17 that we will follow during trial, to help you
18 better understand what's happening.

19 You are not to take notes during this
20 trial. I know there was some questions about
21 that. Sometimes notes are allowed, if it's
22 gonna be a really long, complicated trial with
23 lots of dates, and this is not that kind of
24 trial. We hope to have you out of here in a
25 couple days, so just -- everybody will operate

1 off their own memory in this one.

2 The Defendant is charged by warrants and a
3 subsequent indictment filed in this Court, with
4 the crimes of murder, attempted murder, and
5 possession of a weapon during the commission of
6 a violent crime. The elements of those crimes
7 will be explained to you later on. The warrants
8 and indictments are simply the charge by which
9 the case is brought into court. It is not, in
10 any sense of the word, evidence of any
11 allegations contained in the indictments or
12 warrant.

13 The Defendant has pled not guilty to these
14 indictments, therefore, the State has the burden
15 of proving each of the elements of the crimes,
16 beyond a reasonable doubt; and it is your duty,
17 ladies and gentlemen, to decide whether the
18 State has met that burden. Your role or
19 purpose, as jurors, is to find and determine the
20 facts. You are the sole judges of the facts.
21 If, at any time, I make any comment regarding
22 the facts, please disregard it.

23 You are to determine the facts from the
24 testimony you hear, and other evidence
25 introduced into Court. It is up to you to

1 determine the inferences, which you feel may be
2 properly drawn from the evidence. It is
3 especially important that you perform your duty
4 of determining the facts diligently and
5 conscientiously, because, ordinarily, there is
6 no way to correct an erroneous determination of
7 the facts by a jury.

8 A higher Court can correct a mistake I may
9 make on the law, but the facts you determine
10 back in that room can't be corrected, so it's
11 very important. On the other hand, with equal
12 emphasis, the same rules that make you the
13 judges of the fact, make me the judge of the
14 law. The law, as given by the Court, is the
15 only law you may consider. You must accept and
16 follow it, even though you may disagree with it.
17 I cannot tell you what the facts are, and you
18 cannot disagree with me about what the law is or
19 should be. Your job is to take the law, as I
20 give it to you, and apply it to the facts, as
21 you find them from the testimony of the
22 witnesses and other evidence introduced.

23 After doing that, you will render your
24 verdict, under the solemn oath that you just
25 took as jurors. We talked about this a little

1 bit yesterday, but until I advise you to begin
2 your deliberations, you must not discuss this
3 case with anyone, including your fellow jurors,
4 friends, family members, or anyone involved in
5 the case. You must decide the case based solely
6 on the evidence presented here in this
7 courtroom. That means that during trial, again,
8 we talked about this yesterday too, you must not
9 conduct any independent research about this
10 case, by searching the internet, websites,
11 blogs, Google, any other electronic means or
12 medium.

13 After the case is submitted to you, you
14 must discuss it only in the jury room with your
15 fellow jurors. The attorneys and parties in
16 this case have been advised that they are not to
17 talk to you at all. So if you see anyone
18 involved in this case, and they don't say hello,
19 they're not being unfriendly, they are following
20 my instructions. It's important to keep an open
21 mind, and not decide any issue in the case until
22 all of the evidence has been presented, and the
23 parties have made their closing arguments, and I
24 have instructed you on the law.

25 If you become aware of another juror's

1 violation of these instructions, you must inform
2 me immediately. And, ladies and gentlemen, when
3 I tell you that, we take that very seriously.
4 We were in a trial last week, where a juror
5 indicated to another juror that he had made up
6 his mind about three days into the trial, and
7 that created a huge disruption. It took a lot
8 of -- it took about a half a day to sort all
9 that out, when we could have been working. So,
10 again, we take that stuff very seriously, and
11 hope you will as well.

12 It is your solemn responsibility to
13 determine the guilt or innocence of the
14 Defendant, and your verdict must be based solely
15 on the evidence, as it is presented to you in
16 this courtroom, during this trial, and on the
17 law as I instruct you at the close of trial. In
18 just a moment the Solicitor will make what's
19 called an opening statement, in which the
20 Solicitor will explain to you the issues in the
21 case, or at least what the Solicitor thinks the
22 issues are in the case.

23 Counsel for the Defendant may also provide
24 an opening statement, although he's not required
25 to. What the attorneys tell you during their

1 opening statements is not evidence, it is only
2 their contention of what the issues are, or what
3 they believe the evidence may show. The
4 evidence in this case will be presented to you
5 by the testimony of sworn witnesses from this
6 witness stand, and by exhibits that may be
7 introduced at trial.

8 From time-to-time during the trial you may
9 hear one of the lawyers say something like,
10 "Your Honor, I believe we have a question of
11 law, or a matter of law to discuss with you," or
12 "may we approach the bench?" Or sometimes I,
13 myself, might find it necessary to excuse you
14 from the courtroom for a short while, so we can
15 discuss the matter of law. The reason for this
16 is, that you are the judges of the facts in the
17 case, and sometimes when I am discussing matters
18 of law with the attorneys, it may be necessary
19 for me to make some comment about the facts, in
20 connection with a ruling on a particular issue
21 of law. I'm not supposed to tell you what I
22 think the facts are, so I'll excuse you from the
23 courtroom, while these discussions take place,
24 so that in no way will you be influenced by
25 anything that I might say or do, in connection

1 with the facts.

2 In determining what the facts are in this
3 case, you must decide whether or not the
4 testimony of a witness is believable. It will
5 be my responsibility to rule, as a matter of
6 law, as to whether certain testimony is
7 admissible, but once the testimony is admitted,
8 it is solely for you to determine the
9 believability of the witness' testimony. In
10 deciding whether to believe a witness, you have
11 the right to consider the interest of the
12 witness, the bias of any witness, prejudice of
13 any witness, the opportunity for the witness to
14 have seen the matters and things about which the
15 witness may testify, and the way the witness
16 acts on the witness stand. You have the right
17 to consider anything that is in the record, that
18 would help you evaluate the testimony of
19 witnesses. That means you must pay close
20 attention to these witnesses, observe the
21 witnesses, listen to the witnesses, and pay
22 close attention to the attorneys and to the
23 Court.

24 Please don't let your thoughts wander, and
25 give strict attention to the testimony in this

1 case, so at the end of all the testimony, after
2 the arguments of counsel and my charge on the
3 law, you will then be in a position to determine
4 what the applicable facts are, and apply the law
5 to those facts, and render a verdict. All
6 right, and now we need to appoint a Foreperson.
7 Ma'am, what's your juror number? You picked the
8 magic chair.

9 JUROR 95: 95.

10 THE COURT: 95. So Ms. Everly, you will be
11 our Foreperson. You're not gonna get an extra
12 check for that, but it is your duty though to
13 preside in the jury room, and be the jury
14 spokesperson here in Court. It'll be your duty
15 also to write the verdict, but we will give you
16 further instructions on that, as we proceed.
17 Any exceptions to what I have told them from the
18 State?

19 MS. JONES: No, Your Honor.

20 THE COURT: Defense?

21 MR. PAULK: No, Your Honor.

22 THE COURT: Ready to proceed?

23 MS. JONES: Yes, your Honor. May it
24 please the Court?

25 THE COURT: Yes, ma'am.

1 MS. JONES: Mr. Paulk, Ms. Gibbes.

2 ***

3 OPENING STATEMENT BY MS. JONES

4 MS. JONES: On July 23rd of 2021, just last
5 summer, Deonne McLendon is shot and killed; but
6 this is never a case of who'd done it? Because
7 after Deonne is shot, and before he takes his
8 final breath, he utters his killer's name,
9 "Delmar."

10 That is the name that he gives to Beaufort
11 County Sheriff's Office before he dies from two
12 gunshot wounds to the abdomen, "Delmar." July
13 23rd of last summer Deonne McLendon, who you may
14 hear called Scooter, Delmar Sanders, the
15 Defendant in this case, and a lady named Rhonda
16 Randall are together.

17 They are hanging out downtown Beaufort.
18 They then make their way over to the Oasis Inn,
19 which is located on Boundary Street, and while
20 they're at the Oasis Inn, Ms. Randall has a room
21 there, they realize that they need some cash,
22 they done have any cash.

23 So they need cash for some more drugs,
24 because that night all three of them are
25 snorting cocaine, and they have run out of money

1 -- they have run out of drugs, they have run out
2 of cash, and needed to go to an ATM to get more
3 cash for more drugs, so they leave. All three
4 of them leave together in the Defendant's red
5 Dodge Durango.

6 In leaving the Oasis Inn that night was a
7 move that changed all three of their lives
8 forever. Delmar's driving, and perhaps, because
9 of the high on the cocaine, he's swerving, he's
10 driving recklessly. Deonne and Rhonda don't
11 want to get pulled over by the police, so they
12 ask him, they said, "Let us drive, let us drive,
13 we're gonna get pulled over, let us drive."
14 Delmar says, "It's not happening, you're not
15 driving my car." "Let us drive, let us drive,
16 we're gonna get pulled over." So, finally, the
17 Defendant stops the car, and Deonne gets out of
18 the passenger side seat. He walks around the
19 back of the car, and he comes to the driver's
20 side. Rhonda stays in the backseat, but when
21 Deonne comes around the back of the car to the
22 driver's side, he's not just staring down the
23 Defendant, he's now staring down the barrel of a
24 gun in the Defendant's hand.

25 The Defendant then pulls the trigger at

1 least three times and shoots Deonne. Deonne
2 then runs for his life, but the Defendant's not
3 done. Rhonda, hysterical in the backseat, he
4 then points the gun at her, and shoots her one
5 time. She too then runs for her life. And what
6 does the Defendant do? He too runs, and he's
7 not seen again for at least 24 hours. Beaufort
8 County Sheriff's Office respond, EMS respond,
9 paramedics respond.

10 Ms. Randall has one gunshot wound to her
11 arm, she's taken to Beaufort Memorial Hospital.
12 Deonne McLendon has been shot twice in his
13 abdomen. He is found in a rural area of
14 Beaufort County on the side of the road, and
15 that is where he's able to tell a Deputy Gray
16 who shot him. They asked him, "Who shot you?
17 Who shot you? Who shot you?" He says, "My
18 cousin," because they're not just friends,
19 they're also cousins, "My cousin. My cousin,
20 Delmar." Beaufort County's able to find out
21 that there's a Delmar Sanders who drives a red
22 Dodge Durango, and they find him the next day in
23 Camden County, Georgia.

24 Camden County is straight down I-95 on the
25 Florida-Georgia line, a small little town.

1 Delmar, the Defendant, had turned himself in
2 there. And, eventually, he is brought back to
3 Beaufort County, and he is interviewed by two
4 Beaufort County Investigators, one of which is
5 this gentleman right here, Investigator Tunis,
6 and the Defendant then talks.

7 He cannot wait to tell his many, many
8 stories, his many, many, many, many lies. And you're
9 gonna hear that interview, and you're gonna see
10 it, because it was recorded, and you too will
11 hear those stories and those lies. And what
12 you're also gonna hear at the end of the
13 interview is the truth. Because he does come
14 out with it, eventually. And you know what he
15 says? He says, "Yeah, I shot him. I was high
16 on cocaine, and I was paranoid, and I shot him."
17 It's as simple as that.

18 Now, this is not a science case. You're
19 not gonna hear from a DNA expert, who's gonna
20 have the proverbial defendant's DNA on the
21 smoking gun. You're not gonna have a
22 fingerprint expert that's gonna say, "Yes, this
23 is the Defendant's fingerprints on the Dodge
24 Durango."

25 You're not gonna have any of that, because

1 from day one this was never a who done it? This
2 was always a why, why did this happen? And we
3 eventually find out, because for Delmar, the
4 Defendant, cocaine, paranoia, and guns are a
5 deadly combination.

6 In South Carolina you're gonna learn that
7 involuntary intoxication is not a defense. If
8 you ingest drugs, if you ingest alcohol, and you
9 do something, when you're under the influence,
10 you are just as responsible as, if you had done
11 it when you were sober. It's no justification,
12 it's no excuse, it's no defense. The Defendant
13 is guilty. He shot Deonne McLendon, he killed
14 him, because he was high and paranoid, and then
15 he turns the gun on Rhonda, and tried to kill
16 her.

17 THE COURT: Mr. Paulk?

18 ***

19 OPENING STATEMENT BY MR. PAULK

20 MR. PAULK: Good morning, ladies and
21 gentlemen, my name is Seth Paulk, and I
22 represent Mr. Delmar Sanders. I don't know if
23 you'all are familiar with the story of the
24 scorpion and the frog. It goes like this.

25 There's a scorpion that wants to cross the

1 river, but he can't swim. So he asked the frog
2 to carry him across. The frog is afraid that
3 the scorpion might sting him, the scorpion
4 promises not to, pointing out that if he stung
5 the frog, they would both drown. The frog sees
6 the reasonableness of this, sees the
7 sensibleness, and the frog agrees to take the
8 scorpion across the river.

9 Halfway across the river the scorpion
10 stings the frog. At the time, the frog asked
11 the scorpion why it stung him, despite knowing
12 the consequence? Which the scorpion replies,
13 "I'm sorry, but I couldn't resist the urge, it's
14 in my nature."

15 As you consider all that evidence in this
16 case, I want you to remember that story. I want
17 you to keep it in the back of your mind. And,
18 ladies and gentlemen, the Judge has already
19 instructed you not to make any deliberations,
20 not to come up with any conclusions until after
21 all the evidence is presented in this case. I
22 ask that you listen, that you listen
23 attentively, that you pay attention, and,
24 please, don't come to any conclusions until all
25 the evidence in this case is laid out for you.

1 The Judge also mentioned the State's burden, and
2 the Judge did mention reasonable doubt.

3 Ladies and gentlemen, the State has got to
4 prove to you, beyond a reasonable doubt that Mr.
5 Sanders did not act in self-defense. That is
6 the State's burden, period. It is not my burden
7 to prove to you that he did act in self-defense,
8 it is their burden to prove that he did not act
9 in self-defense. I ask you also keep that in
10 your mind, as we go through these proceedings,
11 and as the evidence is brought up before you.
12 Ladies and gentlemen, this is a very serious
13 matter, this is a very serious case, but as
14 you're gonna find out, there are two sides to
15 every story.

16 I ask that you listen closely, that you
17 listen attentively, that you pay attention to
18 all the evidence that is put before you, before
19 you make any decisions about the guilt or
20 innocence of Mr. Sanders. Thank you.

21 THE COURT: Ms. Jones?

22 MS. JONES: Your Honor, the State would
23 call Allyson Moreira.

24

25

1 ALLYSON MORIERA

2 * * *

3 being first duly sworn, testified as
4 follows:

5 DIRECT EXAMINATION

6 BY MS. MORIERA:

7 Q. Good morning, Ms. Moriera?

8 A. Good morning.

9 Q. Can you please tell me where you're
10 employed?

11 A. The Beaufort County Sheriff's Office.

12 Q. And in what department with the
13 Sheriff's Office?

14 A. Records.

15 Q. Okay. And how long have you been
16 working in Records with the Sheriff's Office?

17 A. Almost eight years.

18 Q. Okay, and what exactly is your job
19 title?

20 A. I'm the 911 Audio Clerk, so I look at
21 all the 911 calls and put them into evidence.

22 Q. Okay, and did you receive a request
23 from my office to pull all 911 calls associated
24 with this case?

25 A. Yes.

1 Q. And did you make a copy of these
2 reported calls?

3 A. I did.

4 Q. Okay.

5 MS. JONES: Permission to approach the
6 witness?

7 THE COURT: Yes, ma'am.

8 (Court Reporter marks State's Exhibit
9 Number 1, 911 Call, as attached hereto.)

10 BY MS. JONES:

11 Q. I'm handing you what has been marked,
12 for identification purposes, as State's Exhibit
13 Number 1. Do you recognize that?

14 A. I do.

15 Q. And what is that?

16 A. It's the 911 call.

17 Q. And how are you able to recognize it?

18 A. It has my initials on it.

19 Q. Did you have an opportunity to review
20 that prior to trial?

21 A. Yes.

22 Q. And did that fairly and accurately
23 depict the copy of the 911 call that you
24 reported?

25 A. Yes.

1 Q. Okay.

2 MS. JONES: Your Honor, at this time, I
3 would move State's Exhibit 1 into evidence.

4 THE COURT: Objection?

5 MR. PAULK: Without objection.

6 MS. JONES: And, Your Honor, may I publish
7 to the jury?

8 THE COURT: Yes, ma'am.

9 MR. PAULK: What 911 call do you need, or
10 CD rather?

11 (Audio played for the jury.)

12 MS. JONES: Thank you, Your Honor, I have
13 no further questions for this witness.

14 THE COURT: Mr. Paulk?

15 ***

16 CROSS-EXAMINATION

17 BY MR. PAULK:

18 Q. Good morning, Ms. Moreira, how are you
19 today?

20 A. Good, how are you?

21 Q. Doing well. In your capacity as
22 Records Custodian for Beaufort County 911, do
23 you'all also keep records of calls for service?

24 A. We do.

25 Q. Do you keep records of calls for

1 service for specific addresses?

2 A. We do.

3 MR. PAULK: Your Honor, may I approach?

4 THE COURT: Yes, sir.

5 MS. JONES: Your Honor, may I see what he's
6 handing him?

7 MR. PAULK: My apologies.

8 MS. JONES: Your Honor, may we approach?

9 THE COURT: Yes.

10 BY MR. PAULK:

11 Q. Ms. Moreira, do you recognize this
12 document?

13 A. Yes.

14 Q. And could you tell the Court what that
15 document is?

16 A. It's a record of all calls for that
17 address.

18 Q. And what is that particular address?

19 A. [REDACTED] Lees Drive.

20 Q. And how many calls for service are
21 there?

22 A. 31.

23 Q. What are calls for service?

24 A. Anyone that calls 911 non-emergency to
25 that particular address.

1 Q. Is it just non-emergency, or is it all
2 911 calls to that address?

3 A. Both.

4 Q. Thank you, ma'am, no further questions.

5 THE COURT: Any redirect?

6 MS. JONES: No, Your Honor, thank you.

7 THE COURT: All right, call your next
8 witness.

9 MS. JONES: The State calls Deputy William
10 Gray.

11 * * *

12 WILLIAM GRAY

13 * * *

14 being first duly sworn, testified as
15 follow:

16 MS. JONES: Thank you, Your Honor.

17 ***

18 DIRECT EXAMINATION

19 BY MS. JONES:

20 Q. And, Deputy Gray, Ms. Williams is
21 having to take down everything, so if you can
22 speak directly into that microphone? It's kind
23 of hard to hear some people. Good morning,
24 Deputy Gray. I see you're in uniform, where do
25 you work?

1 A. Beaufort County Sheriff's Office.

2 Q. And what do you do for the Sheriff's
3 Office?

4 A. I'm a Patrol Deputy.

5 Q. What does that mean?

6 A. I respond to calls for service, stuff
7 like that.

8 Q. Would that be any sort of call that
9 somebody makes into 911?

10 A. Yes, ma'am.

11 Q. Okay. And that would be calls of all
12 sorts. How long have you been with the
13 Sheriff's Office?

14 A. About a little longer than two years
15 now.

16 Q. So back in July 23rd of 2021, how long
17 had you been with the Sheriff's Office?

18 A. About one year.

19 Q. So you're relatively new in law
20 enforcement?

21 A. Yes, ma'am.

22 Q. And did you have an opportunity to
23 respond to the area of Hebron Road and Boundary
24 Road?

25 A. Yes, ma'am.

1 Q. And why did you respond to that area of
2 Beaufort County?

3 A. For a 911 call.

4 Q. And I just said that area in Beaufort
5 County. Is that area in Beaufort County?

6 A. Yes, ma'am.

7 Q. And do you remember what the 911 call
8 was in reference to?

9 A. I believe it was a shots fired call.

10 Q. Okay.

11 A. Sorry.

12 Q. That's okay. If I showed you a map of
13 that area, would that help show on the map where
14 you responded?

15 A. Yes.

16 Q. Okay.

17 MS. JONES: Your Honor, may the witness
18 step down from the stand?

19 THE COURT: Yes.

20 (Court Reporter marks State's Exhibit 2,
21 Aerial Image, as attached hereto.)

22 MS. JONES: And for the record, this is
23 State's 2, previously shown to defense.

24 BY MS. JONES:

25 Q. Okay, Deputy Gray, what are we looking

1 at here? Do you want to come around? Let's
2 wait for Mr. Paulk.

3 A. It looks like an aerial image of the
4 area of Laurel Bay, Stanley Farm and Highway 21.

5 Q. And is this part of Beaufort County?

6 A. Yes, ma'am.

7 Q. And is this where you responded the
8 night of July 23rd?

9 A. Yes, ma'am.

10 Q. And where exactly on this map did you
11 respond?

12 A. It would have been right in this area
13 right here.

14 Q. And does this map fairly and accurately
15 depict that portion of Beaufort County?

16 A. Yes, ma'am.

17 MS. JONES: Your Honor, at this time, the
18 State moves to into evidence.

19 THE COURT: Any objection?

20 MR. PAULK: Without objection.

21 THE COURT: All right, the aerial image
22 will be State's 2.

23 (State's Exhibit 2 was entered into
24 evidence.)

25 MS. JONES: Thank you.

1 BY MS. JONES:

2 Q. And, briefly, again, when you respond
3 to this portion of that road, what do you find?

4 A. We find an individual laying in the
5 area right here in the tree line, and a female
6 that's standing here --

7 Q. Okay.

8 A. -- kind of pointing at the individual
9 laying in the tree line.

10 Q. Okay, and you can take a seat back on
11 the stand.

12 (Court Reporter marks State's Exhibit
13 Number 3, Photograph, as attached hereto.)

14 (Court Reporter marks State's Exhibit
15 Number 4, Photograph, as attached hereto.)

16 (Court Reporter marks State's Exhibit
17 Number 5, Photograph, as attached hereto.)

18 (Court Reporter marks State's Exhibit
19 Number 6, Photograph, as attached hereto.)

20 BY MS. JONES:

21 Q. I'm going to show you some photographs
22 that can help better show that area.

23 MS. JONES: Permission to approach, Your
24 Honor?

25 THE COURT: Yes, ma'am.

1 BY MS. JONES:

2 Q. I'm going to show you State's 3, 4, 5
3 and 6. Do you recognize those photographs?

4 A. Yes.

5 Q. And what are those photographs of?

6 A. Photographs of the area, where we
7 responded.

8 Q. And do they fairly and accurately
9 portray the area of the Stanley Farm Road,
10 Laurel Bay area?

11 A. Yes.

12 MS. JONES: Your Honor, at this time, the
13 State moves 3, 4, 5 and 6 into evidence.

14 THE COURT: Any objection

15 MR. PAULK: Without objection.

16 THE COURT: All right, those photos will be
17 State's 3, 4, 5 and 6.

18 MS. JONES: And permission to publish?

19 THE COURT: Yes, ma'am.

20 BY MS. JONES:

21 Q. If we can start with just State's 3?
22 And is that just some road signs showing us
23 where we are in town?

24 A. Yes.

25 Q. Okay. And how about State's 4, is that

1 the intersection of the two roads?

2 A. Yes.

3 Q. And then State's 5, would that just be
4 looking from a different angle?

5 A. Yes.

6 Q. And then, finally, State's 6, again,
7 this is the area of Stanley Farm and Laurel Bay?

8 A. Yes.

9 Q. Would you describe that as a pretty
10 rural area?

11 A. I would describe it -- yes, I would
12 describe it as a pretty rural area. There is a
13 decent amount of traffic, because of Laurel Bay
14 Road, but --

15 Q. That night were you wearing a bodycam
16 on you?

17 A. Yes.

18 Q. And was it on and working that night?

19 A. Yes.

20 Q. And did you submit that recording into
21 evidence?

22 A. Yes.

23 (Court Reporter marks State's Exhibit
24 Number 7, Bodycam Video, as attached hereto.)

25 MS. JONES: Permission to approach?

1 THE COURT: Yes, ma'am.

2 BY MS. JONES?

3 Q. I'm gonna hand you what has been marked
4 as State's 7. Do you recognize that item?

5 A. Yes, I do.

6 Q. And what is that?

7 A. It's a copy of my bodycam footage.

8 Q. And did you have an opportunity to
9 review that prior to trial?

10 A. Yes, I did.

11 Q. And did it fairly and accurately show
12 your bodycam from the night of the shooting?

13 A. Yes.

14 MS. JONES: Your Honor, at this time the
15 State moves State's 7 into evidence.

16 THE COURT: Any objection?

17 MR. PAULK: Without objection.

18 THE COURT: All right.

19 MS. JONES: Thank you.

20 THE COURT: Deputy Gray's bodycam will be
21 State's 7.

22 MS. JONES: Thank you, Your Honor.

23 BY MS. JONES:

24 Q. And prior to publishing this, Deputy
25 Gray, when you get to this area of Laurel Bay

1 Road, you mentioned you saw a woman and a man.
2 Could you describe that a little bit better for
3 us?

4 A. I saw a woman that was standing there.
5 She was in distress, pointing at the wood line
6 there. I approached her, and then I observed
7 the individual laying in the wood line, and it
8 was very chaotic, a lot of yelling was going on.
9 And we, you know, like I said, we had just
10 gotten a shots fired call, so we were really not
11 sure what was going on until we started
12 interviewing and talking to people there.

13 Q. And what do you when you realize that
14 there's a man on the ground?

15 A. I go up to him to, you know, render
16 aid, and try to figure out what's going on, what
17 had happened.

18 Q. And so you speak with this man?

19 A. Yes.

20 Q. Do you learn his name?

21 A. Yes.

22 Q. And what was his name?

23 A. Mr. -- I think --

24 Q. McLendon?

25 A. Yeah.

1 Q. Deonne?

2 A. Yeah, yeah, sorry.

3 Q. That's all right. And all of this is
4 on your body cam, correct?

5 A. Yes.

6 MS. JONES: Your Honor, at this time State
7 would publish State 7.

8 THE COURT: All right, is -- counsel, is
9 this the --

10 MS. JONES: Yes.

11 THE COURT: -- redacted?

12 MS. JONES: Yes.

13 THE COURT: Okay.

14 (Bodycam video is played for jury.)

15 BY MS. JONES:

16 Q. Deputy Gray, I have no further
17 questions for you.

18 THE COURT: Mr. Paulk?

19 ***

20 CROSS-EXAMINATION

21 BY MR. PAULK:

22 Q. Good morning, Deputy Gray, my name is
23 Seth Paulk, I represent Mr. Delmar Sanders. Did
24 you also have occasion on that night -- did you
25 place any evidence markers?

1 A. I don't recall placing evidence
2 markers, but I do remember there being evidence
3 there.

4 Q. Okay. So let's talk a second about the
5 evidence that was there. Was there evidence
6 strewn around the crime scene?

7 A. Yes, there was evidence kind of in the
8 area, where he was located, it was strewn around
9 that area.

10 Q. Okay. Did you have occasion to find a
11 crack pipe in the area that you responded to?

12 A. I did observe a crack pipe in the area
13 there.

14 Q. Okay. Did you just find one crack
15 pipe, or did you find multiple?

16 A. I don't recall.

17 MR. PAULK: Your Honor, permission to
18 approach?

19 THE COURT: Yes, sir.

20 BY MR. PAULK:

21 Q. If I were to show you some pictures,
22 would that refresh your recollection?

23 A. Yes.

24 Q. How many crack pipes did you find on
25 the scene, Mr. Gray?

1 A. It's two, I believe.

2 Q. Do you also find a dollar bill on the
3 scene?

4 A. Yeah.

5 Q. Are you aware if that dollar bill was
6 ever tested for forensics, drugs, anything of
7 that nature?

8 A. I'm not aware.

9 Q. Okay. Could you tell the jury what
10 number evidence marker that is?

11 A. Eight.

12 Q. So there were at least eight pieces of
13 evidence that were found at the crime scene?

14 A. I -- at least. I just saw it, I didn't
15 participate in the --

16 Q. You didn't actually mark it and --

17 A. Yeah.

18 Q. Okay.

19 MR. PAULK: No further questions for this
20 witness, Your Honor.

21 THE COURT: Any redirect, Ms. Jones?

22 MS. JONES: No, Your Honor. And may I ask
23 that this witness be excused?

24 THE COURT: Yes, ma'am. Thank you, sir.

25 MS. JONES: Thank you.

1 WITNESS: Thank you, sir.

2 MS. JONES: The State calls Matthew
3 Pastore.

4 * * *

5 MATTHEW PASTORE

6 * * *

7 being first duly sworn, testified as
8 follows:

9 ***

10 DIRECT EXAMINATION

11 BY MS. JONES:

12 Q. Good morning. I see you're in a
13 uniform, where do you work?

14 A. Beaufort County EMS.

15 Q. And what do you do for Beaufort County
16 EMS?

17 A. I'm a Senior Crew Chief Paramedic.

18 Q. What does that mean?

19 A. I'm the supervisor for our Bluffton
20 Division, South Bluffton Division.

21 Q. And what is the difference between a
22 paramedic and an EMT?

23 A. Level of skill, and treatment that they
24 can provide.

25 Q. Is a paramedic higher than an EMT?

1 A. Yes.

2 Q. Okay. Now, how long have you been
3 working for Beaufort County?

4 A. A little under six years.

5 Q. So you were working for Beaufort County
6 last summer?

7 A. Yes.

8 Q. And did you respond to a call on July
9 23rd of 2021 --

10 A. Yes.

11 Q. -- in the area of Laurel Bay and
12 Stanley Farm, in that road area?

13 A. Yes.

14 Q. Is that here in Beaufort County?

15 A. I'm sorry?

16 Q. Is that here in Beaufort County?

17 A. Yes.

18 Q. And why did you respond to that call?

19 A. For a gunshot.

20 Q. And when you get there what do you
21 observe?

22 A. We pull up, we were directed into the
23 male patient by the deputies. He was off the
24 road -- off of Laurel Bay on the left side, if
25 you're headed like towards the Food Lion, that

1 direction. There was a dirt path, or grassy
2 path area, which is where we were directed to,
3 and the patient was found in kind of some thick
4 bush brush, tree area.

5 Q. And was that patient Deonne McLendon?

6 A. Yes.

7 Q. And what sort of care was offered when
8 you'all come across Mr. McLendon?

9 A. So the first thing we do is, we do an
10 initial assessment quick, to see what's going
11 on. In this case see where, you know, he was
12 shot at. We found that he was shot a couple
13 times, and at that point we were told that there
14 was a second patient as well, so we went and
15 checked on that patient.

16 Q. And would that second patient have been
17 Rhonda Randall?

18 A. I believe. I don't recall her name.

19 Q. Okay. It was a female?

20 A. Yes.

21 Q. Did you go and assess that patient?

22 A. I did.

23 Q. And what did you find when you see Ms.
24 Randall?

25 A. That she was standing next to the

1 deputy vehicle with a deputy and a firefighter,
2 and that she had been -- appeared to have been
3 shot once in the arm.

4 Q. And then did you go back to Mr.
5 McLendon?

6 A. Yes.

7 Q. And what happened with Mr. McLendon
8 while you were there?

9 A. He was very agitated with everything
10 that was going on, and trying to get him
11 packaged up and onto a stretcher was a bit of a
12 challenge. During that time period he went
13 unresponsive, at which point we checked for
14 breathing and a pulse, which he had neither, so
15 we initiated CPR and everything else with that.

16 Q. Do you eventually take him to Beaufort
17 Memorial Hospital?

18 A. Yes.

19 Q. And from the time, once you find him
20 until you get to the hospital, does he ever
21 regain a pulse, heartbeat --

22 A. No.

23 Q. -- consciousness?

24 A. No.

25 Q. I have no further questions for you.

1 Thank you.

2 THE COURT: Mr. Paulk?

3 ***

4 CROSS-EXAMINATION

5 BY MR. PAULK:

6 Q. Good morning, Mr. Pastore, how are you?

7 A. Good, how are you?

8 Q. Well. Did you provide a copy of Deonne
9 McLendon's EMS report at the request of the
10 Solicitor?

11 A. Me, personally, or --

12 Q. You, personally, or Beaufort EMS, in
13 general.

14 A. They did.

15 Q. They did?

16 A. I'm assuming they did.

17 Q. Okay.

18 A. I don't know --

19 Q. Okay.

20 A. -- I'll put it that way.

21 Q. Do you know if your office provided a
22 copy of Rhonda Randall's EMS report to the
23 Solicitor?

24 A. I -- again, I'm not privy to that kind
25 of information.

1 Q. Sure.

2 A. I don't know what we give out as a
3 department. I would assume that --

4 Q. Sure. Whenever you respond to a call
5 for service, is there a EMS report? I guess
6 let's start there.

7 A. Yes, absolutely.

8 Q. Okay. So an EMS report would have been
9 completed for Mr. McLendon, because he received
10 treatment, correct?

11 A. Correct.

12 Q. And would an EMS report also have been
13 completed for Ms. Randall, if she received
14 treatment?

15 A. Correct.

16 MS. PAULK: No further questions from this
17 witness, Your Honor.

18 THE COURT: Any redirect?

19 MS. JONES: No, Your Honor. And I ask that
20 this witness also be relieved of his subpoena.

21 THE COURT: Yes, ma'am. You're excused.

22 WITNESS: Thank you.

23 MS. JONES: Your Honor, the State would
24 call Neal Patel.

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NEAL PATEL

* * *

being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MS. JONES:

Q. Mr. Patel, would you spell your last name?

A. Patel is my last name.

Q. Will you spell it?

A. P, as in Peter, A-T-E-L.

Q. Okay, thank you. And just so everyone can hear you, I need you to speak really loud, because I don't think the microphone's working, okay? Can you please tell me where you work?

A. Oasis Inn.

Q. Okay, and what's your position there?

A. As a GM.

Q. Okay, what does GM stand for?

A. General Manager.

Q. Okay. And so what are some of your duties as General Manager?

A. I just overlook everything over there.

Q. Okay, I'm gonna need you to speak a

1 little louder. Okay, so you said you're the
2 General Manager?

3 A. Uh-huh.

4 Q. How long have you done that?

5 A. Since last year.

6 Q. Okay, and you said at the Oasis Inn.
7 Where is that located?

8 A. It's on Boundary Street here in
9 Beaufort.

10 Q. In Beaufort County?

11 A. Yeah.

12 Q. Okay. Does the Oasis Inn have
13 surveillance cameras?

14 A. Yes.

15 Q. Okay. Do you know how many?

16 A. Five or six.

17 Q. Okay. Do these cameras continuously
18 record?

19 A. Yes.

20 Q. Okay. And are you familiar with how
21 the recording system works?

22 A. Yes.

23 Q. Can you explain that to me?

24 A. I mean it's just like the HD cameras
25 that are recording, it just continuously like a

1 motion detectors over there.

2 Q. Okay.

3 A. And I guess that certain number of days
4 that the recording stays on it, that's what it
5 is.

6 Q. Okay. Okay, and are you able to go
7 back and retrieve certain recordings?

8 A. Yes.

9 Q. Okay. On July 23rd of 2021, do you
10 know if the recording system or the cameras were
11 working?

12 A. Yes.

13 Q. Okay. Do you know if my office or law
14 enforcement asked you to go and retrieve
15 recordings from July 23rd of 2021?

16 A. Yes.

17 Q. And did you retrieve those recordings?

18 A. Yes, and gave it to the cop, yes.

19 Q. Okay.

20 (Court Reporter marks State's Exhibit 10,
21 Oasis Surveillance Video, as attached hereto.)

22 MS. JONES: Permission to approach the
23 witness?

24 THE COURT: Yes, ma'am.

25 BY MS. JONES:

1 Q. I'm handing you what has been marked
2 for identification purposes as State's Exhibit
3 10. You can hand it down. Do you recognize
4 that?

5 A. Yes.

6 Q. And how are you able -- well, what is
7 that?

8 A. That's the -- we did a recording, and I
9 believe the clip of the records has been on that
10 one, and we'd seen that recordings, and those
11 initials are made by us.

12 Q. Okay, so that's a copy of the
13 recordings from --

14 A. Right.

15 Q. -- the cameras? Okay. And you said
16 you initialed it?

17 A. Yes.

18 Q. Sir, were you able to review that?

19 A. What do you mean, review?

20 Q. Did you review what the contents of --

21 A. Yes.

22 Q. -- the CD are?

23 A. Yeah, yeah, yeah.

24 Q. Okay. And did it fairly and accurately
25 depict the copy that you provided to law

1 enforcement?

2 A. Right.

3 Q. Okay, and --

4 A. Because they request it, so we have to
5 provide it, so, yeah, we did provide it to law
6 enforcement.

7 Q. Okay, and on that particular CD did it
8 appear to be altered or manipulated in any way?

9 A. No, no, no, it is just a recording, so
10 you cannot manipulate any recordings.

11 Q. Okay, thank you.

12 MS. JONES: Your Honor, at this time, I
13 would move State's Exhibit 10 into evidence.

14 THE COURT: Any objection?

15 MR. PAULK: Without objection.

16 THE COURT: All right, the Oasis
17 surveillance video will be State's 10.

18 MS. JONES: Your Honor, I have no further
19 questions for this witness.

20 THE COURT: Are you going to publish it?

21 MS. JONES: I'm not going to publish this
22 until later on.

23 THE COURT: Very good. Mr. Paulk?

24 ***

25

1 CROSS-EXAMINATION

2 BY MR. PAULK:

3 Q. Good morning, Mr. Patel, how are you?

4 A. Yes, sir, how are you?

5 Q. You've been the General Manager at the

6 Oasis Inn for about a year now?

7 A. Yes.

8 Q. When did you start working there?

9 A. February, 2021.

10 Q. Okay. Since you've been working at the
11 Oasis Inn, have you had lots of interaction with
12 law enforcement?

13 A. No, not lots.

14 Q. Not lots?

15 A. No.

16 Q. Your guests at the Oasis Inn, do they
17 cause any trouble?

18 MS. JONES: Your Honor, I'm going to object
19 to this line of questioning.

20

21 BY WITNESS: Like what kind of trouble are
22 you talking about?

23 THE COURT: All right, let's -- come on up
24 here.

25 BY MR. PAULK:

1 Q. Mr. Patel, have the police ever been
2 called to the Oasis Inn before?

3 A. For what?

4 Q. Just in general.

5 A. I mean why they should call? Like we
6 call the police, or the police called us?

7 Q. While your guests are staying at the
8 Oasis Inn --

9 A. Uh-huh.

10 Q. -- have there been occasions, where
11 your guests have called the police?

12 A. No, not that time, only that is like a
13 guest called for an ambulance, so they had to
14 dial that 911, and we called that -- for that
15 guest to get into the, you know, ambulance
16 service.

17 Q. Okay, so you're not aware of any other
18 law enforcement activity at the Oasis Inn?

19 A. No, no.

20 Q. Okay.

21 MR. PAULK: No further questions, Your
22 Honor.

23 THE COURT: Any redirect?

24 MS. JONES: No, Your Honor. Your Honor, I
25 would just ask that this witness be excused.

1 THE COURT: You're excused and thank you
2 for being here.

3 MS. JONES: Thank you.

4 WITNESS: Thank you.

5 MS. JONES: Your Honor, his wife, Sam
6 Patel's also under subpoena, so I would just ask
7 that she also be released.

8 WITNESS: That's right.

9 THE COURT: Ms. Patel, you are released
10 from your subpoena. Thank you for being here.

11 MS. JONES: Thank you.

12 Judge, my next witness is possibly quite
13 lengthy, if we may take a five-minute break?

14 THE COURT: Yeah, we've been going about an
15 hour. If it's gonna be a while, you know, we'll
16 take a short break.

17 Ladies and gentlemen, we're gonna take a
18 short break, just to give everybody a chance to
19 use the restroom, get settled in. I'm gonna
20 remind you that during this break, you're not to
21 discuss the case in any manner. This includes
22 with your fellow jurors, any communication you
23 might have with family members or friends.

24 If anyone tries to talk to you about the
25 case, please let me know immediately, and don't

1 read, watch, look up anything about this case,
2 and remember to keep an open mind until I
3 instruct you to begin your deliberations. We'll
4 come back -- is that clock right? Okay.

5 CLERK: I believe so.

6 THE COURT: But we'll be back at 11:00.
7 We'll take a 15-minute break and see you'all
8 back at 11:00.

9 (Jury exits courtroom.)

10 THE COURT: All right, we'll be at ease
11 until 11:00.

12 MS. JONES: Thank you.

13 (BREAK)

14 THE BAILIFF: The jury's entering the
15 courtroom, Your Honor.

16 (Jury enters the courtroom.)

17 ***

18 PROCEEDINGS CONTINUED

19 THE COURT: Ladies and gentlemen, you don't
20 have assigned seats, feel free to sit wherever
21 you want to, with the exception of Miss Beverly,
22 she is the Foreperson, she'll be in that seat
23 through the remainder of the trial, the rest of
24 you can sit wherever you want. All right, is
25 the State ready to proceed?

1 MS. JONES: Yes, Your Honor.

2 THE COURT: Call your next witness.

3 MS. JONES: The State calls Rhonda Randall.

4 * * *

5 RHONDA RANDALL

6 * * *

7 being first duly sworn, testified as
8 follows:

9 ***

10 DIRECT EXAMINATION

11 BY MS. JONES:

12 Q. Good morning, Ms. Randall.

13 A. Hey.

14 Q. How are you?

15 A. I'm making it.

16 Q. You're making it?

17 A. Yes, ma'am.

18 Q. Are you from Beaufort?

19 A. Yes, I grew up here.

20 Q. You grew up -- you've been here your
21 whole life?

22 A. Yes, ma'am.

23 Q. Did you know a man named Deonne
24 McLendon?

25 A. Yeah.

1 Q. And what did you know him as?

2 A. Scooter.

3 Q. Scooter? And Ms. Williams right here
4 is having to write down everything you say. I
5 know you're nervous, but if you can say yes or
6 no, and speak up, okay?

7 A. Yes.

8 Q. Thank you very much. How did you know
9 Scooter?

10 A. We met a couple years ago just around.
11 I mean I've known him, basically, my whole life,
12 I mean like his family and stuff.

13 Q. Were you with him the night of July
14 23rd of 2021?

15 A. Yeah. Yes.

16 Q. Do you remember that night?

17 A. Yes.

18 Q. Were you with Scooter that night?

19 A. Yes.

20 Q. Did Scooter pick you up, or did
21 somebody else pick you up?

22 A. He wasn't driving, so he said his -- he
23 was riding with his cousin in a red truck, and
24 him and the -- what's his name, Delmar, picked
25 me up.

1 Q. Okay, you just pointed over there.

2 Do you see somebody you recognize over
3 there?

4 A. Yeah, Delmar.

5 Q. Okay, and you pointed to the defense
6 table. Can you describe what Delmar's wearing?

7 A. A black jacket and a red striped tie.

8 Q. Okay, and you said Delmar, is that the
9 man that was driving you that night with
10 Scooter?

11 A. He looks cleaned up, but, yeah.

12 MS. JONES: May the record reflect the
13 witness did identify the Defendant.

14 THE COURT: Yes, ma'am.

15 BY MS. JONES:

16 Q. And when they pick you up, what kind of
17 car are they in?

18 A. A red Dodge SUV.

19 Q. Where do they pick you up from?

20 A. On Duke Street, downtown Beaufort.

21 Q. And where do you'all go from Duke
22 Street?

23 A. To the Oasis hotel, which is where I
24 had a room.

25 Q. And when you'all are at the Oasis, I'm

1 gonna be real frank with you, Rhonda, were
2 you'all doing drugs that night?

3 A. No, me and Scooter we -- I'm trying to
4 get the correct word. I would address that
5 night, did me and Scooter purchase -- like do
6 drugs together? No.

7 Q. Okay.

8 A. No, but I mean -- I'm not gonna say we
9 did. He asked for -- did I have a license? I
10 said, "Yes." And he said, "Okay, ride with --
11 can you drive me, because my cousin's messed
12 up." I said, "Okay, cool." I mean we -- I'm
13 not -- I'm married, but I went through a
14 divorce. We kind of got together sometimes,
15 made dates, and went separate ways, that's all.

16 Q. Okay.

17 A. He's a friend.

18 Q. Okay. So Scooter could have been a
19 friend with benefits?

20 A. Exactly, that's what it was.

21 Q. Okay. And I do have some questions for
22 you, it's about drugs.

23 Ms. Randall, were you smoking crack that
24 night, or that day?

25 A. Yes, I was.

1 Q. Okay, and did you have a couple of
2 crack pipes on you?

3 A. Yes, I did.

4 Q. Did you have two crack pipes on you?

5 A. Yes, I did.

6 Q. I'm gonna show you a couple pictures.

7 (Court Reporter marks State's Exhibit
8 Number 17, Photograph, as attached hereto.)

9 (Court Reporter marks State's Exhibit
10 Number 22, Photograph, as attached hereto.)

11 MS. JONES: Permission to approach, Your
12 Honor?

13 THE COURT: Yes, ma'am.

14 BY MS. JONES:

15 Q. I'm gonna show you what has been marked
16 as State's 17 and State's 22.

17 Ms. Randall, do you recognize those?

18 A. (Witness complies). Yeah.

19 Q. Are those your crack pipes?

20 A. They were, yes, ma'am.

21 Q. They were? Okay, from that night?

22 A. Yes, probably, yeah.

23 Q. Okay.

24 MS. JONES: Your Honor, at this time, the
25 State moves 17 and 22 into evidence.

1 THE COURT: Any objection?

2 MR. PAULK: Without objection.

3 THE COURT: All right, the photos of the
4 crack pipes will be admitted as State's 17 and
5 22.

6 BY MS. JONES:

7 Q. Before we got into that, you had said
8 Scooter had asked you to drive, you had a
9 driver's license?

10 A. Yes, I did.

11 Q. Okay, and why was he asking for that?

12 A. Because he was swerving and driving
13 crazy. Like -- well, he was high and paranoid,
14 and he was just like driving crazy.

15 Q. Okay. You said he was high and
16 paranoid, who --

17 A. Yeah.

18 Q. -- is he?

19 A. Delmar.

20 Q. And how -- when you say high and
21 paranoid, how was he acting?

22 A. Because of cocaine, he was high.

23 Q. Okay, and what was he doing?

24 A. Like looking back and swerving, and,
25 you know, driving under the speed limit, just

1 doing weird stuff. Forgetting where we're
2 going, you know, he's from Beaufort, like that
3 sort of stuff.

4 Q. And then at some point you and Deonne
5 want him to pull over, so one of you'all can
6 drive?

7 A. Yeah.

8 Q. Okay. Well, tell me --

9 A. Well, he passed the -- okay, when he
10 passed -- we were supposed to turn on Roseida
11 Road, to go where they were headed to go. He
12 passed Roseida, and that's when Scooter's like,
13 "Man, what you doing?" You know what I mean?
14 That sort of thing, and then he was like, "I've
15 got it, I've got it, I've got it."

16 So he made the left, and when he went
17 around to come up that road, the dude was like,
18 "Just stop right here," and comes to a stop. On
19 the road that we turned on there was like the
20 cop thing, you know, what is it, like the gas
21 station where the Beaufort County vehicles park
22 all their cars at. So it was like, "Okay,
23 there's a bunch of police over there, just keep
24 going."

25 So he stopped on that road, and when we

1 opened the doors he just -- he shot. He shot
2 once that way, and then he shot once my way.

3 Q. Okay, and I want to take you back to
4 that. So the Defendant, Delmar, pulls the car
5 over, and when he stops the car what does
6 Scooter do?

7 A. He -- we opened the doors and we got
8 ready to switch, and he quickly like didn't want
9 to do it and he shot.

10 Q. And who shot?

11 A. Delmar.

12 Q. And who did he shoot?

13 A. Scooter.

14 Q. Do you know how many times he shot
15 Scooter?

16 A. He shot once way and once my way for
17 nothing.

18 Q. At any time before this shooting was
19 there an argument between Scooter and the
20 Defendant?

21 A. No.

22 Q. Did you or the Defendant threaten him?

23 A. No. I don't even know him. I was
24 drunk, I was playing with my friend.

25 Q. Did you or Deonne have a gun on you

1 that night?

2 A. No.

3 Q. Nobody threatened the Defendant that
4 night?

5 A. No, not at all. And I know Deonne
6 didn't have a gun on him, because he took his
7 clothes off, he had no gun, not one, period.

8 Q. After you were shot, what do you do
9 after your shot?

10 A. I mean I freaked out, like I just -- it
11 was dark, he drove off. I didn't have a cell
12 phone. I couldn't 911.

13 Deonne ran across the road and he's
14 screaming he's shot, and I just try to go help
15 my friend. I was at the ditch with my friend,
16 basically, until EMS came and he died, that's
17 what I did.

18 Q. Where was your phone, Ms. Randall?

19 A. In his backseat.

20 Q. In his backseat?

21 A. Yes, where I was sitting.

22 Q. Did you ask him for your phone before
23 he drove off?

24 A. I told you I had no time for that.

25 Q. He drove off with your phone?

1 A. He drove -- the car door hit me, like
2 he just drove off. We were all getting out to
3 switch seats, and as we were switching I get
4 out, and it's like he waited -- I don't even --
5 I'm gonna say he waited and just shot when
6 everyone was out of the car, basically, like
7 everyone was on their feet.

8 Q. After that did you go to the hospital,
9 Ms. Randall?

10 A. Yeah, I did. I had to flag a car down
11 and call 911.

12 (Court Reporter marks State's Exhibit
13 Number 8, Photograph, as attached hereto.)

14 (Court Reporter marks State's Exhibit
15 Number 9, Photograph, as attached hereto.)

16 MS. JONES: Permission to approach?

17 THE COURT: Yes, ma'am.

18 BY MS. JONES:

19 Q. Ms. Randall, I'm gonna show you State's
20 8 and 9, and do you know recognize those
21 pictures?

22 A. Yeah.

23 Q. And what are those pictures of?

24 A. Me in the hospital bed.

25 Q. Okay. And your arm is bandaged. What

1 is under that bandage?

2 A. My scar.

3 Q. You're raising.

4 A. Where I was shot.

5 MS. JONES: May the record reflect the
6 witness did just raise her arm and point to an
7 injury on her arm.

8 THE COURT: Yes, ma'am.

9 MS. JONES: And at this time the State
10 moves 8 and 9 into evidence.

11 THE COURT: Those are photos of her? Any
12 objection?

13 MR. PAULK: Without objection.

14 THE COURT: All right, all the photos of
15 Ms. Randall at the hospital will be admitted as
16 State's 8 and 9.

17 MS. JONES: Permission to publish?

18 THE COURT: Yes, ma'am.

19 BY MS. JONES:

20 Q. Ms. Randall, on State's 8, that bandage
21 on your arm, is that of your gunshot wound?

22 A. Yeah.

23 Q. Okay, and, again on State's 9?

24 A. Yes.

25 Q. And when the Defendant's pointing the

1 gun at you that night, what did you think was
2 gonna happen?

3 A. It happened too fast to think of what
4 was gonna happen. I didn't really -- honestly,
5 like I said I was high, I didn't really even
6 notice that I was shot. I heard a noise and I'm
7 like, you know, I look at my hand, I'm like,
8 "Damn, I got shot," and all of a sudden he's
9 running, and I'm shot and it just happened.

10 I didn't see a gun pointed at me, honestly.

11 Q. But he did shoot you?

12 A. Yes, he did shoot me.

13 Q. When do you learn that Deonne has
14 passed?

15 A. In a hospital bed at Beaufort Memorial
16 Hospital.

17 MS. JONES: Your Honor, I have no further
18 questions for this witness.

19 THE COURT: Mr. Paulk.

20 ***

21 CROSS-EXAMINATION

22 BY MR. PAULK:

23 Q. Ms. Randall, you've given several
24 statements in the pendency of this case,
25 correct?

1 A. Yes.

2 Q. You talked with several officers the
3 night of the incident, correct?

4 A. Yes.

5 Q. Do you remember speaking with officers
6 on-the-scene?

7 A. Probably, yeah, I was real -- yeah.

8 Q. Do you recall speaking with an Officer
9 Boone?

10 A. I don't --

11 Q. Did you know any of the officers'
12 names?

13 A. No.

14 Q. One of the officers you spoke with was
15 an Officer Boone, he was the first to arrive on-
16 the-scene, I believe. You also spoke with an
17 Officer Lamb and Officer Thomas.

18 A. Uh-huh.

19 Q. Do you recall a conversation with
20 Officer Lamb, when you told him that you were --
21 had been partying all night with Delmar and
22 Deonne?

23 A. I didn't say I was partying all night
24 with them, I said I was partying that night with
25 my friends. They picked me up. I wasn't even

1 with them an hour before we got shot.

2 Q. So you do not recall telling --

3 A. No.

4 Q. -- Officer Lamb that you'all had been
5 partying all night?

6 A. No.

7 Q. Okay.

8 A. I remember I did say to you'all -- I
9 might have said me. I don't know, sir, I was
10 under the influence, I was drunk, but I am aware
11 of what I said.

12 Q. Do you recall telling Officer Lamb that
13 Deonne and his cousin picked you up from the
14 Oasis Inn?

15 A. They didn't pick me up from the Oasis,
16 they picked me up on Duke Street. You saw us
17 turn into the Oasis on the video.

18 Q. Do you recall telling Officer Thomas
19 that they picked you up from the Oasis hotel on
20 the night of the incident?

21 A. No.

22 Q. If I were to show you a video of that
23 conversation, would that refresh your
24 recollection?

25 A. I mean it's -- if you have a video, if

1 it's me saying it, yeah, I probably said it, but
2 at the same time it's like -- you could look at
3 my -- has anyone looked at my Facebook messages?
4 Deonne contacted me, and I contacted him. We
5 weren't together all night.

6 Q. So we'll get to that, but what I want
7 to talk about right now is, what you told the
8 officers on the night of the incident --

9 A. Okay.

10 Q. -- right after this happened.

11 A. We'll talk while I'm crying, but go
12 ahead.

13 Q. So you told Officer Lamb that you and
14 Deonne and Delmar were partying.

15 A. Okay.

16 Q. You told him that they picked you up
17 from the hotel.

18 A. Yeah.

19 Q. And then you told Officer Thomas that
20 they picked you up from the hotel.

21 A. Okay.

22 Q. But that wasn't true?

23 A. No. They picked me up from Duke
24 Street.

25 Q. Then why would you tell the officers

1 that they picked you up from the hotel?

2 A. Sir, I just got shot, who knows? I
3 mean I see it looks like I lied, but I don't
4 remember that, honestly.

5 Why do we keep going to the hotel thing?
6 He still shot us for no reason and killed my
7 friend, why do we keep going back to the hotel?

8 Q. Ma'am, if you could only respond to
9 questions that I ask you, I would appreciate
10 that. So you admit that you did tell the
11 officers that they picked you up from the hotel
12 that night?

13 A. Yes, sir.

14 Q. Okay. Do you recall talking with
15 Officer Duncan and Byrd at the hospital?

16 A. Yes, Byrd told me my friend died.

17 Q. Do you recall telling Duncan that you
18 were downtown and wanted to get away from old
19 dudes?

20 A. Yeah, it's the truth, that's what I was
21 doing. Deonne was my friend, he came and got
22 me, made sure I got to my hotel safe, yes, he
23 did, that's what I was doing.

24 Q. Do you recall telling Officer Duncan
25 that you didn't want to turn anymore tricks on

1 old dudes?

2 A. What's the relevance to this? Do I
3 have to answer it?

4 THE COURT: Yes, ma'am, you do.

5 BY WITNESS:

6 A. Yes, I do.

7 Q. So prior to Deonne coming to get you,
8 you'd been turning tricks on old dudes?

9 A. Was I soliciting my body to people who
10 pay me money? Yes, I was. Was it old dude,
11 young dude, any dude.

12 Q. Okay.

13 A. To help me pay my bill, yes, I did.

14 Q. And you also tell Duncan at the
15 hospital, that you heard pop, pop, pop.

16 Do you recall saying that?

17 A. Yes. |

18 Q. And that the next thing that you knew,
19 you had been shot?

20 A. Yes. You'all are really trying to
21 defend this man.

22 Q. Your statement earlier that you just
23 testified to on direct was, that you only heard
24 one shot and then a second shot directed towards
25 you; but when you were talking to Officer Duncan

1 -- well, first, let's clarify that.

2 On direct did you just testify that you
3 heard two shots?

4 A. Okay, so I forgot a shot, but he still
5 was never supposed to fire the first two in the
6 first place. I'm off one, so he fired three
7 times that he wasn't supposed to, I lied, got
8 it.

9 Q. I don't know how many times he fired,
10 Ms. Randall, I wasn't there.

11 A. He wasn't supposed to fire at all.

12 Q. I'm asking you how many times he fired?
13 Because you've told two different officers --

14 A. Obviously, one to my friend and I, and
15 one maybe shot by accident, so I say twice.

16 Q. Okay. Well, so then your testimony
17 today is that Delmar shot twice?

18 A. Yes. He shot a gun he wasn't supposed
19 to at two innocent people, that's my testimony.

20 Q. Do you recall telling officers that he
21 shot three times?

22 A. I probably said it.

23 Q. And do you recall saying that it was
24 pop, pop, pop, and the next thing you know you
25 had been shot?

1 A. That sounds about -- like the same
2 thing, sir. You're like playing word play, why?

3 Q. Were you watching what happened
4 whenever this incident occurred?

5 A. No, we were getting out of the car
6 switching seats.

7 Q. So you never actually saw Delmar fire
8 the gun?

9 A. It was dark, you couldn't see the
10 person next to you. The gun came from that side
11 of the car, and it shot this way, and it shot
12 that way. He was the only one that was in the
13 driver's seat, unless Casper shot, I don't know.

14 Q. Ma'am, is it your testimony today that
15 he shot twice, or that he shot three times?

16 A. My testimony is that I was shot by --
17 it was -- I was shot for no reason by Delmar.

18 Q. Do your recall telling officers at the
19 hospital that you were shot -- that three shots
20 were fired?

21 MS. JONES: Your Honor, objection, this is
22 an asked and answered.

23 BY WITNESS:

24 A. Like he's just bothering me.

25 THE COURT: I'm sorry, Ms. Jones, what's

1 your objection?

2 THE COURT: I'm going to overrule the
3 objection. I'm going to allow him to.

4 MS. JONES: I said this was asked and
5 answered.

6 BY MR. PAULK:

7 Q. Ms. Jones -- Ms. Randall -- Rhonda
8 Randall, Ms. Randall, excuse me, you know that
9 it's very important to tell the truth to
10 officers?

11 A. I always tell the truth.

12 Q. You always tell the truth?

13 A. Uh-huh. Try to anyway, especially with
14 law enforcement.

15 Q. Do you recall telling Officers Byrd and
16 Green at the hospital that you were downtown
17 with a girlfriend of yours?

18 A. Yeah, it was a girl I liked, it sure
19 was.

20 Q. And --

21 A. I'm also bi-sexual, yes, I did.

22 Q. Was her name Sierra?

23 A. Yes, it is.

24 Q. But you didn't know her last name?

25 A. No, I don't.

1 Q. But you'all had been hanging out for a
2 couple days?

3 A. Yeah.

4 Q. And while you'all were hanging out, you
5 were smoking crack?

6 A. Yes, I do -- did -- prior use of crack
7 cocaine, yes, I did.

8 Q. So in the days leading up to this
9 incident, you had been smoking crack?

10 A. Yes, twice. Two days, I think, almost.
11 It was just past my daughter's birthday, I
12 buried her, I was kind of depressed. I'm a
13 binge addict, I'm not functional.

14 Q. And earlier you testified that you were
15 not using -- you were using crack the night of
16 this incident --

17 A. Yes, I was.

18 Q. -- on direct?

19 A. Yes, I was.

20 Q. Do you recall telling Officers Byrd and
21 Green that you were not using crack the night of
22 this incident?

23 A. No, I don't recall it.

24 Q. If I were to show you your statement,
25 would that refresh your recollection?

1 A. I don't want to see anything towards
2 that night, but if that's what you said I said,
3 yeah. If that's what it says, that's it, yes.

4 Q. So you told officers on the night of
5 the incident, while you were at the hospital,
6 that you were not smoking crack?

7 A. I wasn't smoking crack then, not in the
8 last couple hours I wasn't. He never saw me
9 light a crack pipe. I did not smoke crack when
10 I'm around -- Deonne didn't like me smoking
11 crack.

12 Q. You told officers at the hospital the
13 last time that you smoked crack was the morning
14 of that incident?

15 A. Yes, it was.

16 Q. But you just testified a little while
17 ago that you were smoking crack the night of the
18 incident?

19 A. I did smoke crack the night of the
20 incident, yes, I did.

21 Q. But you told the officers that you
22 didn't smoke -- that the last time that you
23 smoked crack was that morning.

24 A. Okay.

25 Q. Okay.

1 A. Oh, I know what you're doing.

2 Q. Okay. So Ms. Sierra you said that she
3 called you into a tricky situation. That's what
4 you told officers at the hospital.

5 A. Yeah, that's what she did. And someone
6 I like, that I thought was my friend, she called
7 me to basically sell me to some dudes.

8 I didn't like it. I told my friend about
9 it, and he called his cousin, and they came and
10 got me, to make sure I got back home, go up to
11 my room and see.

12 Q. And you told officers that you and
13 Deonne had talked via Facebook?

14 A. Uh-huh.

15 Q. After you get picked up from downtown,
16 did you'all go anywhere else?

17 A. We went straight to my hotel, which is
18 where he was supposed to be taking me, and
19 that's where we went. He wanted to go get more
20 drugs, and so Deonne said he had something to
21 do.

22 Q. And you called Scooter because you got
23 into an argument with Sierra?

24 A. No, I called him because my grandmother
25 died three days ago, and I'm the oldest of like

1 three younger boys.

2 I don't have a lot of family. When I'm in
3 Beaufort, that's the one person I always look
4 out -- like look up to.

5 Q. So you didn't --

6 A. Especially when I'm in the streets.

7 Q. You didn't call Deonne because you and
8 Sierra got into an argument?

9 A. No. He messaged me, actually, I
10 responded, "I need a ride."

11 Q. Do you recall telling officers at the
12 hospital, "That we got into an argument
13 yesterday and I left her house?" In reference
14 to Sierra?

15 A. Yeah. And she caught me downtown. She
16 doesn't live downtown, she lives in Port Royal.
17 Downtown is where the old guy lives, which is
18 what you said earlier. Pay attention, man.

19 Q. Do you recall testifying at a stand
20 your ground hearing for this incident?

21 A. What?

22 Q. Have you testified before in this case?

23 A. A couple weeks -- a couple months ago,
24 I guess, yeah. I mean I guess -- yes, I
25 testified before.

1 Q. And do you recall taking an oath to
2 tell the truth at that hearing?

3 A. I sure did.

4 Q. And at that hearing you stated that
5 you're married, correct?

6 A. Yes, I am.

7 Q. And despite being married, you were --
8 were you sleeping with Scooter that night?

9 A. Yes, I am -- yes, I was.

10 Q. And you were also turning tricks on old
11 dudes?

12 A. Sir, if you're going through South
13 Carolina history, I'm in a domestic violence
14 relationship with a man that's 31 years older
15 than me. So what I do with my life and my body
16 has nothing to do with him shooting me.

17 Q. Ma'am, I'm asking if you were married,
18 and having relationships outside of your
19 marriage?

20 A. To that simple question, yes, I was.

21 Q. And do you recall stating at the stand
22 your ground hearing that you'all left to get
23 cigarettes?

24 A. What?

25 Q. Do your recall stating previously,

1 under oath, that you'all left the Oasis hotel to
2 get cigarettes?

3 A. We did. He wanted -- and a Heineken or
4 a beer or something too from the store. He was
5 supposed to be going to the ATM before we got to
6 the drug dealer, we did.

7 Q. Did you ever mention anything about
8 going to get cigarettes that night to officers?

9 A. No, I didn't -- nothing was more
10 important than I'm shot, and my friend got shot,
11 to help him. I don't know -- other than that I
12 don't know.

13 The rest of the questions I was trying to
14 figure out about what's going on.

15 Q. The first time you ever brought up
16 cigarettes was at the stand your ground hearing;
17 is that true?

18 A. Cigarettes. You are playing mind games
19 or word games. I don't like it, Mr. Judge.

20 Q. Did you state --

21 THE COURT: You have to answer the
22 question.

23 BY WITNESS:

24 A. I get it, but can he just stop asking
25 me the same -- like repeating -- it's like he's

1 downplaying something that's very serious to me
2 in my life, and I don't want like to get kicked
3 off the stand, because I want Deonne to get
4 justice, but I don't like his word playing.

5 THE COURT: Ma'am, I'm going to have to ask
6 you just to answer the questions as asked.

7 BY MR. PAULK:

8 Q. Did you state that you'all left the
9 Oasis hotel at the stand your ground hearing to
10 get cigarettes?

11 A. Yes.

12 Q. And you actually also stated at the
13 stand your ground hearing that Deonne told you
14 that you needed to drive; is that correct?

15 A. He did. Because he doesn't have a
16 license, I do.

17 Q. But Delmar has a license, right?

18 A. Delmar was swerving, driving slow and
19 under the line -- under the speed limit, and
20 acting crazy.

21 Q. You told officers that Delmar was
22 swerving after you'all left the Oasis. You
23 never testified --

24 A. Delmar was swerving on the way to
25 Oasis, sir.

1 Q. And that's the first time that you've
2 testified to that?

3 A. Sir, I told -- my story's always been
4 Delmar's driving crazy, that's the reason I was
5 in the car. I'm -- like I don't get it.

6 Q. You also stated at the stand your
7 ground hearing that you've never been in
8 trouble.

9 A. Never.

10 Q. You've never been involved in any
11 incidents with police?

12 A. For what?

13 Q. You've never been involved in any
14 incidents with police?

15 A. I had trouble once with my girlfriend.
16 That was like, what, Chatham County? And I
17 wasn't supposed to be -- and I wasn't supposed
18 to be in trouble then. They were dropped. I've
19 never been charged, or indicted on any case.
20 I've never been in trouble, period. Please tell
21 me a charge I received. None.

22 Q. You stated that there was no arguments
23 going on this night.

24 A. There was an argument -- no, there
25 weren't argument at all.

1 Q. There was no argument about who was
2 gonna drive?

3 A. There was no argument. It was a
4 discussion. He said he's fine, he's got it.
5 Deonne said, "Don't worry about it, just get in
6 the car."

7 THE COURT: I'm sorry, I'm having a really
8 hard time. Can you just --

9 WITNESS: Apologies, ma'am.

10 THE COURT: It's all right. Can you speak
11 a little bit slower and louder?

12 WITNESS: Apologies, everybody tell me I
13 talk fast, sorry.

14 THE COURT: And the reason for that, Ms.
15 Randall, she's --

16 WITNESS: She's a stenographer.

17 THE COURT: -- taking down everything we
18 say in here, so there'll be a record of
19 everything we do, so --

20 WITNESS: Got it.

21 THE COURT: -- just do your best with that.
22 I know we don't always --

23 WITNESS: Yes, sir.

24 THE COURT: -- talk that way, and sometimes
25 we nod our head, but just --

1 WITNESS: Apologies.

2 THE COURT: -- help her out, if you can.

3 It's no problem.

4 WITNESS: You're fine.

5 BY MR. PAULK:

6 Q. You stated at the stand your ground
7 hearing that Delmar was high.

8 A. He was, I saw him sniff coke.

9 Q. You did see him sniff coke?

10 A. Yep.

11 Q. When did you see him sniff coke?

12 A. In the car.

13 Q. When in the car?

14 A. When he was driving.

15 Q. Before you'all went to the Oasis, or
16 after you went to the Oasis?

17 A. Before. That's something I never said,
18 a good question.

19 Q. Do you recall stating at the stand your
20 ground hearing, "That we didn't do drugs in
21 front of each other?"

22 A. I didn't do drugs in front of them, no.

23 Q. That's not what you stated at the stand
24 your ground hearing, ma'am, you said, "We didn't
25 do drugs in front of each other."

1 A. Okay.

2 Q. So your prior statement --

3 A. Are you talking about me and Scooter,
4 or me and him?

5 Q. Your prior statement was that you never
6 saw --

7 A. Did I say me and Delmar never did drugs
8 in front of each other, or me and Scooter never
9 did drugs in front of each other? Because
10 Scooter doesn't like me to smoke crack, so I
11 didn't do drugs with Scooter, no, period. I saw
12 Delmar, yeah.

13 Q. So your testimony today is that you saw
14 Delmar sniff cocaine?

15 A. Yeah, I did, in the car. And when I
16 say we never did drugs in front of each other,
17 who was I talking about we? Because the only we
18 I was talking about in the whole story was me
19 and Scooter.

20 Q. The question was --

21 MS. JONES: Your Honor, asked and answered.
22 He's gonna ask her again about if she saw Delmar
23 snorting cocaine, and she's already answered
24 that multiple times.

25 THE COURT: Overruled, I'll let him ask the

1 question.

2 BY MR. PAULK:

3 Q. At the stand your ground hearing you
4 were asked, "When you were around Deonne and his
5 cousin, you noticed that they had some drugs on
6 them?" And you responded, "We didn't do drugs
7 in front of each other. I don't even think he
8 could tell you my drug of choice." Do you --

9 A. Because you're -- I --

10 Q. -- recall that?

11 A. I do remember that. Because I think
12 you're trying to incriminate that it says I did
13 crack the first time.

14 Q. So your testimony today is that you
15 saw --

16 A. I don't know.

17 Q. -- Delmar do drugs, but your testimony
18 a few months ago was that you did not see Delmar
19 do drugs?

20 A. We were going to the drug -- to get
21 cocaine for Delmar. That's the only reason we
22 left the hotel, besides to get some beer, it
23 came up after that.

24 Q. Did Delmar ever go into the hotel room?

25 A. No.

1 Q. How was Delmar supposed to know that
2 you'all had ran out of drugs?

3 A. That's not why we left the hotel room.
4 I went into my room, because that's where I was
5 going. Why would Delmar go into the hotel room?
6 I trick -- I didn't sleep with people for free.
7 Scooter was my friend, not him.

8 What was he supposed to go for?

9 Q. You never saw Deonne use any drugs that
10 night?

11 A. No.

12 Q. But you assumed that he was on drugs
13 that night, correct?

14 A. No. Because sometimes --

15 Q. Do you --

16 A. -- he was sober. No, I didn't assume
17 he was on drugs, period.

18 Q. Do you recall stating at the stand your
19 ground hearing, "I didn't see Deonne use drugs
20 that night, but I assumed he was --

21 A. I didn't see him use drugs that night.

22 Q. -- but I assumed he was --

23 A. I assumed they were, we were all out
24 that night, that's what we did. We partied
25 sometimes and hung out. I'm just being honest,

1 I'm sorry.

2 Q. So you just testified that you didn't
3 -- you assumed that he was not using drugs,
4 that's what you just testified to, when I asked
5 you under oath on cross-examination just now.

6 A. Sir, we were out that night, that's
7 what we did.

8 Q. You just testified that you did not
9 assume Deonne was on drugs; is that correct? Is
10 that what you just testified to?

11 A. Incorrectly.

12 Deonne was up and awake and out that night,
13 that's what we were doing, he was high. They
14 were high together. Yes, they were.

15 Q. And you also stated at the stand your
16 ground hearing that you used crack cocaine the
17 night of this incident.

18 A. I did.

19 Q. And that you went to your room to use
20 crack cocaine.

21 A. But I didn't quite get there, but,
22 yeah.

23 Q. So at the stand your ground hearing,
24 you stated that you went to your room to use
25 crack cocaine?

1 A. Yes, sir.

2 Q. But you also stated that you never use
3 drugs in front of Deonne.

4 A. Uh-uh.

5 Q. But --

6 COURT REPORTER: Is that no?

7 WITNESS: Yeah, that's a no, ma'am, sorry,
8 he keeps repeating everything.

9 BY MR. PAULK:

10 Q. But you and Deonne were in the hotel
11 room together, correct?

12 A. Yes, we were.

13 Q. And you stated that you used crack
14 cocaine in the hotel room?

15 A. Uh-huh.

16 Q. Okay.

17 A. There's also a bathroom in the hotel
18 room with a door.

19 Q. Do you recall stating at the stand your
20 ground hearing that you weren't watching him, in
21 reference to Delmar?

22 A. Watching him? Yes, I was in the car --

23 Q. At the time --

24 A. -- before.

25 Q. At the time the shooting happened, you

1 were not watching Delmar?

2 A. No. No, sir.

3 Q. Do you recall stating that Deonne had
4 gotten out of the passenger seat and walked
5 around the front of the car?

6 A. Deonne's was getting ready -- yes, I
7 did say that.

8 Q. So Deonne got out of the passenger seat
9 and walked around the front of the car?

10 A. And I was getting out of the backseat
11 to get ready to walk to the front of the car, to
12 the passenger seat and switch, yes.

13 Q. Were you out of the car when Deonne was
14 shot?

15 A. I was halfway out of the car. I,
16 literally, I had one foot out of the car. And
17 we all opened doors at the same time. I don't
18 really know if Deonne made it to the front of
19 the car. It might have happened as soon as we
20 opened doors, and that boy got on two feet --
21 that man, not a boy, he got on two feet, and
22 shot him, yes, he did.

23 Q. So you don't know at what point Deonne
24 got shot?

25 A. I do remember what -- at what point my

1 life changed from this, I remember exactly what
2 point. I can tell you the exact song on the
3 radio, I do remember.

4 Q. Do you know where Deonne was standing
5 when he got shot?

6 A. In front of the passenger door, had to
7 be. He shot over and he shot back.

8 Q. So when you told officers at the scene,
9 and at the hospital, that you heard pop, pop,
10 pop, and then you realized that you shot, was
11 that true?

12 A. Yes.

13 Q. So let's imagine that I'm sitting in
14 the driver's seat right here. Deonne gets out
15 of the car, Delmar gets out of the car. It's
16 your testimony that Delmar went pop, pop, pop.

17 A. No, Delmar was -- once again, he was
18 high and paranoid, so he was reluctant to get
19 out of the car, like everyone else did to
20 switch, which was normal, so he was still
21 sitting there, and he said -- pop, pop to the
22 backseat, but he --

23 Q. That's not what --

24 A. -- shot twice this way, and --

25 Q. That's not what you told --

1 A. -- then he shot this way.

2 Q. -- the officers.

3 A. Deonne did nothing but this, and it had
4 to be, I agree with you, sir.

5 THE COURT: Counsel, let her finish her
6 answer before you ask the next question.

7 WITNESS: He doesn't, he doesn't want to
8 believe it. He doesn't want to hear my story.

9 BY MR. PAULK:

10 Q. Ma'am, you told officers after this
11 incident happened that you heard pop, pop, pop,
12 and then you realized you had been shot; is that
13 true?

14 A. Yes. Yes, it is, sir.

15 MS. JONES: Your Honor, can we move on from
16 the pop, pop, pop? This has been asked and
17 answered.

18 WITNESS: It's just tedious.

19 THE COURT: I'll agree.

20 BY MR. PAULK:

21 Q. But you remember what happened that
22 night, correct?

23 A. Yes, I do.

24 Q. You never had any lapse in your memory?

25 A. No.

1 Q. No?

2 A. You can't forget the night, if you
3 wanted to.

4 MR. PAULK: A moment of the Court's
5 indulgence.

6 THE COURT: Yes, sir.

7 BY MR. PAULK:

8 Q. Do you recall telling investigators at
9 the hospital that your hands -- you said, "My
10 hands look like this, because I've been smoking
11 crack for the past few days?"

12 A. They did. My fingers had -- I'm
13 noticing it now. Me and my sponsor just talked
14 about this, my thumbs, because you flick
15 lighters all the time, they had callouses on
16 them. They were cracking, like, you know, like
17 not taking care of yourself.

18 Q. So you do recall telling officers --

19 A. Yeah.

20 Q. -- that your hands look like that,
21 because --

22 A. Yes, because they asked me was my hands
23 okay, because there was broken glass and
24 everything. They asked me about my body, was
25 there anything else? They were looking at my

1 marks.

2 Q. Ma'am, I don't think that they were
3 asking you if there was glass on your hands, at
4 that time.

5 A. I'm just insinuating, sir, they were --

6 Q. Okay.

7 A. They were asking about --

8 Q. Because they never asked you --

9 A. -- my -- was I hurt anymore. Like now
10 you're over talking me, and you asked me a
11 question. They were examining me, to see did I
12 have any other marks on me, yes.

13 Q. Did this conversation take place while
14 they were photographing your hands?

15 A. Yeah. And I kind of felt guilty, it's
16 a things addicts do, so I explained it.

17 Q. So as they're taking pictures of your
18 hands, you say, "That they look like this,
19 because I've been smoking crack the past few
20 days?"

21 A. Yes.

22 Q. And you'd been awake for a while at
23 that point, right?

24 A. I'd been awake almost two days, sir.

25 MS. JONES: Your Honor --

1 BY WITNESS:

2 A. It was three days after my daughter's
3 birthday. I buried her --

4 THE COURT: Hold on --

5 BY WITNESS:

6 A. -- four days after. Yes, I was.

7 THE COURT: Yes, ma'am?

8 MS. JONES: There has been repetitive
9 testimony about her being awake, smoking crack,
10 on a binge a couple days prior to this. I think
11 this has all been asked and answered.

12 THE COURT: Well, I think his questions are
13 specific to the hands, but he's asked that a
14 couple times, I'll let him wrap up.

15 MR. PAULK: Yes, Your Honor.

16 BY MR. PAULK:

17 Q. Did you have a purse on you that night,
18 Ms. Randall?

19 A. Yeah.

20 Q. And that purse made it with you of the
21 vehicle, correct?

22 A. It was around my body.

23 Q. Okay. Do you recall being asked about
24 the purse during the stand the ground hearing?

25 A. Yeah.

1 Q. And do you recall that your answer was,
2 "A little black -- I had a little black satchel
3 purse, nothing that a gun could fit in."

4 A. Yeah.

5 Q. But you were never asked if a gun could
6 have fit in there?

7 A. I was contacted, because the -- Miss
8 Mary, that cool lady behind you, said that he
9 was trying to scream self-defense. And also
10 hearing him testify first, before I got on the
11 stand, he also stated that he thought that I
12 passed Deonne a gun, and I was trying to rob
13 him. So that's why I said there's no -- there's
14 no nothing -- a gun couldn't fit in it.

15 Q. And since you brought it up, how many
16 times have you met with the Solicitors about
17 this case?

18 A. I never met with the Solicitors about
19 this case. I don't -- sir, I try to tune this
20 out so bad, it makes no sense. They came to my
21 aunt's house one time. I called Mr. -- the cool
22 dude right there yesterday.

23 Q. So is it your testimony that you have
24 not spoken with the Solicitors about this case,
25 or that you have spoken --

1 A. I mean I barely spoke with them about
2 this case, and they can tell you contact with
3 Rhonda Randall has been very little.

4 Q. But you've met with the Solicitors
5 before your testimony today?

6 A. At my aunt's house. They served me a
7 subpoena, that was it. I never went to any
8 office, no nothing. When I said --

9 Q. Okay.

10 A. -- a gun couldn't fit in the case
11 because I sat there, and listened to this boy's
12 testimony, and he said -- honestly, I was
13 shocked, because he said, "It sounded like
14 something heavy hit the floor, and it sounded
15 like he -- she passed him a gun."

16 MR. PAULK: Objection, hear say.

17 BY WITNESS:

18 A. That's what he said, I was sitting
19 right there.

20 MS. JONES: Your Honor --

21 THE COURT: You asked the question.

22 BY WITNESS:

23 A. That's what he said.

24 MR. PAULK: Your Honor, I don't believe I
25 ever asked her --

1 BY WITNESS: You asked the question and I
2 answered it, and you don't like that one.

3 MR. PAULK: Anything that Mr. Sanders said.

4 THE COURT: All right, well --

5 WITNESS: That's what he said, sir.

6 MR. PAULK: I would like that stricken from
7 the record, Your Honor.

8 THE COURT: Let's move on.

9 BY MR. PAULK:

10 Q. After the shooting happened, did you
11 start throwing things out of your purse?

12 A. No.

13 Q. No?

14 A. Uh-uh.

15 Q. You never --

16 A. After I found my friend --

17 Q. You never threw --

18 A. After I found my friend who was laying
19 in a ditch, and who is aware with the judicial
20 system, he asked me to take everything out of
21 his pockets, when -- before I told him I had to
22 call 911. So he then instructed myself, you
23 need to throw everything that would have got me
24 arrested, being the good person that he still
25 is.

1 MR. PAULK: Your Honor, can we instruct the
2 witness to only answer questions that she's
3 asked?

4 BY WITNESS:

5 A. Sure.

6 THE COURT: Ma'am, you have to answer the
7 question. You certainly have the right to
8 explain yourself, but you do need to answer the
9 question --

10 WITNESS: Yes, sir.

11 THE COURT: -- as it's asked.

12 BY WITNESS:

13 A. What'd you say, sir?

14 Q. After the shooting happened, did you
15 start throwing stuff out of your purse?

16 A. Originally, yes.

17 Q. Did you throw a crack pipe out of your
18 purse?

19 A. I threw two.

20 Q. Did you throw some steel wool out of
21 your purse?

22 A. Steel what?

23 Q. Steel wool, charred?

24 A. What? What is that?

25 Do you have a picture of it? What is it?

1 Q. Let's move on. Did you throw some weed
2 out of your purse?

3 A. No, he took that out, Deonne. I don't
4 smoke weed, I smoke crack.

5 Q. Did you also take Deonne's wallet off
6 of him?

7 A. Yes.

8 Q. And you threw all these things around
9 the crime scene, right?

10 A. To me, I threw them far. I guess he
11 wanted me to throw them further. The only
12 reason I had his wallet was because there was
13 supposed to be a rolled up dollar bill of
14 cocaine inside of it.

15 And by the time that red Jeep came that the
16 cop was in, I thought it was him turning around
17 to come back and get us.

18 Q. So --

19 A. That's why I jumped like this in the
20 middle of the road on the camera.

21 Q. So when you went to get Deonne's
22 wallet --

23 A. I was sitting -- I didn't went to, I
24 was sitting next to him. He was, literally, on
25 me.

1 Q. When you got Deonne's wallet, you just
2 testified that you were going to retrieve a
3 dollar bill that had cocaine in it; is that
4 correct?

5 A. That's what he said, there should have
6 been a rolled up bill with coke, unless he got
7 it.

8 Q. Did you --

9 A. Which is also like the marijuana. I
10 was taking drugs off my friend. I'm stupid, I
11 didn't even know we'd get in trouble for that,
12 at that point, but, yeah, it's just the person
13 he was.

14 Q. You testified earlier today that
15 you'all were leaving to go get more drugs,
16 correct?

17 A. Yes.

18 Q. Did you just testify that there was a
19 dollar bill --

20 A. It was his. He --

21 Q. -- with cocaine in it?

22 A. -- probably didn't want to sell --

23 Q. Did --

24 A. -- it to him, who knows?

25 Q. Do you recall stating at the stand your

1 ground hearing that Deonne's used to getting in
2 trouble?

3 A. Yeah, he is, he's a bad boy, he was.

4 Q. Do you recall stating that Deonne told
5 you to get everything off of you?

6 A. He did. He saved my life that night.
7 I probably would have went to jail.

8 Q. Since this incident has been
9 investigated, you've always remembered what
10 happened; is that correct?

11 A. I wake up from my sleep touching my
12 arm, feeling like I've been shot. I see people
13 that look like him before I knew he was
14 arrested.

15 I didn't even know what -- I couldn't
16 remember what the guy who shot me looked like.
17 I see Delmar's face in my sleep sometimes.

18 Q. You never told anybody that you
19 couldn't remember what happened the night of
20 this incident, did you?

21 A. No.

22 Q. No? Were you treated by Emergency
23 Medical Services the night of this incident?

24 A. Yes, I was.

25 Q. Did you take an ambulance ride that

1 night?

2 A. Yes, I did.

3 Q. And you talked to the EMTs?

4 A. Yeah, I did.

5 Q. Do you recall telling the EMTs that you
6 had been up for over 24 hours?

7 A. Yeah, I did.

8 Q. Do you recall telling the --

9 A. I didn't want them to give me any pain
10 medicine.

11 Q. Do you recall telling the EMTs that you
12 had been on a cocaine binge?

13 A. Yes, I did.

14 Q. Do you recall telling the EMTs that you
15 could not remember details of the shooting?

16 A. Yeah, I remember that.

17 Q. Ms. Randall, did you just testify on
18 direct that you never told anybody that you
19 couldn't remember details of this incident?

20 A. Yes, I did.

21 Q. And you're telling me now that mere
22 minutes after the incident happened --

23 A. Minutes.

24 Q. -- less than hour after the incident
25 happened --

1 A. Less than an hour after someone died --

2 Q. -- you told --

3 A. -- he was shot by mistake, yes.

4 Q. -- the EMTs that you couldn't remember
5 what happened?

6 THE COURT: You have to answer, ma'am.

7 BY WITNESS:

8 A. Yes.

9 THE COURT: Thank you.

10 WITNESS: Your welcome, sorry.

11 THE COURT: No problem.

12 MR. PAULK: More of the Court's indulgence?

13 THE COURT: Yes, sir.

14 WITNESS: What's char?

15 THE COURT: Ma'am? I'm not --

16 WITNESS: He just read through something
17 that was char.

18 THE COURT: I'm not sure.

19 BY MR. PAULK:

20 Q. Do you recall telling officers that
21 when you're in Beaufort that Deonne has drugs?

22 A. Yeah.

23 Q. And that you would trade him sex for
24 drugs?

25 A. No, I don't remember saying that, but

1 that's happened. Sometimes that's happened,
2 yeah. But is that what's happening that night?
3 No, it was a person I chose to sleep with.

4 Q. Do you recall stating in the hospital,
5 "I came back to Beaufort and did the same shit
6 and it got worse?"

7 A. I did. When I talked about, yeah, I
8 mean this case is about a very important person,
9 but at the same time it released the example of
10 addiction happened. Someone went to jail,
11 someone went to an institution, someone dead --
12 died, it's a promise.

13 I'm strongly into my Narcotics Anonymous
14 program, and it was a relapse that went -- one
15 of my relapses that went horribly wrong for me.

16 Q. And you were just referencing using
17 drugs again, when you said, "I did the same
18 shit?" You weren't referencing anything else?

19 A. That's the only thing I could have been
20 referencing, sir, yes. It's one thing I have to
21 continuously choose to do is, not do, not do
22 again, but I wish I could stop.

23 Q. Do you recall speaking with an Officer
24 Ireland in this case at American's Best Inn on
25 the day after the incident?

1 A. Yeah, it -- yeah, yeah, I do, that
2 morning, I didn't want to talk to him.

3 Q. You told him that you got dropped off
4 at 10:30 on Prince Street?

5 A. Duke Street?

6 Q. No, ma'am, you told Mr. Ireland that
7 you got dropped off on Prince Street at 10:30.

8 A. Okay. I'm listening.

9 Q. Did you make that statement?

10 A. Yes, if he says I did, yes, but do it
11 sounds true? No. Maybe he got -- maybe he
12 wrote something wrong, because I was on Duke
13 Street.

14 Q. Would you like to see the video, ma'am?

15 A. No.

16 Q. And that Scooter called you two hours
17 later through Facebook Messenger?

18 A. He did.

19 Q. And it's your testimony today that
20 you'all went straight from downtown to the
21 Oasis?

22 A. Yeah. Duke got all type of -- they've
23 got cameras to Beaufort, look at the time, 'all
24 -- you do, you're good at that, look.

25 Q. And the right after you'all left the

1 Oasis, shortly after that, the shooting took
2 place?

3 A. Yeah.

4 Q. Yet, you told EMTs, the night of this
5 incident less than an hour after it happened,
6 that you didn't remember what happened during
7 the shooting; is that correct?

8 A. Yes.

9 MR. PAULK: No further questions.

10 THE COURT: Ms. Jones, anything on
11 redirect?

12 MS. JONES: Very briefly, Your Honor.

13 ***

14 REDIRECT EXAMINATION

15 BY MS. JONES:

16 Q. You actually didn't tell them you
17 didn't know anything about it, you said you
18 don't remember details; isn't that what you
19 said?

20 A. Yes.

21 Q. Okay. And I want to talk about this
22 Oasis Inn. Can we see State's 10?

23 A. What?

24 Q. Rhonda, do you know there's cameras at
25 the Oasis Inn?

1 A. Yeah, there's cameras everywhere.

2 Q. Right.

3 A. You'all are probably gonna see me going
4 outside going to go check on his crazy self.
5 Well, not -- no offense, not -- nothing --
6 you'all know what I meant, but he was sweating
7 all type of stuff, just sitting outside. Like,
8 "What's wrong with your cousin?"

9 Q. Okay. Miss Rhonda, what is this
10 parking lot? Is this the Oasis Inn?

11 A. Yeah.

12 Q. And let's play it.

13 (Video being played for jury.)

14 BY MS. JONES:

15 Q. Okay, what -- who's in that car right
16 there that just pulled in?

17 A. Me, Delmar and Scooter. I'm in the
18 back, Scooter's in the passenger and Delmar's
19 driving.

20 Q. Okay, and that's the red Durango that
21 you'all are in that night?

22 A. Yeah.

23 MS. JONES: Can we pause it for a second.
24 Is there any way to turn off the back speakers?

25 CLERK: There is not. Do you want me to

1 just turn off the speakers?

2 Do you want me to mute it?

3 THE COURT: There's no sound.

4 MS. JONES: Yeah, there's no sound. That
5 would be great, thank you. Thank you. We can
6 keep playing.

7 (Video being played for jury.)

8 BY WITNESS:

9 A. See, he didn't know where to park. He
10 was driving crazy.

11 Q. And we're gonna see some people get out
12 in a second. I want you to tell me who those
13 people are. What are you'all doing right now?

14 A. Telling him to hold on. Scooter said
15 to hold on, he'd be right back. I'm probably
16 looking for my ring.

17 Q. Okay. Who's that?

18 A. I'm not sure which doors open first.

19 Q. That --

20 A. That's me.

21 Q. That's you? Okay.

22 A. My crazy self.

23 Q. Are you smoking a cigarette there?

24 A. Yeah, I only smoke cigarettes when I'm
25 using.

1 COURT REPORTER: I'm sorry, I didn't hear
2 you.

3 BY WITNESS:

4 A. Yes, I only smoke cigarettes when I'm
5 using, yeah.

6 Q. Okay. Who's getting out of the
7 passenger seat?

8 A. Both doors open. I don't know what's
9 going on, but Scooter got -- Scooter's in the
10 passenger seat. I'm, obviously in the room by
11 then. I didn't -- I don't know this part.

12 Q. Okay. And that's Scooter?

13 A. Yeah. Yeah, oh, boy.

14 Q. Okay. And we can fast forward a little
15 bit until Ms. Randall comes back out.

16 A. Let's run it a couple minutes.

17 Q. Until you come back out?

18 A. Uh-huh.

19 Q. Okay.

20 A. We were using drugs that night too.

21 Q. And while we're waiting for that,
22 you'all came from that back side of the hotel.
23 Would that be coming from downtown?

24 A. Uh-huh.

25 Q. And --

1 A. That's where we came from.

2 Q. Okay. And Prince and Duke Street are
3 close to each other, right?

4 A. They connect actually.

5 Q. They connect?

6 A. Yeah.

7 Q. Okay, what's happening now? You're
8 like coming back out, what are you'all doing
9 now?

10 A. Am I talking to the gentleman? Wait,
11 there's something before this, where I came out
12 by myself.

13 Q. Okay.

14 A. Because I went to go check on him.

15 Q. Okay, why --

16 A. Because, once again, like the dude
17 actually had smoked crack, I went in the
18 bathroom and stuck and got high.

19 Q. Uh-huh.

20 A. And then I'm out, and I'm peeking out
21 the window, and I'm like, "Why is he still out
22 there? Like why is he looking like that?" He's
23 rocking in the car, and sweating and just -- I'm
24 like, "You know, this is my hotel room, I don't
25 want to get put out. And what is he doing? Is

1 he leaving? Is he coming back?

2 What's going on?" So before we left
3 there's a video -- a part of this video where I
4 came outside by myself to go check on him, ask
5 him if he wanted water or something.

6 Q. Uh-huh.

7 A. And he was scared to open the door,
8 looking crazy, and talking, and I went back in.
9 So that's when -- and I went back in the hotel.
10 But this is when Deonne's like, "You know what?
11 He is fucked up, but he wants to go to wherever
12 he want to go. You've got a license, right?" I
13 said, "Yeah." He said, "Come on, you can drive,
14 ride with us." I said, "Cool."

15 Q. Okay, and that's from the Oasis Inn
16 parking lot that you'all drive and end up on
17 that road where the shooting happened?

18 A. Yes.

19 Q. Okay.

20 MS. JONES: We don't need to watch anymore
21 of the video, if that's okay.

22 MR. PAULK: Your Honor, can we approach?

23 THE COURT: Yeah.

24 (Bench conference.)

25 BY MS. JONES:

1 Q. All right, Rhonda, we're gonna play the
2 whole video.

3 A. Yea.

4 MS. JONES: Can we play it from the
5 beginning?

6 That's good. How long is this video?

7 THE COURT: I'm not sure, ma'am, I've never
8 seen it either.

9 (Video played for jury in courtroom.)

10 BY WITNESS:

11 A. That me going to check on him, because
12 he --

13 Q. Okay.

14 A. -- because he was still sitting outside
15 the room, and we were inside. I asked him, "Do
16 you want a water? If you want to come in, like,
17 what's going on?"

18 Q. And what did he say?

19 A. Well, he's just sitting in the car like
20 crazy. He don't even want to open the door.
21 Like he's scared of me or something, like I
22 don't get it. He was outside then, like you can
23 sit there. "I'm good." "I'm good," closed the
24 door.

25 MS. JONES: Your Honor, that's all the

1 video with the Durango in it.

2 THE COURT: Is stopping it okay?

3 MR. PAULK: Yes.

4 MS. JONES: Thank you.

5 BY MS. JONES:

6 Q. Ms. Randall, who had a gun that night?

7 A. Honestly, Delmar.

8 Q. And who threatened Delmar that night?

9 A. No one. I was nothing but more than
10 nice to him, he was his cousin.

11 MS. JONES: I have no further questions for
12 this witness.

13 THE COURT: Anything on recross?

14 MR. PAULK: One more Court's indulgence.

15 THE COURT: Sure.

16 WITNESS: What does that mean?

17 MR. PAULK: No further questions, Your
18 Honor.

19 THE COURT: All right, Ms. Randall, you may
20 step down.

21 Are you'all releasing her from her
22 subpoena?

23 MS. JONES: I would love to release Ms.
24 Randall, Your Honor.

25 THE COURT: Okay, Ms. Randall, you're

1 excused.

2 WITNESS: Thank you.

3 THE COURT: Yes, ma'am.

4 Does the State have a relatively quick
5 witness we can get to before lunch, or do
6 you'all want to go ahead and break for lunch?

7 MS. JONES: No, Your Honor, I think it's a
8 good time to take a break for lunch.

9 THE COURT: Okay. Ladies and gentlemen,
10 we're gonna break for lunch now. Same rules
11 apply, don't discuss the case amongst
12 yourselves, don't go do any research, nothing
13 like that.

14 Also, just some housekeeping for this
15 afternoon. Does anybody have to be out of here
16 at 5 o'clock, or pick up children, any kind of
17 responsibilities like that? Because sometimes
18 we go a little bit after 5:00, if we're in the
19 middle of a witness, just for continuity
20 purposes; but if somebody's got something they
21 have to get done, then I'll make sure these
22 folks stop, so we don't inconvenience you any
23 further. So everybody's okay --

24 THE JUROR: Tomorrow I would love to get
25 out at 5:00, but I don't have to.

1 THE COURT: Okay, well, we'll do our best
2 to accommodate that as well. Again, I don't
3 want to inconvenience you folks any more than
4 necessary. You know, sometimes to keep things
5 moving, we may go to about 5:30 or something,
6 and it may go after that just to finish up a
7 witness.

8 I'm not trying to work you all to death, or
9 the lawyers, or the clerks, or anybody like
10 that, but we've got to get this done. So enjoy
11 your lunch, we will -- let's say come back at
12 1:45, that will give you an hour and a half, and
13 we'll get started back then, all right? Thank
14 you.

15 (Jury exits the courtroom.)

16 THE BAILIFF: The jury is clear, Your
17 Honor.

18 THE COURT: Anything we need to address
19 before we break for lunch?

20 MS. JONES: No, Your Honor.

21 MR. PAULK: Your Honor, I believe that the
22 young African-American gentlemen who was sitting
23 in the back was nodding off a little bit during
24 some of the testimony, if we could just keep an
25 eye on that.

1 THE COURT: Okay.

2 MR. PAULK: That's all I've got.

3 THE COURT: All right, I'll make a note of
4 that. Okay, see you'all back at 1:45.

5 MS. JONES: Thank you.

6 (Luncheon recess.)

7 ***

8 PROCEEDINGS CONTINUED

9 THE COURT: I guess we can go ahead and
10 address the issue of the confession, or the
11 interview rather. I'm kind of leaning towards
12 not allowing the closed caption, because the way
13 these cases appear, then we have to eliminate
14 instruction in the charge, as far as all that's
15 concerned.

16 To keep it cleaner and avoid the confusion,
17 let's just use the one that does not have the
18 closed caption.

19 MS. JONES: Okay.

20 MR. PAULK: Thank you, Your Honor.

21 THE COURT: Okay. Get them out.

22 THE COURT: Ms. Jones, do you think you can
23 get his direct done in about 30 minutes?

24 MS. JONES: Yes.

25 THE COURT: Okay.

1 THE BAILIFF: The jury's entering the
2 courtroom, Your Honor.

3 (The jury enters the courtroom.)

4 THE COURT: Thank you, sir.

5 THE BAILIFF: The jury is seated, Your
6 Honor.

7 THE COURT: Solicitor, ready to proceed?

8 MS. JONES: Yes, Your Honor.

9 THE COURT: You guys ready?

10 MR. PAULK: Yes, Your Honor.

11 THE COURT: All your next witness.

12 MS. JONES: Thank you, Your Honor. The
13 State calls Sergeant James Tunis.

14 * * *

15 JAMES TUNIS

16 * * *

17 being first duly sworn, testified as
18 follows:

19 ***

20 DIRECT EXAMINATION

21 BY MS. JONES:

22 Q. Good afternoon, Sergeant Tunis.

23 A. Good afternoon.

24 Q. You've been seated right here
25 throughout this trial, haven't you?

1 A. Yes, ma'am, I have.

2 Q. What was your role in the case we're
3 here for today?

4 A. My role in this case was, I was
5 assigned as the lead investigator for this case.

6 Q. And who do you work for?

7 A. I work for the Beaufort County
8 Sheriff's Office in the Northern Investigations
9 Section.

10 Q. And what does Northern Investigations
11 mean?

12 A. Well, the County is divided into a
13 northern and a southern section. I work in the
14 northern section, and we cover all criminal
15 investigations that may occur on the north side.

16 Q. And with the Northern Section, would
17 that cover anything in the northern end of
18 Beaufort?

19 A. Yes, ma'am.

20 Q. Were you working on the night of July
21 23rd, 2021?

22 A. Yes, ma'am.

23 Q. And at that point, how long had you
24 been in law enforcement?

25 A. In law enforcement, at that point,

1 about 14 years.

2 Q. And how about with the Beaufort County
3 Sheriff's Office?

4 A. About six years.

5 Q. Prior to that, where were you?

6 A. Prior to working for the Sheriff's
7 Office, I was in federal law enforcement. I
8 worked for both the National Park Service and
9 the Department of Defense.

10 Q. The night of July 23rd did you respond
11 to the Laurel Bay area?

12 A. Yes, I did.

13 Q. And why did you respond?

14 A. I received a phone call that there had
15 been a shooting at the area of Laurel Bay and
16 Stanley Farm Road. I responded to the scene as
17 the lead investigator, and began assessing and
18 processing the scene.

19 MS. JONES: Permission to approach?

20 THE COURT: Yes, ma'am.

21 BY MS. JONES:

22 Q. I'm going to show you what has been
23 marked as State's 11, 12, 13, 14, 15, 16, 18,
24 19, 20 and 21. Do you recognize those items?

25 A. Yes, ma'am, I do recognize each of

1 those items.

2 Q. And what are those photos of?

3 A. So these are the photos of the scene,
4 where Deonne McLendon was laying I guess, the
5 overall scene and the items that were found on
6 it.

7 Q. And are these fair and accurate
8 depictions of the scene that night?

9 A. Yes, ma'am, they are.

10 MS. JONES: Your Honor, at this time, the
11 State moves in 11 through 16, as well as 18
12 through 21.

13 THE COURT: Any objection?

14 MR. PAULK: Without objection.

15 THE COURT: All right.

16 MS. JONES: And permission to publish?

17 THE COURT: Yes, the photos 11 through 16,
18 and 18 through 21 will be admitted.

19 (State's Exhibits 11 to 16 and 18 to 21
20 were admitted into evidence.)

21 BY MS. JONES:

22 Q. What is State's 11 showing us?

23 A. So that's going to be the dirt road
24 next to Laurel Bay road, where Deonne McLendon
25 was found laying.

1 Q. And is that some of the stuff left
2 behind by the paramedics?

3 A. Yes, ma'am, it is. The stuff in the
4 middle of the road there, the orange strap and
5 all that, that's left over by paramedics. If
6 you look in the back, you can see the blue
7 cones. That's marking different items of
8 evidence that we found in the area.

9 Q. Okay, and how did you decide what to
10 mark as evidence?

11 A. Pretty much anything that didn't look
12 -- that looked like it didn't belong there. We
13 found items, such as the two black crack pipes,
14 packages of cigarettes, a crumpled dollar bill,
15 and all those items were marked.

16 Q. And looking at State's 12, is that a
17 closer depiction of these cones, these markers?

18 A. Yes, ma'am, it is.

19 Q. Okay, State's 13, and, again, just from
20 a different angle?

21 A. Yes, ma'am.

22 Q. All right. State's 14, what is this
23 showing us?

24 A. So this is showing the area where
25 Deonne McLendon was actually laying. This is

1 where he was, initially, pre, so to speak, the
2 clothes that were left behind, his bloody tee-
3 shirt and stuff was cut off by EMS, so that's
4 what this photo is depicting, the area in which
5 he was laying, and the items left behind.

6 Q. Okay, moving to State's 15. Is that a
7 closer up image of that same area?

8 A. Yes, ma'am, it is.

9 Q. And what is item marker number one,
10 marked as evidence?

11 A. I believe it's the bloody tee-shirt.

12 Q. State's 16, marker two, what is that
13 showing us?

14 A. I believe that is a small bag of
15 marijuana that we found in the area.

16 Q. Okay. State's 17, marker three, what
17 is that showing us?

18 A. That's showing a black crack pipe.

19 Q. State's 18, marker four?

20 A. That -- yeah, that's showing a cigar
21 wrapper that was in the area.

22 Q. State's 19?

23 A. That's the crumpled dollar bill that I
24 spoke of.

25 Q. State's 20? Is that a cigarette pack?

1 A. Yes, that's a -- there was two empty
2 cigarette packs found. That's the -- one of
3 them -- they're both used for cigarettes.

4 Q. Okay, State's 21, is that the second
5 pack?

6 A. I believe that's the second pack, yes.

7 Q. Okay. And State's 22?

8 A. That is the second crack pipe that we
9 found.

10 Q. Okay. And on-scene that was the
11 evidence that you collected?

12 A. Yes, ma'am. As I photographed, that
13 was the evidence that we collected.

14 Q. Were you ever able to find any sort of
15 firearm out there?

16 A. No, we -- myself and several of the
17 officers on-scene we all searched that area,
18 both on the main road, and then after we found
19 out later on where this might have happened,
20 near the intersection of Laurel Bay and Stanley
21 Farm, we searched the entire area, walking up
22 and down the road, doing lines searches on the
23 side of the road, and we did not locate any kind
24 of firearms there.

25 Q. All right, so using State's 2, you

1 walked Laurel Bay and then up and down Stanley
2 Farm you said?

3 A. Yes, ma'am.

4 Q. Okay. And did you ever use any sort of
5 equipment to try to find shell casings?

6 A. I did. On July 26th I returned to the
7 scene during the daylight hours, and on the side
8 of the road, especially since we had learned
9 that they were -- the vehicle had stopped on
10 Stanley Farm Road, I really wanted to hit that
11 area in more detail.

12 So I returned on July 26th, and I had a
13 metal detector. The grass on the side of the
14 road was pretty high at the time, so I took my
15 time, and I went through and swept with a metal
16 detector looking for shell casings, or anything
17 of that nature.

18 Q. Did you ever find any?

19 A. No, ma'am, I did not.

20 Q. And a shell casing, what is a shell
21 casing?

22 A. So a shell casing is the empty brass
23 casing after a bullet is fired. Usually, the
24 gun will eject it from the gun after the
25 bullet's fired.

1 Q. Okay. If somebody's standing in the
2 apex of the door, would that shell casing end up
3 inside the car?

4 A. It very well could have, yes, ma'am,
5 because the bullet is ejected from the gun. It
6 just doesn't fall out, it's actually ejected,
7 so --

8 Q. July 24th, the next day, you learned
9 that Mr. McLendon -- my apologies, the Defendant
10 is in Camden County, Georgia?

11 A. Yes, ma'am, I did.

12 Q. Tell me about that.

13 A. So, initially, well, that morning on
14 the 24th I secured three warrants for Mr. Delmar
15 Sanders. I secured a warrant for murder,
16 attempted murder, and possession of a weapon
17 during a violent crime. All of those warrants
18 were entered into our NCIC database.

19 The national database meaning that if any
20 law enforcement had contact with him, they would
21 be able to see that he was warranted. So later
22 on that day I found out that Mr. Sanders had
23 turned himself in Camden County, and they,
24 obviously, ran his information, and saw that he
25 was warranted out of Beaufort, and we were

1 notified of that.

2 Q. Okay. What kind of car was Mr. Sanders
3 driving, when he turned himself in?

4 A. Mr. Sanders had a -- I believe it was a
5 2007 red Dodge Durango.

6 Q. Did you have an opportunity to process
7 that Durango?

8 A. Yes, ma'am, I did, on July 27th.

9 Q. Okay. I'm going to show you State's 24
10 through 50.

11 MS. JONES: Permission to approach, Your
12 Honor?

13 THE COURT: Yes, ma'am.

14 BY MS. JONES:

15 Q. Do you recognize those photos?

16 A. Yes, ma'am. So I took these photos.
17 These are the photos of the red Dodge Durango in
18 Camden County. The photos were taken of the
19 vehicle itself and the contents within it.

20 Q. Okay, and that's a fair and accurate
21 depiction of the car as you found it that day?

22 A. Yes, ma'am.

23 MS. JONES: Your Honor, at this time the
24 State moves 24 through 50 into evidence.

25 THE COURT: Any objection.

1 MR. PAULK: Without objection.

2 THE COURT: All right, State's 24 through
3 50 have been admitted into evidence.

4 (State's Exhibits 24 to 50 were admitted
5 into evidence.)

6 MS. JONES: And permission to publish?

7 THE COURT: Yes, ma'am.

8 BY MS. JONES:

9 Q. Okay, is this the Dodge Durango you
10 processed that day?

11 A. Yes, ma'am, it is.

12 Q. Okay, 25 is just another angle?

13 A. Same -- yes.

14 Q. Same with State's 26, as well as
15 State's 27, and State's 28? Where are these
16 photos being taken.

17 A. So these photos are being taken at
18 Camden County, which is located at the southern
19 end of Georgia, just at the -- before the
20 Florida line. This particular area is the
21 impound lot for Camden County Sheriff's Office.

22 Q. About how far away is the Camden County
23 Sheriff's Office from here?

24 A. About an hour and a half, two hours,
25 maybe.

1 Q. Okay. State's 29, that would be the
2 back passenger door?

3 A. Yes, ma'am.

4 Q. Okay, State's 30?

5 A. Yeah, so that's just -- I wanted to
6 take photos of everything as I found it, so this
7 is the very beginning before I searched the
8 vehicle.

9 I'm just opening doors, and taking photos
10 of its contents and where they were, at the time
11 when I searched it.

12 Q. How about State's 31?

13 A. Same, that's the rear, I believe, or
14 still the front, sorry.

15 Q. Did you collect anything from inside
16 this Durango that was relevant to this case?

17 A. So I did. I -- besides the photos, I
18 collected GSR samples from the vehicle.

19 Q. All right.

20 A. GSR is gunshot residue. So we have
21 these kits that collect that residue, and we're
22 able to test it, to see if it was present in the
23 vehicle or not.

24 Q. Okay. None of these items that we're
25 seeing in these photos?

1 A. No, none of those items. Besides the
2 GSR kits, I also did collect a few cell phones
3 that were in the vehicle, and I believe a couple
4 DNA swabs.

5 Q. Okay, and why didn't you collect any of
6 these bags, or these cups, or whatever else
7 we're seeing in these photos?

8 A. It just -- the stuff that I did not
9 collect from the vehicle, I mean it was all
10 personal property of Delmar Sanders, and we
11 really didn't find it relevant.

12 Q. Okay. State's 32? What is that? Is
13 that the driver's side door?

14 A. I believe so.

15 Q. How about State's 33?

16 A. I guess the driver's side door.

17 Q. State's 34?

18 A. Center console.

19 Q. Again, State's 35 is, again, different
20 angles of center console?

21 A. Correct.

22 Q. State's 36?

23 A. That's one of the cell phones that we
24 found in that black bag in the front of the
25 Dodge Durango.

1 Q. How many cell phones did you find in
2 this car?

3 A. We found three.

4 Q. And did you send this off for
5 processing, or did you not?

6 A. Yes, ma'am, I did. We sent those off,
7 to try to get them dumped. A dump is tracking
8 information off the phones, so we can identify
9 who the phone belongs to, and any relative
10 content that was in the phone.

11 Q. So who did you send these three cell
12 phones to?

13 A. So I sent all three cell phones to the
14 South Carolina Law Enforcement Division, SLED,
15 to their cyber lab, to have them extract it.

16 Q. Could they access these phones? Could
17 they get into them?

18 A. No, ma'am. They had attempted all
19 three phones and were not able to get any
20 information off these phones.

21 Q. Okay. Did you send them to another lab
22 to be analyzed?

23 A. So I did, and during the time that it
24 took those phones at SLED to finally be looked
25 at and processed, we were in the process here at

1 the Beaufort County Sheriff's Office,
2 establishing our own device extraction unit and
3 lab.

4 So when those phones came back, and we
5 learned that there was no information extracted
6 from those phones, I did send it then to the
7 Beaufort County Sheriff's Office extraction lab.
8 And they were able to get very limited
9 information off of them, such as SIM card
10 information. And there was a couple phones that
11 the batteries or the power supplies no longer
12 worked, and we just couldn't get anything, so --

13 Q. Okay. Any information relevant at all
14 to any one of those phones?

15 A. No, ma'am, none.

16 Q. Let's go to State's 37, would that be
17 the backseat?

18 A. Yeah, I believe that's the first row
19 passenger seat in the back.

20 Q. Okay. State's 38?

21 A. Same.

22 Q. State's 39?

23 A. It's just a photo of the items inside
24 the bag.

25 Q. State's 40?

1 A. Same, just a close up version of it.

2 Q. State's 41? Is it the floorboard in
3 the backseat?

4 A. Yes, ma'am.

5 Q. State's 42?

6 A. It's the center console in the
7 backseat.

8 Q. State's 43?

9 A. So that's the back cargo area and third
10 row seating. It was completely filled with
11 Delmar Sanders' personal items.

12 Q. Okay, and that looks like clothing?

13 A. Clothing.

14 Q. Okay.

15 A. Yeah. I believe at the time he was
16 said to be living out of his car, so he had
17 pretty much everything that he owned in the back
18 of that car.

19 Q. Okay. State's 44?

20 A. That is the back cargo area?

21 Q. And is that a bag?

22 A. Yes, ma'am.

23 Q. Okay. I'm gonna pause for a second
24 right there. You mentioned earlier GSR kits.

25 A. Yes, ma'am.

1 Q. The gunshot residue.

2 A. Yes.

3 Q. What is gunshot residue?

4 A. So gunshot residue is --

5 MR. PAULK: Objection, Your Honor, this
6 witness has not been qualified as an expert on
7 gunshot residue and gunshot residue kits,
8 anything of that nature. It's my understanding
9 that there's gonna be a GSR expert. I think the
10 testimony would be better served at that time.

11 THE COURT: I'm going to overrule. I think
12 he can tell us what it is. I don't think he can
13 give an opinion on it, as an expert though.

14 MR. PAULK: Thank you, Your Honor.

15 THE COURT: Thank you.

16 BY WITNESS:

17 A. So gunshot residue, any time a bullet
18 is fired, or a weapon is fired, it's going to
19 leave some piece, particles, little metal
20 flakes, or whatever is inside that firing
21 cartridge. So the kits pick up those little
22 flakes, the little pieces of residue, and where
23 it's attached, whether it's there or not.

24 Q. Okay, so you did some of these kits, so
25 to say, in this Durango?

1 A. Yes, ma'am.

2 Q. I'm going to show you --

3 MS. JONES: Permission to approach, Your
4 Honor?

5 THE COURT: Yes, ma'am.

6 BY MS. JONES:

7 Q. I'm gonna show you what's been marked
8 as State's 51, for ID purposes only. What are
9 those?

10 A. So this -- these are two of the GSR
11 kits that I took from that Dodge Durango. And I
12 believe I did two kits, because I did a
13 passenger side, and a -- the driver's side, and
14 the passenger side.

15 Q. And after you did those kits, did you
16 place them in this bag and seal them?

17 A. Yes, ma'am, I did.

18 Q. Did you manipulate, tamper or alter it
19 in any way?

20 A. No, I did not.

21 Q. After you did those kits, did you send
22 them in for further testing?

23 A. Yes, I did.

24 Q. And would they have then gone to SLED
25 for analysis?

1 A. Yes, ma'am.

2 Q. Okay. I can take those back from you.
3 Thank you. You also mentioned -- while we're on
4 the topic of science, you also mentioned DNA.

5 A. Uh-huh.

6 Q. You took some DNA swabs from that car.

7 A. Uh-huh.

8 Q. What did you do with those DNA swabs?

9 A. So I did turn those DNA swabs into
10 Evidence, but there really wasn't a collection,
11 as to who was in the vehicle.

12 I mean, we had other evidence from the
13 Oasis Inn, showing that all three, Delmar,
14 Deonne and Ms. Randall were in the vehicle, so
15 we didn't send the DNA off.

16 Q. How about other types of processing
17 that could have happened with firearms? You
18 know, does SLED have a firearms department?

19 A. They do, but we didn't have any
20 firearms evidence, other than the GSR kits.

21 Q. Okay. Did you ever have a bullet from
22 autopsy perhaps?

23 A. Yes, we did.

24 Q. And --

25 A. That was recovered in this manner.

1 Q. Okay. Was SLED asked to process that?

2 A. Yes, they were.

3 Q. Did they process it?

4 A. No, I don't think they did.

5 Q. Okay. Did you ever have a gun to
6 compare that bullet to?

7 A. No, ma'am. We never recovered the
8 firearm. During Mr. Sanders' testimony, he says
9 that he threw the gun out of the window while
10 driving away. We searched that area several
11 times, both with law enforcement and others, and
12 we did not find that gun.

13 Q. Okay. Absent having a gun to compare
14 it to, what would you have been able to learn
15 about that bullet?

16 A. Not much. Usually, we have a firearm
17 that could be test-fired and compared to.

18 Q. I'm gonna go back to the photos of the
19 Durango, State's 45. What is that showing us?

20 A. So that's showing a bullet hole in the
21 backseat.

22 Q. Okay.

23 A. The back passenger seat, passenger
24 side.

25 Q. Okay. How about State's 46?

1 A. So that's the back side of that same
2 seat. It just shows that the bullet went
3 through the seat.

4 Q. Did you ever recover a bullet from
5 inside that car?

6 A. No, ma'am, we did not.

7 Q. But you looked for one?

8 A. Absolutely.

9 Q. Okay. State's 47, what is this showing
10 us?

11 A. So those are shot stakes, and,
12 basically, we use those to show the trajectory
13 of a bullet.

14 So what we do is, we just simply stick
15 those rods into the bullet hole, and we can
16 depict the trajectory of the round of where it
17 came from.

18 Q. And based on your investigation, who
19 would be in that position that night?

20 A. So based on the investigation, and Ms.
21 Randall's own testimony earlier, she was sitting
22 in the backseat.

23 Q. And State's 48? And is that the same
24 rod, just further --

25 A. Yes, ma'am, it's the same rod. It's

1 just showing you where the trajectory came from.

2 Q. And, again, State's 49? Is that just,
3 again, showing --

4 A. Yes, ma'am.

5 Q. -- the trajectory?

6 A. Yes, ma'am.

7 Q. And is that where the bullet would have
8 originated?

9 A. Yes, somewhere along that line, yeah.

10 Q. Okay.

11 A. It didn't -- won't show you exactly
12 where it originated, but it will show you
13 somewhere along that line, that's where the
14 bullet came from.

15 Q. Okay. And, finally, State's 50?

16 A. So I had my partner, who was helping me
17 that day, show the trajectory, and that somebody
18 could be standing in that doorway pointing a
19 weapon along that trajectory line, as was
20 described.

21 Q. Okay.

22 MS. JONES: I beg the Court's indulgence.

23 THE COURT: Yes, ma'am.

24 MS. JONES: Your Honor, may I approach?

25 (Bench conference.)

1 THE COURT: Yes, ma'am. Ladies and
2 gentlemen, we are going to take a break. We've
3 had something come up that's going to require a
4 little bit more of an extended break, so if you
5 need to check in with work, with your family,
6 you've got a little bit more time on this break,
7 and we'll get you back in here as absolutely
8 quick as we can.

9 Again, we value your time, and aren't
10 trying to waste it, but things just pop up
11 throughout the course of trials, and this is one
12 of them. So, again, we're not wasting your
13 time, but, again, and we want to be respectful
14 of your time, but you are gonna have probably at
15 least a half an hour; so, again, if you need to
16 check in with work, or your family, or any other
17 obligations, you've got a little extra time on
18 this one.

19 (Jury exits the courtroom.)

20 THE BAILIFF: The jury's cleared, Your
21 Honor.

22 THE COURT: All right, if the Deputies want
23 to get Mr. Sanders down to Judge Malphrus'
24 courtroom, and get that taken care of. She'll
25 be expecting him. He's a little bit early.

1 MR. TUNIS: Your Honor, may I step down out
2 of the box?

3 THE COURT: Yes, sir.

4 MR. TUNIS: Thank you.

5 THE COURT: Yes, sir. Everybody, we'll be
6 at ease until Mr. Sanders gets back.

7 MS. JONES: Your Honor, this is about
8 scheduling.

9 THE COURT: Sure.

10 MS. JONES: We have a witness on her way
11 from Columbia.

12 THE COURT: Okay.

13 MS. JONES: Based on how everything's
14 going, it will be at 5:00, or a little after by
15 the time she's able to get on the stand.

16 THE COURT: That's fine with me. Like I
17 said, the jury seemed okay with us working a
18 little bit late.

19 MS. JONES: Okay.

20 THE COURT: And Jessica and I've got
21 nowhere else to be, so --

22 MS. JONES: I just wanted to let everybody
23 know that.

24 THE COURT: When I first started out, there
25 was a Judge that used to get in trouble, I mean

1 he had people working until 6:30 or 7 o'clock at
2 night, and I don't --

3 COURT REPORTER: It's not Judge Buckner?

4 THE COURT: No. So I don't want to do
5 that, I don't want to work everybody to death,
6 but like I said, we have the time since we're
7 here, so --

8 MR. PAULK: And while we're on the topic of
9 scheduling, Your Honor, I believe that we have
10 one witness who was supposed to be here tomorrow
11 to testify.

12 She is going to be in Police Academy
13 training with the Police Department all day
14 tomorrow. She's not gotten permission to leave.
15 We're trying to get her that permission, but in
16 the event that our case goes forward tomorrow, I
17 don't believe that she would be available until
18 Thursday, and that's with EMS.

19 THE COURT: Is there anything I could help
20 to get her permission?

21 MR. PAULK: I know she's under subpoena. I
22 mean she's under subpoena, she was under
23 subpoena to be here on Monday.

24 You know, whenever we were under the
25 impression that there was no chance that we

1 could start our case at the end of the day, she
2 was prepared to come today and testify, but
3 she's got this training scheduled for tomorrow.
4 If there's anything that you believe that you
5 can do to get to secure her here.

6 THE COURT: Well, I don't want to have to
7 bring, you know, inconvenience the jury any
8 further, or any more than we need to.

9 MR. PAULK: And, Your Honor, there's fully
10 a chance that our case tomorrow takes most of
11 the day.

12 THE COURT: Okay.

13 MR. PAULK: I mean I don't have a big
14 witness list. I just don't want us to be
15 wrapping up at 3 o'clock, and she's the only
16 witness left to testify, and she's not able to
17 be here, because she has police training.

18 MS. JONES: Your Honor, I think -- this may
19 not even be on the record, but if this is the
20 one that Ms. Randall was taken to, I don't think
21 that it would be admissible testimony anyways,
22 because she fully admitted to making a
23 statement.

24 THE COURT: Well, I think it's still
25 admissible, right?

1 MS. JONES: Well --

2 THE COURT: I think it's still admissible.

3 MS. JONES: She has to deny it, and she
4 didn't deny it. Under State's 13B, we lay the
5 foundation, and I wrote down she said, "Yeah, I
6 remember it. Yes, I said that."

7 THE COURT: I think, if I'm remembering
8 correctly, she said a bunch of different things.

9 MS. JONES: Well, she was asked the
10 question a bunch of different times.

11 THE COURT: Yeah.

12 MS. JONES: So, ultimately, she did admit.

13 THE COURT: All right. All right, well,
14 I'll take a look at that, we've got time.
15 Anything else?

16 MS. JONES: Not from the State, Your Honor.

17 MR. PAULK: Nothing from the defense, Your
18 Honor.

19 THE COURT: All right, we'll be at ease
20 until Mr. Sanders gets back.

21 (Recess.)

22 ***

23 PROCEEDINGS CONTINUED

24 THE BAILIFF: The jury's entering the
25 courtroom, Your Honor.

1 (Jury enters the courtroom.)

2 THE COURT: Thank you, sir.

3 THE BAILIFF: The jury's seated, Your
4 Honor.

5 THE COURT: Thank you. Ms. Jones?

6 MS. JONES: Thank you, Your Honor.

7 ***

8 DIRECT EXAMINATION CONTINUED

9 BY MS. JONES:

10 Q. Investigator Tunis, did you have an
11 opportunity to interview the Defendant in this
12 case?

13 A. Yes, ma'am, I did.

14 Q. And prior to interviewing the
15 Defendant, Delmar Sanders, did you advise him of
16 his rights?

17 A. Yes, I did.

18 Q. Okay, and what are those called?

19 A. Those would be his Miranda rights.

20 Q. Okay.

21 (Court Reporter marks State's Exhibit
22 Number 23, as attached hereto.)

23 MS. JONES: Permission to approach, Your
24 Honor?

25 THE COURT: Yes, ma'am.

1 BY MS. JONES:

2 Q. Investigator Tunis, I'm gonna had you
3 State's 23. Do you recognize that?

4 A. I do. So this form is a standardized
5 form that we use to advise people of their
6 Miranda rights.

7 As I read the rights, the person initials
8 next to it, saying that they understood that
9 right, and then they have to initial whether or
10 not they want to talk to me, having those rights
11 in mind, and then they sign it. And on this
12 particular form, both myself and Mr. Sanders
13 signed it.

14 Q. And is that a fair and accurate copy of
15 the form that you read to Mr. Sanders that day?

16 A. Yes, it is.

17 Q. Does that appear to be altered in any
18 way?

19 A. No, ma'am.

20 MS. JONES: Your Honor, at this time, State
21 moves 23 into evidence.

22 THE COURT: Any objection?

23 MR. PAULK: Without objection.

24 THE COURT: All right, State's 23 will be
25 admitted.

1 BY MR. JONES:

2 Q. After advising Mr. Sanders of his
3 rights, can you read for the Court what those
4 rights were that you read to him that night?

5 A. Yes, ma'am. So it starts with, "You
6 have the right to remain silent. Anything you
7 say can and will be used against you in a court
8 of law. You have the right to have an attorney
9 present before or during any questioning. If
10 you cannot afford to hire an attorney, one will
11 be appointed for you, and before any
12 questioning."

13 Q. And did he acknowledge that he
14 understood those rights?

15 A. Yes, ma'am, he did.

16 Q. And did he indicate with his initials
17 on that form?

18 A. He did.

19 Q. And after those rights, is there a
20 couple other sentences below?

21 A. Yes, so after I advised the rights, it
22 says, "Do you understand each of these rights as
23 I have explained them to you?" And Mr. Sanders
24 initialed next to yes. "Having these rights in
25 mind, do you wish to talk to us now?" And,

1 again, Mr. Sanders initialed next to yes.

2 Q. And you, in fact, spoke with Mr.
3 Sanders?

4 A. I did.

5 Q. At any time, when you're advising him
6 of these rights, or he's initialing, does he
7 appear to be confused about what's happening?

8 A. No, ma'am.

9 Q. Does he appear to understand why he's
10 talking to you?

11 A. Yes, ma'am.

12 Q. Was he advised as to why he was at the
13 Investigations office?

14 A. Yes, ma'am.

15 Q. Does he appear to be under the
16 influence of alcohol?

17 A. No, ma'am.

18 Q. Did he give you rational responses?

19 A. Yes, he did.

20 Q. Did he freely and voluntarily speak
21 with you?

22 A. Yes, he did.

23 Q. Okay, after being advised of his
24 rights?

25 A. Yes, ma'am.

1 Q. Now, this interview, where did this
2 happen?

3 A. So that interview took place at our
4 office. We have an interview room set up in our
5 office building, that's where it took place.

6 Q. And describe that interview room for
7 us.

8 A. So our office is set up in an old
9 house. Basically, the rooms where our offices
10 are located, and our interview room is where the
11 kitchen would be.

12 It's a still a running kitchen, with a
13 sink, refrigerator and a table. And we sat at
14 the table in that interview room, and that's
15 where it was conducted.

16 Q. And who was in this interview with you
17 and the Defendant?

18 A. So it was myself, Mr. Sanders, and
19 Investigator Duncan.

20 Q. At any point, did you or Investigator
21 Duncan threaten the Defendant?

22 A. No, we did not.

23 Q. Did you ever make him any promises?

24 A. No, we did not.

25 Q. Did you ever coerce him into speaking

1 with you?

2 A. No.

3 Q. Was this interview recorded?

4 A. Yes, it was.

5 Q. And is it audio and video?

6 A. Yes, ma'am, both audio and video.

7 MS. JONES: Permission to approach?

8 THE COURT: Yes.

9 BY MS. JONES:

10 Q. I'm gonna hand you what's been marked
11 as State's 56. Do you recognize that item?

12 A. Yes, ma'am, I do.

13 Q. And what is that?

14 A. This is a copy of that recorded
15 interview.

16 Q. And did you review that interview prior
17 to trial?

18 A. Yes, ma'am, I did.

19 Q. And is it a fair and accurate recording
20 of the interview from that day -- that evening?

21 A. Yes, ma'am.

22 MS. JONES: Your Honor, at this time the
23 State moves 56 into evidence.

24 THE COURT: Any objection?

25 MR. PAULK: Subject to pretrial objection.

1 THE COURT: Yes, sir, your pretrial
2 objections are noted, and State's 56 will be
3 admitted.

4 (State's Exhibit 56 was entered into
5 evidence.)

6 MS. JONES: Thank you, Your Honor.

7 BY MS. JONES:

8 Q. Briefly, what did Mr. Sanders say that
9 night?

10 A. So Mr. Sanders started the interview
11 telling us how it all started with him coming to
12 be with Deonne. Basically, he wanted a
13 cigarette, and his mom wouldn't give him money
14 for cigarettes, so he went to a family member's
15 house, that's where he met Deonne.

16 Deonne asked him if he wanted to go party
17 and pick up some girls. Mr. Sanders agreed to
18 go with him. And then they went to pick up some
19 drugs, and then they went to go pick up Ms.
20 Randall. There was supposed to be another
21 female that they were going to pick up, but she
22 wasn't there, so they ended up going to the
23 hotel.

24 From there they decided they needed to get
25 more money to buy drugs, and got into Mr.

1 Sanders' vehicle and drove down U.S. 21, Trask
2 Parkway to Shanklin Road, and then onto Stanley
3 Farm Road, where they stopped. During that
4 drive, it was said that Mr. Sanders -- he said
5 that he was swerving, because he kept looking
6 back, and was feeling really paranoid.

7 He said he had gone and snorted some
8 cocaine that night, and the cocaine made him
9 paranoid. Ultimately, they stopped the vehicle,
10 and Mr. Sanders told us that he did shoot his
11 cousin, Deonne McLendon and Ms. Randall.

12 Q. Was that always his story?

13 A. No. So in the beginning, before --
14 everything was pretty much the same, up until
15 they got to the hotel. His initial story was at
16 the hotel two unknown males got into the vehicle
17 with him, and Deonne and Ms. Randall.

18 And, initially, Mr. Sanders said that one
19 of those two males was the one that was actually
20 shooting, and he ran and hid, while the shooting
21 was happening. Based on the video that we had
22 from the Oasis Inn, we knew that not to be true,
23 and we confronted him with that. And after
24 confronting him with that, he went ahead and
25 told us the rest of the story.

1 MS. JONES: Your Honor, permission to
2 publish what he said the other time.

3 THE COURT: Yes, ma'am.

4 MR. PAULK: Subject to previous objection.

5 THE COURT: Yes, sir, they're all noted.

6 MS. JONES: And just for the Court's
7 information, it's about a hour and 15 minutes.

8 THE COURT: And this is the one with the --

9 MS. JONES: Yes.

10 THE COURT: -- agreements of pretrial?

11 MS. JONES: Yes, sir.

12 THE COURT: Okay.

13 (Video played for the jury.)

14 BY MS. JONES:

15 Q. Investigator Tunis, I have a couple
16 follow-up questions from that interview. You
17 tell Delmar, the Defendant, "Nobody thinks you
18 did this on purpose. I know you didn't mean
19 it." Why do you say that?

20 A. Specifically, when we say stuff like
21 that, it's to, basically, not make the person
22 being interviewed feel like they're in trouble.
23 We want to keep them talking, keep them
24 comfortable. That would be why I would say
25 that.

1 Q. Would your answer be the same for you
2 told him, "I understand you felt that way, and
3 why you felt that way," as in he said he was
4 defending himself, he felt as though he was
5 defending himself. And you say, "I understand
6 you felt that way."

7 A. Right.

8 Q. Why did you say that?

9 A. The same reason, that, you know, I'm
10 trying to make him feel like he's not in
11 trouble. I'm trying to gain his trust, and I'm
12 trying to keep him talking.

13 Q. And what evidence did you have that he
14 was defending himself?

15 A. None.

16 Q. You say --

17 A. He never says anything close to
18 defending himself, so --

19 Q. Okay. You tell him that -- there's a
20 part of the interview about talking about the
21 warning shot to Rhonda.

22 Why do you refer to it as a warning shot?

23 A. That was a term he used, and, again, I
24 was trying to minimize what actually happened.
25 I mean he shot her, so I, you know, he used the

1 term warning shot, so I repeated it back to him,
2 again, to gain his trust and keep talking.

3 Q. You went to that Durango, you saw that
4 Durango, didn't you?

5 A. I did.

6 Q. And you saw the distance to the
7 backseat?

8 A. Yes, ma'am.

9 Q. About using me, about how close is that
10 backseat to that driver's door? Closer?

11 A. Yeah, it's about that close right
12 there.

13 Q. Okay. That gun, did you ever find that
14 gun?

15 A. Did not.

16 Q. And he said he had dismantled it, and
17 disarmed it, and that it would be in two
18 different locations?

19 A. Yes, ma'am, that's what he said.

20 Q. Did you'all have canines look for it?

21 A. We did. So immediately after this
22 interview, the next day, I went down to search
23 the Durango in Camden County.

24 Investigator Duncan, as well as some other
25 investigators from our office, went out to try

1 to find the gun, and they also solicited the
2 help of a couple Canine Units to do an article
3 search, to try to locate that gun. We searched
4 -- or they searched that area high and low, and
5 didn't find it.

6 Q. And throughout that interview we heard
7 the Defendant refer to it as Deonne's gun,
8 right?

9 A. Yes, ma'am.

10 Q. What other evidence do you have that
11 that was Deonne's gun?

12 A. None really.

13 MS. JONES: I have no further questions.

14 THE COURT: All right, we've been going
15 about an hour and a half, so let's take a break.
16 I suspect your cross-examination may be lengthy.

17 MR. PAULK: Yes, sir.

18 THE COURT: Ladies and gentlemen, we're
19 gonna take a ten-minute break, and we'll try to
20 be back here -- well, let's say at 4:35. Is
21 your other witness here?

22 MS. JONES: She is.

23 THE COURT: Okay. And we have one more
24 witness we want to get to. She came in from
25 Columbia, so we want to get her, so we may work

1 a little bit late, like I suggested earlier. So
2 y'all bear with us, and we'll see you back in
3 about 15 minutes. And remember, please, don't
4 discuss the case.

5 (Jury exits the courtroom.)

6 THE BAILIFF: The jury's cleared, Your
7 Honor.

8 THE COURT: Thank you.

9 (Recess.)

10 ***

11 PROCEEDINGS CONTINUED

12 (Jury enters courtroom.)

13 THE BAILIFF: The jury's seated, Your
14 Honor.

15 THE COURT: Thank you. Mr. Paulk, your
16 witness.

17 MR. PAULK: Thank you, Your Honor.

18 ***

19 CROSS-EXAMINATION

20 BY MR. PAULK:

21 Q. Good afternoon, Mr. Tunis.

22 A. Good afternoon.

23 Q. You're the lead investigator for this
24 case, correct?

25 A. I am, yes, sir.

1 Q. And as the lead investigator, you're
2 familiar with all other supplements and evidence
3 that's been entered into this case, correct?

4 A. Yes, sir.

5 Q. So let's just start back from the
6 beginning of when you became involved in this
7 case.

8 A. Okay.

9 Q. You arrived on-the-scene after the
10 crime scene had been established, correct?

11 A. Yes, I did.

12 Q. And you arrived on-the-scene after Ms.
13 Randall and Mr. McLendon had been transported to
14 the hospital, correct?

15 A. That's correct.

16 Q. All right.

17 A. By the time I got to the scene they had
18 already been transported by EMS.

19 Q. And you actually never had an
20 opportunity to interview Ms. Randall; is that
21 correct?

22 A. No, I did not.

23 Q. When you arrived on-the-scene, there
24 were already evidence placards placed around the
25 scene, is that --

1 A. There was.

2 Q. There were eight evidence placards,
3 correct?

4 A. I believe it was eight, they were
5 little blue cones, that's correct.

6 Q. Okay. You testified earlier on direct,
7 that there were two empty boxes of Newport's
8 that were marked for --

9 A. Well, they were empty of cigarettes
10 now. One of them was kind of broken up, and the
11 other one, I believe, had like some steel wool
12 or something in it.

13 Q. Okay. And that's what I was gonna ask
14 you about.

15 A. Okay.

16 Q. In your experience in law enforcement,
17 what is steel wool used for?

18 A. Usually, as a -- some type of filter.

19 Q. A filter for what?

20 A. For like smoking narcotics.

21 Q. Okay. Did you obtain any DNA swabs
22 from the crack pipes?

23 A. I did.

24 Q. And did you submit those swabs for
25 testing?

1 A. I did.

2 Q. You stated earlier on direct that you
3 went back to the scene on July 26th, to look for
4 any other evidence; is that correct?

5 A. That is correct.

6 Q. And you did not find any other
7 evidence?

8 A. I did not.

9 Q. Back to my earlier question, whenever
10 you arrived on-the-scene and -- was the crime
11 scene already taped off?

12 A. Well, the portion where Deonne was
13 laying, I believe that was kind of taped off.
14 Where the actual shooting was said to have taken
15 place, on Stanley Farm Road, was not taped.

16 Q. Okay.

17 A. But it was blocked by vehicles. They
18 were -- the Patrol Officers were controlling
19 traffic, to try to stop any vehicles from coming
20 down that way.

21 Q. Ultimately, those Officers were
22 released from blocking traffic, and that portion
23 of the road was opened?

24 A. Oh, yeah, after --

25 Q. Shortly after?

1 A. Well, not shortly after. After we had
2 -- they had walked up and down several times
3 looking for evidence, and we didn't locate any
4 on the road, yes, they were released and that
5 roadway was open.

6 Q. As the case officer in this instant,
7 you're familiar with Officer Oielschlager's
8 supplemental?

9 A. Yes, I have read it.

10 Q. And I don't have an exact time here,
11 but at some point, Officer Oielschlager was
12 informed that his services in blocking the road
13 were no longer needed, and he left the scene; is
14 that correct?

15 A. That sounds about right, yeah.

16 Q. Okay. The reason why I'm asking these
17 questions is, because you'all never found any
18 shell casings, correct?

19 A. No, we did not.

20 Q. You never found any blood splatter?

21 A. No, we did not.

22 Q. You never found a blood trail leading
23 across the road from --

24 A. No.

25 Q. -- where the shooting allegedly

1 happened, to where Mr. McLendon immediately --
2 or, ultimately, wound up?

3 A. No, we did not.

4 Q. Okay. So you don't actually know
5 exactly where the shooting occurred? You have
6 no evidence of where the shooting --

7 A. No.

8 Q. -- physically occurred?

9 A. All we have is the statements from Ms.
10 Rhonda and Mr. Sanders.

11 Q. Yes, sir. You ever searched with a
12 metal detector for shell casings, and were
13 unable to locate any; is that correct?

14 A. That's correct.

15 Q. That same day, 7/26, you actually went
16 to America's Best Inn to attempt to speak with
17 Rhonda; is that correct?

18 A. That sounds about right, yes, sir.

19 Q. When --

20 A. Like I did try to locate her several
21 times, and -- to include going to the America's
22 Best Inn, yes, sir.

23 Q. Okay. When you went to American's Best
24 Inn, you spoke with the manager there; is that
25 correct?

1 A. I believe it was the manager, yes, sir.

2 Q. Okay. Because the day after the
3 incident, Detective Ireland actually went to
4 America's Best Inn and spoke --

5 A. Correct, which is why I went there.

6 Q. Right.

7 A. Because he told me that he had made
8 contact with her.

9 Q. Investigator Ireland had made contact
10 with Rhonda at Room 123 there at America's Best
11 Inn, correct?

12 A. I believe that's what it was.

13 Q. Okay. But whenever you went to speak
14 with Rhonda, she was no longer there, correct?

15 A. That is correct.

16 Q. Okay.

17 A. I was advised she was no longer staying
18 at that hotel.

19 Q. And you actually had the manager run a
20 check to see who had rented that room, correct?

21 A. I believe I did, yes, sir.

22 Q. Because Ms. Randall, when she was
23 interviewed by Detective Ireland, or Officer
24 Ireland, she was staying with her sister --

25 MS. JONES: Your Honor, objection. I'm not

1 sure if he can speak to this, maybe it's best
2 for Ms. Randall or, potentially, Investigator
3 Ireland.

4 MR. PAULK: Your Honor, the case officer
5 just testified that he's familiar with all the
6 supplements, all the notes, everything that's in
7 evidence. He's just testifying to the actions
8 of Officer Ireland previously.

9 THE COURT: I'll allow the question.

10 BY MR. PAULK:

11 Q. When Officer Ireland went to America's
12 Best Inn on July 23rd, the other occupants of
13 the room were a Ms. Tanisha Jones and a Tony
14 Randall; is that correct?

15 A. I believe that's correct. I know it
16 was Rhonda's brother, and I believe his
17 brother's girlfriend.

18 Q. Okay. But whenever you had the manager
19 check the computer to see who rented the room,
20 had Rhonda Randall rented the room?

21 A. I don't remember.

22 Q. Okay.

23 A. I don't.

24 Q. And the name Tanisha Jones was not who
25 rented the room either, correct?

1 A. Not to my knowledge.

2 Q. And --

3 A. Like I said, it's been about two years,
4 and I don't recall.

5 Q. And --

6 A. I just know she wasn't there, and that
7 my whole purpose for going there was to talk to
8 her.

9 Q. Right. Ultimately, you discovered that
10 the name in the computer for the rental was a
11 Ms. Rosetta Jones; is that correct?

12 A. It's possible. Like I said, I really
13 don't recall whose name it was, because --

14 Q. Sure.

15 A. -- again, I was focused on trying to
16 find her.

17 Q. Understood. Would it refresh your
18 recollection, if I showed you your report?

19 A. (Reviews document.)

20 Okay, so, yeah, I did write in my report
21 that it was Ms. Rosetta Jones. And I talked
22 about Investigator Ireland meeting with Tanisha
23 Jones and Tony Randall, yeah.

24 Q. Thank you, sir. Investigator Ireland,
25 according to his notes, which you've reviewed in

1 preparation for this case, he never met a
2 Rosetta Jones, correct?

3 A. Not to my knowledge, that would be --

4 Q. No, I understand.

5 A. He would have to answer that, yeah.

6 Q. Per the notes, nobody ever spoke with a
7 Ms. Rosetta Jones?

8 A. Not that I'm aware of.

9 Q. And there was never a Ms. Rosetta
10 Jones, who was at American's Best Inn that you
11 met, correct?

12 A. No.

13 Q. The items that were marked with
14 evidence placards on the night of the incident,
15 you mentioned that you swabbed the crack pipes
16 for DNA, correct

17 A. I did, yes.

18 Q. Were there any other forensics done on
19 any of those items?

20 A. I believe the only forensics I had done
21 was on the crack pipes themselves.

22 Q. Okay. So the dollar bill that was
23 found was never tested for a narcotic swab for
24 the presence of narcotics?

25 A. No, it wasn't.

1 Q. You were actually present in the
2 courtroom today during Ms. Randall's testimony,
3 correct?

4 A. Yes, I was, yeah.

5 Q. And you heard Ms. Randall testify that
6 in Mr. McLendon's wallet there was a dollar bill
7 with cocaine inside of it, correct?

8 A. I heard her say that, yeah.

9 Q. And you found a dollar bill that was
10 open --

11 A. I found a crumpled dollar bill, yeah.

12 Q. Yes. But you never tested that for any
13 drugs, correct?

14 A. No, I didn't.

15 Q. Okay. So let's talk about this Durango
16 for a little bit.

17 A. Sure.

18 Q. You took pictures of the Durango
19 outside and inside, correct?

20 A. I did.

21 Q. When you were taking pictures of the
22 inside of the vehicle, you noted that there were
23 multiple personal items of Mr. Sanders inside
24 the vehicle?

25 A. I did.

1 Q. I believe that you also stated on
2 direct that Mr. Sanders was homeless at the
3 time, and living out of that vehicle.

4 A. I said I believed he was homeless, and
5 all his belongings were in the vehicle.

6 Q. Correct.

7 A. I believe that came up maybe during our
8 interview, or at some point that he was living
9 out of his vehicle.

10 Q. Right. There was items to include a
11 sleeping bag --

12 A. Yeah.

13 Q. -- correct?

14 A. That was visible in one of the photos
15 in the back, yeah.

16 Q. Sure. There was also clothes?

17 A. Uh-huh.

18 Q. There were ---

19 A. Yes, ma'am.

20 Q. -- multiple cell phones that were in
21 the vehicle that you found, correct?

22 A. There was three cell phones.

23 Q. Correct. And most of those cell phones
24 appeared to be broken; isn't that true?

25 A. Yeah -- well, we didn't know they were

1 broken, until we tried to get the extractions
2 done, but I believe two of them wouldn't even
3 power on. We couldn't do anything with them.

4 Q. Okay.

5 A. But we were able to -- one of them did
6 have a SIM card that we were able to extract,
7 and I believe the other ones, while were able to
8 get a SIM extraction, but that was about it.
9 The phone itself we couldn't get anything from.

10 Q. Okay. You took GSR samples from the
11 vehicle?

12 A. I did.

13 Q. And you also took DNA swabs from the
14 vehicle; is that correct?

15 A. I believe so, yep. Yes, I did.

16 Q. And those DNA swabs were never tested,
17 correct?

18 A. No, they weren't.

19 Q. You never located any shell casings in
20 the car?

21 A. No, I didn't.

22 Q. You didn't locate any guns in the car?

23 A. No, I didn't.

24 Q. You didn't locate any ammunition in the
25 car?

1 A. Nope.

2 Q. No projectiles in the car?

3 A. Nope.

4 Q. And just for the jury's edification, a
5 projectile would be the actual bullet that is
6 fired from a shell?

7 A. That is correct. It could be the
8 actual slug bullet tip, or any fragmentations,
9 or anything from that, and we did not locate,
10 and we did look.

11 Q. Okay. Were there any exit marks on the
12 outside of the car, where a bullet would have
13 exited, based on that, where you believe the
14 bullet had been --

15 A. The trajectory, no, there -- it --
16 no --

17 Q. Okay.

18 A. -- there wasn't.

19 Q. So let's go through the phones that you
20 found real quick. You note that you located a
21 black LG Smart cellphone?

22 A. I believe there was two LGs and one L-
23 tech.

24 Q. Okay.

25 A. And they're both -- they're all Smart

1 phones.

2 Q. Okay. On July 28th, following up on
3 this investigation, you actually spoke with Mr.
4 McLendon's grandmother, Ms. Gadson; is that
5 correct?

6 A. That sounds right, yeah.

7 Q. Okay, and you obtained a cell phone
8 number for Mr. McLendon at that time, correct?

9 A. Yes, sir, yeah.

10 Q. Okay, and I understand that you have to
11 look at your notes, but was that number 843-694-
12 7871?

13 A. Let me check my notes.

14 Q. Of course. I believe it's on page 39,
15 sir, if that helps.

16 A. (Reviews document.) What'd you say the
17 number -- 843-694-7871?

18 Q. Correct.

19 A. Okay, yeah.

20 Q. After you got that number you actually
21 sent a record preservation request to Verizon;
22 is that true?

23 A. That's true.

24 Q. A record preservation request is just
25 something that you send to a carrier saying,

1 "Hey, don't delete this information," correct?

2 A. That is correct.

3 Q. Okay. On August 4th you also met with
4 Judge Dukes, Circuit Court Judge, to obtain a
5 search warrant for that phone number; is that
6 correct?

7 A. Yes, sir.

8 Q. And did you obtain that search warrant?

9 A. I believe so, yes, sir.

10 Q. And that search warrant was served on
11 Verizon?

12 A. Yes, sir.

13 Q. And what did you receive back in
14 response to that search warrant?

15 A. I believe I received the phone call
16 data and tower location, typical return items
17 from cell phone companies.

18 Q. Okay. And was this information
19 provided to the Solicitor's Office?

20 A. I believe it was.

21 Q. Okay.

22 MR. PAULK: Your Honor, may we approach?

23 THE COURT: Sure.

24 (Bench conference.)

25 THE COURT: All right, ladies and

1 gentlemen, we've got a matter of law we need to
2 take up outside your presence. I apologize, and
3 we'll get you back in as quickly as possible.

4 (Jury exits courtroom.)

5 THE BAILIFF: The jury's cleared, Your
6 Honor.

7 THE COURT: Thank you. All right, just for
8 the record, defense counsel at sidebar informed
9 me that he had not received, or had not seen the
10 Verizon data that was the subject of a search
11 warrant. The Solicitor says that it was sent,
12 and she is looking for confirmation of that.
13 Mr. Paulk, when did you discover that you did
14 not have this data?

15 MR. PAULK: Your Honor, when we went
16 through our discovery is pretrial, and I listed
17 out everything we had, the only document that I
18 was unable to access, that I mentioned that my
19 IT reviewed, told me that there was no date on
20 there for me to look at. I believe it was the
21 cell phone dump -- the attempted cell phone dump
22 from the SLED office. This was evidence that I
23 received on July 25th, it was a zip file. When
24 I unpacked the zip file, it opened to a HTML
25 file. The HTML file opened up into another

1 file, and I'm happy to show the Court all of
2 this, but just anything that I clicked on, you
3 know, even the application itself it was --

4 THE COURT: No, I'm asking, when did you
5 realize you didn't have Verizon's data?

6 MR. PAULK: In preparation for Mr. Tunis'
7 testimony.

8 THE COURT: So not at pretrial?

9 MR. PAULK: Your Honor, no, sir.

10 THE COURT: Okay.

11 MS. JONES: I'm sorry, Your Honor, I'm
12 having to go through the 600 and some odd files,
13 to see what date it was sent.

14 THE COURT: Okay.

15 MS. JONES: I'm happy to show the Court, I
16 don't know if I can print anything out, but I'm
17 happy to show the Court how our discovery works,
18 and how you can -- all of our files are digital,
19 they're all in there, and I'm happy to show Mr.
20 Paulk as well. When I go to send a new
21 response, it only gives me the files that have
22 yet to be sent as available options to send.
23 When I go to that section, the only available
24 ones are the new transcript and Mr. Paulk's two
25 most recent subpoenas he sent.

1 MR. PAULK: And, Mary Jones, I found them
2 on my matrix. I did find it on my matrix, my
3 apologies.

4 THE COURT: Okay, bring the jury in.

5 MS. JONES: Your Honor, can you maybe clear
6 that up in front of the jury, that the
7 Solicitor's Office was provided it, but also Mr.
8 Paulk was provided it as well? Because right
9 now they are left with the assumption that I
10 have it and he doesn't.

11 THE COURT: I'm trying to figure out the
12 best way to do that.

13 ***

14 PROCEEDINGS CONTINUED

15 THE BAILIFF: The jury's entering the
16 courtroom, Your Honor.

17 (Jury enters the courtroom.)

18 THE BAILIFF: The jury's seated, Your
19 Honor.

20 THE COURT: Ladies and gentlemen, before
21 you left the courtroom there was some discussion
22 about whether a number of documents were turned
23 over. I'm going to instruct you to disregard
24 that line of questioning.

25 We've resolved that to everyone's

1 satisfaction at this point, so just disregard
2 that, and do not consider it for any purpose
3 during your deliberations.

4 BY MR. PAULK:

5 Q. Investigator Tunis, you also reviewed
6 all of the bodycam footage for this incident,
7 correct?

8 A. Yes, I did.

9 Q. And in reviewing that bodycam footage,
10 you noted, or should have noted, where Ms.
11 Randall mentions that her and Deonne talked via
12 Facebook; is that correct? She specifically
13 mentions it to Investigator Ireland.

14 A. Yeah, I didn't catch that in the
15 conversation. Maybe it was there, maybe, but I
16 did hear her say that earlier today.

17 Q. Okay.

18 A. So --

19 Q. Did you ever obtain any --

20 A. I did not obtain anything from
21 Facebook.

22 Q. Okay. As a law enforcement officer, is
23 it common practice to obtain Facebook records in
24 investigations, when there are Facebook records
25 available?

1 A. Yes.

2 Q. Have Facebook records been used in
3 other --

4 A. They've been used many times. I just
5 did not do it in this case --

6 Q. Okay.

7 A. -- so --

8 Q. But you were aware that that is how Ms.
9 Randall and Mr. McLendon were communicating
10 prior to this incident?

11 A. No. Like I said, I didn't recall the
12 whole Facebook thing. I -- they -- Delmar even
13 says in his testimony that he has been calling
14 her all day. So, you know, I didn't click that
15 Facebook was their primary means of
16 communication.

17 Q. Sure, and I actually, you know, you
18 brought up Delmar mentioning that --

19 A. Uh-huh.

20 Q. -- she had been calling all day. I
21 believe that his testimony in the interview, he
22 stated that --

23 A. Uh-huh.

24 Q. -- "I saw it when it popped up on
25 Facebook."

1 A. Okay.

2 Q. "I saw her name popped up on Facebook,"
3 is that correct?

4 A. I don't know what he said.

5 Q. Okay. Regardless, we don't have any of
6 the Facebook --

7 A. No, we do not.

8 Q. -- records.

9 A. Like I said, I did not submit anything
10 for Facebook.

11 Q. Okay. Since there's been testimony
12 that the decedent and Ms. Randall were
13 communicating via Facebook, do you think that
14 those records would be pertinent, to see what
15 they discussed?

16 A. I have no idea if they'd be pertinent
17 or not. I mean if they were communicating, it's
18 possible that we could show, for a fact, that
19 they were communicating, but whether there's any
20 usable information on that, I couldn't say.

21 Q. So you don't believe that it would be
22 pertinent to see what these two people were
23 talking about?

24 A. As I said, it would be -- it would show
25 that they were communicating, but other than

1 that, I can't speak to what it would show.

2 Q. Okay. When you returned back to the
3 scene to look for additional evidence, did you
4 take any drug dogs with you?

5 A. When I went -- no.

6 Q. No? You wouldn't have been interested
7 in finding any crack that had been thrown out,
8 or any other drugs that had been disposed of at
9 that time?

10 A. Not at the time. I was looking for
11 evidence of gunfire.

12 Q. Sure, but if you had taken --

13 MR. PAULK: My apologies, Your Honor.

14 BY MR. PAULK:

15 Q. If drug dogs had detected drugs at the
16 crime scene, that would tend to negate Ms.
17 Randall's story, that they left to get more
18 drugs, correct?

19 A. Not necessarily.

20 Q. Not necessarily?

21 A. It's not saying who had the drugs, or
22 where the drugs even came from. If I located
23 them days after-the-fact, we would have to prove
24 that -- when the drugs were placed there, so I
25 mean --

1 Q. Did the Crime Scene Unit ever process
2 this crime scene?

3 A. The Crime Scene Unit? No, it was
4 myself, and I had a member of the Crime Scene
5 Unit, who was working that night assisting me,
6 so --

7 Q. Is it typical for a Crime Scene Unit to
8 process the crime scene in a case that's --

9 A. If it's a big -- it is typical, if it
10 -- not everyone, if it's a big scene, where
11 there's multiple items of evidence, and stuff
12 like that, then, yes, it is typical for us to
13 call the Crime Scene Unit out, and to assist us
14 with that processing of the scene.

15 The scene, as you can see from the
16 pictures, it was a small contained area, where
17 Deonne was located. I felt that myself and
18 another member of the Crime Scene Unit and I
19 could process the scene, so --

20 Q. Was the other side of Stanley Farm
21 Road, near the stop sign, where the shooting
22 allegedly occurred, was it fully processed the
23 night of the incident?

24 A. Fully processed? There was nothing to
25 process there. Did we examine the area, and

1 look for, and search the area for evidence?
2 Yes, we did. Myself, several other Deputies on-
3 scene, flashlights, walking up and down the
4 roads, trying to find any items of evidence that
5 we could mark. We did not find any.

6 Q. Okay. You've been an investigator for
7 -- I believe you stated 14 years; is that
8 correct?

9 A. No, no, no. I've been in law
10 enforcement for a little over 15 years. I've
11 been with the Sheriff's Office for seven, and an
12 investigator now for a little over two.

13 Q. Okay. So you'd be familiar with the
14 standard operating procedures for processing a
15 crime scene, correct?

16 A. I would say so, yes, sir.

17 Q. Could you walk me through what those
18 standard operating procedures would be?

19 A. So to process a crime scene, you know,
20 first thing we -- the officers do is secure it,
21 and then we're gonna look for any items that
22 might be related to the crime. We're gonna mark
23 those items. We're gonna take photographs of
24 those items. Then we're going to collect them
25 and submit them for either processing in a lab,

1 or for keeping within Evidence.

2 Q. Okay.

3 A. I don't know how much more you want me
4 to go in detail with that --

5 Q. That's fine.

6 A. -- but that's what it is.

7 Q. As far as securing a crime scene, how
8 are crime scenes secured?

9 A. Generally, secured, they're usually
10 secured with crime scene tape, or officers, you
11 know, depending on where the crime scene's
12 located, it's not always feasible to use crime
13 scene tape. They'll close the area down, post
14 deputies in certain areas to make sure that
15 nobody comes into that area. It's closed down
16 and secured the best they can depending on the
17 area.

18 Q. Okay. So the other side of Stanley
19 Farm Road was it ever taped off?

20 A. No, not to my knowledge.

21 Q. Okay. You'all just had the deputies
22 blocking the traffic that night?

23 A. They had their vehicles pulled across
24 the road blocking the traffic --

25 Q. Okay.

1 A. -- that is correct.

2 Q. But after that night, whenever the
3 deputies were called off from blocking the road,
4 the crime scene was not secured from --

5 A. Well, I released the crime scene,
6 because like I said, we had checked that area
7 several times.

8 Q. Sure.

9 A. You know, we can only beat a dead horse
10 so many times. And we went up and down that
11 road and looked, and looked, and looked, we
12 couldn't keep it closed for hours. So we did,
13 eventually, open it up after we were sure there
14 was no evidence in the roadway.

15 Q. Okay.

16 A. Yeah.

17 Q. The night of this incident there was a
18 cell phone ping that was performed on Ms.
19 Randall's phone; is that correct?

20 A. I do believe that is correct, yes.

21 Q. Do you know what the results of that
22 cell phone ping were?

23 A. I believe it came back that the phone
24 was pinged somewhere in Georgia, but, again, I
25 don't -- it was two years ago, and I don't

1 remember exactly where in Georgia.

2 Q. And I don't mean to correct, it was
3 last July of 2021, sir.

4 A. Okay.

5 Q. I just want --

6 A. So a year ago, yeah.

7 Q. I just want to make sure we're on the
8 same page.

9 A. Right.

10 Q. Is there documentation of this cell
11 phone ping?

12 A. I imaging it would be in the CAD
13 records, that -- yes, I --

14 Q. I guess what I'm asking is, when a cell
15 phone ping is performed, is there any sort of
16 documentation that is produced showing that?

17 A. So, yeah, the document -- the only
18 documentation that's gonna be there is what
19 Dispatch puts into the CAD.

20 Q. Okay.

21 A. So if they put that -- either they're
22 gonna put it over the radio, or they're gonna
23 put it on the CAD, or they're gonna do both.

24 Q. Okay.

25 A. So it should be in the CAD record,

1 where that -- the coordinates that that ping
2 came back to. Like I said they usually put it
3 over the radio as well.

4 MR. PAULK: A moment of the Court's
5 indulgence, Your Honor.

6 THE COURT: Sure.

7 BY MR. PAULK:

8 Q. Investigator Tunis, on a CAD report
9 what does a cell phone ping show as? Is there a
10 code or anything such a that, that it would be
11 related to?

12 A. Like I said, it's usually GPS
13 coordinates. I'm not sure what else they would
14 put in there. Maybe they would put the distance
15 of accuracy from that ping location.

16 MR. PAULK: Permission to approach, Your
17 Honor?

18 THE COURT: Sure.

19 BY MR. PAULK:

20 Q. Could you look at this document and
21 tell me where the cell phone ping is at?

22 A. This looks like the radio logs. It
23 looks like there's a hit right here. It says,
24 "Last tower hit .63 miles east by northeast of
25 505 Longstaff Avenue, the phone is currently

1 powered off."

2 Q. Okay. And that tower hit, was that
3 2:07 on 7/23, correct?

4 A. I believe so, sir, I don't have the
5 copy in front of me anymore.

6 Q. Sure. Are you familiar with the
7 address Longstaff Avenue?

8 A. Not off the top of my head, no.

9 Q. Are you aware if any officers responded
10 to Longstaff Avenue to investigate that?

11 A. That I am not aware of.

12 Q. Is there anywhere in the report or in
13 your notes, where anybody went to Longstaff
14 Avenue to check on where that phone was?

15 A. Not that I can recall.

16 Q. Okay. The three phones that were found
17 in the vehicle --

18 A. Uh-huh.

19 Q. -- none of those were ever attributed
20 to Mr. McLendon or Ms. Randall, correct?

21 A. No.

22 Q. On the last page of your report you
23 note, "That since a ping was requested on Ms.
24 Randall's phone, that a search warrant for that
25 phone would be completed, in an effort to

1 retrieve any information." Was a search warrant
2 ever completed for that phone?

3 A. I don't believe it was.

4 Q. Okay.

5 A. I think I intended to do it, but based
6 on all the information and the way things
7 unfolded, I don't think I followed through with
8 it.

9 Q. Okay. So we don't have any records of
10 Ms. Randall's communications; is that correct?

11 A. That's correct.

12 Q. We don't know what her and Deonne were
13 talking about before they met up, correct?

14 A. Uh-uh. No. Other than what Ms.
15 Randall testified to.

16 Q. Okay. So let's talk about the
17 interview a little bit. You asked Delmar to
18 walk you through what happened, correct?

19 A. I did.

20 Q. And you asked him if this incident
21 started on Thursday, correct?

22 A. I did.

23 Q. And you asked him if he knew the
24 decedent, correct?

25 A. He knew?

1 Q. "The guy that was killed," is what you
2 said verbatim.

3 A. Mr. McLendon? Yes.

4 Q. Yes. You asked him how they were
5 related?

6 A. I did.

7 Q. You asked him --

8 A. He told me fourth or fifth cousin.

9 Q. Yeah. And you asked if they were
10 friends, correct?

11 A. If they were friends?

12 Q. Yes, sir, I believe that --

13 A. Okay.

14 Q. You asked him what went on that night,
15 correct?

16 A. I did.

17 Q. You asked him where was the stop Deonne
18 had him make prior in the night, correct?

19 A. I did, because part of his initial
20 story was that they had stopped somewhere prior
21 to going pick up Ms. Randall, so, yes, I did ask
22 him where that was.

23 Q. Okay.

24 A. Yeah.

25 Q. And you asked if Deonne was buying dope

1 at that time, correct?

2 A. I believe that's what I -- yes, sir.

3 Q. Okay. You asked him, "How did it go
4 south," at one point, correct?

5 A. Yeah, after he -- after Mr. Sanders
6 said that it had gone south, and it'd gone south
7 quick, I asked him, "How did it go south?"

8 Q. Sure.

9 A. Yes, sir.

10 Q. You asked him, "How did everything
11 happen," correct?

12 A. Uh-huh. Yes.

13 Q. You asked them what they were under the
14 influence of, correct?

15 A. I did.

16 Q. You, again, asked him, "How did it go
17 down," at one point?

18 A. I'm sure I asked him quite a few times,
19 correct.

20 Q. And you then asked him where he threw
21 the gun, at some point?

22 A. I did.

23 Q. And you asked him to describe Ms.
24 Randall, at some point, correct?

25 A. I did.

1 Q. Did you ever ask him -- you never asked
2 him to elaborate the gun under the hood, did
3 you?

4 A. The gun under the hood? No.

5 Q. You never asked him about the family
6 member's house that he went to, to go get a
7 cigarette, did you?

8 A. I believe in the beginning he just said
9 he went to a family member's house. I don't
10 know if I specifically asked him who that family
11 member was, or just that when he got there, he
12 told me that there was a bunch of his family
13 there, where he met up with Deonne, and Deonne
14 had asked him, if he wanted to party and go get
15 some girls.

16 Q. On direct you stated that Mr. Sanders
17 was found in Camden County, correct?

18 A. He turned himself in in Camden County.

19 Q. Okay, and that's just what I wanted to
20 clarify. Did you'all talk with Delmar, while he
21 was smoking a cigarette?

22 A. I believe we did, yeah. I mean we
23 escorted him out. We're not gonna --

24 Q. Of course.

25 A. -- let him stand out there by himself.

1 Q. Of course.

2 A. So, yeah, I believe we went out and
3 stood on the porch, and -- we did.

4 Q. And that conversation wasn't recorded,
5 correct?

6 A. Not to my knowledge.

7 Q. Okay. But it's clear that you'll
8 talked about some stuff, while you were out
9 there, because whenever you came back in, he was
10 agreeing to provide a buccal swab, correct?

11 A. Yeah, but I think I explained that to
12 him, when he came back in.

13 Q. You did, I'm just trying to determine
14 the substance of any conversations that may have
15 happened outside the presence of --

16 A. Yeah, I believe anything we talked
17 about off of camera was just, you know, light
18 talk.

19 Q. Okay.

20 A. It wasn't really related to the case,
21 or anything like that. I believe we talked
22 about Mr. Sanders being a wrestler, or something
23 like that in high school, that kind of
24 conversation.

25 Like I said, it wasn't pertaining to

1 anything to the case, that I can recall outside
2 on the porch --

3 Q. Sure.

4 A. -- while he smoked.

5 Q. In conjunction with this case, did you
6 receive a call from a Ms. Christy Compton in the
7 Public Defender's office?

8 A. I think we established that yesterday,
9 yes, sir.

10 MS. JONES: Your Honor, may we approach?

11 THE COURT: Sure.

12 (Bench conference.)

13 MR. PAULK: No further questions, Your
14 Honor.

15 THE COURT: Any redirect?

16 MS. JONES: No, Your Honor.

17 THE COURT: All right, Investigator Tunis,
18 you are excused.

19 WITNESS: Thank you, sir.

20 THE COURT: And we have one more, correct?

21 MS. JONES: Briefly, Your Honor.

22 THE COURT: I see her out there.

23 MS. JONES: Yes.

24 THE COURT: Okay.

25 MS. JONES: The State calls Lieutenant

1 Jennifer Nates.

2 * * *

3

4 JENNIFER NATES

5 * * *

6 being first duly sworn, testified as
7 follows:

8 DIRECT EXAMINATION

9 BY MS. JONES:

10 Q. Good evening, Lieutenant Nates, how are
11 you?

12 A. I guess.

13 Q. I just called you Lieutenant Nates,
14 where do you work?

15 A. I work for the South Carolina Law
16 Enforcement Division in the Trace Evidence
17 section of the forensic laboratory.

18 Q. And what is trace evidence?

19 A. Trace evidence is one of the
20 disciplines within the laboratory. The
21 Department is responsible for the analysis of
22 many different types of evidence. We analyze
23 gunshot residue, tape, paint, fiber, glass,
24 explosives, physical fit analysis, fire debris
25 analysis and miscellaneous unknown comparisons.

1 Q. You mentioned gunshot residue, what is
2 gunshot residue?

3 A. Gunshot residue is a term used to
4 describe any and all debris or resident that's
5 formed, when a firearm is discharged. Our
6 laboratory, in addition to the majority of the
7 forensic labs that analyze for gunshot residue,
8 analyze for a specific portion of it called,
9 prime gunshot residue, excuse me, or PGSR. This
10 part of the residue is formed from the primer
11 composition of the cartridge, and is unique to
12 gunshot residue.

13 Q. And did you have to receive specialized
14 education and training, in order to achieve your
15 status as Lieutenant for trace evidence?

16 A. To be hired by SLED, we had to have a
17 Bachelor of Science degree in a science field,
18 mine was in chemistry.

19 Once I was hired, the training that is
20 specific to gunshot residue training was a year-
21 long training program that consisted of oral,
22 written and practical examinations, that ended
23 with a -- what is called a competency test, to
24 show that I was competent to perform gunshot
25 residue analysis.

1 Once I completed this test, I was able to
2 accept gunshot residue cases, which I have been
3 working since 1998.

4 Q. And have you testified in General
5 Sessions Court before?

6 A. I have.

7 Q. Roughly, how many times?

8 A. 160.

9 Q. And have you been qualified as an
10 expert in those cases?

11 A. I have been.

12 MS. JONES: And, Your Honor, at this time I
13 would move Lieutenant Nates in as an expert in
14 trace evidence.

15 THE COURT: Mr. Paulk?

16 MR. PAULK: Without objection.

17 THE COURT: All right, I find that the
18 expert testimony is necessary to assist the jury
19 in resolving a factual question, that Ms. Nates
20 is qualified in this particular area,
21 specifically, trace evidence, and that science
22 behind her testimony is reliable. Ladies and
23 gentlemen, normally, a person in a trial cannot
24 give expert -- I'm sorry, cannot give opinion
25 testimony.

1 When a person testifies, they must testify
2 about what they either saw, heard, sensed,
3 smelled, something like all the other witnesses
4 you've seen before earlier in the trial;
5 however, there's an exception when someone is
6 qualified, because of education or experience,
7 and they are permitted to give their opinion in
8 certain areas, if I find them qualified, which I
9 have found Ms. Nates qualified.

10 Ms. Nates is qualified in the area of trace
11 evidence, to give opinion testimony, but that
12 does not mean you must accept the opinion, but
13 it is evidence for you to use in any way you see
14 fit, and give it the weight and credibility
15 deemed appropriate.

16 MS. JONES: Thank you, Your Honor.

17 BY MS. JONES:

18 Q. Lieutenant Nates, what is -- describe
19 to me the consistency of gunshot residue.

20 A. Gunshot residue is invisible to the
21 naked eye. What we analyze for are microscopic
22 particles, but when gunshot residue is expelled
23 from a firearm, it will expel from any opening
24 in the weapon. So if it's a revolver, it will
25 come out of the trigger, where the trigger is,

1 the cylinder gap, and, of course, the muzzle of
2 the gun.

3 Semi-automatic weapons it will come out of
4 where the slide goes back and forth, and the
5 trigger and the muzzle of the gun. It is
6 sometimes described as a cloud-like nature,
7 because it will encompass things that, if I fire
8 a weapon, it will come out of the gun in
9 somewhat of a cloud-like form.

10 Q. How could a person or an item,
11 circumstances where they would test positive for
12 gunshot residue?

13 A. If a person discharges a firearm,
14 there's the possibility that gunshot residue can
15 be deposited on their hands. There are some
16 cases, where it is not deposited on a person's
17 hands after the discharge. It is rare, but it
18 can occur.

19 A person can be standing next to someone
20 who discharges a firearm. If I fire a gun say
21 in this direction here, she may testify positive
22 for gunshot residue, because she was in the
23 vicinity to the discharge of that firearm. You
24 can also obtain gunshot residue on your hands
25 from picking up an object, like a fired weapon,

1 or something that has gunshot residue on it, and
2 it can transfer to your hands.

3 Q. How about a victim of a gunshot wound,
4 do you expect to find particles of gunshot
5 residue on them?

6 A. I do. If a person sustains a gunshot
7 wound, of course, the muzzle of the gun was more
8 than likely pointed at them, and the majority of
9 the residue is expelled through the muzzle of
10 the gun.

11 So if you sustain a gunshot wound, all of
12 that gunshot residue is going towards you, so we
13 do expect to find it on the victim of a
14 homicide, or the victim of a suicide.

15 Q. And does SLED even test victim kits
16 anymore?

17 A. In the past we did analyze victim GSR
18 kits, but as of January 1st of this year, we
19 have stopped testing GSR kits collected from
20 victims of shootings. The reason for this is,
21 we are not able to really add any information.
22 We already know the person sustained a gunshot
23 wound. We expect to find GSR on them from that
24 action. If I find gunshot residue on the victim
25 of a shooting, I can't tell you whether that

1 person fired a gun, or if they have residue on
2 their hands from being shot, so we're not able
3 to answer the questions that is most asked, so
4 we no longer perform that analysis.

5 Q. Were you asked to analyze the kits of
6 Rhonda Randall and Deonne McLendon?

7 A. Those two kits were submitted for
8 analysis.

9 Q. And did you analyze them?

10 A. I did not.

11 Q. For the reasons you just spoke of?

12 A. That's correct.

13 Q. Okay. Did you -- well, I want to go
14 back to people. We are talking about kits off
15 of people. Can GSR be taken off of fabric, or
16 inside of a car?

17 A. GSR -- a kit can be collected from any
18 inanimate object. Now, there has to be a reason
19 for the collection. We can't just collect a GSR
20 kit from something, just oh there's GSR here.
21 Normally, the investigator will collect the kit
22 from say a vehicle, if they think a firearm was
23 discharged from within that vehicle, or into the
24 vehicle.

25 The difference between the collection on a

1 live person and on an inanimate object is the
2 timeframe. If a GSR kit is collected from a
3 person who is living, we can reference the
4 deposition of that GSR back six hours from the
5 collection.

6 If we find GSR on an inanimate object, say
7 on this, or on something in a vehicle, we have
8 no explanation for the timeframe in when --
9 which it was deposited. It could have been
10 deposited that day, the day before, the week
11 before. We are not able to timestamp it on an
12 inanimate object.

13 Q. So would you analyze a kit from a live
14 person, who was collected over six hours after
15 the suspected shooting?

16 A. We do not. Our policy is to not
17 analyze gunshot residue kits collected from a
18 live suspect six hours after the incident.

19 Q. But you did analyze a couple kits in
20 this case, didn't you?

21 A. I did.

22 Q. Okay.

23 MS. JONES: Permission to approach, Your
24 Honor?

25 THE COURT: Yes, ma'am.

1 BY MS. JONES:

2 Q. Lieutenant Nates, I'm handing you what
3 has been marked as State's Exhibit 51.

4 Do you recognize that item?

5 A. I do. This is the envelope -- a lot of
6 our evidence will be submitted to a laboratory
7 in a manilla envelope, or when it comes into the
8 lab they place it into an envelope in the
9 Evidence Receiving Department. And this up here
10 is the sticker that gives the lab number. Every
11 case that is submitted to the lab is given what
12 is called a lab number, it begins with an L, the
13 year, and then the subsequential number for each
14 case that's submitted. So this was one
15 L2115494.

16 Also, my initials are on it, when I took
17 the evidence into my custody for analysis, so
18 that is how I recognize this.

19 Q. And those are the two kits that you
20 did, in fact, analyze for this case?

21 A. Yes. This container contains the two
22 GSR kits. This is the GSR kit packaging for the
23 standard kit that we received into the lab, so
24 there are two of them in here, and these are the
25 two that I analyzed in this case.

1 Q. And aside from doing the actual
2 analysis, did you manipulate them in any way, or
3 alter them in any way?

4 A. No. We do not alter them, we just
5 perform the analysis.

6 Q. Perfect.

7 MS. JONES: Your Honor, at this time the
8 State moves 51 into evidence.

9 MR. PAULK: Without objection.

10 THE COURT: State's Exhibit Number 51 is
11 moved into evidence.

12 (State's Exhibit 51 was admitted into
13 evidence.)

14 BY MS. JONES:

15 Q. And, Lieutenant Nates, as to State's
16 51, the two kits, can you please tell the Court
17 where those kits were collected, and what your
18 findings were?

19 A. The two kits -- the information that I
20 received -- the only knowledge that I have of
21 the case is, the paperwork that is submitted
22 with the GSR kits were from the incident report.
23 So in this case the GSR information sheet stated
24 that the kits were collected from a 2007 Dodge
25 Durango from four different areas in the

1 vehicle.

2 Q. And for those kits, the GSR kits, what
3 were your findings?

4 A. They were reported as a whole item,
5 because it was all from the same area. And the
6 two kits that I analyzed I found particles
7 characteristic of primer gunshot residue, which
8 means I found microscopic particle.

9 Q. So gunshot primer residue was found in
10 this case?

11 A. It was.

12 Q. I have no further questions for you,
13 Lieutenant Nates.

14 THE COURT: Cross?

15 ***

16 CROSS-EXAMINATION

17 BY MR. PAULK:

18 Q. Good evening, Lieutenant Nates, I'll
19 try to be brief. There were four different
20 areas that were tested for GSR in the doc
21 string; is that correct?

22 A. That's correct.

23 Q. And those four areas were the driver's
24 seat, the driver doorframe, vehicle ceiling, and
25 the center console, correct?

1 A. That is correct.

2 Q. There was one particle that was
3 characteristic of PGSR found on the driver's
4 seat, correct?

5 A. Yes.

6 Q. There were no particles consistent with
7 PGSR found on the driver doorframe, correct?

8 A. That is correct.

9 Q. There were two particles consistent
10 with PGSR found on the center console; is that
11 correct?

12 A. That is correct.

13 Q. You stated earlier that the finding of
14 PGSR particles on an inanimate object cannot
15 tell you when those particles were deposited
16 there; is that correct?

17 A. That is correct. On an inanimate
18 object I'm not able to timestamp it in any way.

19 Q. Okay. The fact that there were no PGSR
20 particles present on the driver doorframe, what
21 does that tell you, as a GSR analyst?

22 A. The object for the purpose of analyzing
23 a gunshot residue kit is to determine, if
24 gunshot residue was present. In this case, the
25 kit was submitted from the vehicle, and I did

1 determine there was GSR present, but I have no
2 control over the collection, so I can't tell you
3 if there was residue present that wasn't
4 collected, or if there was no residue there, or
5 it could have been removed. So just the fact
6 that it's not there, I can't tell you why it
7 wouldn't be there, or why it was there.

8 Q. Thank you.

9 MR. PAULK: No further questions.

10 THE COURT: Anything on redirect?

11 MS. JONES: No, Your Honor.

12 THE COURT: All right.

13 MS. JONES: And I ask that Lieutenant Nates
14 please be excused and released from her
15 subpoena.

16 THE COURT: Lieutenant Nates, have a safe
17 trip back to Columbia.

18 WITNESS: Thank you.

19 THE COURT: All right, I think that'll do
20 it for the day, right?

21 MS. JONES: Yes. Yes, Your Honor.

22 THE COURT: All right, hold on a second.
23 You all have witnesses I need to address in the
24 morning, right?

25 MS. JONES: Yes, sir.

1 THE COURT: How long do we think that'll
2 take?

3 MS. JONES: 20 minutes.

4 THE COURT: All right, well, why don't I --
5 I'll have the jury -- you folks report back here
6 at 9:45 tomorrow. It'll give us a little extra
7 time, and we'll try to get started early, and
8 see you back at 9:45. Thank you for your
9 patience.

10 (Jury exits courtroom.)

11 THE BAILIFF: The jury's cleared, Your
12 Honor.

13 THE COURT: All right, so you have how many
14 witnesses?

15 MS. JONES: Two.

16 THE COURT: Two? All right. And, Mr.
17 Paulk, you mentioned you'all would be calling
18 some witnesses? I'm not holding you to that,
19 obviously, you have no obligation to do that.

20 MR. PAULK: Yes, Your Honor.

21 THE COURT: One thing I do want to address,
22 the -- we were talking about the EMS witness,
23 who's now at some kind of police training,
24 correct?

25 MR. PAULK: Yes, Your Honor.

1 THE COURT: All right. I've done some
2 research on that. I believe I'm gonna allow her
3 to testify, in the event you need to call her.
4 There's State v. Carmak, and State v. Blalock
5 are two cases that deal with that, and while it
6 is in my discretion, but it also is -- even
7 though she, at some point, may have said that
8 she did make the statement, in conforming with
9 the rule, unless she is unequivocal, then I
10 think he's entitled to get answers, under
11 Blalock and Carmak, so I think you can call the
12 witness.

13 And I think it's safe to say that Ms.
14 Randall was anything but unequivocal on that. I
15 mean, at one point, I think she said, "Well, if
16 you say I said that, then I said it," so I think
17 he's entitled under Blalock and Carmak to get
18 into it. I certainly don't want to hamper his
19 ability to present a defense in this matter.

20 MR. PAULK: Thank you, Your Honor.

21 THE COURT: And now comes the question, are
22 you gonna be able to get her here? I mean she's
23 under subpoena.

24 MR. PAULK: She is under subpoena, Your
25 Honor.

1 THE COURT: Certainly the Police Academy or
2 Criminal Justice Academy, wherever she is, knows
3 what a subpoena means.

4 MR. PAULK: And, Your Honor, I believe that
5 from what I understand, she's supposed to be
6 present in Port Royal performing ride-alongs and
7 other duties along with her potential employment
8 in the Police Department there in Port Royal, so
9 she's not off at the Criminal Justice Academy,
10 or anything of that nature.

11 If we have an order from Your Honor saying
12 that she has to be here, then she has to miss
13 out on part of her training. And I'd assume
14 that would suffice, but I'm not really familiar
15 with how it works.

16 THE COURT: Well, if she's under subpoena,
17 and you need her here, I'll do whatever I've got
18 to do to help get her here.

19 MR. PAULK: Yes, Your Honor.

20 THE COURT: I'll get somebody to go get
21 her, if you want. I mean --

22 MR. PAULK: I don't know if it's --

23 THE COURT: -- a subpoena is a subpoena, it
24 doesn't matter whether you're a law enforcement
25 officer or on training or what. I mean --

1 MR. PAULK: It is, Your Honor.

2 THE COURT: -- this is a serious matter,
3 and she's under subpoena, she's subject to the
4 same rules as everybody else.

5 MR. PAULK: Yes, Your Honor.

6 THE COURT: Certainly, if she's going to
7 work for a law enforcement agency, they would
8 understand that.

9 MR. PAULK: Yes, Your Honor.

10 THE COURT: So if you need any help from
11 the Court getting her here, let us know.

12 MR. PAULK: Yes, Your Honor. Your Honor, I
13 would also just like to state for the record,
14 that I apologize for bringing up the fact that I
15 believed that I did not have that Verizon
16 publication.

17 THE COURT: Okay, well --

18 MR. PAULK: -- that was a misstep on my
19 part.

20 THE COURT: We've all done it. It's not
21 gonna be the last time you do it, I promise.

22 MR. PAULK: Yes, Your Honor.

23 THE COURT: I've been there myself, so
24 everybody makes mistakes, no problem.

25 MS. JONES: I would just ask, for

1 scheduling purposes, if Mr. Paulk thinks that we
2 may possibly get to closings tomorrow, or if he
3 really thinks we're gonna wait, it'll have to be
4 on Thursday, just so I can prepare.

5 THE COURT: Yeah, and I probably would need
6 to know too, because Judge Mullen and I have
7 been trying to figure out what we're gonna do
8 the rest of the week, so if we realistically
9 think we're gonna argue and charge Thursday
10 morning, that's fine, I just need to let her
11 know, so she can let your respective officers
12 know, you know, what the plan is for the rest of
13 the week.

14 If I'm here and you'all have got pleadings
15 or bonds or whatever, I'm happy to do that, so
16 whatever you'all think.

17 MR. PAULK: Your Honor, we'll discuss with
18 my client this afternoon, or this evening, and
19 have a firm answer for the Court tomorrow, but I
20 fully anticipate that we will be putting up a
21 case, and I just feel that it'll take most of
22 the day tomorrow.

23 THE COURT: Okay.

24 MR. PAULK: And anticipate that there may
25 be one or two witnesses Thursday morning, and

[illegible]

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

IN THE COURT OF COMMON PLEAS
FOR THE 14th JUDICIAL CIRCUIT
2021-GS-07-01219 - 01221

State of South Carolina,

Plaintiff,

vs.

Delmar R. Sanders,

TRANSCRIPT OF JURY TRIAL
VOLUME III
PAGES 315 - 587

Defendant.

August 24, 2022
Beaufort, South Carolina

B E F O R E:

The Honorable Heath P. Taylor, Judge Presiding

Kymberlee M. Williams, CSR/RPR
Official Circuit Court Reporter III
Post Office Box 8091
Beaufort, South Carolina 29903

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PROCEEDINGS

WEDNESDAY, AUGUST 24, 2022

BEAUFORT, SOUTH CAROLINA

PROCEEDINGS CONTINUED

MR. PAULK: Your Honor, I have a motion to submit. Would you like a copy of that to be clocked with the Clerk of Court's office?

THE COURT: I don't require it to be clocked, but it definitely will probably need to be a Court's exhibit, and then you'll figure out how you want me to publish that to the jury.

MR. PAULK: That's what I was about to ask, Your Honor, I've never dealt with stipulations at trial, personally, this is my second case.

THE COURT: The last time I had it come up in something, and I think we just published it prior to the charge, if you don't have any objection to that.

MR. PAULK: Subject to me being allowed to argue it in closing, and that sort of stuff.

THE COURT: Yeah.

MR. PAULK: Yeah.

THE COURT: Or we can -- at the close of your case I can publish it to them, however you

1 want to do it.

2 MR. PAULK: Okay.

3 THE COURT: Just so long as they get the
4 information in a manner that you'll don't object
5 to, you know, I think is fine.

6 (Court's Exhibit 5 was admitted into
7 evidence.)

8 MR. PAULK: Okay.

9 MS. JONES: I did provide copies of rap
10 sheets to Mr. Paulk for his lay witnesses. We
11 had started with Robin Brownfield. Going back
12 to 2004 it's a theft by shoplifting, so I
13 believe that's applicable under the dishonesty.
14 Passing counterfeit money, again, dishonest.
15 2007, forgery. 2009, fraud check and forgery.
16 2012, he has an attempted murder conviction. It
17 is 2012 that he did receive an 18-month
18 sentence, so that was right in within the 10-
19 year time limit under 609.

20 Again, the hit-and-run with the jury saying
21 he received an 18-month sentence, that was in
22 conjunction with the attempted murder. That
23 would be all for Mr. Brownfield.

24 THE COURT: Okay.

25 Do you disagree with that?

1 MR. PAULK: No, Your Honor, we're
2 consistent with that.

3 THE COURT: All right.

4 MS. JONES: Ernest Williams, who has many
5 names, but we will be referring to him as Ernest
6 Williams, he has 1987, '97 and '91, '94, '96,
7 2011 shoplifting, and a '92 forgery, all crimes
8 of dishonesty.

9 MR. PAULK: I agree with that, Your Honor.

10 THE COURT: Very good.

11 MS. JONES: Adrienne Johnson, she has a
12 1997 deposit bad checks.

13 MR. PAULK: I agree with that, Your Honor.

14 MS. JONES: And I believe that covers -- is
15 that all your civilians?

16 MR. PAULK: Yes, ma'am.

17 MS. JONES: Okay. And then that's
18 everybody.

19 THE COURT: Okay. We're all on the same
20 page there.

21 MS. JONES: I did have a question, Your
22 Honor.

23 THE COURT: Yes, ma'am.

24 MS. JONES: As you know, Mr. Sanders does
25 have a prior record. He has an unlawful

1 carrying, possession of cocaine, and he does
2 have the CDV high and aggravated. That was
3 seven years ago was the conviction. We had
4 agreed that I would just say you have been
5 convicted of a felony. In the event he opens
6 the door, of course, to his maybe reputation for
7 peacefulness, or however it could possibly be
8 opened, I do think that I should be able to say
9 what the conviction was actually for.

10 THE COURT: And it was within ten years?

11 MS. JONES: It was. In was in 2015, I
12 believe.

13 THE COURT: Okay.

14 MS. JONES: Anyways it was February of
15 2015.

16 THE COURT: And I believe that's fair game.
17 Do you have any position on that, Mr. Paulk?

18 MR. PAULK: Your Honor, we are gonna do our
19 best and fully intend not to release today any
20 testimony that would tend to weigh to Mr.
21 Sanders' character for peacefulness.

22 I don't believe that there's gonna be any
23 character witnesses on behalf of Mr. Sanders.
24 We only have fact witnesses that are testifying
25 for him. I will certainly do my best to make

1 sure that none of my witnesses get into his
2 reputation.

3 THE COURT: So there's sort of a probative
4 versus prejudicial analysis on it, but if he
5 opens the door, I think it changes the game. I
6 mean I would think that it could have more of a
7 prejudicial effect, but, again, as she says, and
8 I think she makes a good point, if he opens --

9 MR. PAULK: If I open that --

10 THE COURT: -- that door, then, you know, it
11 requires a different analysis.

12 MR. PAULK: Yes, Your Honor. I guess in
13 that same vein, if we bring up the fact that Mr.
14 Sanders knew that he was not supposed to be in
15 possession of a firearm, does that open the door
16 to that domestic violence conviction being
17 disclosed?

18 THE COURT: I don't think that goes --

19 MR. PAULK: Okay.

20 THE COURT: -- that far.

21 MR. PAULK: Thank you, Your Honor.

22 THE COURT: I think the way I understood
23 it, if you were to call a witness and said, "You
24 know he's a great guy, he's never been in a
25 fistfight, he doesn't, you know, he doesn't kick

1 his dog, he doesn't do anything," --

2 MR. PAULK: Right.

3 THE COURT: -- then that makes it very
4 gainful over there.

5 MR. PAULK: Right.

6 MS. JONES: The conviction for -- he is
7 prohibited because of a CDV conviction though.

8 THE COURT: Right. So there are two?

9 MS. JONES: There's just a normal 30-day
10 CDV, and then there's the CDV.

11 THE COURT: Okay.

12 MS. JONES: But it was the CDV that
13 prohibited him from possessing a firearm, so I
14 think if they say anything about him being
15 prohibited, that opens the door to why he's
16 prohibited.

17 THE COURT: But he could be prohibited
18 because of a felony conviction, as well, right?

19 MS. JONES: Yes, he could be.

20 THE COURT: Well, why don't we do what you
21 initially proposed?

22 MS. JONES: Okay.

23 THE COURT: You go to the felony, and if
24 they go any further than that --

25 MS. JONES: Okay.

1 THE COURT: -- then I think it opens the
2 door. Okay.

3 MR. PAULK: But just me bringing up that
4 he's not allowed to possess a firearm, that he
5 knew that, would not open the door?

6 THE COURT: Right. But you can still go
7 into the felony --

8 MS. JONES: Absolutely.

9 THE COURT: -- but then if he goes any
10 further than that, then I think he likely opens
11 the door.

12 MS. JONES: "You have been convicted of a
13 felony," that's it.

14 THE COURT: All right.

15 MS. JONES: That's what I would say --

16 THE COURT: Okay.

17 MS. JONES: -- is, "You have been convicted
18 of a felony?"

19 THE COURT: Right.

20 MS. JONES: Okay, thank you.

21 MR. PAULK: Thank you, Your Honor.

22 THE COURT: Are we ready now?

23 MS. JONES: Yes, sir.

24 THE COURT: Ms. Jones, who do you have up
25 next? Dr. Presnell?

1 MS. JONES: Yes, sir. She's in the
2 courtroom.

3 THE COURT: Okay.

4 MR. PAULK: Do we want to go ahead and make
5 this a Court's exhibit before the --

6 THE COURT: Sure.

7 THE BAILIFF: The jury's in the courtroom,
8 Your Honor.

9 THE COURT: Thank you, sir. Good morning,
10 ladies and gentlemen:

11 JURORS: Good morning.

12 THE COURT: Is everybody well-rested and
13 ready to go? All right. Ms. Jones, call your
14 next witness.

15 MS. JONES: Thank you, Your Honor. The
16 State calls Dr. Erin Presnell.

17 * * *

18 ERIN PRESNELL, M.D.

19 * * *

20 being first duly sworn, testified as
21 follows:

22 DIRECT EXAMINATION

23 BY MS. JONES:

24 Q. Good morning, Dr. Presnell.

25 A. Good morning.

1 Q. Where do you work?

2 A. I'm a pathologist at the University of
3 South Carolina in Charleston.

4 Q. What does a pathologist do?

5 A. Can you guys hear me okay? Okay. All
6 right, so a pathologist -- or pathology actually
7 means the study of disease, and so most
8 pathologists diagnose disease. So like say a
9 patient goes to the doctor, and they get a
10 biopsy, or goes to a surgeon, and, you know, has
11 their appendix out, the pathologist will look at
12 that tissue, and diagnose, you know, is it an
13 infection, is it cancer, etcetera? So I trained
14 in general pathology, but then I also
15 subspecialized in forensic pathology, where I
16 did a year where -- well, the process of tissue
17 examination for a forensic pathologist is
18 looking at an entire deceased body, or someone
19 who's passed.

20 We do evaluate our patients for diseases,
21 but we also evaluate the crime. And then,
22 ultimately, through our entire examination, via
23 the process of an autopsy, we'll put together an
24 autopsy report, and determine the cause and
25 manner of death.

1 Q. And did you ever receive specialized
2 training and education to become a forensic
3 pathologist?

4 A. Yes. So I went to medical school.
5 After medical school I chose pathology as my
6 specialty. I did my pathology training, and the
7 I did the year additional for forensic
8 pathology. And then along the way I've taken
9 the National Board examinations, so I'm Board
10 certified in anatomic and clinical -- or general
11 pathology, and also forensic pathology.

12 Q. And how long have you been doing this?

13 A. I started as faculty at MUSC in 1999,
14 so like 23 years.

15 Q. And have you ever testified in court
16 before?

17 A. I have.

18 Q. About how many times?

19 A. It would be an estimate, I would say
20 around 200ish.

21 Q. And have you been qualified as an
22 expert?

23 A. In forensic pathology -- an expert in
24 forensic pathology.

25 MS. JONES: Your Honor, at this time the

1 State moves Dr. Presnell in as an expert in
2 forensic pathology.

3 MR. PAULK: Without objection.

4 THE COURT: All right, I find that expert
5 testimony is necessary to assist the jury in
6 resolving certain factual questions, that Ms.
7 Presnell is qualified in this area, and that the
8 science behind this testimony is reliable.
9 Ladies and gentlemen, remember yesterday when I
10 told you about experts, and that, normally, a
11 person can't offer opinion testimony, unless the
12 Court determines that they are, in fact, an
13 expert?

14 That same instruction I gave you yesterday
15 applies to Dr. Presnell. Ms. Jones, proceed.

16 MS. JONES: Thank you, Your Honor.

17 BY MS. JONES:

18 Q. Dr. Presnell, did you perform the
19 autopsy on Deonne McLendon?

20 A. Yes. The Coroner of Beaufort County
21 referred Mr. McLendon to us, and we did an
22 autopsy, or I did an autopsy on July 25th, 2021.

23 Q. How old was Mr. McLendon?

24 A. At the time I think he was 29-years-
25 old.

1 Q. Were you able to discover some injuries
2 that Mr. McLendon had sustained?

3 A. Yes. Like I said, with autopsy, we're
4 evaluating disease, but also injury, and Mr.
5 McLendon had two gunshot wounds.

6 Q. Would a visual aid help you show the
7 jury where these wounds were located on Mr.
8 McLendon?

9 A. Yes.

10 MS. JONES: Your Honor, may I ask the
11 witness to step down from the witness stand?

12 THE COURT: Yes, ma'am.

13 BY MS. JONES:

14 Q. I'll give you a Sharpie. And, Dr.
15 Presnell, could you show the jury where you
16 discovered gunshot wounds on Mr. McLendon?

17 A. Yes, I will. Also remember this is
18 just a front and back view, so it doesn't have a
19 side view, and we have a side one going on as
20 well, but I'll just draw in general.

21 So he has a gunshot wound to the left
22 abdomen, and then bullet is going to go down and
23 back into his right, and we get the bullet right
24 inside -- right underneath the skin on the side
25 of the buttock -- on the right buttock, so

1 that's one gunshot wound. And he had another
2 one kind of on the -- off to the side here. And
3 this gunshot wound is just going through soft
4 tissue, so it goes -- well, it -- there's --
5 this is an exit gunshot wound here, and it goes,
6 like I said, down through the abdomen, and we
7 get the bullet on the buttock. These two
8 gunshot wounds connect.

9 These two gunshot wounds connect. I am
10 assuming that this is the entrance wound, then
11 it's also going down back and towards his right,
12 so they're both going in the same direction.
13 Although just with the appearance of the gunshot
14 wounds, I can't differentiate which actually was
15 entrance or exit.

16 Q. You did not recover a bullet though
17 from that second gunshot wound?

18 A. Right, I did not.

19 Q. Okay. Did you have these labeled A or
20 B, or how did you have these labeled?

21 A. I believe I labeled them A, B and C.

22 Q. Okay, and does this accurately depict
23 the gunshot wounds on Mr. McLendon?

24 A. Yes.

25 MS. JONES: Your Honor, at this time, the

1 State moves 55 into evidence.

2 MR. PAULK: Without objection.

3 THE COURT: All right, Exhibit 55 is
4 admitted.

5 MS. JONES: Thank you.

6 (State's Exhibit 55 was entered into
7 evidence.)

8 BY MS. JONES:

9 Q. And, Dr. Presnell, you can take a seat
10 back on the witness stand. Now, Dr. Presnell,
11 what sort of injuries would this wound error on
12 the side of Mr. McLendon have caused?

13 A. The -- so the one to the right side is
14 just some soft tissue injury, to suggest like
15 the, you know, disruption of the tissue and a
16 little -- and some hemorrhage along the pathway.

17 The one to the left abdomen, it actually,
18 again, is heading down to the pelvis, and it
19 goes through what we call the internal iliac
20 vessels, arteries and veins that are down in the
21 pelvis, before it stopped to the -- on the right
22 buttock.

23 Q. And you recovered a bullet from there?

24 A. Right.

25 Q. I'm gonna show you what I have marked

1 as State's 54.

2 (Court Reporter marks State's Exhibit
3 Number 54 was entered into evidence.)

4 MS. JONES: Permission to approach, Your
5 Honor?

6 BY MS. JONES:

7 Q. Do you recognize that item?

8 A. This is a envelope with our autopsy
9 label, and Mr. McLendon's name, and the
10 designation bullet, so it feels like there's a
11 bullet in here.

12 Q. Okay. And that is an autopsy label
13 from MUSC from Deonne McLendon's autopsy?

14 A. Yes.

15 MS. JONES: Your Honor, at this time, the
16 State moves 55 into evidence.

17 THE COURT: Objection?

18 MR. PAULK: Without objection.

19 THE COURT: Did you say 55?

20 MS. JONES: My apologies, I did, but it is
21 54.

22 THE COURT: Okay. Because the last one was
23 55.

24 COURT REPORTER: Yes, sir.

25 THE COURT: That is submitted without

1 objections.

2 MS. JONES: Thank you, Your Honor.

3 BY MS. JONES:

4 Q. Now gunshot wound B and C, since we
5 weren't able to differentiate entrance and exit
6 wound, would that one have been fatal?

7 A. No.

8 Q. How about gunshot wound A?

9 A. Yes. The gunshot wound to the abdomen,
10 that hit the pelvic veins and arteries. It was
11 the fatal injury.

12 Q. Would he have been able to survive for
13 a period of time with that gunshot wound?

14 A. Yes.

15 Q. Do you know about how long?

16 A. No, I -- no, I mean it's variable. It
17 could be minutes.

18 Q. Okay. Dr. Presnell, what as Deonne
19 McLendon's cause of death?

20 A. It was the gunshot wound that went into
21 the abdomen and down into the pelvis, over to
22 the right buttock.

23 Q. And, Dr. Presnell, what was Deonne
24 McLendon's manner of death?

25 A. So my classification would be homicide,

1 or death at the hands of another.

2 Q. Thank you. Dr. Presnell, I have no
3 further questions. If you can answer anything
4 that Mr. Paulk may have.

5 THE COURT: Mr. Paulk?

6 ***

7 CROSS-EXAMINATION

8 BY MR. PAULK:

9 Q. Good morning, Dr. Presnell, how are
10 you?

11 A. I'm good, thank you.

12 MR. PAULK: Just one moment of the Court's
13 indulgence, please.

14 BY MR. PAULK:

15 Q. Dr. Presnell, you prepared a report in
16 conjunction with your findings; is that correct?

17 A. Yes.

18 Q. Is this a copy of that report?

19 MR. PAULK: Your Honor, may I approach the
20 witness?

21 THE COURT: Yes, sir.

22 BY MR. PAULK:

23 Q. Is this a copy of that report, ma'am?

24 A. Yeah, this looks like that.

25 Q. And does it appear to be a fair and

1 accurate representation of your report?

2 A. It does.

3 MR. PAULK: Your Honor, at this time the
4 defense would move the item into evidence as
5 Defense 1.

6 THE COURT: That will be defense 1.

7 MR. PAULK: And it has not been marked for
8 identification purposes yet.

9 THE COURT: Okay, well, let's get it
10 marked, and any objection, counsel?

11 MS. JONES: No, sir.

12 MR. PAULK: I have an extra copy, if you
13 would like to mark one, Madam Clerk?

14 COURT REPORTER: Yes, I do. Thank you,
15 sir. This will be Number 2.

16 MR. PAULK: Number 2.

17 (Court Reporter marks Defendant's Exhibit
18 Number 2, Report, as attached hereto.)

19 MR. PAULK: Thank you, ma'am.

20 BY MR. PAULK:

21 Q. Ms. Presnell, I'm just gonna hand you
22 the marked copy, and take this one back.

23 A. Okay.

24 Q. And, Dr. Presnell, did you have an
25 opportunity to measure or weigh the projectile

1 that was recovered from Mr. McLendon?

2 A. I -- we don't weigh the item
3 projectiles, but I probably measured it, let's
4 see. So with my measurements I estimated a
5 length of .55 and a base of 0.35 times 0.27
6 inch.

7 Q. Okay. And you testified just a moment
8 ago that you can't, without a shadow of a doubt,
9 say if B or C is the entrance or exit wound,
10 this being B, this being C?

11 A. Right.

12 Q. However, the trajectories of the path
13 of both bullets are similar, in that they are
14 both angled relatively the same angle. They're
15 both traveling in the same direction.

16 So you do feel fairly confident that this
17 is the entrance wound, correct?

18 A. It's consistent, yes.

19 Q. Okay. Did you also perform a
20 toxicology analysis on Mr. McLendon?

21 A. Yes. So we do toxicology on all of our
22 decedents, and we did so with Mr. McLendon, as
23 well.

24 Q. Could you explain the findings and the
25 toxicology to the jury, please?

1 A. Yes. All right, so the toxicology
2 screen showed cocaine, cocaethylene, which I'll
3 explain in just a minute, and marijuana, as well
4 as caffeine, nicotine and naloxone, which is
5 usually a drug that's given by EMS to reverse
6 effects of opiates. And then he also had an
7 alcohol level of .014.

8 Q. Now, Dr. Presnell, I understand that
9 the .014 alcohol, that -- what could that have
10 come from?

11 A. Well -- so at the -- so after death
12 postmortem changes happen, and bacteria can
13 grow, and bacteria can actually produce their
14 own alcohol.

15 So when we do toxicology, there's no way to
16 tell the difference between alcohol that
17 somebody drank, or whether it was produced by
18 bacteria afterwards. .014 is a pretty small
19 number. Now, I will say I mentioned he has
20 cocaethylene. And so to me cocaethylene is a
21 compound that's made up of a cocaine breakdown
22 and an alcohol breakdown, so to me that -- when
23 you see cocaethylene, that indicates that, at
24 some point before, he had cocaine and was
25 drinking alcohol at the same time.

1 Q. So that finding would be consistent
2 with the inference that, at some point, prior to
3 Mr. McLendon's death, he was drinking and using
4 cocaine simultaneously?

5 A. Yes.

6 Q. Could you comment on the levels of
7 cocaine that were found in Mr. McLendon's
8 system?

9 A. He has a cocaine level of 300, but
10 cocaine doesn't really have a great scale of
11 what number is going to cause a person to act a
12 certain way, or the affects that they have on
13 him. He is under the influence of cocaine.

14 At the time of autopsy I can't predict, you
15 know, exactly how he was acting, but he was
16 under the active influence of cocaine.

17 Q. Is there a threshold level for the
18 detection of the presence of cocaine?

19 A. I'm sure there is, and I could look at
20 the laboratory report, to see what the cutoff
21 is, but, you know, clearly, he's above that.

22 Q. Okay. So this is clearly above the
23 threshold, it's not just a minimal amount of
24 cocaine?

25 A. No, no, not -- it's not.

1 Q. Could you talk a little bit about how
2 long the cocaine would be present in the system,
3 and what that tells us about the time of
4 ingestion of cocaine prior to death?

5 A. I am actually going to defer that --

6 Q. Okay.

7 A. -- to a toxicologist, and their
8 expertise with pharmacokinetics.

9 Q. Thank you, ma'am. You did not find any
10 soot or stippling around the gunshot wounds; is
11 that correct?

12 A. I did not, and I made reference that we
13 evaluate injuries, so I mean it was pretty
14 obvious he had gunshot wounds; but one of the
15 other things we do is, to look for science to
16 see if it was at close range, or at contact, or
17 distant.

18 And so you can find certain substances
19 deposited on the skin, or on the, you know, the
20 clothing, if it is close or contact. In this
21 case I did not see any soot or stippling to
22 indicate that it was close or contact; however,
23 when he came to us he didn't have any clothes
24 on, except for some socks and boots, because EMS
25 had taken them most likely. There was no shirt,

1 so I don't know if he was wearing a shirt or
2 not.

3 Q. If he had been wearing a shirt, would
4 there be any soot or stippling around these
5 gunshot wounds?

6 A. So if he had been wearing a shirt, then
7 the shirt could have picked up -- like if the
8 gunshot was at close range or contact, the shirt
9 or the intermediate target could have picked up
10 some of that material that would have been
11 deposited.

12 Q. So what you're telling the jury is,
13 that if Mr. McLendon was wearing a shirt, the
14 absence of soot or stippling would not
15 necessarily indicate that he was far away?

16 A Right, and maybe something else I should
17 clarify is, when we estimate -- or decide to
18 conclude contact range gunshot, close range
19 gunshot and distant, distant can start anywhere,
20 like if a gun is 36 inches away, most handguns,
21 once they're 36 inches away, or about a yard,
22 are not gonna leave any soot or any stippling
23 marks or gunpowder marks on the skin. So
24 distance can still be, you know, relatively
25 close, just not close enough to leave deposit

1 markings.

2 Q. And there, again, I know I don't want
3 to beat a dead horse, but if he was wearing a
4 shirt, no matter how close he was, there
5 wouldn't be any soot or stippling?

6 A. I might not see it. Sometimes it will
7 get through, but sometimes it doesn't.

8 MR. PAULK: No further questions, Your
9 Honor.

10 THE COURT: Anything on redirect, Ms.
11 Jones?

12 MS. JONES: No, sir. And I ask that Dr.
13 Presnell be released from her subpoena.

14 THE COURT: Yes, ma'am, she is released.

15 WITNESS: Thank you.

16 THE COURT: Is that the State's case?

17 MS. JONES: Your Honor, at this time, the
18 State rests.

19 ***

20 STATE RESTS

21 THE COURT: All right, ladies and
22 gentlemen, the State has now rested their case.
23 I have an issue I need to take up with the
24 lawyers outside of your presence, and so we will
25 be at east for let's just say ten minutes, this

1 won't take very long, and I'm sure we'll get
2 back to work.

3 (Jury exits the courtroom.)

4 ***

5 THE BAILIFF: The jury's cleared, Your
6 Honor.

7 ***

8 DEFENDANT'S RIGHT TO TESTIFY.

9 ***

10 THE COURT: All right, Madam Clerk, can you
11 please swear in Mr. Sanders?

12 * * *

13 DELMAR SANDERS

14 * * *

15 being first duly sworn testified as
16 follows:

17 BY THE COURT:

18 Q. Mr. Sanders, you can have a seat.

19 A. All right.

20 Q. At this time I'm gonna explain your
21 rights. I know -- I'm sure that Mr. Paulk has
22 gone through all this with you, but I'm required
23 to do it as well. If you don't understand
24 anything I say, please let me know, if you want
25 me to explain something in more detail, let me

1 know, but we've reached the stage in the trial,
2 where you may present a defense.

3 You have the right to claim the protections
4 given to you by the Fifth Amendment of the
5 Constitution, which, in part, states, "That no
6 person shall be compelled in any criminal case
7 to be a witness against himself." This means
8 you cannot be required to testify in this case.
9 You have the right to testify on your own
10 behalf, however, no one can make you testify.

11 This is a personal right that no one can
12 waive except for you. If you decide to testify,
13 you will be subject to the same rules that
14 govern other witness, and you may be examined
15 and cross-examined on any relevant issue in this
16 case.

17 In addition, if you have any convictions
18 involving dishonesty, or false statement, or for
19 crimes punishable by imprisonment for more than
20 one year, and this Court determines that the
21 probative value of admitting, this evidence
22 outweighs its prejudicial effect. The Solicitor
23 will be able to introduce your record to attack
24 your credibility.

25 If you decide to testify, this decision on

1 your part must be freely, voluntarily and
2 intelligently made, with knowledge of the
3 protections given to you by the Fifth Amendment
4 and the consequences of your decision to
5 testify.

6 If you decide not to testify, I will
7 instruct the jurors that they cannot give the
8 fact that you did not testify any consideration
9 whatsoever, and there is to be absolutely no
10 prejudice to you because you did not testify.
11 It is left entirely up to you whether or not you
12 testify. You may talk to your lawyer, your
13 family, your friends, or anyone else, but the
14 final decision is up to you.

15 Do you understand your rights in this
16 regard?

17 A. Yes, sir.

18 Q. Do you have any questions about what
19 I've explained to you?

20 A. No, sir.

21 Q. Have you and Mr. Paulk and Ms. Gibbes
22 had plenty of time to discuss whether or not you
23 should testify?

24 A. Yes.

25 Q. Oh, sorry. Do you want to talk with

1 either one of them anymore at this time?

2 A. Yes, sir.

3 Q. Yes?

4 A. Oh, no.

5 Q. Okay.

6 A. Sorry.

7 Q. And do you wish to testify?

8 A. Yes, sir.

9 Q. All right, I'll find -- assuming he
10 does testify, I find that he has been properly
11 advised of his rights, with regard to the Fifth
12 Amendment by his attorneys, and, if he does, in
13 fact, testify, he will do so knowingly,
14 voluntarily and intelligently waiving his Fifth
15 Amendment right. Anything else?

16 MS. JONES: Motion for a directed verdict.

17 THE COURT: Yes.

18 MR. PAULK: Your Honor, at this time the
19 defense would renew all pretrial motions, all
20 objections made during the course of this trial.
21 And at this time, we will also make our motion
22 for a directed verdict.

23 Your Honor, the State has provided evidence
24 to the jury that there are multiple conflicting
25 stories. Ms. Rhonda Randall testified to many

1 different things on the witness stand. Miss
2 Rhonda testified that there were three
3 consecutive shots, and the next thing she knew,
4 she was hit in the arm, and she testified that
5 there was only two shots. She testified -- you
6 were here for it, I'm not gonna beat a dead
7 horse on that. I believe that her credibility
8 was sufficiently impeached, and that the jury
9 could willfully find and disregard any or all of
10 her testimony.

11 There has also been testimony entered into
12 evidence, that at the night of the incident Mr.
13 Sanders believed that he was going to be robbed
14 or killed. He believed that there were no
15 weapons in his vehicle the night of this
16 incident. He then noticed that there was some
17 passing back and forth of something between the
18 front seat and the backseat. He then saw a gun
19 sitting in the lap of the Defendant.

20 When he tried to address this matter, the
21 Defendant told him not to worry about it, and
22 left the gun on the seat. At the time that he
23 left the gun on the seat, and Ms. Randall from
24 Mr. Sanders' interview, was that Ms. Randall had
25 scooted up in between the middle seats, and was

1 within arm's reach of the gun. I think that
2 it's perfectly reasonable, and I think that the
3 elements of self-defense have been laid out.

4 The first element, the Defendant be without
5 fault in bringing on the difficulty. It is upon
6 the State to prove that the difficulty, or the
7 unlawful act, at the time of this incident was
8 the approximate cause of the death of Mr. -- or
9 the death of Mr. McLendon, or it was the
10 approximate cause of the event that eventually
11 culminated into the death of the decedent.
12 There's been no testimony that Mr. Sanders'
13 possession of a firearm was that unlawful act.

14 If there had been, the State v. Burris, as
15 we referenced in pretrial, allows Mr. Sanders to
16 arm himself in self-defense, even if he is
17 disallowed from owning a firearm, if at the
18 time, that the need for self-defense arises, the
19 Defendant is allowed to arm himself, even if
20 they're not allowed to own a gun, under State v.
21 Burris. I beg the Court's indulgence, Your
22 Honor.

23 Second, on the self-defense, the Defendant
24 actually believed he was in imminent danger of
25 losing his life, or sustaining serious bodily

1 injury, or he actually was in such imminent
2 danger. Your Honor, the testimony that was
3 entered in through the interview video, Mr.
4 Sanders was the -- he went to go get a
5 cigarette. That while he was getting a
6 cigarette that he picked up his cousin.

7 His cousin made him drive him around a few
8 different places. That at some point during the
9 night a gun was put under the hood of the car.
10 Defendant believed that there were no weapons in
11 the car. Whenever he did eventually see this
12 weapon, that was one indication that something
13 bad was gonna happen, that he could be robbed,
14 or that he could have been killed.

15 Mr. Sanders testified during the interview,
16 or stated during the interview that he felt like
17 something was weird. They were supposed to pick
18 up two girls, there was only one girl. When
19 they get to the hotel, Ms. Randall can be seen
20 coming out of the hotel speaking to Mr. Sanders.
21 She states that she just didn't want him out
22 there sitting in the car being weird, drawing
23 attention to them.

24 Your Honor, his statements during the
25 interview were, that she came out to the car to

1 try to get him to go into the hotel room, and
2 she tried to lure him into the hotel room
3 multiple times. That she said, "Come on, why
4 don't want you want to come in and party? Why
5 don't you want to have fun?"

6 Your Honor, Ms. Randall testified on direct
7 examination that she does solicit her body for
8 money, that she is a prostitute. It is a common
9 practice for prostitutes to have people waiting
10 in the bathroom and rob men, as they come in for
11 services. There -- Mr. Sanders on this night of
12 this incident fully believed that there could
13 have been a trap laying for him in wait inside
14 that hotel room.

15 Mr. Sanders then tells Ms. Randall and Mr.
16 McLendon that he's gonna leave to go get his
17 money from the ATM, gonna make a direct deposit.
18 He tells them whatever he tells them, as a way
19 to get away from them. In the world in which
20 Mr. Sanders comes from, in which these events
21 occurred, people don't go with you to the ATM.
22 You don't let anybody go with you to the ATM,
23 because if they're family or not, they might rob
24 you.

25 And Mr. Sanders thought that they would

1 respect his wishes to not follow him to the ATM.
2 Mr. Sanders stated in his interview that he
3 unlocked the door for his cousin, Donne, to get
4 into the car to accompany him, but you can
5 clearly see on the surveillance video Ms.
6 Randall's door was locked. She was on it
7 multiple times.

8 That is consistent with his testimony to
9 Investigators Duncan and Tunis. And what that
10 goes to show is that he did not want her in the
11 car, that he did not want them in the car
12 necessarily, he wanted to go about his business,
13 go home; and as he testified, he had to be up
14 and ready for work climbing trees at -- I
15 believe he said 6:00, 6:30 the next morning.
16 Certainly, whenever there's an unaccompanied --
17 or uninvited guests that accompanied him, he was
18 then looking for a way to get out.

19 He didn't stop at the ATM, because he
20 didn't want them at the ATM with him. So he was
21 driving, he continued to see things that were
22 not quite right. He continued to see some
23 object being passed from the backseat to the
24 front seat, and then the next thing he knows,
25 there's a gun sitting there pointed at him, and

1 they're asking him, "Pull over, let us drive.
2 Pull over, let us drive."

3 He testifies that, yes, he was swerving
4 that night. He was swerving, because he was
5 watching Ms. Randall and Mr. McLendon, and
6 trying to see what he was -- what he had gotten
7 himself into. Your Honor, the appearance of
8 this mystery gun can only be inferred that there
9 was ill intent on the side of the decedent and
10 Ms. Randall that night.

11 So we would argue that there was -- that he
12 was actually in imminent danger. If he had not
13 acted the way that he did that night, perhaps I
14 would be here defending Mr. McLendon for murder
15 of Mr. Sanders.

16 Your Honor, we believe that a reasonable
17 person would have entertained these same
18 beliefs. There's a woman who has admitted
19 herself to being anywhere between one and three
20 days on a crack cocaine binge, acting
21 erratically, fidgeting, continuing to reach into
22 her purse. Your Honor, I understand that she
23 contends, "That a gun couldn't have fit in my
24 purse," but we heard from Dr. Presnell just now
25 that the dimensions of the projectile that were

1 recovered were .35 millimeters, which would be
2 consistent.

3 And Mr. Sanders also told Investigators
4 Duncan and Tunis that he believed that the
5 firearm used was a 380. He explained to them
6 that the gun fit in his hand, and maybe hung
7 over a quarter inch, or a half of an inch or so,
8 it's a small gun. It could have easily fit
9 inside of her purse.

10 It could have easily been passed up to Mr.
11 McLendon. Could have been easily used against
12 Mr. Sanders. It's not unreasonable for him to
13 believe that he wasn't in danger, and I believe
14 that any reasonable person, who was in the same
15 circumstances, because as your Honor's aware,
16 this is a subjective test, not an objective
17 test.

18 It's a reasonable person in the same
19 situation as Mr. Sanders would have held the
20 same belief that this gun comes out of nowhere,
21 after you told me that there's not a gun. They
22 would certainly be concerned. They would
23 certainly be within their right to act
24 accordingly to defend themselves.

25 The fact that Mr. McLendon was not armed at

1 the time, and we do not think there's any weight
2 on the act that, if he had got control of the
3 gun, or if he had allowed Ms. Randall to get
4 control of the gun, that it would be Mr. Sanders
5 who would have lost his life, or lost his car.
6 To further that, there's testimony that Mr.
7 Sanders was living out of his car.

8 There are numerous objects -- everything
9 that he owned was in that car. There's sleeping
10 bags, there's clothes, there's the broken phones
11 that he's accumulated over the years. Each of
12 us at our homes -- I know I do, I've got a junk
13 drawer full of old phones. Investigators
14 testified to the fact that none of the phones
15 found in the car were attributed to either
16 Deonne McLendon or Rhonda Randall.

17 Your Honor, further than that, there were -
18 - there's testimony and investigators knew that
19 Mr. McLendon and Ms. Randall were communicating
20 via Facebook that night. Investigators
21 testified that Facebook records are routinely
22 gathered in murder investigations and other
23 criminal investigations that are deemed
24 important; and I certainly believe that these
25 messages would have been important.

1 These messages could have shown that they
2 had been planning, as Ms. Randall testified,
3 that she had been talking to Deonne since 10:30,
4 or over two hours before she picked him up.
5 They could have laid this plan out through
6 Facebook Messenger. They could have laid this
7 plan out in the hotel room, when they went in
8 without Mr. Sanders.

9 I believe that anybody who was in Mr.
10 Sanders' position would have believed the same
11 thing. Would have believed that in order to
12 preserve their life and preserve their liberty,
13 that they would have had to take the actions
14 that Mr. Sanders took.

15 Your Honor, I mentioned that Mr. Sanders
16 was homeless, and that he was living out of his
17 car, because the fourth element of self-defense
18 for a prima facie case is, the Defendant had no
19 other probable means of avoiding the danger of
20 losing his life.

21 We contend that the castle doctrine should
22 apply. Mr. Sanders is living out of his car,
23 this was his home, this was where he resided.
24 We contend that Mr. Sanders had no duty to
25 retreat under the castle doctrine, and Mr.

1 Sanders had every right to stand his ground.
2 Your Honor, I understand there is a pretrial
3 ruling, as to the application and the protection
4 of the Persons and Property Act, and would show
5 the Trial Judge found that we did not show, by
6 preponderance of the evidence, that actually
7 applied; however, under Sections A and C of that
8 Act, if someone is in their home, or, B, or in
9 their vehicle, and anyone attempts to get them
10 out of their vehicle, such as, "Man get out of
11 the way, let me drive," they have a right to
12 stand their ground, to meet force with force.

13 Your Honor, you're also aware that the
14 Defendant does not have to wait for the
15 assailant to get the drop on him. He has the
16 right to act on advances, if he believes that
17 something is about to go down, or something is
18 about to happen. And from the way that things
19 looked, that things could go south quickly.

20 He has a right to act on those appearances,
21 and, certainly, with a woman in the backseat
22 who's been awake from anywhere from one to three
23 days on a crack binge, as well as with another
24 individual, that Mr. Sanders knows, knows his
25 reputation of. He was also under the influence

1 of cocaine that night.

2 He certainly has the right to act on those
3 appearances. One moment, the Court's
4 indulgence. Your Honor, the next factor that we
5 would like to address is the intent and malice
6 of forethought that was accompanied with the
7 charge of murder, and the charge of attempted
8 murder.

9 Mr. Sanders in his interview testified that
10 he never meant to kill anyone, that he was, the
11 night of this incident, trying to preserve his
12 own life. That he had no intention of mowing
13 down Mr. McLendon, or mowing down Ms. Randall.
14 In fact, investigators, during the interview,
15 elicited testimony from Mr. Sanders, that he was
16 point blank right in front of Ms. Randall.

17 He could have shot and killed her right
18 there. He testified that he shot a warning
19 shot, as a way to get her out of the car, but
20 that she would not exit his car, and that she
21 was reaching for something in her purse, that
22 she was reaching for something.

23 We believe that there was no malice of
24 forethought, no premeditation, there was no
25 intent to kill either of these individuals. As

1 soon as -- Mr. Sanders' testimony is that as
2 soon as Mr. McLendon turned to run away and
3 flee, he ceased firing. He didn't chase him
4 down, he didn't get in his car and follow him.
5 He didn't go to the ditch and finish him off.
6 He didn't fire anymore shots at Rhonda Randall
7 after she got out of the vehicle.

8 The intent to kill is not there, and as
9 Your Honor is aware, it is improper to charge
10 inferred malice, just from the mere fact that a
11 gun was fired. There's no inferred malice.
12 Your Honor, the next thing we want to talk
13 about, the State's burden to prove beyond a
14 reasonable doubt the Defendant did not act in
15 self-defense. That is the State's burden to
16 carry, and we do not believe that they have
17 proved that, even when the facts are viewed in
18 the light most reasonable -- most favorable to
19 the State.

20 Certainly, the jury could believe Mr.
21 Sanders' testimony, and, certainly, the jury
22 could disregard Ms. Randall's testimony. Your
23 Honor, I'm not even really sure what Ms.
24 Randall's testimony landed at. She adopted so
25 many different stories, that we do not have a

1 clear picture of what events occurred from her.
2 In fact, she actually testified that she never
3 saw when Mr. McLendon was shot, that she merely
4 heard the shots.

5 Her testimony was that Mr. McLendon was on
6 the passenger side of the vehicle while he was
7 shot. And, clearly, from the autopsy diagram
8 Mr. McLendon was shot below the waist and was
9 only 5'6" tall. The hood of that vehicle is
10 gonna be in the way of the path of those
11 bullets. Ms. Randall's testimony was not
12 credible. Her recounting of the events was not
13 credible.

14 We certainly believe that we -- that Mr.
15 McLendon should be entitled to a directed
16 verdict. We do not believe that the State has
17 proved their burden beyond a reasonable doubt.
18 Mr. Sanders did not act in self-defense.

19 THE COURT: Ms. Jones?

20 MS. JONES: Your Honor, I wholeheartedly
21 disagree with that rendition by Mr. Paulk. I
22 think there is ample evidence to send this case
23 to the jury.

24 The question is, if there is substantial
25 circumstantial or direct evidence, we have both

1 here. We have direct evidence of Deonne
2 McLendon's dying declaration.

3 We have direct evidence of Mr. Sanders own
4 statement, which at times at best, he's
5 inconsistent; but at the end of the day what he
6 does say is, he admits to shooting an unarmed
7 man, that's not self-defense. There is nothing
8 in the record, I would contend, that would even
9 give rise to a charge of self-defense, and I
10 certainly don't think there's enough for Your
11 Honor to grant a directed verdict on this case.
12 There is conflicting testimony that goes to the
13 jury, that's a question of fact to the jury as
14 to what happened.

15 And I certainly believe that they can go
16 with what Ms. Randall said, and disregard
17 everything Mr. Sanders said, based on
18 credibility, and I think there is ample
19 evidence. I also think regarding the intent,
20 standing in front of somebody and mere feet away
21 pulling the trigger at least one time, if not,
22 more than one time, as we know from Mr.
23 McLendon, one cannot have any other intent but
24 to kill.

25 As I demonstrated with Investigator Tunis,

1 how far Delmar was, when he shot Rhonda, it was
2 just a couple feet away. He luckily hit her in
3 the arm, but he very easily could have hit her
4 in the chest, in the head, anywhere else, and
5 she could have also been dead, and this could
6 have been a double murder instead of just
7 single.

8 Because of all those reasons, Your Honor,
9 this is a case that the jury needs to decide.

10 THE COURT: I agree that there -- the State
11 has set forth sufficient facts to submit the
12 case to the jury. Mr. Paulk, you eloquently
13 laid out your client's case for self-defense,
14 but, you know, there's plenty of case law out
15 there that says that self-defense is often down
16 to a quintessential jury question.

17 So, again, I think you laid that out, you
18 know, very well on behalf of your client, but I
19 believe there is sufficient evidence to give the
20 case to the jury, and I'll deny your motion.

21 MR. PAULK: Thank you, Your Honor.

22 THE COURT: Are you ready?

23 MR. PAULK: Yes, Your Honor.

24 THE COURT: Tell them we're ready for the
25 jury. All right, does anybody else need a break

1 before we start back?

2 MS. JONES: Could I have five minutes?

3 THE COURT: Yes.

4 MS. JONES: Thank you.

5 THE COURT: If anybody needs to get a quick
6 bathroom break, let's do that.

7 (BREAK)

8 THE COURT: Ms. Jones.

9 MS. JONES: Yes, sir.

10 THE COURT: Hey, do you remember when I
11 mentioned, and I don't know if they're calling
12 him as a witness, but I mentioned early that I
13 had had a professional relationship with Mr.
14 Johnson, and I gave you'all the night to think
15 about that?

16 MS. JONES: I have no objection.

17 THE COURT: Okay.

18 MR. PAULK: Thank you, Your Honor.

19 THE COURT: Yes, sir.

20 MS. JONES: Your Honor, before the jury
21 comes in, I just want to just make sure, again,
22 that we are not getting into any gang evidence
23 with any of these witnesses that Mr. Paulk is
24 putting up.

25 THE COURT: That was my understanding --

1 MS. JONES: Okay.

2 THE COURT: -- from my pretrial ruling.

3 MR. PAULK: Yes, sir.

4 MS. JONES: Okay.

5 MR. PAULK: The word gang is not going to
6 be mentioned.

7 THE COURT: Very good. Now, again, I'm not
8 saying you can't, if you lay --

9 MR. PAULK: Yes, Your Honor.

10 THE COURT: -- the appropriate
11 foundation --

12 MR. PAULK: Yes, Your Honor.

13 THE COURT: -- but we needed to do that at
14 pretrial. As I understand it, that's when the
15 determination has to be made.

16 MR. PAULK: Yes, Your Honor.

17 THE COURT: So if you need to take that up,
18 or address it again, you can.

19 MR. PAULK: Yes, Your Honor.

20 THE COURT: I'm not prohibiting you from
21 doing it, just there needs to be a proper
22 foundation.

23 MR. PAULK: Yes, Your Honor.

24 THE COURT: Okay. All right, are we
25 getting the jury? Can you'all go ahead and be

1 thinking about any more proposed charges you may
2 have?

3 MR. PAULK: Yes, Your Honor.

4 THE COURT: We'll certainly tailor the
5 charge to the evidence. I don't know how, or
6 where we are, or what the question you'all might
7 have, as far as lesser-included or anything like
8 that, but be thinking about that.

9 MR. PAULK: Yes, Your Honor.

10 MR. BAILIFF: The jury's entering the
11 courtroom, Your Honor.

12 (Jury enters courtroom.)

13 THE COURT: Thank you, sir. All right,
14 ladies and gentlemen, I'm sorry about that, it
15 took a little longer than we anticipated, but we
16 are ready to proceed. The defense has indicated
17 that they are going to put up a case. They're
18 not required to, but they are, so with that, Mr.
19 Paulk.

20 MR. PAULK: Your Honor, the defense calls
21 Tiffany Lovitt.

22 TIFFANY LOVITT

23 * * *

24 being first duly sworn, testified as
25 follows:

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DIRECT EXAMINATION

BY MR. PAULK:

Q. Good morning, Ms. Lovitt, how are you today?

A. Good, how are you?

Q. Doing well. My name is Seth Paulk, and I represent Mr. Delmar Sanders.

Can you tell us where you work?

A. Yes. I currently now am an Officer with Port Royal PD.

Q. Okay. Could you tell us where you worked before that?

A. Yes, Beaufort County EMS, and the Coroner's Office.

Q. Okay, and how long were you with Beaufort County EMS?

A. Seven years.

Q. How long were you with the Coroner's Office?

A. Roughly, a year.

Q. Okay. Was that prior to or after the --

A. After EMS.

Q. Okay. How long have you been with the Port Royal Police Department?

1 A. Since the 25th of last month.

2 Q. Congratulations, ma'am.

3 A. Thank you.

4 Q. On the night of July 23rd, 2021, did
5 you respond to the intersection of Laurel Bay
6 Road and Stanley Farm Road, in response to a
7 gunshot wound call?

8 A. Yes, sir.

9 Q. And when you arrived on that scene, did
10 you treat a female patient?

11 A. I did.

12 Q. Do you recall the name of that female
13 patient?

14 A. I believe her name was Rhonda.

15 Q. Okay.

16 A. I am unfamiliar with the last name.

17 Q. Okay. Whenever you transported that
18 patient -- did you transport that patient to the
19 hospital?

20 A. I did.

21 Q. Did you treat that patient for her
22 injuries?

23 A. I did.

24 Q. Did that patient make any statements to
25 you in her transportation to the hospital?

1 A. She did.

2 Q. And what were those statements?

3 A. The statement that she told me en
4 route, I am going to go ahead and look at my
5 narrative here. When I immediately got on-
6 scene, what I saw was a female, she was COA
7 times four, conscious, she was oriented, alert,
8 answering all questions.

9 She walked with a firefighter to my unit.
10 I immediately put her in the unit, all vital
11 signs were stable. She did discuss with me that
12 she had been on a binge for the past 24 hours
13 due to cocaine use, and could not recall the
14 events leading up to the shooting.

15 Q. And I'm just gonna --

16 MR. PAULK: Your Honor, may I approach?

17 THE COURT: Yes, sir.

18 BY MR. PAULK:

19 Q. Could you tell the jury what I've just
20 handed you a copy of?

21 A. Yes. You've handed me a copy of the
22 patient care report.

23 Q. Okay, and is that patient care report
24 where you put your notes from this night in
25 question?

1 A. That is correct.

2 Q. Could you read your narrative for the
3 jury?

4 A. Yes. The full narrative?

5 Q. Yes, please.

6 A. Okay. I stated, "EMS-3 responded to a
7 GSW. Upon arrival, the patient was standing on-
8 scene COA times four. Patient was placed in the
9 unit immediately and assessed.

10 Patient had a through and through GSW
11 located to the upper back left arm. It was
12 superficial, and had little to no bleeding.
13 Patient was undressed and full assessment, to
14 see if she had any other injuries, and no
15 findings. Patient stated that she was with a
16 friend at a hotel, and they decided to go for a
17 ride to purchase more cocaine.

18 Patient stated that they rode with her
19 friend's cousin. Patient stated altercation
20 happened when the cousin began to fire his gun
21 at both victims. Patient confessed to being up
22 for over 24 hours on a binge using cocaine, and
23 could not remember details of the shooting
24 during transport. Patient care was called in.
25 Patient was taken to Room 15.

1 Patient signed for herself. RN also signed
2 for care for a full report. Then the report was
3 given to the ER, EMS-3 cleared the call."

4 Q. Is that a fair and accurate
5 representation of your report?

6 A. It is.

7 MR. PAULK: Your Honor, defense would move
8 this report into evidence as defense 3.

9 COURT REPORTER: Yes, sir.

10 THE COURT: Any objection?

11 MS. JONES: I believe it's specific
12 evidence to her testimony, but sure, why not, no
13 objection.

14 THE COURT: All right, defense 3 is
15 admitted.

16 (Defendant's Exhibit 3 was admitted into
17 evidence.)

18 MR. PAULK: Madam Court Reporter, would you
19 mark this? Thank you.

20 THE COURT: You already admitted two?

21 MR. PAULK: Yes, Your Honor. That's what
22 the Court Reporter indicated to me earlier. I
23 believe that the first one that I -- I was under
24 the impression I've only admitted one.

25 THE COURT: We had the Court's exhibit,

1 which was the stipulation.

2 COURT REPORTER: The autopsy report is 2.
3 You didn't introduce that. The autopsy report.

4 MR. PAULK: Oh, I did during --

5 THE COURT: That was Number 1.

6 MR. PAULK: That was Number 1.

7 COURT REPORTER: Number 1 was the 911
8 address paper.

9 THE COURT: He didn't --

10 MR. PAULK: That was not admitted.

11 COURT REPORTER: Right. You did not admit
12 the autopsy report either.

13 THE COURT: Yeah, we did.

14 MR. PAULK: I did admit the autopsy report
15 through --

16 COURT REPORTER: All right.

17 MR. PAULK: -- through Dr. Presnell.

18 COURT REPORTER: Okay. So --

19 THE COURT: We can get that fixed at a
20 break.

21 MR. PAULK: Yeah.

22 THE COURT: But this will be 2.

23 COURT REPORTER: Yes, sir.

24 (Court Reporter marks Defendant's Exhibit
25 Number 2, EMS Report, as attached hereto.)

1 THE COURT: Okay.

2 MR. PAULK: Thank you, Your Honor, no
3 further questions for this witness.

4 THE COURT: Ms. Jones?

5 MS. JONES: Thank you, Your Honor, briefly.

6 ***

7 CROSS-EXAMINATION

8 BY MS. JONES:

9 Q. Good morning Ms. Lovitt -- Officer
10 Lovitt, I'm sorry, my apologies.

11 A. Good morning.

12 Q. So you say that patient confessed to
13 being up for 24 hours using cocaine, could not
14 remember details of the shooting during
15 transport?

16 A. That's correct.

17 Q. Okay. It's common though for someone
18 also who's going through a traumatic event to
19 not recall every specific detail of something as
20 well though, isn't it?

21 A. That is correct.

22 MS. JONES: No further questions.

23 THE COURT: Anything on redirect?

24 MR. PAULK: A moment of the Court's
25 indulgence?

1 THE COURT: Sure.

2 ***

3 REDIRECT EXAMINATION

4 BY MR. PAULK:

5 Q. Officer Lovitt, is it also true that
6 being awake for over 24 hours could have an
7 effect on someone's memory?

8 A. During my training --

9 MS. JONES: Your Honor, I would object.

10 BY WITNESS:

11 A. -- I don't know if I feel comfortable
12 answering that question.

13 THE COURT: Hold on. Yeah, hold on one
14 second, there's an objection.

15 WITNESS: Oh, I'm sorry.

16 THE COURT: No problem.

17 WITNESS: Okay.

18 THE COURT: No problem.

19 MS. JONES: I would object, I don't think
20 she can answer that question, it calls for
21 speculation.

22 MR. PAULK: Your Honor, I just believe that
23 she testified that due to trauma, Ms. Randall
24 may not remember. I don't --

25 THE COURT: I'll allow it.

1 MR. PAULK: Thank you.

2 THE COURT: If she can, and repeat your
3 question.

4 BY MR. PAULK:

5 Q. Would someone being awake for over 24
6 hours impact their ability to remember events?

7 A. In my best professional opinion, again,
8 I'm not a doctor, I am a --

9 THE COURT: Whoa, hold on, you're not an
10 expert, you can't offer opinions.

11 BY WITNESS:

12 A. It can.

13 Q. Can --

14 MS. JONES: And that's her opinion.

15 BY MR. PAULK:

16 Q. Can extended drug use also alter
17 someone's memory?

18 A. Yes, sir, it can.

19 Q. Thank you, no further questions.

20 THE COURT: Anything on recross?

21 MS. JONES: No, sir.

22 THE COURT: All right. Ms. Lovitt, you are
23 excused, I believe --

24 MR. PAULK: Yes, Your Honor.

25 THE COURT: Okay.

1 MR. PAULK: She can --

2 THE COURT: You're excused.

3 MR. PAULK: We ask that she be excused.

4 THE COURT: Okay. All right, Mr. Paulk,
5 what you got next?

6 MR. PAULK: Your Honor, defense next calls
7 Gerald Moultrie.

8 * * *

9 GERALD MOULTRIE

10 * * *

11 being first duly sworn, testified as
12 follows:

13 ***

14 DIRECT EXAMINATION

15 BY MR. PAULK:

16 Q. Good morning, Mr. Moultrie, how are
17 you?

18 A. I'm fine, good morning.

19 Q. My name is Mr. Seth Paulk, I represent
20 Mr. Delmar Sanders. Mr. Moultrie, on the night
21 of July 23rd, 2021, did you call 911?

22 A. Yes.

23 Q. And on the night of July 23rd why did
24 you call 911?

25 A. Because a young lady came running up to

1 the -- I was at a stop sign, and a young lady
2 came running up, screaming that she was in
3 trouble or something.

4 Q. Okay. Did you ever get out of your
5 car?

6 A. No, sir.

7 Q. Why didn't you get out of your car?

8 A. She was acting hysterical. She was
9 acting like she was -- I don't know how to say
10 it for you, like she was high on something or
11 just acting real weird.

12 Q. Were you afraid to get out of your car?

13 A. Yes, I was.

14 Q. Were you afraid that you could be
15 robbed?

16 A. That's what I thought that she was
17 gonna try to do something to me.

18 Q. Were there any other odd behaviors that
19 Ms. Randall exhibited, while she was speaking
20 with you?

21 A. No, but I mean I just keep asking her,
22 "What's wrong?" She wouldn't -- she never
23 answered me. You know, she was just screaming
24 -- screaming to help her, help her, and I'm
25 like, "What's wrong," but she never answered.

1 Q. Did you find it odd that she wanted a
2 cigarette?

3 A. Yeah.

4 Q. Why was that odd to you?

5 A. That time of the morning, and she was
6 screaming, "Help me, help me, he's gonna kill
7 me," I wasn't -- I didn't know who she was
8 talking about, or what was going on. I said,
9 "The only thing I can do for you, ma'am, is call
10 911."

11 Q. But you thought it was -- did you think
12 it was odd that she would be focused on getting
13 a cigarette at that time?

14 A. Well, if you're saying someone is
15 trying to kill you, then you ask for a
16 cigarette, that's kind of odd to me.

17 MR. PAULK: No further questions for this
18 witness, Your Honor.

19 THE COURT: Ms. Jones?

20 MS. JONES: I have no questions for Mr.
21 Moultrie.

22 THE COURT: All right, Mr. Moultrie --

23 WITNESS: Thank you.

24 THE COURT: -- I believe your testimony --
25 is he excused -- or released from his subpoena?

1 MR. PAULK: Yes, sir, please release Mr.
2 Moultrie from his subpoena.

3 THE COURT: Then you are excused.

4 WITNESS: Thank you, sir.

5 THE COURT: Thank you.

6 MR. PAULK: Your Honor, the defense next
7 calls Robert Brownfield to the stand.

8 MS. JONES: May we approach, Your Honor?

9 THE COURT: Sure.

10 MS. JONES: Thank you.

11 (Bench conference.)

12 THE COURT: Ladies and gentlemen, we have a
13 matter of law that we need to take up, I
14 apologize. We'll be back with you as soon as we
15 can.

16 (Jury exits the courtroom.)

17 THE BAILIFF: The jury's cleared, Your
18 Honor.

19 THE COURT: All right, let's stay on the
20 record. The State is objecting to the testimony
21 of Mr. Brownfield. I want to make sure we're
22 all on the same page with that, and it's all on
23 the record.

24 We had a bench conference, which wasn't
25 recorded, but I want to make sure everything's

1 fully on the record.

2 So is your intent, Mr. Paulk, to call Mr.
3 Brownfield to elicit a prior inconsistent
4 statement of Ms. Randall; is that my
5 understanding?

6 MR. PAULK: Your Honor, a prior
7 inconsistent statement is the main thrust of
8 this witness. He also knows her reputation,
9 generally, he indicated.

10 THE COURT: And -- well, that's good, and I
11 think he may be able to testify, as to her
12 reputation, eventually, but it's my
13 understanding there was some portion of his
14 testimony would be that she intended -- or she
15 and Mr. McLendon intended to rob Mr. Sanders.

16 MR. PAULK: That's correct.

17 THE COURT: And I don't believe -- I would
18 have to look back at my notes, but I don't
19 believe you ever asked her the specific question
20 during her -- or during your cross, as to
21 whether or not she intended to rob Mr. Sanders.
22 And I believe that would be required, as far as
23 the foundation is concerned to get the
24 statement, as I read 613B.

25 You know, if you -- if there's another --

1 and, certainly, her testimony in that regard
2 would be hearsay. If you have another hearsay
3 exception, or do you want to recall her? I
4 certainly don't want to do anything to hinder
5 your defense, but we've all got to play by the
6 rules.

7 MR. PAULK: Yes, Your Honor.

8 MS. JONES: Your Honor?

9 THE COURT: Yes, ma'am.

10 MS. JONES: If I may, I did put my
11 objection from the sidebar under 613B. I do not
12 think he's laid the foundation, as Your Honor
13 stated, just the plain reading of the rule.
14 Regarding the character evidence, I just want to
15 make sure that if Mr. Brownfield is allowed to
16 testify to Ms. Randall's reputation for
17 truthfulness or untruthfulness, that he can
18 establish that he knows that, based on the
19 community's opinion.

20 He can't just get up there and say his
21 personal opinion. And we have, in this case,
22 very specific State v. Grubbs, it can't just be
23 his opinion, it can't just be what one person
24 told him, it has to be based on the social group
25 opinion, or the business group opinion. And I

1 don't know if he can or can't do that, I just
2 want to make sure that that is satisfied before
3 he testifies in front of the jury.

4 THE COURT: Okay.

5 MR. PAULK: Your Honor, Mr. Brownfield,
6 personally, knows Ms. Randall. He personally
7 knows her character. He personally knows her
8 character for truthfulness.

9 He personally knows about her specific
10 instances of conduct even. Mr. Brownfield would
11 be able to testify, generally, to her
12 reputation. I believe that he would also be
13 able to testify to specific instances of
14 interactions that he has had with Ms. Randall.

15 THE COURT: But he would be -- would he be
16 able to testify, as to her character in the
17 community, as a whole?

18 MR. PAULK: I believe he would, Your Honor.

19 THE COURT: Then I think, based on the case
20 she cited, I think it's proper, just as long as
21 he does it in that manner.

22 MS. JONES: I just --

23 MR. PAULK: Sorry.

24 MS. JONES: I just want to make sure we
25 avoid just his personal opinion, which it sounds

1 like what the crux of his testimony will be.

2 MR. PAULK: Your Honor, the other issue
3 with this witness is, that he is represented
4 currently, and that his attorney is not here at
5 the moment. We're working to get his attorney
6 here to preserve any Fifth Amendment Rights that
7 he may have to the proceedings that are
8 currently against him.

9 THE COURT: Okay. Do we have anybody else
10 we can keep this train moving with?

11 MR. PAULK: Yes, Your Honor, the defense
12 would call Ms. Adrienne Johnson to the stand.

13 THE BAILIFF: The jury's entering the
14 courtroom, Your Honor.

15 THE COURT: Thank you, sir.

16 THE BAILIFF: The jury's seated, Your
17 Honor.

18 THE COURT: All right, call your next
19 witness, Mr. Paulk.

20 MR. PAULK: Your Honor, the State calls --
21 the defense calls Adrienne Johnson.

22 MS. JONES: Your Honor, may we approach?
23 My apologies.

24 THE COURT: Yes, ma'am.

25 (Bench conference.)

1 THE COURT: Go ahead and swear the witness.

2 * * *

3 ADRIANNE JOHNSON

4 * * *

5 being first duly sworn, testified as
6 follows:

7 DIRECT EXAMINATION

8 BY MR. PAULK:

9 Q. Ms. Johnson, do you mind sitting back
10 down, just so the jury can see you and we're
11 clear?

12 A. Okay.

13 Q. Thank you.

14 A. Uh-huh.

15 Q. How do you know Mr. Delmar Sanders?

16 A. He's my son.

17 Q. Did Mr. Sanders go to your house on the
18 night of July 22nd?

19 A. Yes.

20 Q. Why was he at your house on July 22nd?

21 A. He asked if he could come and take a
22 shower.

23 Q. Was he living with you at this time?

24 A. No, sir.

25 Q. Where was he living?

1 A. I'm not sure.

2 Q. Okay. Did Mr. Sanders come over and
3 take a shower?

4 A. Yes, sir.

5 Q. Do you recall about what time that was?

6 A. Sometime after 6:00 p.m.

7 Q. Do you know where Mr. Sanders had come
8 from?

9 A. I don't recall him saying where he came
10 from, he was at Walterboro here.

11 Q. Okay.

12 A. He may have just gotten off of work.

13 Q. Okay. Do you recall about how long Mr.
14 Sanders stayed at your house?

15 A. Several hours.

16 Q. Do you know if Mr. Sanders slept while
17 he was at your house?

18 A. He probably did take a nap.

19 Q. Okay. And why did Mr. Sanders leave
20 your house?

21 A. He wanted to go get some cigarettes.

22 Q. Okay. Did you give Mr. Sanders any
23 money for cigarettes?

24 A. No, sir.

25 Q. And you told him that you weren't gonna

1 give him any money for cigarettes?

2 A. I didn't have any money to give him.

3 Q. That's okay. Cigarettes are a bad
4 habit, aren't they?

5 A. Yes.

6 Q. Do you recall about what time it was
7 when Delmar left your house?

8 A. Sometime after 10:00 maybe, p.m.

9 Q. Okay.

10 MR. PAULK: Your Honor, that's all the
11 questions that I have.

12 THE COURT: Do you have any questions?

13 MS. JONES: I have no questions for Ms.
14 Johnson.

15 THE COURT: Now, Ms. Johnson, you are
16 excused.

17 WITNESS: Thank you.

18 THE COURT: Is she released from her
19 subpoena?

20 MR. PAULK: Yes, Your Honor, and may she be
21 released from the sequestration order?

22 THE COURT: Yes, sir. Yes, you can stay in
23 the courtroom now.

24 MR. PAULK: Your Honor, may we approach?

25 THE COURT: Okay.

1 (Bench conference.)

2 MR. PAULK: Your Honor, the defense next
3 calls Corporal Garcia from the Beaufort County
4 Sheriff's Office.

5 THE COURT: Not the witness we just
6 discussed?

7 MR. PAULK: Correct. Your Honor, I've been
8 informed that Mr. Garcia is on telephone
9 standby. The defense will next call Mr. Delmar
10 Sanders.

11 * * *

12 DELMAR SANDERS

13 * * *

14 being first duly sworn, testified as
15 follows:

16 DIRECT EXAMINATION

17 Q. Good morning, Mr. Sanders.

18 A. Good morning.

19 Q. How long have you been a resident of
20 Beaufort County?

21 A. For about ten years.

22 Q. Okay. And at the time of this
23 incident, where were you -- were you working?

24 A. I was working.

25 Q. Where were you working at?

1 A. I was working at All Works --
2 LowCountry All Works.

3 Q. What kind of work did you do at
4 LowCountry All Works?

5 A. I climb trees and I cut them down.

6 Q. Okay. How long have you been working
7 at LowCountry All Works?

8 A. Roughly, under a year.

9 Q. Okay. Where did you work before that?

10 A. I worked at a tree company in North
11 Carolina called Monster Tree Service.

12 Q. Okay. Have you always climbed -- how
13 long have you been climbing trees?

14 A. I've been climbing trees for about two
15 years, but I've been doing tree work for about
16 13 years.

17 Q. Okay. On the day of July 22nd did you
18 go to work that day?

19 A. The 23rd?

20 Q. July 22nd would be the day before this
21 incident happened.

22 A. Right, right, and I went to work, yes.

23 Q. Okay. Do you recall where you working
24 at that day?

25 A. Yes. I'm not sure where I was working

1 at, but I was working for All Works.

2 Q. Okay.

3 THE BAILIFF: The jury's having problems
4 hearing.

5 MR. PAULK: Okay.

6 BY MR. PAULK:

7 Q. Hey, Delmar, let's just speak up a
8 little bit, so everybody can hear you. That
9 microphone's not working, man. I'm gonna come
10 this way, so that you're facing them.

11 A. Okay.

12 Q. That way they can hear you a little it
13 better. So you were working for LowCountry All
14 Works on --

15 A. Yes, sir.

16 Q. -- July 22nd?

17 A. Yes, sir.

18 Q. What time did you usually have to get
19 to work in the morning?

20 A. About 5:30, 6 o'clock.

21 Q. And was there a general time that you
22 finished up in the evenings?

23 A. Sometimes we finished late, sometimes
24 we finished early.

25 Q. Do you recall what time you finished on

1 that day?

2 A. I think it was about 5:30. About 5:30,
3 yeah.

4 Q. Okay. And after you finished working,
5 where did you go?

6 A. I called my mom, asked her, "Can I come
7 take a shower?"

8 Q. Why did you call your mom to ask if you
9 could take a shower?

10 A. Well, I didn't have any money at the
11 time to get a hotel, so -- and I was currently
12 staying out of my truck, so I called, you know,
13 the next reasonable person that, you know, my
14 mom, I know she'll let me come in and take a
15 shower.

16 Q. Okay. Did you do anything else while
17 you were at your mom's house?

18 A. Yeah, I showered, grabbed something out
19 of the refrigerator, ate it and I took a nap.

20 Q. Okay. Did you ask your mom if you
21 could have some money for cigarettes?

22 A. I did.

23 Q. And why were you asking her for money
24 for cigarettes?

25 A. Because I -- when -- once I -- when I

1 woke up I wanted a cigarette, and I didn't have
2 any money to buy it, because I was waiting on my
3 direct deposit, which would be at, roughly,
4 maybe 12:00 or -- or that morning. I didn't
5 have any money, so I asked her if she could
6 spare some change to buy me a pack of
7 cigarettes.

8 Q. Okay. And did she give you that money?

9 A. She did not.

10 Q. When she didn't give you the money for
11 cigarettes, what did you do?

12 A. I told her that I was going to
13 bootlegger to get some cigarettes. I had some
14 quarters in my change drawer, and I used those
15 to pick up the cigarettes.

16 Q. Okay. Can you just speak up a little
17 bit. I think the Court Reporter's having a
18 little trouble hearing you, let's --

19 A. Okay.

20 Q. Let's be nice and loud, there's nothing
21 scary about it, okay?

22 A. Yes -- yes, sir.

23 Q. Okay. So the bootlegger, I believe
24 that whenever you were talking with
25 Investigators Tunis and Duncan, you told them it

1 was a family member's house that you --

2 A. Yes.

3 Q. -- went to get cigarettes?

4 A. Yes.

5 Q. Was this bootlegger run by a family
6 member of yours?

7 A. It was.

8 Q. And just for the jury's edification
9 purposes, could you explain what a bootlegger
10 is?

11 A. A bootlegger is a place after hours you
12 can go to get roughly whatever you need that a
13 store sells, and if the store's closed you can
14 go there and, you know, you might want a
15 cigarette, you might want a juice, you might
16 want some water. The bootlegger buys all that
17 for you, if the store's closed, or if you don't
18 have enough money at the store, you know.

19 Q. Sir, you were going to buy like a
20 single cigarette?

21 A. I was gonna buy a couple.

22 Q. Okay.

23 A. They're 50 cent a piece, so if I had a
24 dollar, I could buy two.

25 Q. Okay. What happened while you were at

1 the bootlegger?

2 A. While I was at the bootlegger I was
3 accompanied by a lot of people outside, a meet
4 and greet, hello, how you doing? Saw my cousin
5 there, he asked for a ride.

6 Q. And who is your cousin?

7 A. Donne McLendon.

8 Q. Okay. You can go on, you said he asked
9 for a ride?

10 A. He asked for a ride, I told him, "No, I
11 have to be at work," and, you know, he, you know
12 kept saying, "I need a ride, I need a ride." I
13 ignored everything, I went about my duties and
14 went inside the house to get a cigarette.

15 Q. Okay. After you got your cigarette
16 from inside of the house, what happened?

17 A. I came out of the house, and he was
18 seated in my truck.

19 Q. Okay. What did you do?

20 A. When I told him, I'm like, "Hey, I
21 already told you we're not going anywhere, you
22 know, get out of my truck, you know, let's go."
23 And, you know, that's when my cousin came out,
24 and was like -- he wanted me to go get some
25 stuff from the store.

1 Q. Was this your cousin that owned the
2 bootlegger?

3 A. That's the manager --

4 Q. Who ran the bootlegger?

5 A. Yes.

6 Q. Now, what did your cousin -- what were
7 you supposed to get?

8 A. I was supposed to get two packs of
9 cigarettes for me, and I was supposed to get a
10 case of -- a 24-case of Heineken and some
11 cigars.

12 Q. Okay.

13 A. That he can sell however he wanted to.

14 Q. Okay. And did you do that?

15 A. I did that.

16 Q. Did anybody go with you to do that?

17 A. Yes. So being that I did that, and my
18 cousin wanted to ride, I said, "Okay, well,
19 since you want to ride, this is gonna be your
20 ride." He got in the car with me and we went to
21 the store.

22 Q. What store did you go to?

23 A. I went to -- they call it -- street
24 call it Smokers, but it's the Circle K right
25 next to T. J. Maxx.

1 Q. Okay, but the people that you were
2 hanging out with refer to it as Smokers?

3 A. Yes.

4 Q. Okay. About how long were you at
5 Smokers?

6 A. Maybe ten, 15 minutes, maybe.

7 Q. Okay. After you got these items from
8 Smokers, what did you do?

9 A. I went to the truck, got inside the
10 truck, we was on the phone. Got phones like in
11 the truck, and we left.

12 Q. And where'd you go?

13 A. We went back to -- I had to take the
14 beer and stuff back to the bootleggers, my
15 cousin.

16 Q. Okay. So what happened when you got
17 back to the bootleggers?

18 A. When I got back to the bootleggers I
19 gave him the beer and everything. He was still
20 seated in my truck when I went in, when I came
21 back out him and my cousin, the bootlegger, the
22 actual bootlegger, because when I went in the
23 bootlegger, he wasn't in there, so I just set
24 the stuff down.

25 When I came out he was accompanied with

1 Deonne, and he was at my hood. My hood was
2 popped. And I asked him, you know, I'm thinking
3 to myself, like I don't need no maintenance done
4 on my truck, so why is my hood popped?

5 Q. Can you just speak up just a little
6 bit. I see the Court Reporter looking at you,
7 having a little bit of trouble hearing all that.

8 A. Okay.

9 COURT REPORTER: And speak slower, please.

10 WITNESS: Slower? Yes, ma'am.

11 COURT REPORTER: Yes, sir.

12 BY WITNESS:

13 A. We come out and --

14 Q. So you came out of the bootlegger, and
15 your hood's popped?

16 A. Yes.

17 Q. Why was your hood popped?

18 A. They said that they were placing the
19 gun there, just in case we got pulled over. And
20 then if they got pulled over, the police
21 wouldn't find the gun in the car.

22 Q. Were you planning on going anywhere
23 else?

24 A. I was not going to go anywhere else but
25 home after I got my cigarette.

1 Q. So why were they popping the hood of
2 your car, and putting a gun underneath it?

3 A. I'm not sure. I guess they just
4 figured --

5 MS. JONES: Objection, speculation, Your
6 Honor.

7 THE COURT: Sustained.

8 MR. PAULK: Okay.

9 BY MR. PAULK:

10 Q. What did you do when you saw that your
11 hood was popped, and they were trying to put a
12 gun in there.

13 A. I went and I questioned them, like,
14 "Why is my hood popped? Like my car's fine."
15 So I figured they can't be working on it.

16 Q. Okay. What happened next?

17 A. Well, I looked under the hood, and the
18 bootlegger and my cousin he wanted Deonne to go
19 get him something from another place.

20 Q. Do you know what he wanted --

21 A. Not at the time, but I'm pretty sure --

22 Q. So let's just -- what happened next?

23 A. What happened next? We drove there, we
24 got there, there was a bunch of traffic coming
25 in and out. I went to park --

1 Q. Now, hold on, let's clarify some
2 things. You went somewhere, where did you go?

3 A. Went to Cleveland Drive.

4 Q. Okay, and what did you do when you got
5 to Cleveland Drive?

6 A. We got to Cleveland Drive, I went and I
7 parked. There was a bunch of cars coming in and
8 out Tinsley, and I parked.

9 Q. Okay. Why did you take your cousin to
10 Cleveland Drive?

11 A. Because the bootlegger, my other
12 cousin, he wanted Deonne to purchase something
13 for him.

14 Q. Okay. So you didn't take Deonne to
15 this person's house because you wanted to?

16 A. No.

17 Q. So you get to this person's house and
18 pick up something for Deonne, and let's pick up
19 there. You were describing kind of what was
20 going on.

21 A. When we got there, the first question
22 he asked me was, "Am I strapped?" Meaning, do I
23 have a gun?

24 Q. Can you just speak up a little bit?

25 A. First thing he asked me was, am I

1 strapped, meaning do I have a gun? I told him,
2 "No."

3 As soon as I told him no, he got out of the
4 car, and went for whatever he had to do for him.

5 Q. What did you do?

6 A. Stayed in the car.

7 Q. About how long were you waiting in the
8 car?

9 A. Maybe 30, 45 minutes.

10 Q. Why didn't you just leave then, if you
11 wanted to go home?

12 A. Because I was -- well, the reason why I
13 didn't leave, because I wasn't going, I was
14 blocked in. There was cars coming back and
15 forth. Cars was already parked behind me by
16 then, so I couldn't leave, I wasn't gonna walk
17 away.

18 Q. You weren't gonna leave your car there?

19 A. No, of course not.

20 Q. You were living out of your car?

21 A. Yes.

22 Q. But when you say that you wanted to go
23 home, where were you gonna go?

24 A. I was gonna go somewhere and park, or
25 either go back to my mother's house.

1 Q. So then what happens?

2 A. So then, you know, time went by, 9
3 o'clock, I'm looking at my watch, you know, I
4 got out of the car, and I went to go check on
5 him. I take my phone with me just in case, you
6 never know. Took my phone with me, go over
7 there. There's a lot of people outside, meet
8 and greet, again, I knew a couple people. Then
9 that's when he came out of the house.

10 Q. And then what happened?

11 A. He had something tucked into his pants,
12 and when we left he said he wanted to go pick up
13 two girls. He said one was a white girl and he
14 didn't describe the other girl. So I remember
15 the white girl being -- he was saying -- calling
16 her Lacey.

17 Q. Okay. So did you want to go with him
18 to go pick up these girls?

19 A. I didn't want to go with him, but, you
20 know, we was already out, and I already knew
21 what was gonna happen. He's like one thing
22 after another, one thing after another, one
23 thing after another.

24 Q. What do you mean by that?

25 A. By he's just saying he wants to do

1 this, and I say, "Okay, we'll do that," and
2 that's it, and then he wants to do something
3 else. "So, okay, we'll do that, and that's it,"
4 and he wants to do something else.

5 Q. Why were you driving him around?

6 A. Well, it's my vehicle, he asked me for
7 a ride. I don't give him one, but then my
8 cousin he actually told him to go get something,
9 and I was the ride.

10 And my cousin was actually accompanying him
11 putting something in my hood.

12 Q. Do you know if Deonne had a driver's
13 license?

14 A. I don't think he did.

15 Q. So somebody had to drive?

16 A. Yes.

17 Q. Because he wasn't supposed to drive?

18 A. No.

19 Q. So after he comes out of the house, and
20 asks do you want to go pick up these girls, what
21 happens?

22 A. We left to go. We finally got someone
23 to move one of their cars from behind me and we
24 left, and that's when we got to the downtown
25 area.

1 Q. About where downtown did you go?

2 A. Somewhere by the DSS Office.

3 Q. Okay.

4 COURT REPORTER: I'm sorry, say it again?

5 BY WITNESS:

6 A. Somewhere by the DSS Office.

7 Q. Do you know what street the DSS Office
8 is located on?

9 A. I do not. I know it's between Duke and
10 whatever other street they have.

11 Q. Okay. So what'd you do when you got
12 there?

13 A. We got there, we maybe sat for maybe 30
14 seconds. A girl comes out -- and just one girl,
15 so then she got in the car, you know. I told
16 her to sit on the side, I didn't want her to sit
17 behind me, and I wait for a minute, I wait for a
18 minute, I'm thinking another girl's gonna come
19 out. They're like, "What are you waiting for?"
20 I was like, "Where's the other girl?" She's
21 like, "Oh, it's just me."

22 Q. And let's slow down much a little bit,
23 so the Court Reporter can --

24 A. Yes.

25 Q. -- keep typing. You can continue on

1 though. So you said that you were waiting for
2 the second girl to come out?

3 A. Right. And they said that nobody else
4 was coming out, and I questioned them, I said,
5 "Where's the other girl?"

6 Q. Did you think that was weird?

7 A. I did think it was weird, because I
8 mean two guys, two girls, I figured that would
9 be balanced.

10 Q. So you weren't interested in hanging
11 out with two guys and one girl, were you?

12 A. Not at all.

13 Q. So what happened next?

14 A. We drove -- they said -- she said that
15 she wanted to go to the hotel, Oasis Inn, that's
16 the old Atlantic Inn.

17 COURT REPORTER: The old what?

18 BY WITNESS:

19 A. Atlantic Inn.

20 Q. Did you want to take them there?

21 A. I didn't, but she was already in the
22 car, so I figured just go ahead and go -- to go
23 there, drop her off, whatever he had to do.

24 Q. Were you planning on continuing to hang
25 out with --

1 A. I was not.

2 Q. What did you think was gonna happen,
3 whenever you got to the hotel?

4 A. I thought -- really I thought that they
5 were just gonna go in there and I was gonna,
6 basically, drop them off; but once I got there,
7 they -- he's like, "Wait, wait for it, like, I'm
8 about to go." You know what I mean, it's only
9 one girl, and that's your destination. This is
10 your destination, this is where you wanted to
11 go, so you're here.

12 Q. Did you ever go into the hotel room?

13 A. Never went into the hotel.

14 Q. So what happened next?

15 A. So I was -- the video being shown of
16 what was going on, when we first pulled up and
17 she got out to go, the discussion we was having
18 there was that, you know, like, "Where's the
19 other girl?

20 I'm not about to come in there," and all
21 this stuff here. So that's when he got out, and
22 he went in there. She came back out like two
23 minutes later, and tried to open my door, it was
24 locked. I rolled my window down a little bit,
25 and she's just like, "Hey, open the door," so I

1 opened the door. She standing in the door,
2 "Hey, come on in, hey, do this, we -- you don't
3 have to do this, and come on in." I'm like,
4 "No, no, I'm checking my balance, I'm about to
5 get some cash and gas and cigarettes."

6 Q. Slow down just a little bit, buddy.

7 A. "I need gas, I need cigarettes,
8 checking my balance, and my money should be here
9 shortly."

10 Q. Okay. Delmar, you're referencing the
11 events that happened at the Oasis hotel. Would
12 it be helpful for your testimony, if we played
13 that surveillance video that was --

14 A. That would be helpful, yes.

15 Q. -- was published that was admitted into
16 evidence?

17 A. Yes, that will be helpful.

18 MR. PAULK: Your Honor, permission to
19 publish to the jury the surveillance footage
20 from the Oasis Inn that's been entered into
21 evidence?

22 THE COURT: Yes, sir.

23 MR. PAULK: One moment of the Court's
24 indulgence, Your Honor.

25 THE COURT: Sure.

1 MR. PAULK: My apologies, Your Honor.

2 THE COURT: No problem. While you're
3 working on those technical issues, ladies and
4 gentlemen, there was one of you today I think
5 that needed to leave by 5:00; is that correct?

6 THE JUROR: I'm okay now.

7 THE COURT: Okay, very good. I just wanted
8 to make sure we accommodated you.

9 (Video being played for jury.)

10 BY MR. PAULK:

11 Q. Hey, Delmar, the video that's being
12 shown is the Oasis parking lot. Now, what's
13 that car coming in the parking lot right there?

14 A. That is my truck.

15 Q. Speak up.

16 A. That is my truck.

17 Q. So what's going on right now inside the
18 car, Delmar?

19 A. We're all just talking.

20 Q. What are you'all talking about?

21 A. Well, I'm waiting for her to get out of
22 the car, she's supposed to be getting out of the
23 car, but I was -- we was just talking about just
24 numerous things.

25 Q. Okay. So we just see that back

1 passenger door open. Who is that getting out of
2 the back passenger door?

3 A. That is Rhonda getting out.

4 Q. And real quick, had you ever met Rhonda
5 before this night?

6 A. Never met her.

7 Q. And so now who's this getting out of
8 the car?

9 A. That is Deonne McLendon getting out.

10 Q. And did you'all talk about anything
11 after Rhonda got out of the car?

12 A. Yeah, I was asking him, "What's up with
13 the other girl?" He told me, he was like, "Hey,
14 don't worry about all that."

15 MS. JONES: Objection, that's hearsay, Your
16 Honor.

17 THE COURT: Sustained.

18 BY MR. PAULK:

19 Q. Now, Mr. Sanders, I see that your car
20 door's open right now, but you say that you
21 didn't go into the hotel room, correct?

22 A. I did not.

23 Q. So why did you open your car door?

24 A. To make it seem like I was getting out,
25 because he wanted me to get out, and I just

1 stepped out and just stretched, as if I was
2 going in, but I went back -- as soon as I
3 decided, I went back in and closed my door.

4 Q. Why did you decide to stay in the car?

5 A. I didn't trust what was going on. I
6 didn't understand what was going on. Nothing
7 was making sense.

8 Q. What do you mean?

9 A. Nothing was making sense. There was no
10 other girl, you know, there -- just a bunch of
11 stuff wasn't making sense.

12 Q. So you didn't want to go into a hotel
13 room with two girls and one dude, right?

14 A. I didn't want to go in with one dude
15 and one girl.

16 Q. So what are you doing now, as you're
17 sitting in the car?

18 A. Checking my balance.

19 Q. And how are you checking your balance?

20 A. On my phone.

21 Q. And what are you waiting on to happen
22 for --

23 A. I'm waiting for my account to say that
24 I have money in it, so that way I can go get gas
25 and get cigarettes, and I can return to either

1 my mother's house, or I can just go somewhere to
2 sleep, until I can go to go work the next
3 morning.

4 Q. Okay.

5 MS. JONES: Speak up --

6 BY MR. PAULK:

7 Q. Yeah, can we --

8 MS. JONES: -- I can barely hear him.

9 WITNESS: Yes, ma'am.

10 BY MR. PAULK:

11 Q. So could you repeat that and just speak
12 up a little bit?

13 A. I was waiting -- I was sitting -- I was
14 checking my balance, waiting for money to come
15 in. And while I'm waiting, she's there.

16 Q. So what's happening right now?

17 A. She's coming out of the hotel room.
18 You can see --

19 Q. And --

20 A. You see she tried to pull my door, it
21 was locked, and that's when I opened the door
22 for her.

23 Q. So she first pulls on the door, and you
24 can see that it's --

25 A. Yes.

1 Q. -- locked, but then you unlock it?

2 A. Yes.

3 Q. And was she trying to get you to come
4 into the hotel room?

5 A. She was trying to get me to come in,
6 and I told her, "No," so I'm checking my
7 balance, once I get my money I'm gonna go and
8 I'm gonna go home."

9 Q. So why didn't you just leave?

10 A. I didn't want to leave my cousin there,
11 and he had told me to wait. I didn't want to
12 leave him stranded, but I knew what he told me
13 at first, that he was gonna go, and he was gonna
14 do his thing, and that's it, but I told him,
15 eventually, I was gonna leave.

16 Q. So after Ms. Randall comes out and
17 attempts to get you to come into the hotel room,
18 what are you thinking?

19 A. I'm thinking like what is going on?
20 Like what --

21 Q. Speak up a little bit, Delmar.

22 A. I'm thinking what is going on? Why do
23 I have to be there? It's already -- she's
24 already has her friend, who she claims is her
25 lover. She already has -- like they're already

1 at the hotel, that's a setting for intimacy,
2 when you have a lover.

3 So I'm like, what do you need me for? What
4 do you need me for? I'm the -- I'm just the
5 Uber, or whatever. What do you need me for?
6 I'm here, so I'm gonna check my balance, and I'm
7 gonna get my money, and I'm gonna buy my things
8 and I'm gonna go.

9 Q. So we noted just a second ago that Ms.
10 Randall came out of the hotel room shortly after
11 they went into the hotel room.

12 A. Right, and I don't know her, why would
13 she come out? I don't know her. I guess maybe
14 she thinks she was gonna try to seduce me, it
15 wasn't gonna work. I wasn't going in there.

16 Q. On the night of this incident, did you
17 know that Ms. Randall was a prostitute?

18 A. I did not know.

19 Q. Knowing that, does it seem like she was
20 trying to get her to use her services?

21 A. Yes.

22 Q. Can you speak up?

23 A. Yes.

24 Q. But you weren't interested, were you?

25 A. No, sir.

1 Q. So had you checked your balance at this
2 point?

3 A. I did.

4 Q. And had your direct deposit hit?

5 A. Yes.

6 Q. Why didn't you leave then?

7 A. Waiting to see what my cousin was gonna
8 do. I didn't care nothing about what she had
9 going on. I'll take my cousin back home, let --
10 make sure he's home safe, and that's it. This
11 is her hotel, she stays there, and I made that
12 clear.

13 Q. Was Deonne living at that hotel?

14 A. I don't think so.

15 Q. Where did Deonne live?

16 A. He stayed on Glaze Drive, the same
17 street as the bootlegger.

18 COURT REPORTER: I'm sorry, he lived on
19 which Drive?

20 THE WITNESS: Glaze, as in glazed donut.

21 THE COURT REPORTER: Thank you.

22 BY MR. PAULK:

23 Q. So as you're waiting for them to come
24 out, what's going through your head? What are
25 you thinking?

1 A. I'm thinking I should just run across
2 the street just to Enmarket, which is directly
3 next door. Should I -- let me just go over
4 there and get gas, come back, maybe they'll be
5 done with whatever they're doing.

6 That's what I'm thinking at this time. But
7 I'm also thinking, if I leave, and he's gonna be
8 fricking pissed. Like we went through all of
9 that, so I'm like, okay, might as well wait for
10 him.

11 Q. Did you think it was odd that they
12 wanted you to come into the hotel room?

13 A. Yes, very odd.

14 Q. Why did you think that was odd?

15 A. Because they're already intimate
16 lovers, why do I have to come in? What are we
17 going to do? Like, you know --

18 Q. Okay.

19 A. -- an intimate lover, like do you want
20 another guy to indulge in that? That's kind of
21 weird.

22 Q. So, Delmar, while -- after you picked
23 up Deonne, while we're waiting on the rest of
24 this video, after you picked up Deonne, did
25 you'all use any drugs that night?

1 A. We did.

2 Q. What drugs were you'all using?

3 A. Cocaine.

4 Q. Did you see Deonne use drugs?

5 A. I did.

6 Q. What did you see him do?

7 A. Sniff cocaine out of a dollar bill.

8 Q. Once?

9 A. Uh-uh.

10 Q. More than once?

11 A. More than once.

12 Q. Do you know how many times?

13 A. A pleather of times.

14 Q. Did you have the cocaine when you went

15 to the bootlegger that night?

16 A. I did not have any cocaine.

17 Q. Who had the cocaine?

18 A. He had the cocaine.

19 Q. Did he offer you cocaine?

20 A. He did.

21 Q. And did you accept?

22 A. I did accept.

23 Q. How much cocaine did you use the night

24 of this incident, Delmar?

25 A. Maybe three or four bumps of it.

1 Q. So for the folks -- what's happening
2 right now?

3 A. He came, he beat her to the door, so I
4 opened the door for him. I didn't open the door
5 for her. My doors were locked. You can see
6 that she clearly by pulling the back door, she
7 can't go, so now she goes around. And I'm
8 talking to him, I'm like, "Hey, what's going on?
9 I don't know what's going on? I don't know
10 what's you got going on, but you need to come on
11 and get in the car --

12 COURT REPORTER: Slow down.

13 BY MR. PAULK:

14 Q. Yeah, let's pause the video. We'll
15 pause the video and walk through this real slow.
16 Okay, so here do you see Deonne and Rhonda
17 walking to your car?

18 A. Yes.

19 Q. Do you know why they were both coming
20 to your car?

21 A. I have no idea.

22 Q. So who gets to your car first?

23 A. Deonne gets to my car first.

24 Q. And was his door locked, when he first
25 got there?

1 A. It was, and I unlocked it with my hand,
2 without the automatic mechanism.

3 Q. You didn't use the power lock?

4 A. I did not, because that would have
5 unlocked all the doors.

6 Q. Why did you decide to unlock Deonne's
7 door?

8 A. That way he can -- we can talk. I can
9 talk to him about what's going on. I don't know
10 her. I don't know what's going on.

11 Q. But you did unlock Deonne's door?

12 A. I did unlock Deonne's door with my
13 hand.

14 Q. So now we see Ms. Randall at the back
15 driver's side.

16 A. Yes.

17 Q. And --

18 A. That wasn't even where she was seated
19 the first time.

20 Q. So did she just pull on that door
21 handle?

22 A. She did, and it was locked.

23 Q. And were the rest of your doors locked?

24 A. The rest of them was locked.

25 Q. Okay. And you never used the power

1 lock to let her in the car?

2 A. Never.

3 Q. How did that back door get unlocked for
4 her to get in?

5 A. Deonne unlocked it for her with his
6 hand. He reached in, he grabbed it and unlocked
7 it.

8 Q. Did you want Ms. Randall to get into
9 your car?

10 A. I did not. She just gets in and just
11 sits down like -- right here I'm explaining to
12 them that I'm going to the ATM, and this was my
13 escape route. This was my reason to get away
14 from them, because I noticed that there are some
15 things that are going on.

16 So I'm basically lying to them, saying I'm
17 going to the ATM to get more, I know that what
18 they wanted, so I'm lying to them, telling them
19 I'm going to get more drugs. That was my escape
20 route. I was going to leave them there.

21 Q. Were you all out of drugs at this
22 point, Delmar?

23 A. They were not out of drugs.

24 Q. How do you know they weren't out of
25 drugs?

1 A. Because he's -- he had plenty bags of
2 drugs.

3 Q. He had plenty of bags of drugs?

4 A. Yeah, he had marijuana, he had cocaine,
5 and I don't know what she had.

6 Q. Okay. When did you use the drugs? Was
7 it while you'all were driving around --

8 A. Yes.

9 Q. -- or was it while you'all were at the
10 bootlegger, or was it while you'all were at the
11 family men -- the other person's house?

12 A. I used it when we initially went to --
13 came from the other person's house on the way to
14 the --

15 Q. Slow down just a little bit, buddy.

16 A. I used it when we were initially at the
17 drug dealer's house, the second house that we
18 went to, before we got the girls, I used it on
19 the way there.

20 Q. Okay.

21 A. She'd never seen me doing drugs.

22 Q. You neve did drugs in front of Ms.
23 Randall?

24 A. No. No, sir.

25 Q. Okay. So now they're in the car, the

1 doors are shut, what are you telling them?

2 A. I am letting them know that I don't
3 agree with you guys' decision of disregarding my
4 decision to not let you guys go with me.

5 Q. You didn't want them to go with you to
6 the ATM?

7 A. I did not want them to go with me,
8 yeah.

9 Q. Why didn't you want them to go with you
10 to the ATM?

11 A. Well, I wasn't even going to the ATM,
12 that was just my way of getting away from them,
13 hoping that they was, oh, he's going to get more
14 drugs, let's just stay here and wait for him. I
15 was never gonna come back.

16 Q. Slow down just a little bit buddy.

17 So you had no intention of going to get
18 more drugs that night?

19 A. No intentions.

20 Q. You had no intention of going with them
21 to the ATM?

22 A. No intentions. That's why I never
23 stopped for an ATM.

24 Q. Why didn't -- if you had been going to
25 the ATM, why wouldn't you want them to go with

1 you?

2 A. Well, if I had to go to an ATM, I
3 wouldn't let nobody go with me, because now you
4 have the option to see my PIN number, you have
5 the option to see how much money I want to take
6 out, you have the option to see me get money in
7 my hand, crispy 20s, whatever, 50s, whatever.

8 Q. Why is that a bad thing?

9 A. It's a bad thing, because no one had
10 any money and everybody wanted drugs.

11 Q. Delmar, you're a working man, you climb
12 trees for a living, correct?

13 A. Yes.

14 Q. But are you familiar with the streets?

15 A. I'm a little familiar with them.

16 Q. Do people who are familiar with the
17 streets normally want people to go with them to
18 the ATM?

19 A. Not at all.

20 Q. Why is that?

21 A. It's a security risk.

22 Q. What does that mean?

23 A. It means that anything can happen.

24 Anything can happen. Now, I'll take my brother
25 with me, I'll take my mother with me, and my

1 sister. I wouldn't take my friend, you know
2 what I mean? I'll take my wife. I wouldn't
3 take my homeboy. I wouldn't take his people
4 with me, because that's --

5 Q. Is it because you would be afraid of
6 being robbed?

7 A. Of course.

8 Q. So after you'all get in the car and
9 start driving, what were you thinking?

10 A. I'm thinking everything I can be
11 thinking of when it comes to somebody hurting
12 you, robbing you, you're thinking all types of
13 stuff.

14 Q. Why were you --

15 A. I'm not --

16 Q. -- thinking that? Had they threatened
17 you?

18 A. They didn't threaten me. They didn't
19 threaten me, but they went against my will, what
20 I was trying -- I was like, "No, you can't ride
21 with me, no." They went in the room for three
22 or four minutes, came back out. It's like
23 what --

24 Q. Do you think that it was odd that went
25 in the room and --

1 A. Being intimate lovers in the hotel
2 room, and two of them go in there? Yes, if
3 they're gonna have sex or whatever, that takes a
4 little while. And I mean like --

5 Q. So you thought that it was a little
6 quick for them to go in there --

7 A. It was a little quick.

8 Q. -- and have relations?

9 A. That was a little quick, and it's also,
10 you know, kind of weird that she would come out,
11 try to get me to come in, like go do your thing.
12 Go do your thing, and if you need me to wait,
13 I'll wait and I'll take you guys back home, or
14 you can stay here, I'll take my cousin home,
15 whatever.

16 Q. Were you afraid that they were planning
17 something in the hotel room?

18 A. Yes.

19 Q. What were you afraid that they were
20 planning?

21 A. To hurt me, or rob me and take my
22 money, being that I just told them that I was
23 going to the ATM. And I told my cousin
24 beforehand that I was waiting on a direct
25 deposit.

1 Q. So then what was your plan, when you
2 started driving?

3 A. I didn't really have one. I was
4 thinking of one. I was -- I passed all the ATMs
5 on purpose. I was driving slow, I was thinking
6 I don't know what to do.

7 Q. Delmar, there's been some testimony
8 that you were swerving that night, that they
9 were scared of your driving? Could you explain
10 that?

11 A. Okay. I wasn't swerving. I swerved
12 maybe once or twice and looking back at Ms.
13 Randall, because something definitely dropped,
14 and I didn't know what it was, but it was heavy,
15 something definitely dropped.

16 Q. You just heard -- what did you hear?

17 A. On the floorboard a little hollow
18 sound.

19 Q. Did you ever see what dropped?

20 A. Never seen what dropped.

21 Q. After you heard something drop, what
22 happened?

23 A. Well I was just gonna asking if she'll
24 let -- "Oh, that's my phone, sorry." So I'm
25 like -- I thought about it, I'm like, hm, I

1 didn't even ask you.

2 Q. So you drive past all the ATMs, what
3 are you thinking?

4 A. I'm thinking, how do I get out of this
5 situation? How do I get out of this situation
6 the right way without yelling, screaming,
7 cursing and saying, "I'm gonna drop you off."

8 So I'm thinking about just going straight
9 to where he was at and just stopping. Like,
10 okay, yeah, this is your destination, that's
11 your girl, let's go.

12 Q. So then what happens?

13 A. I start driving, we get to the -- well,
14 as I was passing the ATM, "Hey, you passed all
15 the ATMs, you're passing all the ATMs." I'm
16 ignoring him, because I knew where I was going
17 then. I'm driving, we get up past a mobile home
18 trailer park, and that's actually when I heard
19 the thumb hit the ground. Well, let me get past
20 the mobile home trailer park.

21 Q. And what was the name of that trailer
22 park? Could you just say it a little --

23 A. Independence, sorry, Independence
24 Mobile Home Trailer Park.

25 Q. Okay. After you heard that thud on the

1 ground, what were you thinking?

2 A. That it could possibly be something.
3 It could be something, it was heavy. It could
4 be a hammer, it could be a rock, but it was
5 something.

6 Q. Okay.

7 A. My tools are in the back.

8 Q. What kind of tools did you have in the
9 car?

10 A. I had climbing gear -- I didn't have my
11 climbing gear at that time. I had like a
12 hammer, I had a drill, and stuff like that.

13 Q. Okay. Was pretty much everything you
14 owned in that car?

15 A. Pretty much.

16 Q. Did they ever ask to drive?

17 A. They did.

18 Q. What did you say?

19 A. I told them, "No, no one drives my
20 truck." No one had a license. Even if they did
21 have a license, you're still not driving this.
22 This is, basically, my mobile home. If you
23 wreck this, I have to pay for it.

24 Q. You didn't trust anybody else to drive
25 your car?

1 A. I didn't trust anybody to drive.

2 Q. Were there any other reasons that you
3 didn't want anybody else to drive your car?

4 A. Well, they could go wherever they want
5 to, and they can lead me into an ambush,
6 anything. They can drive --

7 Q. Why did you think that --

8 A. My life was in their hands, if they
9 drive my truck.

10 Q. Why did you think they were going to
11 lead you into an ambush?

12 A. There's a lot of red flags being thrown
13 throughout this time of being with them.

14 Q. Okay. Tell me about some of the red
15 flags.

16 A. Well, something dropping, okay, cool,
17 maybe it's nothing. "Oh, it's my phone," whoa,
18 I didn't ask you anything. I didn't ask you
19 what's going on. Okay, one red flag, you know.
20 You know, a long story short, and getting to the
21 gun part, you know, the gun being on the slat,
22 and --

23 Q. Oh, hold up. Let's --

24 A. Okay.

25 Q. -- slow down.

1 A. No problem.

2 Q. Let's take it --

3 A. Okay --

4 Q. We've got operations here.

5 A. Got you, no problem.

6 Q. We're gonna talk about the events and
7 the way that they happened.

8 A. Okay.

9 Q. Okay? So you passed the Independence
10 Mobile Home Trailer Park, and you hear a thump?

11 A. Yes.

12 Q. And Ms. Randall states that it's her
13 phone?

14 A. Right. A phone wouldn't sound like
15 that.

16 Q. Okay.

17 A. Unless you've got a really big phone,
18 maybe a tablet.

19 Q. When did they start asking to drive?

20 A. Once we got on Stanley Farm.

21 Q. Okay. And did you ever agree to let
22 anybody else drive?

23 A. Never.

24 Q. So what happened? Did you notice
25 anything else that was weird --

1 A. Yes.

2 Q. -- while you were driving?

3 A. Yes. I noticed that he was reaching
4 for something with his left hand like this.

5 Q. So can you kind of step down right here
6 in front of the jury? I just want them to be
7 able to see this.

8 BY MR. PAULK:

9 Q. Take a seat. You're Deonne. Show me
10 what he did. Now, obviously, in a car there's
11 no side on the seat right there.

12 Well, maybe -- let's turn you around so
13 you can face the jury. In a car there's,
14 obviously, no -- nothing right there on your
15 right-hand side, so what was he doing?

16 A. He was reaching for whatever. I mean I
17 assume you'd just go like this and get whatever
18 but like this. And it's wide, it was weird.

19 Q. So was he reaching towards the
20 backseat?

21 A. Yes. And, if not, reaching towards the
22 backseat, he was still reaching with the
23 opposite hand, which didn't make sense.

24 Q. Did you notice anything else weird?

25 A. Yeah, I noticed that, that she was

1 reaching with hers, so, you know --

2 Q. She was reaching forward with her hand?

3 A. Yes.

4 Q. At the same time that he was reaching
5 backwards with his hand?

6 A. Yes. Yes.

7 Q. And you saw that?

8 A. I saw that.

9 Q. You can go back to the witness stand
10 now.

11 BY MR. PAULK:

12 Q. What were you thinking at that point?

13 A. They're passing something, and I'm
14 thinking they're passing whatever dropped. You
15 don't pass drugs discretely like that. Every --
16 shoot, everybody knows just go like that, hey,
17 and --

18 Q. It was open, you'all were -- you and
19 Deonne were doing drugs in front of each other.

20 A. Yeah.

21 Q. You'all weren't hiding it.

22 A. But not in front of her.

23 Q. He wouldn't have been trying to hide --

24 A. He --

25 Q. He wasn't passing drugs.

1 A. He wasn't trying to hide it.

2 Q. So you thought they were trying to hide
3 something from you?

4 A. Yes.

5 Q. How'd that make you feel?

6 A. Scared as shit. It felt like I was,
7 potentially, in danger. And I tried to overrule
8 it, like, hey, wait, he's my cousin, hey, and
9 let's just see what goes on, let's see what goes
10 on.

11 And, you know, as I said, in the video what
12 put the icing on the cake was, I saw the gun.

13 Q. So after you noticed them trying to
14 discretely pass something from the back to the
15 front, what happened?

16 A. That's when I -- that's when they
17 started asking me for the -- that's when they
18 started asking to drive. And once they asked to
19 drive, I said, "No." I pulled over. I turned
20 on my dome lights. I can do it myself, I turn
21 it on, that's when I noticed --

22 Q. You turned on what now? I couldn't
23 quite hear you.

24 A. The dome lights.

25 Q. So what are the dome lights?

1 A. The dome lights are the lights in the
2 car.

3 Q. Like the ones up on the --

4 A. Yes.

5 Q. -- top?

6 A. Yes. Yes.

7 Q. Where were you at, whenever you turned
8 on the dome light?

9 A. I was in the driver's seat.

10 Q. Where was the car located?

11 A. The car was located on the shoulder of
12 the road at this time.

13 Q. So you'all had pulled over at this
14 point?

15 A. Yes.

16 Q. Why did you pull over?

17 A. Because they wanted to drive, and I
18 wanted to know what was going on. I wanted to
19 have a talk with them. "You're --

20 Q. So --

21 A. -- not driving my car."

22 Q. You didn't pull over to let anybody
23 drive?

24 A. No.

25 Q. Why'd you pull over?

1 A. I pulled over, so I can see what's
2 going on and talk to him.

3 Q. Okay.

4 A. Since I'm swerving, well, let me just
5 pull over.

6 Q. After you pulled the car over, and you
7 turned the dome lights on, what happens?

8 A. I see that the gun was on the slide,
9 his hand was placed on it, he wasn't pointing it
10 directly at me.

11 Q. Slow down, buddy.

12 A. I see the gun on his lap.

13 Q. Uh-huh, then what?

14 A. He wasn't pointing directly at me, but
15 the barrel was facing my way, and his hand was
16 pointed, and said let him drive.

17 Q. Okay. What did you say?

18 A. I said, "No." I said, "What's going
19 on? I thought that that was under the hood.
20 You said you put that under the hood."

21 Q. You actually saw them put it under the
22 hood? You saw them put a gun under the hood
23 earlier?

24 A. I didn't see them put a gun under the
25 hood, they told me that they were putting a gun

1 under the hood.

2 Q. And your hood was -- you did see your
3 hood popped?

4 A. Yes.

5 Q. So you had reason to believe that if
6 there was a gun, that it was under your hood?

7 A. Yes.

8 Q. Okay.

9 A. He never popped my hood at the -- when
10 he got out at Duke Street he never popped the
11 hood, and when we got to the hotel, he never
12 popped the hood clearly.

13 Q. Okay, we just saw the video though --

14 A. Right, right, right, right.

15 Q. -- so the hood was never popped.

16 What'd the gun look like?

17 A. It was small. Like, as I stated, it
18 would fit in your hand, and hang off maybe a
19 quarter of an inch off your hand, the barrel
20 part.

21 Q. So it'd almost fit in the palm of your
22 hand?

23 A. Yes.

24 Q. A small gun?

25 A. Yes.

1 Q. Small enough to fit inside a purse?

2 A. It should, yes.

3 Q. Small enough to fit inside a pocket?

4 A. Yes.

5 MS. JONES: Your Honor, leading.

6 THE COURT: Sustained.

7 BY MR. PAULK:

8 Q. How small was the gun?

9 A. The gun was the size of your hand,
10 hangs off maybe an inch or quarter inch off your
11 fingers, your middle finger. It wasn't a big
12 gun at all.

13 Q. Okay. Then what happened?

14 A. He got out the car. That made me get
15 out the car, and I was thinking at this time,
16 should I just run, get underneath the car?

17 No, no, I can't leave the car, I'll just
18 stay here. So he comes around, you know, the
19 gun's on the seat. So I'm like, okay, and then
20 she scoops up -- she's --

21 Q. Hold on, hold on, hold on. You said he
22 got out of the car, and then you got out of the
23 car?

24 A. Yes.

25 Q. Where was the gun when you got out of

1 the car?

2 A. The gun was on the seat.

3 Q. Which seat?

4 A. His passenger seat where he was seated.

5 Q. Okay. He gets out of the car, you get
6 out of the car, then what happens?

7 A. He walks around the front of the car.
8 I'm looking back at the gun, and when I -- while
9 looking back at the gun, I noticed that she
10 scooted up to --

11 Q. She who?

12 A. Rhonda. She scooted up, put both her
13 elbows on the seat, and was looking at the gun.

14 Q. Put both her elbows on what seat? I'm
15 a little unclear on what's going on here.

16 A. The driver's front seat and the
17 passenger's front seat, they're only half a foot
18 away from each other.

19 Q. Uh-huh.

20 A. You know, so she's able to rest both
21 her elbows on the seat.

22 Q. Okay. And so you saw her prop up in --

23 A. Yes.

24 Q. -- between the front seat --

25 A. Yes.

1 Q. -- and the backseat?

2 A. Yes. Her buttocks was maybe on the
3 edge of the backseat in the middle.

4 Q. Okay. So she was leaned up towards the
5 front --

6 A. Right.

7 Q. -- while you and Deonne were outside of
8 the car?

9 A. Yes.

10 Q. Was she within arm's each of the gun at
11 that point?

12 A. She was in arm's reach of the gun.

13 Q. Could you tell if she was looking at
14 the gun?

15 A. Yes.

16 Q. So what'd you see?

17 A. I'd seen her look at the gun, and maybe
18 get away. So now I'm -- I've got one foot out
19 while I'm sitting there, and I'm looking in
20 between them, I'm not even -- I'm not looking at
21 where --

22 Q. Hold on.

23 A. -- he's at --

24 Q. Slow down.

25 A. I'm not looking directly at him. I'm

1 not looking directly at her. I'm looking in
2 between them both. They're both in my
3 peripheral with the gun. Her and him are both
4 in my peripheral.

5 Q. Okay.

6 A. I could hear him speaking and demanding
7 that my driver -- that my seat is being changed
8 as the driver, which I'm telling him, "No,
9 you're not driving my car."

10 Q. Okay. Then what happens?

11 A. She says something, whatever, made him
12 come back around. Came back around to the car.

13 Q. Who came back around to the car?

14 A. Deonne.

15 Q. Which side of the car did he come back
16 around to?

17 A. He came back around to the passenger
18 side.

19 Q. What did he do when he came back around
20 the passenger side?

21 A. He was next to the gun placed --
22 basically, placed his hand on it. He didn't
23 grab it fully, he placed his hand on it, and
24 they were talking.

25 Q. Then what happened?

1 A. Whatever she said, and that's when I
2 snatched the gun from out of his grasp.

3 Q. What happened after you snatched the
4 gun?

5 A. He gets outraged and he starts coming
6 around. "Hey, man, you gonna let me drive? You
7 gonna do this, do this, do this," and all this,
8 and starts getting enraged, and just yelling and
9 screaming, cursing.

10 At this time I'm -- I don't know what to
11 think. I don't want -- I didn't want to hurt
12 anybody, but I know by me taking that weapon at
13 that moment, that I'm not gonna do anything with
14 it, but now nobody else is gonna do anything
15 with it. And I could have thrown it maybe,
16 hopefully, whatever, but I felt like my life was
17 in danger.

18 Q. When did you start feeling like your
19 life was in danger?

20 A. At the hotel.

21 Q. Did you feel like your life was in
22 danger when you saw that gun sitting in his lap?

23 A. Most definitely. Most definitely. I
24 wanted to continue to drive, because I was
25 thinking to myself, okay, he's not gonna shoot

1 me while I'm driving, because then we all die.
2 I was thinking all type of things, maybe I
3 should pick up speed. I was thinking of all
4 type of stuff. Maybe I can pick up speed.

5 Q. Were you trying to figure out how to
6 get away?

7 A. Yes, of course. Of course, I don't
8 want to get shot.

9 Q. What happens after you pick up the gun?

10 A. I have the gun in my hand. I'm
11 standing in between my door and the driver's
12 seat, and I'm letting them know, hey, I don't
13 know what you'all got going on, but it's not
14 gonna go down how you'all think it's gonna go
15 down.

16 He came, he was outraged, he was yelling,
17 cursing, screaming, saying, "No, man, you're
18 gonna let me drive, you're gonna let me drive."
19 I knew for a fact if he had taken that gun from
20 me, I probably would have been shot. And it's -
21 - right now it's two on one, female or not, this
22 is a two on one, I'm outnumbered. There was no
23 way I can win, unless I did what I did.

24 Q. And what'd you do?

25 A. As he got closer and he's demanding.

1 And I told him, "No," and he vigorously came at
2 me, that's when I fired.

3 Q. How many times did you fire?

4 A. I fired twice, but I was -- I pointed -
5 - I was pointing down, hopefully, not to hurt
6 him as much, and I really just wanted to scare
7 him. And once I'd seen him run away, I didn't
8 pursue him. I didn't keep shooting at him. I
9 thought, okay, I missed. Thank God I missed,
10 cool, he's gone. That's one problem eliminated,
11 he's running away.

12 And then I turned to Rhonda, "Hey, you need
13 to get out of my car. You need to get out of my
14 car." She's screaming, yelling, going through
15 her purse.

16 Q. It seems like a pretty tense situation,
17 did you say it that calm?

18 A. No.

19 Q. How'd you say it?

20 A. I was --

21 Q. Did you use some expletives?

22 A. Yes.

23 Q. Man, we're here to tell the truth, tell
24 me what happened.

25 A. Yes, I was screaming, and I was letting

1 her know, "Hey, you need to get out of the car
2 right, now, man, like this is -- I don't know
3 what you'all got going on."

4 Q. Did you tell her to get the fuck out of
5 the car?

6 A. Yes. Yes, I did.

7 Q. And did she?

8 A. She did not. She did not comply. She
9 was going through her purse, saying what she was
10 gonna do, and saying, "Wait, wait, wait."
11 That's when I fired a warning shot at her. She
12 was already hanging out of the car, and as you
13 can see, there was a hole in the middle of the
14 seat.

15 If she was seated fully in the car and that
16 -- with that hole being in the middle of the
17 seat, it would have hit her directly in her
18 chest. So there's to show right there that
19 where she was hanging out. So I guess her arm
20 was right there where that hole was, and so that
21 means that she's hanging out of the car.

22 And I -- definitely, I'm not trying to
23 point it at her until I raised it and I pointed
24 to the right and I shot, hopefully, and scaring
25 her, let her know, hey, this is -- I'm not

1 kidding right now, get out of my car.

2 What else can I do to tell you to get out
3 of my car? I'm not gonna go drag you out,
4 because then --

5 Q. Why did you feel threatened by Ms.
6 Randall?

7 A. Well, I mean she's -- they were both in
8 the hotel. I don't know what they were talking
9 about. I don't know what they was coming up
10 with.

11 Q. You testified just a second ago that
12 she was reaching for something in her purse.

13 A. Yeah, of course, of course.

14 Q. Is that why you felt threatened by Ms.
15 Randall?

16 A. That's another reason why I felt
17 threatened by Ms. Randall.

18 Q. That's one reason why you felt --

19 A. Yes.

20 Q. -- threatened?

21 A. Yes.

22 Q. So then what happens?

23 A. And I shot one shot at her to get out
24 of the car. I immediately knew that this was my
25 time to get away from both people. I didn't

1 pursue anybody. I didn't keep shooting at
2 anybody. I wasn't trying to kill anybody. I
3 wasn't trying to kill anybody, I was trying to
4 protect and preserve my property and my life.
5 And if I wouldn't have acted that way, I would
6 not be here talking to you guys today, I believe
7 that. I would not.

8 Q. What'd you do after that?

9 A. I drove away.

10 Q. Where'd you drive?

11 A. I couldn't find my phone, so I just
12 kept driving. I was discombobulated, I didn't
13 know what to think, where to go, I just kept
14 driving, kept driving. I ended up on 21, and
15 that's when I was like, "Okay, I've got to get
16 rid of this gun, now I can't have no gun."

17 Q. Why'd you have to get rid of the gun?

18 A. 'Because I'm not supposed to have a
19 gun.

20 Q. You're not supposed to have a gun?

21 A. I'm not supposed to have a gun. I
22 don't want to have anything to do with a gun.

23 Q. Have you been convicted of a felony
24 before, Delmar?

25 A. I have been convicted of a felony.

1 Q. And that's why you're not supposed to
2 have a gun?

3 A. Yes. Yes. And I know if I get caught
4 with that gun, that's -- because I've already
5 been told, that's a mandatory five years in
6 prison. I'm not trying to go to prison.

7 I have a good job, a good life. I'm
8 working to get a house. I'm sleeping in my
9 truck, whatever, that's just -- I can handle
10 that, as long as I'm working. I will eventually
11 make it to where I want to -- where I need to
12 be.

13 Q. So you throw the gun out of the car.
14 Where'd you throw the gun?

15 A. Threw it by -- I threw it by the Air
16 Station. There's a gate separating -- or going
17 around the whole Air Station, so it couldn't
18 make it into the -- and so I just threw it. I
19 rolled the passenger window down and flung it as
20 hard as I can.

21 And before doing that, I disarmed it, made
22 sure that whenever it drops it doesn't fire.
23 That's why I disarmed it.

24 Q. What do you mean you disarmed it?

25 A. I disarmed it. I took the clip out.

1 Q. Okay.

2 A. You know, and that way if it drops, it
3 don't go boom --

4 Q. Okay.

5 A. -- accidentally. That's why I took the
6 clip out, hoping that that's what would happen.
7 I don't know how many clips was in it though, I
8 don't know, but I just took it out.

9 Q. Had you ever seen that gun before that
10 night?

11 A. Never seen that gun before.

12 Q. So you're driving, you're driving down
13 21, what are you thinking?

14 A. I don't know what to think. I'm
15 thinking, okay, you know, he's my cousin, what's
16 the family gonna think? Like, you know, you
17 know, I didn't know what to think, I'm just
18 driving. I'm just driving.

19 I'm scared, I didn't know what to do. I'm
20 like, "Hey, I need to turn myself in, and I need
21 to call or go to the police, I need to tell
22 somebody."

23 Q. Okay.

24 A. I couldn't even find my phone at the
25 time. The phone was nowhere to be found.

1 Q. Did you turn yourself in, Delmar?

2 A. I turned myself in.

3 Q. Did you turn yourself in the next day?

4 A. Yes.

5 Q. Were you afraid to turn yourself in?

6 A. I was afraid to turn myself in, because
7 of, you know, what I had to go through, and
8 knowing that my life was --

9 Q. Did you think your life was over?

10 A. Yeah, I thought my life was over, or I
11 thought my life -- everything I worked for down
12 the drain over a freaking ride.

13 Q. Why did you think your life was over?

14 A. I mean I just -- I was just involved in
15 a situation, where I had to defend my life,
16 and --

17 Q. Well, if you were defending yourself,
18 why would you think your life was over?

19 A. Because I'm not supposed to have a gun,
20 and that's --

21 Q. You thought that since you weren't
22 supposed to have a gun, you couldn't defend
23 yourself?

24 A. Yeah, yeah.

25 Q. Because the courts told you that you

1 can't have a gun.

2 A. "You can't have a gun."

3 MS. JONES: Your Honor, he's leading again.

4 THE COURT: Rephrase, please.

5 MR. PAULK: Yes, Your Honor.

6 BY MR. PAULK:

7 Q. Why did you think your life was over?

8 Why did you think you had done the wrong thing?

9 A. Because I had a gun and I just shot
10 somebody. I didn't know that, you know --

11 Q. Did you go to law school, Delmar?

12 A. I didn't go to law school, but my
13 brother went to law school, and I learned a lot
14 from him.

15 Q. At the time of this incident, did you
16 know that you could arm yourself in self-
17 defense?

18 MS. JONES: Your Honor?

19 BY WITNESS:

20 A. I did not know that.

21 MS. JONES: Your Honor, first of all, this
22 is leading, and I think this is outside the
23 scope of this witness' ability to testify.

24 THE COURT: I'll agree that it's leading,
25 so that is sustained.

1 If you can rephrase the question.

2 MR. PAULK: Thank you, Your Honor.

3 THE COURT: And please don't ask him for a
4 legal conclusion, that's my job.

5 MR. PAULK: Yes, Your Honor.

6 BY MR. PAULK:

7 Q. Where'd you drive to?

8 A. I just kept driving. I didn't know
9 where I was going, and I didn't know where I was
10 gonna stop. I'd seen the sign that said,
11 "Welcome to Georgia," after a while, so I knew
12 that I was close to Georgia. And once I got
13 into Georgia, I stopped.

14 Q. When you turned yourself into Camden
15 County, you spoke with an officer there, didn't
16 you?

17 A. I did.

18 Q. And you turned yourself in?

19 A. I did.

20 Q. How long was it before you were brought
21 to Beaufort County?

22 A. Maybe a day or two, maybe. Maybe a day
23 or two, maybe.

24 Q. You're not really -- if you're not
25 sure, you can say you're not sure.

1 A. I'm not sure.

2 Q. Okay. Are you eventually brought back
3 to Beaufort County?

4 A. Yes.

5 Q. Did you agree to be brought back to
6 Beaufort County?

7 A. I did.

8 Q. What happened when you got back to
9 Beaufort County?

10 A. I got back to Beaufort County, met with
11 Investigator Tunis and his partner, Duncan, and
12 we went over the gun event.

13 Q. So during that interview you lied to
14 them at first?

15 A. I did. I did.

16 Q. Why'd you like to them?

17 A. I was scared, and I knew for the record
18 that it was gonna get out, eventually, and my
19 family would see it, and if they saw that story,
20 they would go, "Oh, okay, it's not him," and I
21 lied, I lied about it. Once they told me what
22 was going on, I confessed and told them the
23 truth.

24 Q. Delmar, you lied, so how are we
25 supposed to believe that you were telling the

1 truth the second time?

2 A. Just -- I don't know, I mean I was, you
3 know, trying to be as truthful as possible. I
4 was trying and I'm trying. The first time I
5 said it I was hoping that it didn't get out,
6 because I knew it was gonna get out. I knew it
7 was gonna get out. The rumors are gonna go
8 around, he did this, he did that, and I wanted
9 the rumor to go around that I didn't shoot him,
10 even though I was protecting myself.

11 I knew I was protecting myself, but I don't
12 know what the law is on this, so I'm thinking
13 I'm -- either way you put it, you're screwed.

14 Q. Why did you think you were screwed?

15 A. Well, for one, a gun was involved that
16 I'm not supposed to have. It wasn't my gun, it
17 was his, but I don't know the law on that, so
18 I'm --

19 Q. You didn't think that you were allowed
20 to defend yourself?

21 A. I didn't know. I didn't know. If I
22 was allowed to defend myself, it'd probably be
23 with my fists, but I know I wasn't supposed to
24 have a gun.

25 Q. Okay. Is that the reason why you lied?

1 Is that one of the reasons why you lied?

2 A. It is.

3 Q. So when you told the truth, had you
4 accepted your fate?

5 A. I did.

6 Q. What were you thinking when you told
7 the truth?

8 A. Well, I was asking, you know, Sergeant
9 Tunis, I'm like, "Am I going to spend life in
10 prison for this?" Like I accepted it, I'm like
11 -- and he was like, "No, you're not gonna spend
12 life in prison, you're good. I just want to
13 make sure, tell us this, and tell us that," and
14 he was just trying to get to the point of who
15 shot. He didn't really care how it happened.

16 Q. Did the investigators -- how much time
17 did they spend talking about what happened
18 before that with you?

19 A. Before the shooting? Huh? Say it
20 again?

21 Q. When you spoke with investigators, how
22 long did they spend asking you questions about
23 what happened prior to the shooting?

24 A. An hour and a half, two hours, maybe.

25 Q. Okay. Did they -- after they -- after

1 you said that you shot Deonne, were they
2 interested in what else you had to say?

3 A. No.

4 MS. JONES: Your Honor, objection.

5 BY WITNESS:

6 A. No.

7 MS. JONES: It calls for speculation. He
8 doesn't know what they were thinking.

9 THE COURT: I'll sustain, but you can
10 rephrase it.

11 BY MR. PAULK:

12 Q. After you told him that you shot
13 Deonne, did the interview last much longer?

14 A. Maybe another 15, 20 minutes, maybe.

15 Q. And we've all watched the video,
16 Delmar, we know how long they talked to you
17 after.

18 A. I know. I know. I tried to be as --

19 Q. At the end of the video they asked you
20 if there was anything else that they needed to
21 know. Why didn't you provide them with more
22 details at that time?

23 A. Because I didn't think it was
24 necessary.

25 Q. Why didn't you feel like it was

1 necessary?

2 A. Well, I guess when they heard me, they
3 heard what they wanted to hear, and then like
4 the whole time you can see in the interview, I
5 can tell them this, and they're like, "Okay,
6 well, what happened next?" And I could tell
7 them that. And they'd go, "Oh, well, what
8 happened next?"

9 And I told them what happened next, and
10 then they go, "Well, what happened next?" And
11 I'm like, "Okay, I see what you guys are trying
12 to do." They're trying to get me to say that I
13 shot him. And I'm sitting there telling them,
14 "Hey, I defended myself. I was under the
15 impression I was defending myself.

16 I was scared, paranoid." And I thought
17 paranoid means scared as shit. I didn't --
18 excuse my language, I thought paranoid means
19 highly scared.

20 Q. Why didn't you tell them about turning
21 on the dome light?

22 A. I didn't go into detail, and I know
23 that details was very important in this
24 situation. I've never been interrogated before.
25 I was -- I just thought that maybe if I just got

1 the truth, that it would just set me free, and I
2 didn't go into details. I didn't go into
3 details until I went in with you. And I should
4 have went into details. It was very important
5 that I went into details, but I didn't, I
6 didn't. They was asking me specific questions,
7 and I knew what they were trying to get at, so
8 -- and then it, you know, sort of like going
9 into details with just they would still go with,
10 "Oh, well, what happened next?

11 Oh, well, oh, bring it back, what happened
12 when he came around the car?" Then I would tell
13 them, and I'd go into details a lot. "Okay,
14 well, I understand that, but what happened when
15 he come around the car?" And it's like, okay,
16 what do you want? What are you trying to get me
17 to say? Oh, I know what you're trying to get me
18 to say. You're trying to get me to say that I
19 shot him, so that can conclude your
20 investigation, and I knew and I was telling them
21 like, "I know what you guys are trying to do.
22 You want me to say it, you're not dumb." Like
23 I'm pretty sure they understood what was going
24 on, so I didn't go into details. I was just
25 giving them what they wanted.

1 Did it help me? I don't know. Did it hurt
2 me? I don't know, but I was just giving them
3 what they wanted. I was trying to be
4 cooperative, you know, I didn't want anybody,
5 you know, I've watched movies. I didn't want
6 anybody to get up and slam my head on the desk
7 or anything.

8 I'm thinking all type of stuff. I'm
9 scared, I've never been in that predicament
10 before. I've never been in that predicament
11 before ever.

12 Q. In an interrogation room for murder?

13 A. In an interrogation room. You've got a
14 camera. I felt like I was on TV. So I'm like,
15 oh, is the world seeing this right now? I was
16 scared. I didn't know what to think, what to
17 do. I've got two guys with guns.

18 Q. There's a lot more -- there's some
19 details that have come out today that did not
20 come out on that interview, Delmar.

21 A. I know. I know. I know. And it's --

22 Q. Why are those details coming out now?

23 A. Because I was comfortable with talking
24 to you about it. I had more time. You asked me
25 specific questions.

1 You asked me questions that would lead to
2 what was going on. They just wanted to know one
3 specific thing. They just wanted to know one
4 specific thing. And I was like, ah, you know,
5 what it is, you just want me to say it. And I
6 was letting them know, "Hey, I was defending
7 myself." They didn't want to hear that. "Oh,
8 well, we're -- we know you were defending
9 yourself, but what happened?" Okay, so you want
10 me to be specific.

11 And instead of going into details, like I
12 should have, I didn't. I didn't go into
13 details.

14 Q. Delmar, do you know if my office
15 investigated this case?

16 MS. JONES: Your Honor, leading and
17 relevance.

18 THE COURT: Sustained as to leading. I'll
19 let you rephrase your question.

20 MR. PAULK: Yes, Your Honor.

21 BY MR. PAULK:

22 Q. Did I ask you questions that the
23 investigators did not ask you?

24 MS. JONES: Your Honor, again, it's a
25 leading question.

1 BY WITNESS:

2 A. Well, basically, because --

3 Q. Don't answer.

4 THE COURT: Sustained, that's leading, as
5 well.

6 MR. PAULK: My apologies, Your Honor, I'm
7 working on it.

8 THE COURT: No problem, you can rephrase.

9 MR. PAULK: Thank you.

10 THE COURT: No rush.

11 BY WITNESS:

12 A. Is it okay if I speak?

13 Q. Hold on there, buddy, you can only
14 answer questions. You can't --

15 A. Okay.

16 Q. -- just get up there and talk. Why did
17 you talk with me about your case?

18 A. Because you was my attorney. Because
19 you was my attorney.

20 Q. There you go.

21 A. And I know that -- go ahead.

22 Q. Do you think I have your best interest
23 in mind?

24 A. Yes.

25 Q. Why did you tell me things that you

1 didn't tell investigators?

2 A. I had more time to do it. I had -- it
3 was less stressful at the time. I wasn't, you
4 know, you don't have a gun on you. You know,
5 you're not grabbing a ball back and forth going
6 like this, this, saying that I have a fidgeting
7 problem, so I made with the faint marks here.

8 Q. Okay.

9 A. You know what I mean, I just had more
10 time to speak. You're not -- I mean you're
11 letting me talk, you're not saying, "Wait, wait,
12 wait, that's not what I heard, go back to
13 where," you're not doing that.

14 Q. Okay.

15 A. Your patient, you know what I mean?

16 MR. PAULK: One more Court's indulgence.

17 THE COURT: Yes, sir.

18 BY MR. PAULK:

19 Q. Delmar, when we discussed your case,
20 were there questions I asked you that were
21 different from the investigators?

22 A. Yes.

23 Q. Did I ask you to provide more detail?

24 MS. JONES: Your Honor, that's two
25 questions. Again, and they're leading

1 questions.

2 THE COURT: I'll let him answer it.

3 MR. PAULK: Thank you, Your Honor.

4 THE COURT: Overruled.

5 BY MR. PAULK:

6 Q. You can answer that, Delmar.

7 A. May you ask the question, again,
8 please?

9 Q. Yeah. Were there questions that I
10 asked you, that investigators did not ask you?

11 A. Yes, sir.

12 Q. Can you talk about that a little bit?
13 Talk about the differences between whenever me
14 and you talked, and when you and the
15 investigators talked.

16 A. I'll try to make it clear as possible.
17 That, you know, you were patient, you were -- I
18 mean I can't really, you know, go into what
19 exactly those questions were at the moment, but,
20 you know, it was just a different demeanor. It
21 was just, you know, it was different.

22 I mean like they were just straightforward,
23 get to the point. You was, "Let me know what's
24 going on, and how did it happen? Where did it
25 happen? And what led to this?" That they

1 didn't want to know that. They did not want to
2 know how it led to that. They just wanted to
3 know, "Did you shoot him?" Because you can see
4 I was talking, and they go, "Okay, wait there,
5 wait there, well, we need to know, so let's
6 circle back." Like you wasn't doing that. You
7 wanted to know specific information of how it
8 led to the shooting, not rather just, you know,
9 you shot him.

10 You didn't say, "Hey, you shot him, I know
11 you did." You said, "Why'd you shoot him? What
12 made you shoot him?" And I told you. I let you
13 know how it happened. I let you know what my
14 mind was thinking. I didn't let them know what
15 my mind was thinking, because they didn't want
16 to know what my mind was thinking. They just
17 wanted to do what they wanted to do.

18 Q. Did they ever ask you what you were
19 thinking at the time of the shooting?

20 A. Never.

21 Q. Did they ever ask you what you were
22 thinking at the hotel?

23 A. Never.

24 Q. Did they ever ask you what you were
25 thinking --

1 MS. JONES: Your Honor --

2 THE COURT: Let me see the lawyers over
3 here.

4 (Bench conference.)

5 THE COURT: All right, next question.

6 BY MR. PAULK:

7 Q. Delmar, you told the investigators that
8 you were paranoid. Why did you tell them that
9 you were paranoid?

10 A. I thought it means scared, and, you
11 know, I thought it meant scared, and I just -- I
12 guess I had the wrong definition for it, the
13 wrong way of interpreting it.

14 Q. Why did you tell the investigators that
15 you had a drug problem?

16 A. Because I've, you know, been, you know,
17 I wouldn't say it's a problem. I know I've said
18 that, but I wouldn't say it's a problem, like
19 I'm a drug addict, because I mean I work and I
20 make sure everything is fine before I ever
21 indulge in drugs; but I've, you know, been doing
22 it for some years, and I know that in my inner
23 self my own, you know, way that I should have
24 stopped a long time ago.

25 And I told them that, because I was under,

1 you know, I took a few bumps that night, and --

2 Q. Did you shoot Rhonda and Deonne because
3 you were on cocaine?

4 A. No. Not at all.

5 Q. When you were talking with
6 investigators, you said it felt like you were in
7 control, but you weren't in control. How do you
8 explain that?

9 A. I was in control because I'm -- my
10 outward self sees and hears everything, you
11 know. My inward self was thinking we're in
12 danger.

13 So my outward self could have over, you
14 know, basically, took over and said, okay, you
15 know this is -- this may be isn't bad, this
16 isn't what it is, you know? My inward self was
17 like, no, this is exactly what it is, because of
18 what I see.

19 Q. Why did you tell the investigators that
20 if you hadn't been on cocaine, that this would
21 never have happened?

22 A. I don't know what I was thinking when I
23 said that. That was a total misunderstanding on
24 my behalf, but I did say that, but I did say
25 that, yeah. I just -- I -- I don't know. I

1 just feel like, at the moment, that was the
2 right thing to say, you know what I mean? I
3 didn't, you know, I was trying to give them what
4 they wanted, even though it probably was gonna
5 screw me over, but I just wanted to be
6 cooperative. They were just, you know, they
7 were just asking questions that they, you know,
8 that they wanted to hear.

9 And I figured, you know, it was stupid, but
10 I mean that they wanted to hear that. I didn't
11 -- I wasn't -- okay, when I do, as I'm gonna
12 explain, when I do that drug, I'm in a total
13 good mood. I'm not in a rage mood, ready to
14 kill everybody, you know what I mean? If
15 anybody ever done cocaine before, they will
16 know, you know, the effects of it. It doesn't
17 make you go out and kill people, you know what I
18 mean? And I didn't do it, and then do it. I
19 was on it, and so I -- like if that was the case
20 --

21 Q. Hold on one second. How long before
22 the shooting occurred -- when was the last time
23 you smoked cocaine before the shooting?

24 A. Was when we were on the way to get her.

25 Q. You didn't use any cocaine waiting in

1 the car at the hotel? Do you have an
2 approximate amount of time? Do you know how
3 long it was in between the last time that you
4 snorted cocaine and the shooting, if you had to
5 guess?

6 A. I don't want to guess.

7 Q. Okay, don't guess, if you don't know,
8 you don't know.

9 A. I want to be accurate. I don't want to
10 get --

11 MR. PAULK: One more of the Court's
12 indulgence.

13 THE COURT: Yes, sir.

14 BY MR. PAULK:

15 Q. Delmar, why did you shoot Rhonda and
16 Deonne?

17 A. I was defending myself. I felt like my
18 life was in danger. I don't want to lose my
19 life, I only have one. I don't even want to be
20 shot, I don't want to be hurt. I saw a gun. I
21 don't -- I didn't have a gun to defend myself,
22 he had a gun.

23 Why do you have a gun, it's supposed to be
24 under the hood.

25 MR. PAULK: No further questions.

1 THE COURT: All right, it looks like now is
2 a good time for a break for lunch. So let's the
3 jury plan on being back here or back in the
4 building at 2:20, and we will try to get started
5 back up about 2:30. We do have a issues we need
6 to take care of, housekeeping-wise, so if
7 you'all can be back at 2:20, and we'll hopefully
8 finish up today.

9 (Jury exits the courtroom.)

10 THE BAILIFF: The jury's clear, Your Honor.

11 THE COURT: And, Mr. Sanders, I believe
12 needs a restroom break?

13 WITNESS: Sure.

14 THE COURT: So we'll be back here at 2:20
15 as well. We still need to take up the issue of
16 those exhibits, right? Make sure we've got all
17 those right?

18 MR. PAULK: Yes, Your Honor.

19 THE COURT: All right, we'll do that, when
20 we get back from lunch. Have you'all got
21 anything else I need to look at over lunch?

22 MR. PAULK: Not that I'm aware of, Your
23 Honor.

24 THE COURT: All right.

25 MS. JONES: No, sir.

1

1 THE COURT: We'll be at ease.

2 (Luncheon recess.)

3 PROCEEDINGS CONTINUED

4 ***

5 THE BAILIFF: All right, the Court's back
6 in session.

7 THE COURT: Please be seated. All right,
8 anything we need to take up before we get
9 started? I told the jury 2:30, so I think
10 they're all here.

11 MS. JONES: Nothing from the State, Your
12 Honor.

13 MR. PAULK: Your Honor, we would ask to
14 settle the record of the witness, Ernest
15 Williams, again.

16 THE COURT: Okay.

17 MR. PAULK: In speaking with him, he
18 disclosed to us that he was in prison from 1989
19 until 2007, basically, so the original criminal
20 history that we looked at was not for him. He
21 provided us with this Social Security Number,
22 and we were able to get the correct charges.

23 THE COURT: Okay, what is it?

24 MS. JONES: So that would be 1989, safe
25 cracking and grand larceny. I think both of

1 those would be crimes of dishonesty.

2 THE COURT: Uh-huh.

3 MS. JONES: Prior that that, '78, he had a
4 grand larceny, he has a forgery in '87, and
5 those are the only ones that are allowable under
6 the rules.

7 THE COURT: Okay. So grand larceny, safe
8 cracking and forgery, all right. Anything else?
9 You know what, I might need to run and get
10 another pad real quick, let me do that real
11 quick, I'm about out.

12 MS. JONES: Your Honor, I misspoke about
13 his 1987 forgery.

14 THE COURT: Uh-huh.

15 MS. JONES: That was a non-conviction.

16 THE COURT: Non-conviction? So that leaves
17 us with grand larceny and safe cracking?

18 MS. JONES: Yes, sir.

19 THE COURT: All right. Do you think you're
20 gonna be able to finish today, or probably
21 tomorrow?

22 MR. PAULK: Your Honor, I've got two expert
23 witnesses that are going to be testifying.

24 THE COURT: Okay.

25 MR. PAULK: I've Investigator Garcia, of

1 Officer Garcia, excuse me, but I intend to call
2 Investigator Duncan, I intend to call
3 Investigator Byrd.

4 THE COURT: Well, I see Mr. Johnson over
5 there.

6 MR. PAULK: Yes, Your Honor.

7 THE COURT: Okay.

8 MR. PAULK: Ernest Williams --

9 THE COURT: No, that's fine, I mean I'm
10 here all week, so I just --

11 MR. PAULK: Okay, I'm not sure.

12 THE COURT: Okay.

13 MR. PAULK: I don't --

14 THE COURT: That's no problem.

15 MR. PAULK: I don't think so.

16 THE COURT: All right. Well, yeah, that's
17 fine. All right, let's get the jury.

18 (The jury enters the courtroom.)

19 THE BAILIFF: The jury's entering the
20 courtroom, Your Honor. The jury's seated, Your
21 Honor.

22 THE COURT: Thank you. All right, Mr.
23 Sanders, if you'll resume your seat on the
24 witness stand. Ms. Jones?

25 MS. JONES: Thank you, Your Honor.

CROSS-EXAMINATION

BY MS. JONES:

Q. Good afternoon, Mr. Sanders.

A. How you doing?

Q. I'm doing well, how about yourself?

A. I'm good.

Q. So we're here today because you killed
Deonne McLendon?

A. You're asking me?

Q. Yeah.

A. We're in trial.

Q. For the murder of Deonne McLeondon?

A. Uh-huh.

Q. Okay, and the attempted murder of
Rhonda Randall?

A. Witness nodding.

THE COURT: Make sure you answer yes or no,
Mr. Sanders.

WITNESS: Yes, sir.

THE COURT: She's -- our Court Reporter's
taking everything down.

WITNESS: Yes, sir.

THE COURT: Yes.

BY MS. JONES:

1 Q. That you turned yourself in?

2 A. Yes.

3 Q. Okay, and then you agreed to speak with
4 the police?

5 A. Yes.

6 Q. And, actually, first you spoke with, as
7 your attorney also said, with a Deputy in Camden
8 County, Georgia?

9 A. Yes, ma'am.

10 Q. And then you also spoke with this woman
11 right here, and another one of our
12 investigators, Investigator Duncan, right?

13 A. Yes, ma'am.

14 Q. Okay. And then you took the stand and
15 gave a whole 'nother story, didn't you?

16 A. Not another story.

17 Q. What you told on that stand today is
18 the same thing we saw on that interview?

19 A. No, no, it's not.

20 Q. Oh.

21 A. It's not.

22 Q. Okay.

23 A. It's not.

24 Q. So you lied? Did you lie?

25 A. It was the truth, I just -- the first

1 statement I told was a lie, yes.

2 Q. You said the first statement.

3 You actually gave, ew, gosh, one, two,
4 three, about four or five -- I guess counting
5 today about four or five different accounts of
6 what happened, different stories of what
7 happened that night?

8 A. Huh. I don't recall that.

9 Q. Okay, but in your interview with Tunis
10 and Duncan, you were not saying the same thing
11 throughout the whole interview, were you?

12 A. I didn't go into details.

13 Q. Oh, but don't you think details are
14 important?

15 A. Very important, yes, ma'am.

16 Q. I think you said that earlier, details
17 are very important. You did go into details
18 though, when you were talking about these two
19 strange men that just shot this gun and fired,
20 and you had to run, you had to hide in the
21 bushes, and you saw your cousin run.

22 You gave some pretty good details there,
23 didn't you?

24 A. I didn't say who was shot, I said shots
25 were fired.

1 Q. Right, right.

2 A. I didn't say two men shot.

3 Q. But you were talking about these two
4 strange men in the back of your car.

5 A. I -- I made a statement that there were
6 two strange men in the car, I didn't say who
7 shot.

8 Q. Right, you just heard the shot.

9 A. Right.

10 Q. And that was a lie.

11 A. Yes, ma'am.

12 Q. But when you're saying that, you gave
13 some details, albeit lies, but you gave some
14 details, didn't you?

15 A. I probably did.

16 Q. And on that interview, when you are
17 talking about these two men, and then you hear
18 the shot, you're real excited, and you're
19 talking real, real fast, aren't you?

20 A. I guess so.

21 Q. But you're lying?

22 A. Yes.

23 Q. How many times did you have to be told
24 to slow down today?

25 A. Maybe two or three times.

1 Q. Because you're lying again today?

2 A. No, ma'am.

3 Q. Okay. So I want to go into some of
4 your lies that you did tell. We'll start with
5 the story you told the Deputy down in Camden
6 County, not the same story you told today, was
7 it?

8 A. No, ma'am.

9 Q. Okay, and then you come July 26th, and
10 you speak with Investigator Tunis and
11 Investigator Duncan?

12 A. Yes, ma'am.

13 Q. And they are nothing but pleasant and
14 nice and kind to you, aren't they?

15 A. Yes, ma'am.

16 Q. And at the end of the interview you
17 even asked Investigator Duncan to give you a
18 hug, didn't you?

19 A. I'm not sure about that.

20 Q. Okay. Well, I guess the interview
21 speaks for itself.

22 A. Right, right.

23 Q. But they never threatened you, they
24 never coerced you, they never tried to bribe you
25 into speaking to them, you couldn't wait to tell

1 them your stories, could you?

2 A. Right.

3 Q. Right, stories, plural, because you
4 told them more than one story, didn't you?

5 A. Yes, ma'am.

6 Q. So let's go into -- so we have the
7 story to Camden County Deputy. Now we have the
8 story to Tunis and Duncan about these two
9 unknown men, and there's a white girl named
10 Lacey?

11 A. Yes, ma'am.

12 Q. Do you remember telling that story?

13 A. Yes, ma'am.

14 Q. There never was a white girl named
15 Lacey, was there?

16 A. There never was, initially.

17 Q. Okay. There never were two men?

18 A. No, ma'am.

19 Q. And all of that was a lie?

20 A. Yes, ma'am.

21 Q. All the details you gave about that,
22 they're all lies?

23 A. Yes, ma'am.

24 Q. Okay, let's go to the third rendition
25 of what happened, the third story. You say,

1 "You know what? There's no mysterious people,
2 there's just three of us," which that's true,
3 the Oasis Inn video showed us that was true,
4 didn't it?

5 A. Yes, ma'am.

6 Q. But then you talk about how Deonne went
7 to get drugs, and Deonne was doing drugs, but
8 not you.

9 A. I never said I wasn't.

10 Q. But Deonne went to buy the drugs, not
11 you, right?

12 A. Right.

13 Q. Okay. That's not true, because you and
14 Deonne both were using cocaine that night both
15 at the drug dealer's house?

16 A. But I didn't buy any of the drugs.

17 Q. Okay. He did the hand-to-hand, but you
18 used some of those drugs that night?

19 A. Yes, ma'am.

20 Q. Okay. But then you go onto say that
21 Deonne left the gun in the passenger seat, he
22 walked around, and you didn't grab the gun, you
23 didn't touch the gun. That's what you say in
24 story number three, isn't it?

25 A. Not at the moment I didn't touch the

1 gun, no.

2 COURT REPORTER: Say it again, please.

3 BY WITNESS:

4 A. Not at the moment, I didn't touch the
5 gun, no, ma'am.

6 Q. But you don't clarify that, not that
7 particular gun, that I didn't touch the gun, but
8 at a later moment I touched the gun, you just
9 say, "No, I didn't touch the gun."

10 A. Correct.

11 Q. Okay. That was a lie?

12 A. Yes, ma'am.

13 Q. Then we go into number four. Let's
14 see, then you say, "Hold up, I was on drugs. I
15 was paranoid, I was on cocaine, I was high,
16 that's why I did it."

17 A. Yes, ma'am.

18 Q. Okay. You say Deonne got out of the
19 car, and he --

20 A. Yes, ma'am.

21 Q. -- walked around the front, and he left
22 his gun on the seat?

23 A. Yes, ma'am.

24 Q. And you were high, and you were
25 paranoid, and you were thinking the wrong

1 things, I think that's exactly what you said in
2 that interview, wasn't it?

3 A. Yes, ma'am.

4 Q. And you grabbed his gun, and you shot
5 him, right?

6 A. Yes, ma'am.

7 Q. Okay.

8 A. Right.

9 Q. But you've already said you've lied.
10 You're the only person that says that gun was
11 Deonne's.

12 A. Oh, okay.

13 Q. You've been here all week. The
14 evidence of the gun was Deonne's came from your
15 mouth, didn't it?

16 A. Yes, ma'am.

17 Q. Okay. So I want to talk a little bit
18 about your drug usage that -- the night where --
19 when you killed Deonne. When you are speaking
20 -- because today you say it wasn't the drug
21 usage that made you kill him, correct?

22 A. Correct.

23 Q. That you were defending yourself?

24 A. Correct.

25 Q. Okay. But when you're talking to Tunis

1 and you're talking to Duncan, and you're now
2 telling the truth, because you say, "I'm telling
3 the truth," I think you say, "I'm doing it for
4 Jesus. Jesus speaks through the truth."

5 A. Yes, ma'am.

6 Q. Do you remember all that?

7 A. Yes, ma'am.

8 Q. Okay. You say, "We both were under the
9 influence," you and Deonne, and that when you're
10 under the influence it makes you look at things
11 differently?

12 A. Yes, ma'am.

13 Q. "But now that I'm sober, I see that I
14 made the wrong choice, a stupid choice, a stupid
15 decision."

16 A. Yes, ma'am.

17 Q. You said that?

18 A. Yes, ma'am.

19 Q. You said that when you're on cocaine,
20 it's like a time-ticking bomb?

21 A. Well, yes -- yes, ma'am.

22 Q. Okay. "And that I know how that shit
23 gets me."

24 A. Yes, ma'am.

25 Q. You said, "I was thinking the wrong

1 thing, man, I wasn't in control." At the same
2 time, "I was thinking the wrong thing, man, I
3 must have been."

4 A. I said I wasn't in control, but I was
5 in control at the same time.

6 Q. Uh-huh, right.

7 A. Right.

8 Q. Because you're thinking the wrong
9 thing.

10 A. Well, I said -- that's not what I said.
11 I was saying I was in control, but I'm not in
12 control at the same time.

13 Q. Okay.

14 A. Those are my words.

15 Q. Okay.

16 A. Right.

17 Q. Absolutely, we saw that on the
18 interview.

19 A. Right.

20 Q. You were in control, but you also were
21 not in control at the same time --

22 A. Yes, ma'am.

23 Q. -- because you were high?

24 A. Yes, ma'am.

25 Q. Okay. And you said, "That if I wasn't

1 under the influence, I would not have made that
2 choice."

3 A. Yes, ma'am.

4 Q. The choice to shoot an unarmed man?

5 A. Yes, ma'am.

6 Q. You said, "I've been in this shit so
7 many times before, but without a gun."

8 A. I've been on -- what do you mean been
9 there this --

10 Q. It's talking -- it's in the part of the
11 interview, where you're talking about your drug
12 usage.

13 A. Could you rephrase it again one more
14 time?

15 Q. "I've been in this shit so many times,
16 but without a gun."

17 A. I guess I said that, yeah.

18 Q. Okay.

19 A. Okay.

20 Q. As in you've been high before, just
21 didn't have access to a weapon?

22 A. That's not what I meant, but I'm pretty
23 sure I said that. Like I said, I didn't go into
24 details.

25 Q. Okay. Why didn't you go into details?

1 A. I'm not sure.

2 Q. Okay. Details are important.

3 A. Very important.

4 Q. You're being charged with murder.

5 They're accusing you of murder --

6 A. Yes, ma'am.

7 Q. -- and you didn't feel the need to tell
8 them your full side of the story?

9 A. I should have.

10 Q. You didn't feel the need to tell them
11 that you were acting in self-defense?

12 A. I should -- I did say I was acting in
13 self-defense.

14 Q. You said you were defending yourself,
15 but what do you say you're defending yourself in
16 that interview?

17 A. I didn't go into details.

18 Q. You never say what you're actually
19 defending yourself from, do you?

20 A. Well, I just made it clear that there
21 was supposed to be a gun under the hood.

22 Q. Uh-huh.

23 A. The gun wasn't under the hood, it was
24 in his possession in the car.

25 Q. But, again, you never say what you're

1 defending yourself from?

2 A. Defending myself from the gun being in
3 the car that's supposed to be under the hood.

4 Q. Okay. I'm glad you brought up that gun
5 under the hood. So it came out on your direct
6 that you're not -- you were not allowed to be
7 around guns, are you?

8 A. Correct.

9 Q. Because you're a convicted felon?

10 A. Yes, ma'am.

11 Q. So you didn't want that gun in your car
12 that night, did you?

13 A. No, ma'am.

14 Q. But you let your cousin put the gun in
15 your car --

16 A. Correct.

17 Q. -- under your hood?

18 A. Correct.

19 Q. And then we saw a video of you at the
20 Oasis Inn for about ten minutes sitting in your
21 car by yourself. Why didn't you take the gun
22 out of your hood at that point?

23 A. I didn't want to touch the gun. I
24 didn't want to look -- that was his gun. I
25 didn't want to do anything with that gun.

1 Q. Why didn't you tell him to take it in
2 the hotel room with him?

3 A. Because he kept it under the hood.

4 Q. But if you're not supposed to be around
5 guns, you are at the hotel, that's their final
6 destination, he could have taken that gun inside
7 the hotel with him, couldn't he have?

8 A. He could have.

9 Q. He didn't take the gun --

10 MR. PAULK: Objection, speculation.

11 THE COURT: I'll allow it.

12 MS. JONES: I'm sorry?

13 THE COURT: I'll allow it.

14 BY THE JONES:

15 Q. He didn't take the gun inside with him,
16 did he?

17 A. No, ma'am.

18 Q. It stayed outside with you?

19 A. It stayed outside under the hood,
20 supposedly.

21 Q. Because that was your gun?

22 A. That wasn't my gun.

23 Q. So you told Tunis and Duncan that you
24 have this drug problem, and it was your paranoia
25 that led you to shoot Deonne, who your own

1 statement, he didn't have a gun on him when you
2 shot him.

3 A. No, ma'am.

4 Q. Rhonda didn't have a gun on her when
5 you shot her?

6 A. I'm not sure.

7 Q. She was actually trying to get out of
8 the back passenger door when you shot her,
9 wasn't she?

10 A. No, she was already sitting there with
11 the door open. She never got out, or tried to
12 get out.

13 Q. And, you know, the bullet hit her left
14 arm, right?

15 A. Correct.

16 Q. And you saw the pictures of the bullet
17 hole right in the passenger seat?

18 A. Right.

19 Q. I mean that's her arm getting out of
20 that passenger seat when you hit her, isn't it?

21 A. It wasn't in that motion. She was
22 standing -- she was sitting still.

23 Q. She's sitting still?

24 A. Yes.

25 Q. Even less of a threat to you.

1 A. She's a threat, she's in my -- I think
2 she's going through her belongings.

3 Q. Okay. Now, you said some things that I
4 want to ask you about. During -- at the
5 beginning of this interview with Duncan and
6 Tunis you say, "Hey, can I ask you a question?
7 How did I end up on America's Most Wanted?"
8 You're kind of like proud about that, aren't
9 you?

10 A. No, I wasn't proud at all.

11 Q. Okay. And they said, "It's not
12 America's Most Wanted, it's our local NIXLE."
13 Okay, you knew you were wanted, you knew Rhonda
14 lived, and you knew they were looking for you
15 and for your car, didn't you?

16 A. I'm pretty sure I did.

17 Q. Well, you say, "You're looking for me
18 because of my vehicle."

19 A. Yeah.

20 Q. Okay. You did not know at that time
21 though, that Deonne was also able to tell them
22 who killed him?

23 A. I wasn't sure of anything.

24 Q. Okay. You had -- on your way from
25 Camden County, Georgia to Beaufort, South

1 Carolina, you had a ten-hour drive to get from
2 Camden County to Beaufort, didn't you?

3 A. A ten-hour ride.

4 Q. Ride. It's only like a two-hour drive,
5 isn't it?

6 A. Normally.

7 Q. Yeah, but they took you around the
8 State you said, because someone couldn't come
9 into South Carolina?

10 A. They did, yes.

11 Q. Yes, okay. They as in Camden County?

12 A. Correct.

13 Q. So over that ten hours you have nothing
14 to do but sit and think, right?

15 A. I guess, you know, I think all the
16 time.

17 Q. Good, okay, good. So you're sitting
18 over these ten hours thinking about what you
19 were gonna tell Beaufort County, because you
20 knew you'd been caught?

21 A. Incorrect.

22 Q. Okay. But it's over those ten hours,
23 where you start thinking of, I'm gonna tell them
24 about the two men, I'm gonna tell them about the
25 two women, I'm gonna tell them I didn't reach

1 for the gun, I'm gonna tell them I did reach for
2 the gun?

3 A. That's not correct.

4 Q. Okay, some other time you came up with
5 the stories?

6 A. Yes.

7 Q. Okay. When they tell you, "Man, we're
8 just here, just tell us the truth, tell us the
9 truth," and do you remember what your response
10 was?

11 A. Enlighten me, please.

12 Q. It said you said, "It's too late."

13 A. Right.

14 Q. Because you knew you had already lied?

15 A. Right.

16 Q. And you knew that you weren't acting in
17 self-defense that day -- that night?

18 A. Not correct.

19 Q. You say, "I'm not saying you guys
20 screwed up, I'm saying I screwed up."

21 A. Correct.

22 Q. If you were justified in shooting
23 somebody to save your own life, that's not
24 screwing up, is it?

25 A. I didn't know that at the time.

1 Q. Okay. You know what you did was wrong.
2 You say, "I know I'm gonna be stuck in here,"
3 you're talking about jail." You say, "I know
4 I'm not getting a bond," do you remember saying
5 that?

6 A. Yes, ma'am.

7 Q. Because you knew you were not acting in
8 self-defense.

9 A. I was acting in self-defense.

10 Q. You said, "Did I throw my life away?"

11 A. Yes.

12 Q. Okay, because you knew what you did was
13 not self-defense.

14 A. No, that is --

15 MR. PAULK: Objection, Your Honor, she's
16 asking him to draw a legal conclusion.

17 MS. JONES: I'll move on, Your Honor.

18 THE COURT: Okay.

19 BY MS. JONES:

20 Q. You wanted to know also, if what you
21 were telling these investigators fit the
22 evidence they had, didn't you?

23 A. I'm not sure what you're trying to say.

24 Q. Okay. You said after you gave a little
25 bit of information, you said, "Does that match

1 what you already knew?"

2 A. Oh, yes.

3 Q. Okay.

4 A. Because they told me that they already
5 had a story.

6 Q. Yes, they already had the truth. So
7 you then also say -- one of them says something
8 to you about, "You did what you had to do." And
9 you go, "Man, that's a good one, that's a good
10 one." Do you remember that?

11 A. Yes.

12 Q. Is that when it starts clicking that,
13 oh, okay, self-defense, I did what I had to do,
14 that's a good one, I'm going with self-defense.

15 A. No, I said that was a good one, because
16 I knew what he'd be trying to trick me into
17 saying.

18 Q. Okay. You also knew that you needed to
19 get out of Beaufort County after you killed
20 Deonne, and tried to kill Rhonda?

21 A. Not correct.

22 Q. You --

23 A. I just drove.

24 Q. Out of the state.

25 A. Right.

1 Q. You drove out of the state?

2 A. Right.

3 Q. Okay. And you had Rhonda's phone in
4 your car, didn't you?

5 A. I don't remember that.

6 Q. In your interview you said she was
7 asking for her phone --

8 A. Correct.

9 Q. -- and I said, "No, I'm not giving it
10 to you, and I drove off.

11 A. I just said I drove off.

12 Q. But you knew she was asking for her
13 phone --

14 A. Correct.

15 Q. -- and you still drove off?

16 A. Correct.

17 Q. Knowing she didn't have her phone,
18 knowing the last place she was, was in your car
19 so her phone was in your car?

20 A. Correct.

21 Q. Okay, so you drove off with her phone,
22 so she couldn't call the police?

23 A. Not that she couldn't call the police,
24 so I can get away.

25 Q. Because you had to get away.

1 A. Had to get away from them, from the
2 threat.

3 Q. From Rhonda, who's been shot, and
4 Deonne who's dying in a ditch, both of which are
5 unarmed?

6 Where's the threat there?

7 A. That's why I left. Do I stay around
8 the threat?

9 Q. You also have the wherewithal, even
10 though there was -- you said there was a lot
11 going on, but you knew that when you were
12 fleeing, that you had to get rid of that murder
13 weapon, didn't you?

14 A. I had to get rid of the gun, yes.

15 Q. And you had the wherewithal to take the
16 magazine out of the gun and throw it one place,
17 and throw the gun somewhere else?

18 A. Yes, so it wouldn't discharge.

19 Q. Or so the police couldn't find it?

20 A. If that was the case, I wouldn't have
21 told the police where I threw it.

22 Q. But they didn't find it where you said
23 you threw it, did they?

24 A. I guess they didn't. They said they
25 didn't.

1 Q. Okay. You also talk about how you
2 called lots of friends and family, you talked
3 about this in your interview, you called lots of
4 friends and family, just asking them, "What to
5 do, what to do?"

6 A. I never said lots of friends.

7 Q. Okay, you called family?

8 A. Yes.

9 Q. My apologies. You call your family
10 asking them, "What to do? What to do?"

11 A. Yes.

12 Q. But then you also said today that you
13 couldn't find your phone.

14 A. Yes, I bought a phone after that. I
15 couldn't find my phone.

16 Q. Okay, so at what point, between the
17 shooting and less than 24 hours later do you buy
18 a phone and start making these phones calls to
19 friends and family -- family, I'm sorry.

20 A. When I was in Georgia.

21 Q. I'm sorry?

22 A. When I was in Georgia.

23 Q. Okay. And your phone wasn't found in
24 your car?

25 A. Nope.

1 Q. Did you throw it with the gun?

2 A. Nope.

3 Q. Did you throw it somewhere else?

4 A. Nope.

5 Q. But we don't have that phone, do we?

6 A. Sure don't.

7 Q. Okay.

8 A. I don't have it.

9 Q. You also say, again, you made a stupid
10 choice?

11 A. Yes. Yes, ma'am.

12 Q. You say, "I failed, I failed at all."

13 A. I don't remember those words.

14 Q. Okay. Well, again, the interview
15 speaks for itself.

16 A. Yes, ma'am.

17 Q. You -- and pardon my language, you say,
18 "I'm a fucking idiot."

19 A. I guess I said that.

20 Q. Okay. You also said, "I mean I've been
21 struggling with this drug thing, man, this has
22 nothing to do with what I did wrong."

23 A. Yes, ma'am. Yes, ma'am.

24 Q. Because what you did was wrong.

25 A. I was acting in self-defense.

1 Q. You also said, "I have no excuses,
2 man."

3 A. I said it.

4 Q. Uh-huh. So you want this jury to
5 believe that you are so scared of being in
6 trouble for having this gun, even though you
7 could have removed it from the hood and got rid
8 of it, but you didn't?

9 A. I did not.

10 Q. And that even though it was Deonne's
11 gun, he did not take it inside with him?

12 A. Correct.

13 Q. Even though that was originally gonna
14 be his final destination?

15 A. Correct.

16 Q. He was gonna leave you with his gun?

17 A. Oh, but it's not.

18 Q. Obviously not.

19 A. Yes, ma'am.

20 MR. PAULK: Objection, Your Honor, it calls
21 for speculation.

22 THE COURT: Overruled.

23 BY MS. JONES:

24 Q. Deonne didn't take his gun inside,
25 because it wasn't his gun, was it?

1 A. It was his gun.

2 Q. Okay.

3 A. I don't own any weapons.

4 Q. That you never left the hotel, because
5 you didn't want to leave your cousin stranded?

6 A. Correct.

7 Q. But you just said that was his final
8 destination.

9 A. I said that was supposed to be his
10 final destination, because he had an intimate
11 lover with him in a hotel.

12 Q. So when you dropped them off, why don't
13 you leave?

14 A. Because for, number one, he's my
15 cousin, and, number two, his gun is in the hood.

16 Q. But if he's going inside to do whatever
17 he's gonna do with Rhonda, you don't need to be
18 sitting outside waiting, do you?

19 A. I'm not sure what you're trying to get
20 at, but I mean if I'm his ride, I don't want to
21 leave him.

22 Q. You came down from the stand and gave
23 this great visual of sitting in the chair, and
24 reaching with your left hand, because today you
25 now say that you saw Deonne reaching with his

1 left hand, didn't --

2 A. Yes.

3 Q. -- you?

4 A. I did.

5 Q. And not something you said in the
6 interview, was it?

7 A. Not at all.

8 MR. PAULK: Objection, Your Honor. May we
9 approach?

10 (Bench conference.)

11 BY MS. JONES:

12 Q. Okay, so, again, you now say that
13 Deonne was reaching over to the left side,
14 right?

15 A. Yes, ma'am.

16 Q. And that through your peripheral that
17 you can see multiple angles from your
18 peripheral, can't you?

19 A. Yes, ma'am.

20 Q. That you see that Rhonda is also doing
21 something in the back, and reaching towards that
22 seat.

23 A. I looked back.

24 Q. I'm sorry?

25 A. I looked back.

1 Q. You looked back? Okay.

2 A. Yes.

3 Q. And you see her reaching. But we saw
4 pictures of your Durango, I mean can Deonne --
5 if his arms are long enough to reach across
6 them, to reach back to Rhonda to whatever she's
7 doing. I mean they can't fit in between the car
8 seat and the door, can they?

9 A. My point exactly of why I was wondering
10 that.

11 COURT REPORTER: Say that again.

12 BY WITNESS:

13 A. My point exactly of why I was wondering
14 that.

15 Q. You wondered that too, because no way
16 they can be passing a weapon through that small
17 space, could they?

18 A. I don't know what they were passing.

19 Q. Well, you seem just as confused as I
20 do. Let's see, you talk about how while you're
21 waiting there in the Oasis parking lot, how you
22 needed to go to the Enmarket to get gas. Do you
23 remember that?

24 A. I was thinking it, yes.

25 Q. But then you had enough gas to drive

1 all the way to Georgia?

2 A. Yes.

3 Q. So you didn't need gas?

4 A. I needed gas.

5 Q. Okay.

6 A. I needed gas to fill up my truck.

7 Q. Uh-huh. And you felt that these two
8 were setting you up, or set up, and they were
9 gonna rob you?

10 A. Correct.

11 Q. What kind of armed robber leaves his
12 gun on the seat when he's going to rob somebody?

13 A. Someone who has another companion with
14 him.

15 Q. Who also is unarmed?

16 A. At the moment they're not unarmed.

17 Q. At the moment they were unarmed, is
18 that what you said?

19 A. At the moment they wasn't unarmed.

20 Q. But there was one gun in that car that
21 night?

22 A. Correct.

23 Q. And it was on the front passenger seat?

24 A. And they could have armed theirselves
25 (sic) with it.

1 Q. Okay, but they're gonna leave it, and
2 then come back for it?

3 A. I was wondering that.

4 Q. It just doesn't make sense, does it?

5 A. Right, it doesn't.

6 Q. Uh-huh. And to get to safety, because
7 you're in fear for your life, right?

8 A. Correct.

9 Q. You're in fear for your life.

10 A. Yes, ma'am.

11 Q. You drive through town, you pass
12 multiple areas with cars around. I think you
13 even say the police are following you'all at
14 some point. There's plenty opportunity for you
15 to seek help, isn't there?

16 A. Yes, ma'am.

17 Q. You could have done the emergency dial
18 on your phone, couldn't you?

19 A. I didn't have a phone.

20 Q. How are you scrolling looking at your
21 direct deposit, if you didn't have a phone?

22 A. That's when I had a phone then, yes.

23 Q. So you lost your phone somewhere
24 between the Oasis Inn and stopping on Stanley
25 Farm Road?

1 A. No, I lost my phone somewhere when the
2 scene was going on before I left, which is
3 like --

4 Q. Before you left what?

5 A. Before I left Stanley Farm Road. I
6 didn't see my phone after that.

7 Q. Okay, so -- but from Oasis Inn to
8 Stanley Farm, when that fear is building up,
9 that fear for your life, you had your phone?

10 A. And -- yeah, I'm pretty sure I had it
11 somewhere, but it wasn't in my hand.

12 Q. You didn't call the police?

13 A. I did not.

14 Q. You didn't do the emergency dial, and
15 it was a Smart phone? I assume, you were
16 scrolling --

17 A. Yes, yes.

18 Q. -- a Smart phone?

19 A. Yes.

20 Q. You can do the emergency dial, you
21 didn't do that.

22 A. I mean --

23 Q. You didn't send somebody your location?

24 A. No.

25 Q. Because you weren't actually in fear.

1 A. I was in fear.

2 Q. So you pass through town, you pass
3 through open businesses, you pass through cars,
4 and you decide to stop on a rural dirt road with
5 no lights, with no traffic, because you're
6 scared for your life?

7 A. I was not on a dirt road. Stanley Farm
8 is not a dirt road.

9 Q. Okay, well, I'm sorry, Stanley Farm is
10 not a dirt road, but --

11 MS. JONES: Where are those pictures? Can
12 I see pictures, please?

13 COURT REPORTER: Over here.

14 MS. JONES: Thank you.

15 BY MS. JONES:

16 Q. Okay, you're right, Stanley Farm is not
17 a dirt road, but if you're in such fear, who's
18 gonna save you here?

19 A. It's my point exactly.

20 Q. So why did you stop? If you were in
21 fear for your life, they are going to rob you,
22 they are going to kill you, you were in control
23 of the car, correct?

24 A. Correct.

25 Q. You stop where there's no help around?