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SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Florence County

Honorable D. Craig Brown, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

MICHAEL CHRISTIAN BARCLAY,

APPELLANT.

APPELLATE CASE NO. 2021-000976

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	)	Twelfth Judicial Circuit
County of Florence	)	Case No. 2019-GS-21-00579
	)	
	)	
State of South Carolina,	)	
	)	
Plaintiff,	)	
	)	
-vs-	)	Transcript of Record
	)	
	)	
Michael Christian Barclay,	)	
	)	
Defendant.	)	
	)	

May 11 & 12, 2021
Florence, South Carolina

B E F O R E:

The Honorable C. Craig Brown, Judge

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

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Attorney for the Plaintiff

Christie Henderson, Esquire
Attorney for the Defendant Barclay

Krystal J. Smith
Official Circuit Court Reporter

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NO.	DESCRIPTION	ID.	EV.
	(No Exhibits Presented)		

COURT REPORTER LEGEND

dashes	--	intentional or purposeful interruption or change in thought
ellipses	. . .	trailing off
[*ph*]		phonetically written
[*sic*]		written as said

MAY 11, 2021

(WHEREUPON, the proceedings began at 2:03 p.m. The defendant appeared via video feed from the Florence County Detention Center.)

THE COURT: All right. Mr. Barclay, can you hear us?

THE DEFENDANT: Yes.

THE COURT: Okay.

All right. Mr. Clements?

MR. CLEMENTS: Thank you, Your Honor. May it please the Court.

Your Honor, we're here on two motions filed by the defense by Ms. Henderson, a supplemental motion for discovery and then following that a motion for a continuance. I'm ready to address those motions. I don't know if she wants to say something about them first and then have me respond to the discovery matter.

THE COURT: Hold on a second.

All right. It's your motions. Let me hear from you, Ms. Henderson.

MS. HENDERSON: Thank you.

THE COURT: And then I'll hear from you, Mr. Clements.

MS. HENDERSON: Thank you, Judge, and just for the record, I filed these notices -- excuse me -- notices of motions and motions to continue and reconsider bond. I was unaware that Mr. Clements had an issue with my supplemental

motion for discovery until this morning. So I would also like the opportunity to address that at the appropriate time.

I filed this motion for a continuance. By way of background, on March the 19th of this year, Mr. Barclay's case of which he is charged with murder was set as a backup trial for the week of May 24th before Judge Seals. At that time, I'm under the impression that both parties believed that they had all discovery.

We discussed with the Court verifying this. Pursuant to that discussion, on March 29th I went to Mr. Clements' office to make sure pursuant to his open file policy that I, in fact, did have all discovery.

Your Honor, during my review of Mr. Clements' file, I discovered that I was missing various pieces of discovery, including a complete Florence County Sheriff's Office supplemental incident report from 2018, Investigator McFadden's complete report from 2018, as well as other forms, witness statements, totaling 16 pages.

Later on in the day, I received an email from Mr. Clements' office with three SLED reports to make sure that I had them from the firearms department, the toxicology department, and the trace department, totaling 7 pages. I only had the toxicology report. I did not have the firearms report or the trace report from SLED. I believe that these reports were from 2018 or 2019.

Based upon this newly obtained information, I filed a supplemental motion for discovery on April the 12th. On April the 13th, I had a telephone call from Mr. Clements where I noted on my file that he would give me the information I requested aside from the victim's medical records. Your Honor, I can certainly provide you a copy of that supplemental motion for discovery, if you would like it. Mr. Clements and I discussed why he would not be providing the victim's records, and I have no issue with that.

On April the 22nd, I received a disk from Mr. Clements' office labeled Florence County Sheriff's Office case report and case photos from 2018. Your Honor, this was a total of 215 photographs and pages of reports that I had to print out and review, again all from 2018.

Your Honor, on April the 30th, I filed motions to continue and reconsider bond based upon all of this newly received discoverable information from 2018. On May the 3rd, Your Honor, I noted in my file that I had a telephone conversation with Solicitor Clements where he indicated that he would oppose my motion to continue.

On May the 5th, I received additional information from Mr. Clements' office, 14 pages to be exact of a case file on Mr. Cedric Young, who was labeled as either a potential suspect or a witness in this case. Your Honor, as I said earlier, this morning Mr. Clements advised me that he was not

going to provide me with other additional information that I requested pursuant to my discovery motion.

Your Honor, I requested this information in good faith. I requested this information following my in-person meeting with Mr. Clements in his office in which I went through his file page by page to determine what information my office was missing.

Upon that review, I filed this motion. None of the information I reviewed that I request in this motion is frivolous. It is simply me obtaining -- me trying to uphold my client's basic due process rights of discoverable information.

Your Honor, I certainly understand that evidence does and will come in later. I'm not contesting that. I simply asked for this request for a continuance because I've received over 250 pages of documents from 2018 that have been floating around out there weeks before this case is going to go to trial.

THE COURT: All right.

MS. HENDERSON: And I can certainly speak to the bond issue if you would like, and I can certainly speak to the information that I requested in the supplemental motion for discovery if you would like. I'm not quite sure how you would --

THE COURT: I want to hear from Mr. Clements, please.

MR. CLEMENTS: Your Honor, I don't know. I'm surprised because I've got all of the discovery here in front of me. It's not even -- not even 50 pages, much less 200. It's way less than 50, but unless you include photographs that are printed off, which you know from being a judge as long as you have, if you forensically examine a situation, they'll take photograph after photograph after photograph, and it's rare that any but a handful are produced in trial.

Your Honor, we called Ms. Henderson to tell her to come in anytime she wanted to to come look through our file pursuant to *Kyles v. Whitley* because that's helpful. If she finds something missing, then I may find whatever is missing and we can get it.

The only thing really of any impact that was missing was a bullet. And to begin with, this case was investigated by the Timmonsville Police Department before the current chief, and Mark Strickland took a bullet from autopsy from the victim's body. And then there was a couple shell casings out on the scene, and there was two bullets that were in the house where they shot up the house.

Those were all submitted when we sent subpoenas out and started this process with Ms. Henderson. We got a call from SLED and said, well, there's a bullet in there somewhere. We sent it back because they didn't have it examined. We've looked and the Timmonsville Police Department found it was

there and sent it right back to them and they -- they tested it, and I will tell you the results of the test in just a little bit.

But first, Your Honor, you have -- is it in the clerk's file? -- a supplemental motion for discovery. Do you have that in front of you?

THE CLERK: What's the -- is it indicted?

MR. CLEMENTS: Yeah.

THE CLERK: What's the indictment number? I was doing something else.

MR. CLEMENTS: I've got a copy here that's got a couple little notes of mine, but I'll pass it up so you can follow with me, Your Honor. If I may approach, Your Honor?

THE COURT: Yes.

MR. CLEMENTS: Some of this stuff, Your Honor, we got to Ms. Henderson even though it's not part of our case in chief. It's not anything relevant at all we think, but Rule 5 requires me to disclose anything that I determine that I'm going to use in evidence in chief at trial if they're intended for use by me, and a lot of these things she requested were not.

In her supplemental motion for discovery, number 1 said all materials, worksheets, and/or -- and I underscore "or" -- reports generated in the above matter by South Carolina Law Enforcement Division forensic services lab. We produced all

the reports, and the only ones that really have any impact are the two reports made by the ballistics where they examined cartridges that were outward shooting to the place, two bullets retrieved from the house, and the bullet retrieved from the body of the deceased.

They were compared. Item 11 is the body that was -- that was found from the victim, and it was most consistent with the bullets loaded into some 9mm caliber cartridges, and that was about as much as they could tell about it from there. They compared it with Item No. 7, which was 9mm -- which was cartridges found at the scene -- excuse me -- bullets found at the scene, and it was inconclusive, which means it could have been fired by a similar weapon or not.

The other item was Item 5, which was fired by a firearm that was compared to Item 11, and there was no match there. It could not be matched with it. So very minimal information there.

The cartridge case worksheet, bullet worksheet, weapon worksheet, all of that we didn't have. We don't have -- we don't ever request that. We don't get it, but anybody can get it. Once they've gotten the report, they can make a request and it's printed on every one of SLED's reports.

If I may direct Your Honor to page 2? Well, page 2 of this SLED report where it's highlighted there.

THE COURT: Okay.

MR. CLEMENTS: Ms. Henderson has a letter from counsel, SLED's counsel, that I was not aware of. They say it has to go through me, but this is -- we thought we had complied with it because it says all materials, worksheets, and/or reports, and we gave all the reports. So we thought that completely covered number 1 because the other things we don't ever use.

Number 2, she wanted a list of all agencies involved in the above action. We told her the Florence County Sheriff's Office and the Timmonsville PD involved.

Number 3, she requested a list of all officers, first responders, or other personnel with their respective agency names and ranks present on the scene in the above action. I don't have a list of those, Your Honor.

What I do when the information comes in with the reports and the memoranda from the officers and the crime scene log and sometimes the CAD report, we take that and we look at that and we decide, well, this guy is going to be a witness, we don't need this one, and we eliminate like that, but there's no list produced by anybody or manufactured by anybody on these type of cases.

And if there was a list manufactured, if I put together a list myself, then that would be work product. That wouldn't be something she's entitled to, but we -- we gave her every name. We gave her the crime scene log, all the reports. She had everything. She just didn't have it in a

nice little list. So everything she wanted was there in the discovery she got.

She's asked, Number 4, a list of any other individuals who were present on the scene in the above action, and the answer -- the response to that is the same as above. All that information is enclosed in the reports, on the crime scene log, and she could get that information just like we did by reading it and writing a list of her own. Again, I didn't comprise any list for that.

A list of all law enforcement vehicles that were present on the scene in the above action, along with the names of the officers assigned to the vehicles. I can't imagine what that would be in relation to that it would be of a probative value in this case, but again, we don't make a list like that. We went and got a sheet and made this request and went and got the CAD report, and I think we disclosed that to her as well, but there's nothing there for any list that we would make, any at all.

Copies of all photographs and recordings made relating to the above instance. We did that.

Number 7, copies of the rental agreement and any other documents from Enterprise Rentals. We gave her that. It was given on a disk with a lot of the photographs and other things.

Number 8, copies of the rental agreement and any other

documents from Enterprise Rentals pertaining to any other vehicles rented by Jimmy Hampton, Jr., involved in the above action. There was no other rented vehicles. All those were privately owned. The only rental vehicle was a red Dodge Challenger driven by her client, Mr. Barclay.

Number 9, copies of victim [redacted] F. J 's medical records from McLeod Regional Medical Center. I don't know what that would be relevant to or what it would be probative of. We gave her the autopsy records or autopsy report.

I told her that I wasn't getting that. I would think I would have a problem possibly with HIPAA, but she could have that if she wanted to get a court order to get it. I have no problem with that, but I wasn't going to do the work for her to get it because I didn't need it. It wasn't part of my case in chief. I don't think she liked that answer, but I wasn't trying to be ugly. I just wasn't going to do that extra work.

Ten, copies of all investigative reports, documents, recordings, statements or other discoverable material related to Cedric Levern Young. We gave that to her, and that was a few pages. I think she referred to that. She received that. That was not part of our case in chief, part of our file at all. We just went and got it because we could get it easily, easier than making a list to give to her.

But Cedric Young is a guy named Boogie, and Boogie and

one of the Hamptons got in a fight. They were broken up, and Boogie supposedly went by the aunt of the victim's or the aunt of the Hamptons house and shot it up and then went to the scene where F. J. was shot, and supposedly the people that were shooting, including Ms. Henderson's client, were looking for Boogie. And Mr. Barclay got out of the car and said, "Where's Boogie? Where's Boogie?" And they opened fire.

That's all that Levern -- Cedric Levern Young has to do with the case is he kind of started it by getting in that fight and what transpired after that, but there was nothing about his charge of shooting into the other house that had any relation other than it happened right beforehand. But there was nothing else we had of any probative value there.

A copy of the search warrant for the 2018 red Dodge Challenger. We provided her with that. Lt. Kathleen Streett.

So in my own opinion, Your Honor, there's nothing there that's relevant, probative, that would be something in our case in chief. We don't hand over what we don't have, and we don't usually go make lists for them, and we give them all the information that has all the names on it that would be on the list.

So I don't think there's anything there that would hold her up. The only thing that really was the true issue in the

case was the bullet retrieved from [redacted]'s body, and as soon as we got SLED to give us a report on that, she got it immediately. I think as soon as it came through on the email that was sent, it was sent to her by Lynn Jackson in my office.

But these other items, Your Honor, we don't think that's something we should be responsible for and we aren't responsible for. I'd love for law enforcement to just make me a list, but they don't. They provide me with reports, they provide me with crime scene logs, and when I request it, they can give me a CAD report. And off of all that, I have to read through and look through and pick out the names that are there to be on the list. And if I do that, then it's work product, but I didn't do that in this case.

MS. HENDERSON: And, Judge, if I can respond?

THE COURT: Yes, ma'am.

MS. HENDERSON: Thank you.

I believe that the State and the defense have markedly different interpretations of discovery obligations on the State. It's the defense's perspective it is incumbent upon the State to provide that information that is material to the case. It is not up to the State to determine what is material to my case.

Kyles v. Whitley sets forth that evidence in the State's possession, custody or control is discoverable. This

includes evidence known only to police investigators and not to the prosecutor. The prosecutor has a duty to learn of any favorable evidence known to others acting on the government's behalf.

Your Honor, my reasons for filing this supplemental motion for discovery was because, frankly, I was concerned. This case had been postured for trial. It's from 2018. We had been told by the defense -- excuse me -- by the State that we had the discoverable information that we were entitled to.

Your Honor, as I said before, I understand discovery materials come in late. I understand that this is not a seamless process. However, me going in person to the Solicitor's Office and learning that I am missing numerous pieces of discovery, from those pieces of discovery I then had concerns as to what else is outstanding.

That is why I filed this supplemental motion for discovery in such detail because, frankly, Judge, I want to know what's going on. The crime scene log that I received from Timmonsville Police Department from 2018 does not encompass and corroborate the information that I received in 2021 from 2018 Florence County Sheriff's Office Department. Your Honor, I'm just trying to put the pieces together to figure out what's going on.

I don't object to Mr. Timmons -- excuse me -- Mr.

Clements not providing the victim's medical records. I agree I don't need those from him. If I want to obtain those, I can get those myself.

But as for the information in the State's custody and control, that doesn't just mean direct custody. It also means constructive custody and possession, and that means he is responsible for his law enforcement agencies and what information they may have. I asked such detailed questions because I don't know what else is out there.

As to me requesting these SLED reports, Your Honor, I ran into a similar issue back in 2020 when I tried another murder case with Assistant Solicitor White. There were numerous other documents in SLED's custody, possession, and control other than the simple toxicology reports, firearms reports, and trace reports that were received by their offices.

I reached out to SLED on how I obtain that other material, discoverable information. The general counsel from SLED informed me that I needed to submit a supplemental discovery request to the State. I did that. I was advised by the State at that time that I needed to serve a subpoena. General counsel said, no, this is the supplemental discovery request, and I received that information.

Now, Mr. Clements is telling you that is not the process to do this. Your Honor, I'm just trying to get the

information that's material to Mr. Barclay's case.

And as to Mr. Clements' issue as to 215 pages, Your Honor, I printed off each page that I received and I numbered it, if you would like to look at it. It includes reports, photographs, and other documents.

MR. CLEMENTS: And then I said unless it included photographs because I noted how many photographs there were taken.

MS. HENDERSON: Well, photographs are evidence to the defense.

MR. CLEMENTS: It was provided to her on a disk with all of them. And if Your Honor please, we have disclosed the dates that were disclosed, if you want to look at those, Your Honor.

THE COURT: What is that, Mr. Clements?

MR. CLEMENTS: I have our additional Rule 5 disclosure, our initial Rule 5 disclosure, and it has a list of what all of them were and dated at the time they were given, if you would care to look at those.

(WHEREUPON, there was a pause in the proceedings, after which the proceedings resumed as follows.)

THE COURT: Ms. Henderson, let me ask you this.

MS. HENDERSON: Yes, sir.

THE COURT: All right. I'm looking at this SLED report on the firearm supplemental report.

MS. HENDERSON: Yes, sir.

THE COURT: And I guess that's what you're talking about, the worksheets from that.

MS. HENDERSON: From -- specifically, from the trace and the firearms department. From my limited understanding to SLED, there are -- frankly, from the last case I dealt with, there were hundreds of pages that I had to request additionally that go into compiling these trace reports, these firearms reports.

THE COURT: Well, let me ask you this.

MS. HENDERSON: Yes, sir.

THE COURT: I mean I'm looking at this supplemental report.

MS. HENDERSON: Yes, sir. I'm sorry. Can I see which one that is? Yes, sir.

THE COURT: Is that what you're talking about?

MS. HENDERSON: I'm not -- I have that report. What I want is the -- are the worksheets and the photographs that the forensic technicians and the scientists used to generate that report.

THE COURT: All right. Well, let me ask you this. And I don't know anything about this case.

MS. HENDERSON: Yes, sir.

THE COURT: Other than what y'all are telling me it's a murder, and I don't know any facts about anything. I'm

concluding based upon this supplemental report that a 9mm was involved.

MS. HENDERSON: Right.

THE COURT: Right? Okay.

MR. CLEMENTS: Yes, sir, Your Honor, a 9mm and a .380.

THE COURT: And a .380?

MR. CLEMENTS: Yes, sir.

THE COURT: Okay. And from this report, the conclusions are reached that Items 7 and 11, which were a fired bullet, were inconclusive, which I'm assuming based upon it being inconclusive, I guess it could or couldn't be a firearm that your client had. Item 11 was not fired by the firearm that fired Item 8.

I don't know if that helps you or hurts you. I don't know, but I mean it's -- I mean it's the second case I've heard today or motion for a continuance today when these cases have been set. Ms. Parrott I think indicated in March.

MS. PARROTT: Yes, Your Honor.

THE COURT: But of which I requested back at least in February of cases that needed to go to trial. Okay? And cases that needed to be first up.

And, you know, it's a little -- I mean we've gone through this last year and a half where it's been bond, bond, bond because they don't know when they're going to trial, and then when we set them for trial, it's ask for a continuance.

And by the same token, the State is not getting certain information to defense until whenever it may be. I mean it's either -- what appears to me to be fault on both sides. I mean waiting -- I mean if you knew -- I know y'all got more stuff than y'all -- I can't imagine what y'all's -- both of you's case loads are right now.

But it seems to me that these discovery issues should have been -- and maybe y'all requested it along and along. I don't know. I mean I'm just seeing what's in front of me right now, but it's been, you know, at least since February when I asked about cases that needed to be first up for trial, and I don't remember specifically, you know, whether or not, but typically when I have a roster meeting -- and quite honestly, I don't know remember what I -- whether we had an official roster meeting at that -- during that period of time or not, but I mean I always ask any outstanding motions, have you got all discovery. I mean isn't that pretty standard what I ask?

MS. PARROTT: And, Your Honor, we're explaining it to the best of our ability, but what we're finding is that we're not getting all of the discovery.

THE COURT: Well, I mean, you know --

MS. HENDERSON: And we don't know what we don't know.

THE COURT: Well, I mean what's being asked for here in your supplemental, Ms. Henderson, you know, a list of all

agencies, a list of all officers, a list of I guess possible witnesses, a list of all law enforcement vehicles, you know, I would suspect that all of that stuff is within the police reports in their investigation of the matter, of which could be, you know, gleaned from the defense as easily as it could be the State. I don't know. I mean I'm just looking back on my experience on that. You know, that's where I'd glean all of that from and talk to whatever witnesses I felt like I needed to talk to.

And if they're -- the State is under a continuing duty to provide pursuant to Rule 5 and *Brady* of any -- any and all exculpatory information. It's ethically obligated to do that. So I mean, you know, by the same token, you know, if the State is going to wait and produce this information at the eleventh hour, then the State is going to run the risk of it not being admissible at all because of not being timely produced.

So I mean --

MR. CLEMENTS: Well, Your Honor, what we produced is about two months ahead of the trial time by four days. On some of the stuff, it was on the supplemental discovery. So a lot of that stuff had already been disclosed back in February.

If I remember correctly, this was Hank's case to begin with, but I'm not sure how long he stayed with it. I'm not

sure when Ms. Henderson came on board.

MS. HENDERSON: He was just retained for purposes of bond initially.

And, Judge, if I may, the reason for me requesting that SLED information on that supplemental report that you showed that lists Cedric Young as the suspect in this case, that was my first time ever seeing as a defense attorney a suspect of Cedric Young, and that's why I requested that additional information and I received that in late March from Mr. Clements.

MR. CLEMENTS: Your Honor, he wasn't the suspect in this. He was the intended victim.

MS. HENDERSON: And, Mr. Clements, what I'm saying is he's listed as the suspect on SLED's report.

THE COURT: Okay.

MS. HENDERSON: And I want to know how they came to that.

THE COURT: Well, I mean it's -- I know SLED is backed up. They're probably more backed up now than they've ever been and they've always been backed up, but I mean we're talking five days ago that SLED produced this supplemental report. So I mean I don't know when, you know, the Solicitor's Office let them know that we needed this information or y'all needed this information. I mean I think the defense is --

MR. CLEMENTS: We served them with a subpoena, Your Honor, and --

THE COURT: Sir?

MR. CLEMENTS: -- they asked us for some more stuff.

THE COURT: I'm sorry. What?

MR. CLEMENTS: And they -- when we served them with a subpoena, that's when they told us that there was a bullet that Timmonsville PD had that had not been tested.

THE COURT: That's when -- when you served SLED with a subpoena, that's when they told you?

MR. CLEMENTS: They told me they had a bullet. Because it was separated, we -- Florence Sheriff's Office took over this case and that fell in the cracks with the Florence -- excuse me -- with the Timmonsville PD. So I don't know where -- if she could show me where she sees Cedric Young as -- in a SLED report listed as a victim -- as a suspect.

THE COURT: I mean I'm assuming that she is referring to the front page where it's got firearms department, V being victim deceased F. J. [redacted], and Cedric Young with a S beside it. I'm assuming that means suspect.

MR. CLEMENTS: Well --

THE COURT: I mean I'm just going on what --

MR. CLEMENTS: That must be.

THE COURT: -- my common sense, which it may not be a common sense conclusion, but that's what it would seem to me.

Am I wrong or right?

MS. HENDERSON: That's my interpretation of it as well.

MR. CLEMENTS: But there was no -- nowhere in any narrative that Cedric Young is listed as a suspect. He was a potential -- he was the intended victim, and Ms. F. J. got hit instead of him.

MS. HENDERSON: And I think these are all issues to flesh out at trial. I'm just simply trying to obtain the information to get to that point.

MR. CLEMENTS: And again, we've got our Cedric Young file and we gave it to her when we had it, when we located it.

THE COURT: Well, I mean it seems to me like the -- you know, whether it's of any benefit to the defense or not, I mean that they certainly ought to be entitled to look at this information if as an officer of the Court they're conveying to me that they feel like they need to to make a determination as to whether or not they think it would be beneficial or not. I don't know, you know.

MR. CLEMENTS: Are you talking about the worksheets, Your Honor?

THE COURT: Yeah.

MR. CLEMENTS: I don't know. I don't know if anybody could tell us anything about it unless an expert looks at it. I don't know if they have an expert ready to look at this or

not, but -- and the request on supplemental requests says all material, worksheets and/or reports generated. So we thought we were covered on the reports.

We did ask them, Your Honor, to go ahead and compile all -- compile the worksheets -- it takes them a while -- and to do it with all haste that they can do it with. We haven't heard back from them yet on that.

(WHEREUPON, there was a pause in the proceedings, after which the proceedings resumed as follows.)

THE COURT: All right. Anything else, Ms. Henderson?

MS. HENDERSON: No, Your Honor. There's the issue of bond, if you want to address that.

THE COURT: Well, I'm not going to revisit bond right now.

MS. HENDERSON: Sure.

THE COURT: I mean I've denied his bond before. I mean I don't know other than what's -- you can tell me what the change in circumstances, so to speak, at this point are.

MS. HENDERSON: My change in circumstance pursuant to the statute was this case was set for trial. We've received an abundance of discoverable materials shortly before trial.

THE COURT: Well, you know, I don't want to get into y'all's business of reviewing discovery and seeing what I think is pertinent and what's not pertinent. I mean I trust you all to do that, but I mean I'm not going to -- I'm going

to respectfully deny your motion to set bond then, and I'll let you all know with regards to the continuance. All right?

MS. HENDERSON: Thank you.

THE COURT: Here you go, Mr. Clements.

MR. CLEMENTS: Thank you, Your Honor.

(WHEREUPON, the proceedings adjourned for the day at 2:53 p.m.)

MAY 12, 2021

(WHEREUPON, the proceedings resumed at 2:37 p.m. The defendant appeared via video feed from the Florence County Detention Center.)

THE COURT: All right. We've got Mr. Barclay via video feed here, and I'm going to address the supplemental motion for discovery as it relates to Mr. Barclay and Ms. Henderson's request for a continuance.

I think his case is set for a backup trial. Isn't that right, Mr. Clements?

MR. CLEMENTS: Yes, sir, but I'm looking at really first up with moving to the front.

THE COURT: Well, his is set for the week of the 24th, I believe.

MR. CLEMENTS: That's correct.

MS. HENDERSON: Yes, sir.

THE COURT: All right. In looking at defendant's motion for supplemental discovery, number 1, all materials,

worksheets and/or reports generated in the above matter by the South Carolina Law Enforcement Division forensic laboratory. As I said a minute ago in discussing Mr. -- what's his name?

MR. CLEMENTS: Mr. Smith.

THE COURT: Mr. Smith's case -- and I know Mr. Barclay wasn't in here, but I'm going to kind of go back and rehash some of the information.

I met with Mr. Clements and Ms. Henderson this morning in my office to kind of get a better idea about this case, as well as the discovery issues involved here. What I learned in my discussions -- and I'll give you all an opportunity, Mr. Clements and Ms. Henderson, to add anything that I may have left out -- was that there was evidently two firearms that were being fired out there on the night that Ms. -- Ms. [redacted] was killed, the two firearms being a .380, as well as a 9mm firearm.

That the -- that there was a subsequent evaluation conducted by SLED of a bullet. Is that right, Mr. Clements?

MR. CLEMENTS: Yes, sir, Your Honor.

THE COURT: That was determined to be from a 9mm, some 9mm, and a list of potential 9mm firearms was given. Is that right?

MR. CLEMENTS: Yes, sir, Your Honor.

THE COURT: Okay. Now, subsequent to this crime, I did

ask and learned that no .380 nor any 9mm firearm was recovered.

It was further conveyed to me by counsel that the 9mm was the bullet that actually struck Ms. [redacted], resulting in her demise. Was that correct, Mr. Clements?

MR. CLEMENTS: Yes, sir.

THE COURT: Is that your understanding as well, Ms. Henderson?

MS. HENDERSON: I think so, Judge.

THE COURT: Okay. Now, I don't have that SLED report in front of me, but it was shown to me yesterday by Mr. Clements. And at the back of that report, it referenced additional worksheets, etc., could be provided, you know, in a -- you know, but it could take a while to provide. All right?

The only thing, if I recall from our discussions in chambers this morning, was that there were some alleged witnesses that saw Mr. Barclay with a 9mm firing. Is that right?

MR. CLEMENTS: Yes, sir.

THE COURT: And Ms. Henderson may disagree with that.

MS. HENDERSON: Certainly.

THE COURT: That was -- that was conveyed to me this morning in chambers.

MS. HENDERSON: Yes, sir.

THE COURT: Okay.

MS. HENDERSON: That was conveyed in chambers.

THE COURT: But again, no 9mm was recovered or subsequent to this -- to this victim being shot and killed.

Mr. Clements has conveyed to me that those worksheets have been requested and they hope to get them by the end of this week. Isn't that right, Mr. Clements?

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

THE COURT: Okay. Now, it was also conveyed to me -- and I'm kind of getting crossed as to what was conveyed in chambers this morning and yesterday afternoon, but there was some talk about GSR. But there was no GSR test performed on Mr. Barclay. Isn't that right?

MR. CLEMENTS: What was the last thing you said? The door shut and I didn't hear the last thing.

THE COURT: Mr. Barclay. No GSR kit was performed on Mr. Barclay.

MR. CLEMENTS: No, sir.

THE COURT: But it was performed on one of the co-defendants, I believe.

MS. HENDERSON: Not a co-defendant.

MR. CLEMENTS: No, sir.

MS. HENDERSON: A witness.

MR. CLEMENTS: It was done on the intended victim.

THE COURT: Okay. And there was a particle found?

MR. CLEMENTS: One particle.

THE COURT: One?

MS. HENDERSON: There were two GSR tests done, one on Ms. F.J. and one on Mr. Cedric Levern Young.

THE COURT: All right. And there was one particle found?

MS. HENDERSON: Correct.

THE COURT: Okay. All right. And in your requests for additional discovery, you're talking about materials, worksheets, reports generated pursuant to tests of the bullet, weapons, GSR, etc., any other materials related to GSR and locations of particles, photographs, notes.

I'm kind of at a -- I guess at a loss, so to speak, as to the prejudice -- potential prejudice to Mr. Barclay when there's no GSR performed on him, no weapons found in his possession that are linked to the 9mm cartridge, and what these worksheets -- what defense counsel believes these worksheets may or may not say when neither one of them tie Mr. Barclay to the crime.

MS. HENDERSON: Certainly, Judge. If I may respond?

THE COURT: Yes.

MS. HENDERSON: It's the defense's position that those materials are material to our investigation and review of the case. As I stated yesterday, I don't know what I don't know. I've requested these materials so that I can see what is

contained in them, specifically, as I said in chambers this morning, regarding the GSR issues.

The reports that we received from SLED that have been turned over to me in discovery say GSR positive or negative. It doesn't go into which hand it was found on. All of those can be relevant, in regards especially to Mr. Cedric Levern Young as to where the location of that GSR particle was found as he was placed on the scene as well and we have questions whether he should have been charged in this incident.

THE COURT: Okay. Well, I mean I think that's something that you could certainly get from -- through cross-examination as well.

MS. HENDERSON: Okay. Sure.

THE COURT: Mr. Clements?

MR. CLEMENTS: Your Honor, Mr. Young was mainly given a GSR because he was supposed to have shot up another house right before this happened.

THE COURT: Right.

MR. CLEMENTS: And he ended up being charged with that. I think Mr. Jepertinger handled the case.

MR. JEPERTINGER: Which one?

MR. CLEMENTS: Cedric Young shooting into a dwelling in Timmonsville.

MR. JEPERTINGER: I'm not sure.

MR. CLEMENTS: I think it was dismissed.

But again, you know, I don't think the standard is "I don't know what I don't know." I think the standard is it's got to be material and it's got to show some type of prejudice.

MS. HENDERSON: And again, Judge, I think that's where the defense differs.

THE COURT: Well, I mean it's got to be -- the State is required -- required pursuant to *Brady* -- excuse me -- yeah, pursuant to *Brady* to turn over evidence that's material to the defendant's guilt or punishment. Okay? They're required to turn that over.

And what I'm hearing really is to the lack of those worksheets when the -- when there's no GSR and no gun other than an alleged witness's. Those worksheets would not be material to his guilt. Maybe somebody else's, but not to this defendant. Okay?

All right. So as it relates to those worksheets, you know, the State has conveyed to me that they hope to have them by Friday. I want you to follow up with that anyway and see if you can't get that information to Ms. -- Ms. Henderson. Okay?

MR. CLEMENTS: Will do, Your Honor.

THE COURT: With regards to the remaining requests for supplemental discovery, list of agencies, list of officers, first responders personnel or other personnel, a list of

other individuals which were present on the scene, a list of all law enforcement vehicles which were present, I do think that that begins to run afoul of potential work product of which I think defense counsel can glean through review of discovery provided to defense counsel, as well as their investigation into the facts of the case. So that would cover 2, 3, 4, and 5.

Number 6, copies of all photographs and recordings made relating to the above incident. I would hope that's already been turned over.

MR. CLEMENTS: It was, Your Honor.

THE COURT: Sir?

MR. CLEMENTS: It's done.

THE COURT: All right. That's number 6.

Number 7, copies of the rental agreement and other documents from Enterprise Rentals.

MR. CLEMENTS: Done.

THE COURT: Mr. Clements indicated yesterday I think and in chambers that that was part of -- I think a photograph of that rental agreement was provided to defense counsel. I think he was going to look and see if there was a hard copy, but he did indicate that that was part of the photographs that were provided to defense counsel, which would include 7, 8 -- 7 and 8.

MR. CLEMENTS: In number 8, Your Honor, there were no

other rental agreements. There was no other vehicles rented. The other vehicles that were involved were all privately owned by persons.

THE COURT: Okay.

MR. CLEMENTS: Or families of the person who was operating it.

THE COURT: All right. Number 9, Ms [redacted]'s medical records from McLeod Regional Medical Center. I mean I don't know what -- when you talk about medical records, are you talking about any and all medical records ever of Ms. [redacted] or just when she was taken to the hospital after the shooting?

MS. HENDERSON: No, Judge, and I think I said this yesterday and I apologize if I failed to.

THE COURT: And you may have and I may have just forgotten.

MS. HENDERSON: And because of our telephone conversation with Mr. Clements, we discussed specifically those medical records. I have no issue with his office not providing those to me. I think every -- I have no issue with his office not providing those to me. I think the information -- I agree with his position that information that would be material to the case is either contained in the coroner's report --

THE COURT: Okay.

MS. HENDERSON: -- or the autopsy report.

THE COURT: All righty. Number 9 is, in essence, taken care of.

Number 10, copies of all investigative reports, documents, recordings, statements or other discoverable material relating to Cedric Levern Young.

MR. CLEMENTS: We've provided that, Your Honor. I know it was very minimal. We provided all that we have on that.

MS. HENDERSON: He's provided me that.

THE COURT: Okay. And copies of the search warrant for the Dodge Challenger, which should have been provided.

MR. CLEMENTS: It was provided, Your Honor.

THE COURT: Is that right?

MS. HENDERSON: Yes, sir.

THE COURT REPORTER: I'm sorry. What did she say?

THE COURT: She said, yes, sir.

All right. So that covers defendant's supplemental motion for discovery. Is that right, Ms. Henderson?

MS. HENDERSON: Yes, sir.

THE COURT: All right. Ms. Henderson, did you file a separate motion for a continuance?

MS. HENDERSON: I did, Judge. It was a joint motion to continue and motion to reconsider bond.

THE COURT: All right. All right. It appears that your motion for discovery, in essence, deals specifically with

materials requested in your supplemental motion for discovery of it being potential voluminous --

MS. HENDERSON: I'm sorry. Can you repeat that?

THE COURT: I said in looking at your motion for a continuance, you reference the existence of additional discoverable and potentially voluminous discovery information, which I'm assuming is what your supplemental motion for discovery is referring.

MS. HENDERSON: Yes, sir.

THE COURT: All right. So in light of the fact that this information has been provided or the Court has deemed 2, 3, 4, and 5 not discoverable pursuant to Rule 5 and *Brady* without more, the Court believes that the information has been adequately turned over and that there would not be any prejudice to the defendant and, therefore, defendant's motion for a continuance is denied, respectfully denied. Okay?

MS. HENDERSON: Thank you, Judge.

THE COURT: All right. Thank you.

MR. CLEMENTS: Thank you.

MS. HENDERSON: Could I just -- could we place on the record, if Mr. Clements -- that this is a comprehensive amount of discovery that I'm going to get and that I'm not going to be receiving any more materials prior to trial?

THE COURT: Well, I mean I can't -- I mean I'll let him respond to that.

MR. CLEMENTS: Your Honor, we've looked high and low. We will continue to look high and low. There's some witnesses, lay witnesses, that I've got to get and interview If they come up and tell me something that is in evidence out there, I've got to look at it and I've got to disclose it to her.

We won't be -- I can promise you this. We're not holding back on anything to surprise her later. We've given her everything we've got now, but if something else new comes up, we will immediately give it to her, but I can't say all right and then I'm done because if something comes up, it may come up some piece of evidence that's going to exonerate her client or any other piece of evidence that's material.

THE COURT: Well, and I'll go back and reference the case of *State v. Bryant*. In that case, you know, the day before a substantial amount of documents or discovery information was involved in that case.

And in that case, you know, once again, I'll say the Supreme Court, you know, certainly referenced the fact that the defendant's motion was grounded in a last-minute turnover of records from SCDC, and the Supreme Court says, you know, we don't condone that, but the acquisition of requested documents at the last minute is not uncommon.

So I would hope -- and I've known both of you for a long time. As I've said many times, I think y'all's offices work

well together. I mean I don't think that -- I'm not going to sit here and say that he's got to say that it's everything. Some stuff may come up. I understand that, and it's not uncommon in our profession that that happens on occasion. But there's an ongoing duty of disclosure on both sides, and so I trust that you all will certainly continue to work to get whatever.

Hopefully, everything -- hopefully, you have everything, Ms. Henderson.

And hopefully, Mr. Clements, you will meet with those witnesses sooner rather than later so if there is anything, you can get it to Ms. Henderson promptly. Okay?

MR. CLEMENTS: Yes, sir, Your Honor.

THE COURT: All right. Thank you.

MS. HENDERSON: Thank you, Judge. And, Judge, can I request protection for at least a few days next week so that I can prepare for this trial?

MR. TUCKER: There will be two trials going on. So you can give her all the protection she needs.

MR. JEPERTINGER: There will be two trials going on.

THE COURT: Well, you don't have any cases up for trial next week, do you?

MS. HENDERSON: Not next week. No, sir.

THE COURT: Okay. Well, here's what I'll do. I'm not going to specifically say on the record that you've got

protection whatever, but if you find yourself being summoned for whatever and you need protection, I'm going to be here next week. You let me know if it's an issue and I'll -- I'll give it to you.

MS. HENDERSON: Sure. I know the Solicitor's Office is scheduling me at least for one day next week.

THE COURT: Okay. Fair enough?

MS. HENDERSON: Thank you.

THE COURT: If there's a problem, let me know.

MS. HENDERSON: All right. Thank you, Judge.

THE COURT: Okay.

MR. CLEMENTS: Thank you, Your Honor.

(WHEREUPON, the proceedings ended at 2:59 p.m.)

--- END REQUESTED TRANSCRIPT ---

State of South Carolina)

) Certificate

County of Florence)

I, the undersigned, Krystal J. Smith, Notary Public and Official Court Reporter for the Twelfth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing pages, numbered 1 through 40, constitute a true, accurate, and complete Transcript of Record of all the proceedings had and evidence introduced in the hearing of the above captioned case, relative to appeal, in the Court of General Sessions for Florence County, South Carolina, on the 11th and 12th days of May, 2021.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

Krystal J. Smith

Court Reporter

Florence, South Carolina

February 18, 2022

State of South Carolina	)	Court of General Sessions
	)	Twelfth Judicial Circuit
County of Florence	)	Case No. 2019-GS-21-00579
	)	
	)	
State of South Carolina,	)	
	)	
Plaintiff,	)	
	)	
-vs-	)	Transcript of Record
	)	
	)	
Michael Christian Barclay,	)	
	)	
Defendants.	)	
	)	

May 20, 2021
Florence, South Carolina

B E F O R E:

The Honorable C. Craig Brown, Judge

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

Edgar L. Clements III, Esquire
Attorney for the Plaintiff

Christie Henderson, Esquire
Attorney for the Defendant Barclay

Krystal J. Smith
Official Circuit Court Reporter

I N D E X

WITNESS/DESCRIPTION	PAGE NUMBER
Motion to Dismiss or Continue and Set Bond	5
Ruling	36
Court Reporter Certification	42

E X H I B I T S

NO.	DESCRIPTION	ID.	EV.
	(No Exhibits Presented)		

COURT REPORTER LEGEND

dashes	--	intentional or purposeful interruption or change in thought
ellipses	. . .	trailing off
[*ph*]		phonetically written
[*sic*]		written as said

MAY 20, 2021

(WHEREUPON, the proceedings began at 10:09 a.m. The defendant appeared via video from the detention center.)

THE COURT: All right. Are y'all ready to proceed on Mr. Barclay? Can y'all hear me okay? Well, can you hear me out there, Matt?

MATT (AT JAIL): We can now, Judge.

THE COURT: Can you see us?

MATT (AT JAIL): Yes, sir.

THE COURT: All right.

MS. HENDERSON: Mr. Barclay? I'm sorry. Can you see me as well?

THE COURT: Can you see Ms. Henderson? Can y'all see Ms. Henderson?

MATT (AT JAIL): Yes, sir. We can see her. We have the whole -- we have the whole desk and everything. We're good.

THE COURT: All right. Very good.

All right. Ms. Henderson?

MS. HENDERSON: Thank you, Judge.

This is a defense oral motion, and I apologize. I've not yet had the opportunity to file anything written regarding this.

By way of background is I emailed this Court yesterday afternoon. At approximately 3:30, I received six disks from Mr. Clements's office with over three and a half hours of

body camera footage from the night and next day surrounding this alleged shooting.

Mr. Barclay is charged with the offense of murder. This footage is from the lead investigator at the time of the incident showing his response to the scene, showing numerous witness interviews, showing an abundance of information that should have been made known and aware to us years ago, frankly, Judge. Judge, this is a hearing on this matter.

Your Honor, I've never requested that a murder case be dismissed. I'm asking that in this case, and this is why. I provided the State, as well as this Court, a packet of rules, court rules, statutes, case law. I believe that those rules, those statutes, that case law taken into conjunction with our state and federal Constitutions emphasize an overriding theme that the State's sole -- the primary responsibility is fairness, specifically emphasizing the burden the State has on fair play, Your Honor, because it's not in the prosecutor's interest in winning the case, but in ensuring that the criminal trial is fair so to ascertain the truth. Your Honor, I believe that the truth at this point cannot be ascertained because of the repeated pattern of, frankly, law enforcement's trampling on defendant's constitutional rights.

By way of background, Judge, this case was set for trial. Mr. Michael Barclay is charged with murder. On March 19th of this year, you set this case. It was set as a backup

trial for the week of May 24th before Judge Seals. I indicated to this Court based upon my conversations with Solicitor Clements that we had received all discovery. We discussed verifying this discovery.

On March the 29th, I visited Mr. Clements's office pursuant to his open file policy, reviewed his file, determined that I was missing numerous pieces of discovery. I filed a supplemental motion for discovery on April the 12th, requesting that all information material to this case be disclosed.

Judge, I filed this motion because, based upon my meeting with Mr. Clements pursuant to his open file policy, I was under the impression that there remained outstanding evidence that I had a gut feeling could be material or exculpatory to the case. I subsequently received hundreds of pages of additional discovery. My motion to continue this case was denied by Your Honor.

Your Honor, on May the 18th I had a telephone call with my office's investigator in preparation -- in preparation for this trial, Mr. Thomas McKenzie. He was in Timmonsville serving subpoenas. He became aware that there existed body camera footage that had never been turned over to us by Capt. Mark Strickland. This body-cam footage was from the night of the incident and the next day, August 26th.

I contacted Mr. Clements, as well as Inv. McFadden, who

subsequently took over as lead investigator for this case. They both confirmed this. It's my understanding from my conversation with Mr. Clements and Mr. McFadden that in the process of interviewing and preparing Mr. Strickland for this case, they determined the existence of this body camera footage. Mr. Clements apologized. He did indicate over the telephone that he was not going to review the evidence, that I could determine if there was anything exculpatory on the disks.

Your Honor, I received these disks and I can show this Court in this envelope contained exactly like this yesterday. That was May the 19th. It's six disks. As I said, my initial review of the disks reveals over three and a half hours of body camera footage from the scene, the incident location, numerous witnesses interviewed that are unidentified, over an hour of footage from Mr. Cedric Levern Young. Your Honor might recall that another reason for me requesting supplemental discovery earlier this month was because I believed he had been named in some capacity as a suspect, Your Honor.

And I had five other attorneys in my office -- excuse me -- four other attorneys in my office here until last night assisting me in reviewing this discovery, and I think all of them who heard at any point anything on the discovery can attest that Michael Barclay's name was not mentioned.

The evidence on this -- on these recordings point to Jimmy Hampton, Jr., Demonta Kabora Hickson, KB, and a gentleman by the name of John Hampton, JJ. He was never charged. Demonta Kabora Hickson, KB, was charged, and Jimmy Hampton, Jr., was charged.

Your Honor, I contend that these disks are the most important piece of evidence as they depict Strickland responding to the scene immediately after this shooting, show a multitude of witness interviews. This footage should have been the first item recovered and turned over to the defense.

Your Honor, if I had received this years ago, months ago, I have no doubt this case would have been resolved and, Your Honor, again as I will say, many witnesses on these disks Mr. Strickland fails to identify. He fails to document or transcribe many of these interviews.

A multitude of law enforcement personnel and vehicles can be seen on scene. Again, I said other attorneys in my office assisting me yesterday afternoon and last night in attempting to identify who was on scene. Judge, unfortunately, we were unable to do so because the incident reports and the crime scene log turned over to us in discovery are incomplete, inaccurate, don't mesh up with one another, and don't mesh up with what's contained on the video.

It raises another question of what's contained on the

footage. We see numerous law enforcement vehicles. We see numerous Timmonsville police officers, Florence County Sheriff's officers, which makes me wonder is there any other body-worn camera or car camera footage out there that has not been turned over to us.

We also observed an unidentifiable Highway Patrol deputy. That was the first time we had ever learned of any Highway Patrol presence on scene. This individual can be seen speaking to a potential witness on scene. I don't know if this was an interview. I don't know if this was recorded. We have no knowledge. And, Judge, from the defense's standpoint, consistently these videos show the Hampton boys, KB, Demonta Kabora Hickson are responsible for the shooting, not Michael Barclay.

Judge, these scenes depict a contaminated crime scene. There's a large crowd. We counted twelve individuals, non-law enforcement, that are unidentified, loitering, walking around and going in, going out, going around the crime scene. At one point a private unidentified vehicle is driven onto the scene, and law enforcement can be heard discussing that there may be a shell casing under this vehicle and it needs to be moved.

On another disk Capt. Strickland is recorded realizing that he doesn't have a crime scene log. He's recorded driving to the police station where he looks through a stack

of papers unable to find a crime scene log. He is recorded going to the bathroom. He fails to turn off his body camera in doing that. He returns to the crime scene with a piece of paper, handwritten makeshift crime scene log.

Judge, there's another disk of over an hour of footage of Cedric Levern Young, again who was labeled as a suspect on the SLED reports, saying multiple times that he witnessed John Hampton, JJ, who was never charged, and Jimmy Hampton, Jr., shoot the victim. He also states that the Hampton family is responsible for this shooting. He states that Jimmy Lee Hampton was up to no good that night and refers to him a dangerous mother f-u-c-k-e-r.

Judge, on other disks witnesses are interviewed, again many of whom are not identified, consistently naming that the Hampton boys, Jimmy Lee Hampton, or KB, Demonta Kabora Hickson, as the shooter. And, Judge, again, this is what we have viewed on the footage.

I'm trying to piece this together as well because no one is identified. There is a scene in the Timmonsville Police Department where multiple young men, who I believe are from the Hampton family, are seen sitting around the conference table with Capt. Mark Strickland taking their interviews. There is an older gentleman present believed to be Jimmy Lee Hampton, Sr.

And, Judge, let me tell you why this is important. My

client has maintained from day one that he is innocent of this charge. He has maintained that, saying that Jimmy Lee Hampton, Sr., orchestrated this false claim against him to protect his son.

Judge, by way of background and what would be elicited in trial, Jimmy Lee Hampton, Sr., former Timmonsville police officer, sentenced in 2000 to thirteen and a half years in federal prison for taking the drugs off of the individuals that he was arresting in Timmonsville and selling them and running them up 95. Judge, he had a lengthier sentence, but he was able to get it reduced because he testified against his nephew.

On this video, you can hear Capt. Mark Strickland after taking these statements being thanked by Mr. Hampton and saying -- and Mr. Hampton states to Mr. Strickland that he'll call him later. This substantiates my client's defense that this claim has been orchestrated by Mr. Hampton, Sr., falsely accusing him and him using his buddies in the Timmonsville Police Department to help facilitate this fabricated claim.

Again, Judge, Jimmy Lee Hampton, Jr., Demonta Kabora Hickson, John Hampton, who was never charged, are the individuals consistently named as the shooters. Michael Barclay is not. From these videos, the logical conclusion is that Jimmy Lee Hampton, Demonta Hickson, and James Hampton -- John Hampton should be charged, but it's Michael Barclay that

is charged, along with Jimmy Hampton and KB.

Judge, Capt. Strickland attended numerous bond hearings. He was in this courtroom numerous times. He knew or should have known that he had this evidence that he needed to turn over and, Judge, what's most concerning to me is that at each and every one of these bond hearings where Mr. Barclay has been denied bond, it has been represented to this Court that Mr. Barclay was the shooter. These disks do not show that. In fact, they point to the individual who received a $10,000 bond.

Judge, due to the process -- excuse me. Judge, due process, as you know, requires that a prosecutor disclose material in the government's possession that is favorable to the accused. Rule 5 encompasses what happens with a failure to comply with the request.

Judge, the cases that I set forth, again, go through the overriding theme that it is the emphasis within this country for the State to play fair. The prosecutor's interest is not in winning a case but ensuring that justice is done.

And, Judge, I can certainly go into more detail, the cases that I rely upon, the evidentiary rules that I rely upon. I can answer any questions that you have. I can provide you with what was provided to me yesterday.

THE COURT: Who was the officer you said that attended the bond hearings?

MS. HENDERSON: Capt. Mark Strickland.

THE COURT: Is he the one that got time?

MS. HENDERSON: I'm sorry. What was that?

THE COURT: Who was the one that got 13 years?

MS. HENDERSON: Mr. Barclay's co-defendant's father. Jimmy Lee Hampton, Jr., is one of Mr. Barclay's co-defendants. His father, Jimmy Lee Hampton, Sr., is a former Timmonsville police officer who did thirteen and a half years is my understanding from what I'm told.

THE COURT: Well, I'm looking at the cases that you handled up -- handed up.

MS. HENDERSON: Yes, sir.

THE COURT: And kind of scanning those cases that were just given to me. There are five different cases here.

State v. Kennerly, 331 S.C. 442, Kennerly being spelled K-e-n-n-e-r-l-y.

State v. Moses, 390 S.C. 502.

Gibson, G-i-b-s-o-n, *v. State*, 334 S.C. 515.

Strickler v. Greene, 527 U.S. 263.

Monroe v. Angelone, A-n-g-e-l-o-n-e, 323 F.3d 286.

And just, I guess, a cursory review because they were just given to me. I don't know when they were handed up to my law clerk, whether it was this morning or yesterday, I don't know.

In the *Strickler v. Greene* and the *Monroe v. Angelone*,

which are the two federal cases, it appears to me that both of those cases dealt with situations wherein information was retained or held back, so to speak, from defense or defense counsel, and the defendant was subsequently convicted.

MS. HENDERSON: Yes, sir.

THE COURT: Is that likewise the situation with *Kennerly*, *Moses*, and *Gibson*?

MS. HENDERSON: Yes, Judge. I believe all of these cases resulted in a conviction already, and that's the difference here is that we obviously have not gone to trial. And if I didn't enunciate this as clearly as I should have earlier, my position is not just these alleged Brady violations, but just the total pattern of what we believe to be violations of the defendant's fundamental constitutional rights by law enforcement.

THE COURT: All right. Mr. Clements?

MR. CLEMENTS: Your Honor, I have not yet had a chance to look at these cases. I just got them here just a minute ago or review a motion. I guess the motion is a motion to dismiss. Is that the only motion we're dealing with right now?

MS. HENDERSON: Motion to dismiss and in the alternative a motion to set bond and continue the trial.

MR. CLEMENTS: Your Honor, let me give you a background on how we came to be here on this information today. The day

before yesterday, I was at the Timmonsville Police Department working with Chief McFadden getting witnesses in and talking to them to find out what we needed to know from each one and their contact information so we could have them available, all the normal things you do.

And Mr. Strickland walked up to us and said, well, do y'all want my video from my body cameras? And I'm like, what? And I don't know who was more flabbergasted, me or Chief McFadden. When this happened, Chief McFadden was not the chief. He was an investigator with the Sheriff's Office that ended up taking over the case.

Numerous times we have asked Mr. Strickland to give us everything he's got in his file. Numerous times also Chief McFadden asked for all of his file so he had everything in there. Never did it disclose to any of us that there was video out there and that there was a body-worn camera. It was not notated in any of his reports that he had on his body-worn camera. It just caught us completely by surprise.

I had to really bite my tongue because it wasn't my place to say anything to Mr. Strickland because he didn't work for me, but I've had enough issues. That I've been advised here he was involved with the bullet and when that got sent back to SLED to be tested, the bullet that came from autopsy that he picked up, he was again asked have you got anything else. We need to have it.

And then he volunteered this information the day before yesterday. We got it to Inv. McKenzie with the Public Defender's Office. He's in and out with helping him get some of the same people he needed to serve subpoenas on thinking we had already served subpoenas on them. So we were assisting him in that way.

So we told him what happened, what came up, and we've got to get it for him. It ended up -- James Allen ended up copying this. He made two copies and we got one to Inv. McFadden yesterday. So we figured that was faster than us trying to get it to Ms. Henderson because Inv. McFadden -- Inv. McFadden, Inv. McKenzie, and myself were all together and he gave this to me.

I've got this copy, but I have not looked at it. The reason I have not looked at it, Your Honor, is because if I was in your shoes, I would suppress it. I think it should be suppressed if there's anything in there that's probative because she got it late. Whatever is in there --

THE COURT: I mean it sounds to me like it's all exculpatory.

MR. CLEMENTS: Well, if you look at it in -- if you look at it in conjunction with all the other evidence and the handwritten statements that some of these people on this video that you will see gave -- because I know where most of that was. They came down to the police office and they were

sitting there around the table and, Your Honor, this blows my mind too. They were all sitting together and they were given statements and they filled them out. That would be most of the time that was spent on this tape, I would believe.

I know that's contained in part of it, but if you take that and you take what's on these disks from what she said and you compare it to the whole picture and you get all of it added together, it would not be something that would cause her to have a slam dunk dismissal or a slam dunk not guilty. It would be reasonable doubt, but there's plenty of other evidence in the timing of it with Mr. Barclay, you know, that can be explained as to how they work. He was gone. These other people were here, and they did a full investigation when Inv. McFadden took over the case and he started running the case.

It was a full investigation, and we believe to this day and we still believe that there were two shooters and that Michael Barclay was one of them and that KB, who is Demonta Hickson, was the other. We also believe that Jimmy Lee Hampton, Jr., drove Mr. Hickson up there and was following Mr. Barclay's car, which was a red Dodge Challenger that was rented by Mr. Hampton for Mr. Barclay to drive while he was here down visiting with family.

But we don't -- we don't think there's any way you can look at these disks without looking at them in the context of

all the other evidence and everything else that was done. So we would oppose any dismissal.

THE COURT: Well, I mean --

MR. CLEMENTS: However, if there's anything that would help me in this case on those, which I think -- I'm sure there is something. We think it should be suppressed because we didn't give it earlier to her. It's been since 2018. Capt. Strickland should have given that to me or given that to Thomas McFadden and we could have moved on from there.

But he didn't. He didn't volunteer that information until the day before yesterday, and I was flabbergasted and angry because what this ultimately boils down to is us being in court and me standing here looking like a fool because of something that should've been given to me, you know, months and months ago. I didn't even know about it and the only person that knew about it was Capt. Strickland and he mentioned it the day before yesterday.

And I don't know what part of "give us everything you've got and give us your whole file" he does not understand, but I know in talking with Mr. McFadden we both asked that and made that request of him several times.

MS. HENDERSON: Your Honor, if I may respond?

THE COURT: Yes.

MS. HENDERSON: I was at our office last night with other attorneys until 9 o'clock. I was up a good portion of

the night looking at this. I don't know how Mr. Clements can take the position that he has said this information is not helpful to the case without any --

THE COURT: Well, he hasn't even looked at it.

MS. HENDERSON: Looked at it. Correct, Judge. And as to --

MR. CLEMENTS: Your Honor, that's mischaracterizing the way I presented that. I didn't say that.

THE COURT: Well, that's what you said.

MR. CLEMENTS: Sir?

THE COURT: I said you said you hadn't looked at them.

MR. CLEMENTS: I know I haven't looked at them, but I know during the time period when this was made. I know what was being done during the investigation. They were taking written statements. I know that was at the same time because of what she said was on there earlier, and I said, well, yeah, that fits because that's about all he did.

MS. HENDERSON: And, Judge, if I may respond?

THE COURT: Yes.

MS. HENDERSON: I understand Solicitor Clements's position and dilemma in not receiving this information from Capt. Strickland. However, case law clearly explicates that this responsibility falls on the prosecutor. I would ask that you re-look at *State v. Kennerly*, which I passed up.

THE COURT: Well, it's imputed to him.

MS. HENDERSON: Excuse me, Your Honor?

THE COURT: It's imputed to the solicitor.

MS. HENDERSON: It is, correct, Judge. And that responsibility is imputed to him even if it's not known to the prosecutor but known to others acting on his behalf, in this case Mr. Strickland.

Your Honor, if I may talk more about these disks, Mr. Clements has not watched them, but he says he is fine with suppressing them. This is the case, Judge, and this case -- the defense views this as something akin to a motion to suppress in a drug trafficking case.

You have a dirty stop on 95, an unconstitutional stop on 95. It does not matter the amount of drugs found. If that search and seizure is unreasonable, unconstitutional, those drugs are suppressed. Your Honor, I'm saying that this is akin to one of those situations.

THE COURT: Well, let me ask you this. You know, in your motion to continue last week --

MS. HENDERSON: Yes, sir.

THE COURT: I cited the case of *State v. Whipple*, and there was another case that I don't have up here right now. In the *State v. Whipple* case -- I think it was *Whipple*. Let me --

MS. HENDERSON: The one with the 400+ pages of discovery?

THE COURT: Right. I mean how is that wherein --

MR. CLEMENTS: How many pages you said?

MS. HENDERSON: 400+ in *State v. Whipple*.

THE COURT: 479 pages that was given over the night before.

MR. CLEMENTS: Oh, okay.

MS. HENDERSON: Sure. Judge, if I may distinguish?

THE COURT: Well, hold on a minute.

Go ahead, Ms. Henderson.

MS. HENDERSON: Certainly. If I may distinguish the *State v. Whipple* case that Mr. Clements provided is a drastically different situation.

My interpretation in reading of that case was hundreds of pages of discovery turned over to defense counsel. Defense counsel indicated during trial with no time to prepare that they reviewed -- defense counsel reviewed this discovery. Some of it was duplicative of what had already been contained in the Rule 5. Defense counsel advised the Court that it was ready to proceed with trial.

That is not the case here, Judge. The information shown --

THE COURT: Let me ask you this. What else do you need to do?

MS. HENDERSON: Judge, I don't know. The information that we viewed on disk last night indicates that there are

witnesses not contained in the incident report, not contained in the crime scene log, law enforcement personnel that we have no knowledge of and who they are. We are unable to identify them.

THE COURT: Well, let me ask you this. Mr. McKenzie -- has he been working on this?

MS. HENDERSON: He has, Judge.

THE COURT: I mean has he been able to gather any of this information?

MS. HENDERSON: Judge, we just reviewed this. I received this at 3:30 yesterday. Mr. -- Mr. Floyd, Ms. Lawson, Ms. Crayton, as well as Ms. Parrott have all assisted. We haven't had time.

THE COURT: Well, I mean Mr. --

MS. HENDERSON: And -- and may I interrupt?

THE COURT: Yeah, go ahead.

MS. HENDERSON: Concerns that I have with what's contained on these disks, I don't believe any effective chain of custody can be established, but I am now aware of information that is out there that I as an attorney have a duty to investigate.

THE COURT: Well, this is what we're going to do. I want Chief McFadden here this afternoon at 2:30, I want Capt. Strickland here this afternoon at 2:30, and I want Mr. McKenzie here today at 2:30, and I'm going to find out what

exactly needs to be done and I'm going to find out on the record from Capt. Strickland what the problem is.

MR. CLEMENTS: Yes, sir. Your Honor, I forgot to say this. Capt. McFadden had something in Columbia he had to do this morning. He would have been here and wanted to --

THE COURT: You mean Chief McFadden?

MR. CLEMENTS: Chief McFadden wanted you to know, Your Honor, that whatever I said, I spoke for him. We do have Capt. Strickland here.

THE COURT: 2:30.

MS. HENDERSON: Could we have Mr. Barclay transported? I haven't had an opportunity to --

MR. CLEMENTS: I have no objection to that, Your Honor.

MS. HENDERSON: -- discuss it.

MS. CRAYTON: And they are actually transporting one of my clients as well. So that wouldn't be an inconvenience.

(WHEREUPON, there was a break in the proceedings from 10:41 a.m. until 2:47 p.m., after which the proceedings resumed as follows.)

THE COURT: All right. Is defense counsel ready to proceed?

MS. HENDERSON: We are, Judge.

THE COURT: Is the State ready to proceed?

MR. CLEMENTS: Yes, Your Honor.

THE COURT: Ms. Henderson, anything else you want to

tell me?

MS. HENDERSON: Judge, not at this point. Well, actually, yes, Judge.

I do want to make clear. There was a mention from Mr. Clements this morning that he would be fine with suppressing this information contained on these disks. Judge, that is not what the defense is requesting. In the event that this trial is ordered to move forward, I want the jury to hear every bit of the video footage and recordings on these disks because it steers away from Mr. Barclay. So I want to make that point clear.

Judge, I did pull after this morning the crime scene log, as well as the statements that I believe Mr. Clements relies upon in obtaining these charges against Mr. Barclay. I can present those to Your Honor, if you'd like, and I apologize. They are the defense's copy.

THE COURT: I mean you can hand them up here.

(WHEREUPON, there was a pause in the proceedings, after which the proceedings resumed as follows.)

THE COURT: All right. Anything else by way of argument, Ms. Henderson?

MS. HENDERSON: Nothing, Your Honor.

THE COURT: Mr. Clements?

MR. CLEMENTS: Your Honor, I believe Ms. Henderson says those statements, that's our case. There's a lot more to the

case than that. There's forensic evidence from the scene and there's other people that we talked to. These were just the people he talked to that night, but the investigation had just begun, not concluded. Then after that, they asked the Florence County Sheriff's Office to come adopt the investigation, and they did. Inv. McFadden at the time, now Chief McFadden, headed that up. So there's a lot more to the investigation than that.

I was able to quickly peruse through these cases that Ms. Henderson passed up and, if I'm not mistaken, they are all -- every one of them are a situation where there was a trial, there was a conviction, and then there was a question about Brady or Rule 5 or something afterwards. And also, unless I missed my count, all but one ended up with the conviction standing, maybe two, but I know one was overturned, which was out of Virginia, but the rest of them I think were all convictions that all stood. They talked about Rule 5 and Brady violations.

Your Honor, I did say that I wouldn't have a problem with, you know, the disks from the body camera being suppressed. What I was meaning by that, speaking completely clearly, is because of the egregiousness of having this given to me so late and having to give it to the defense so late because I've got a continuing duty to disclose that I would not object and I would make no objection. If the Court

decided to suppress anything in there that was beneficial to me, then I wouldn't have a problem with that being redacted. I hope I've made myself clear on that.

But that's because we got it late and there's no excuse for that. There's none whatsoever. If you want to hear about the way that it came about, we'd be happy to tell you. Chief McFadden is here. He had asked for the whole file and thought he had the whole file a couple times, but we checked more than one time and it was just volunteered the day before yesterday while we were between talking to people about the viewing the video.

THE COURT: Well, let me --

MR. CLEMENTS: We just could not believe it.

THE COURT: Let me ask this question, Mr. Clements and Ms. Henderson. Ms. Henderson, you indicated there's three and a half hours of tape?

MS. HENDERSON: Yes, Judge. That's a -- that's an approximation.

THE COURT: Okay.

MS. HENDERSON: Yes, sir.

THE COURT: How many different people is law enforcement talking to on the tape?

MS. HENDERSON: Judge, I would estimate 20 to 30 to 40.

MS. LAWSON: Yeah. It's a crowd of people.

MS. HENDERSON: I mean Mr. Floyd, Ms. Lawson, Ms.

Parrott, and Ms. Crayton can all attest. And unfortunately, Mr. --

THE COURT: Are these -- ma'am?

MS. HENDERSON: Unfortunately, Mr. Strickland fails to identify most of these individuals. I'm trying to piecemeal the statements that I have from this time frame that he took, written statements, to what we're seeing on the video and it's just not meshing up.

MR. CLEMENTS: Chief McFadden might be able to help with recognizing some of these folks. My understanding was it was a chaotic scene out there, that there were crowds and crowds of people. The EMS workers had a real hard time getting through getting the body out. There were threats made and it was a very hostile environment, a chaotic environment.

THE COURT: Well, I mean it seems to me -- and I haven't looked at the videotapes. I don't plan on looking at the videotapes. That's up to you all, but it seems to me that, you know -- and I don't know if there's -- if it's all exculpatory, if some of it is inculpatory. I don't know because I haven't looked at them.

MS. HENDERSON: Certainly.

THE COURT: And, Mr. Clements, you haven't looked at it either, have you?

MR. CLEMENTS: No, sir. I haven't looked at it. I didn't because I figured it was going to be suppressed, at

least the part that was going to be beneficial to the State.

MS. HENDERSON: And, Judge, if I just might reiterate for the record, we received these disks yesterday afternoon at 3:30. I've gone through them initially. It'll take some substantial time for me to really listen to everything, but I think the general consensus amongst the folks in my office that viewed these videos, the exculpatory information points to his co-defendants or a third-party and there's really nothing inculpatory.

MS. LAWSON: I do not hear Mr. Barclay's name through what I've listened to.

THE COURT: Well, I mean have y'all listened? Has defense listened to all of it?

MR. FLOYD: I mean --

THE COURT: I mean now I'm kind of getting -- Ms. Lawson says to what she listened to, which leads me to believe she hasn't looked at all of it. Has anybody looked at all of the tapes?

MS. LAWSON: No.

THE COURT: Or listened to all of it?

MS. HENDERSON: I've listened to all of it once and, Judge, it takes me longer to listen. I need to listen to it at least three times because it's very difficult to determine what's going on and what's being said at times.

THE COURT: Well, I mean --

MR. FLOYD: Ms. Henderson has listened to all of it. I saw some of the disks, but not all of it because they're broken down into different disks. And one disk is pretty much dedicated to one person who we're aware of, but then there was another where they're out at the scene talking to individuals. We don't know who they are.

And one lady is I think, if I'm not mistaken -- you know, my mind is kind of frazzled a little, but I believe I heard her say -- describe the shooter as someone with dreadlocks who jumped out of the car. It certainly doesn't point towards Mr. Barclay. I don't know who she is. I mean --

THE COURT: Unless he -- unless he had dreadlocks at the time and cut his hair.

MR. CLEMENTS: He didn't, Your Honor. His co-defendant did.

MR. FLOYD: He never had dreadlocks and, you know, I don't know who that lady is. Obviously, she needs to be spoken to. She claims she saw somebody jump out of a car. I mean I don't know who she is.

MR. CLEMENTS: There are several people that it could be because there are several people that testified to that, that they saw the co-defendant jump out on the blue car and he had dreadlocks, and Mr. Barclay is associated with the red car.

MS. HENDERSON: And --

MR. CLEMENTS: And some people saw that. It was depending on their vantage point whether they could see around the corner of the trailer to see which car they were focusing on. There were several cars pulled up there.

MS. HENDERSON: And if I may, Judge, just to make clear for the record, Mr. Clements has mentioned once again that he seems to have a very strong case against my client. I would like to know where the rest of that discovery is to show that because it's not in what we have.

MR. CLEMENTS: Your Honor, she's got all of the discovery that I know of for this. There are probably witnesses I've talked to that -- that are my work product. I've talked with them. She wouldn't be entitled to a statement from them until after they've testified. She can get it on cross-examination.

THE COURT: Well, I mean that's -- you're right under the rules.

MR. CLEMENTS: Yes, sir.

THE COURT: But that's never been the norm in your office.

MR. CLEMENTS: It has not. It depends on how we get treated, I guess, as to how we respond.

THE COURT: Well, I mean come on now. I mean --

MR. CLEMENTS: Well, I feel like what I'm getting here is accusations against me, you know, and it all boils to me

because it's imputed to me, but there's certainly not anything we did by design or on purpose or anything else.

THE COURT: Let me ask this question. Chief, how are you doing today?

CHIEF MCFADDEN: I'm good. How are you doing today?

THE COURT: I'm doing good. Have you viewed these videos?

CHIEF MCFADDEN: No. Once he said he had video, we've never watched them, but I know I probably could identify everybody on the video and whether they were family members.

THE COURT: Well, I know you're from over there and you know most people over there.

CHIEF MCFADDEN: Yes.

THE COURT: Or have some connection.

CHIEF MCFADDEN: Correct.

THE COURT: Which leads into the next issue of -- Mr. McKenzie?

MR. MCKENZIE: Yes, sir.

THE COURT: How are you doing today, sir?

MR. MCKENZIE: Good, Judge.

THE COURT: Have you -- have you looked at the videos?

MR. MCKENZIE: Some of it, yes, sir.

THE COURT: Have you been able to identify any of them?

MR. MCKENZIE: Just one guy.

THE COURT: Have you had a chance to track that

individual down?

MR. MCKENZIE: That's one of the -- one of the witnesses that we have a subpoena for.

THE COURT: Okay. And there's maybe 20, 30 or more?

MR. MCKENZIE: I only saw the one disk with the one suspect on it and I saw another disk with seven suspects.

THE COURT: Okay.

MR. FLOYD: Witnesses.

CHIEF MCFADDEN: And the female sounded like they're talking about, she's on the witness list too. She said -- the female said an individual jumping out with dreads, and that would be Sha-Tyra Gee. So that was a lot of the young kids that was sitting in the yard when they came over there.

THE COURT: Well --

CHIEF MCFADDEN: But I would have to look and see, but I'm pretty sure that's her.

MS. HENDERSON: And, Judge, I don't want any misrepresentations to the Court intentionally or unintentionally from the defense. We'll say 15 individuals at the bare minimum. I haven't had the opportunity to count one by one the individuals that can be seen on these videos, but . . .

THE COURT: All right.

(WHEREUPON, there was a pause in the proceedings, after which the proceedings resumed as follows.)

THE COURT: Is it -- is it Capt. Strickland that had this information?

MR. CLEMENTS: He's the one that had the information. Yes, sir.

THE COURT: Capt. Strickland?

CAPT. STRICKLAND: Yes, sir.

THE COURT: How are you doing today, sir?

CAPT. STRICKLAND: Well. How about you, sir?

THE COURT: Doing fine. Can you tell me what the delay was in handing this stuff over, providing this stuff to your office and the prosecution?

CAPT. STRICKLAND: I think it was mainly overlooked.

THE COURT: Sir?

CAPT. STRICKLAND: I think it was mainly overlooked. I thought I'd released it to the Solicitor's Office and I asked them that day. I said you didn't see that on the video, and he said, no, I don't have any videos. I went and got it for them right then.

THE COURT: Well, I'm going to give you, Mr. Clements, a copy of this. Disregard my writing on it. I made notes. And I haven't seen anything otherwise, but what I hold in my hand is an order dated September 19.

Officer Strickland, you can sit down, sir. Thank you.

Dated September 19, 2008, that was signed by Judge Nettles. At the time, he was the chief administrative judge.

And I'm assuming that this order, which was approved by Chief Justice Toal back on November 10 of 2008, is still in effect, and this order was a cooperative case management administrative order. And in that order under Subsection 2, initial appearance, paragraph 9 which references discovery, it reads as follows.

Discovery is ordered to be handled pursuant to the following guidelines. All -- all law enforcement agencies shall provide copies of General Sessions case reports, together with all witness statements, video and audiotapes, photographs and diagrams, and any other material included in the law enforcement case file to the Solicitor's Office within 21 days of the arrest of a defendant.

If the case file remains incomplete 30 days after arrest, law enforcement shall provide the Solicitor's Office that portion of the report that is complete, together with a listing of those items for which law enforcement is waiting. Failure to do so may necessitate an appearance before the administrative judge to explain noncompliance.

As I said previously, this order has not been rescinded, to my knowledge.

Do you know otherwise, Mr. Clements?

MR. CLEMENTS: No, sir, I do not. As a matter of fact, the first draft of that order I drafted back when dealing with case management issues pursuant to Judge King's

direction.

THE COURT: All right. So I wanted Chief McFadden here to hear that and I wanted Capt. Strickland here to hear that because there's really no -- no excuse for it.

And I understand, Chief, you weren't there when all of this took place, so to speak.

CHIEF MCFADDEN: Correct.

THE COURT: But I wanted -- and I don't know how many officers you have over there now. It may be just you and Capt. Strickland. I don't know.

CHIEF MCFADDEN: We have five. Five.

THE COURT: But I want that conveyed clearly to your office, please, sir.

CHIEF MCFADDEN: All right.

THE COURT: And having said that, I know that each of you all's offices has got more to do than you can say grace over, so to speak, and you probably could use ten more officers over there, but that still doesn't change the terms and conditions of this order and it doesn't within this order say if you believe it ought to be turned over, turn it over or, you know, turn it over.

And the best way to do that is make a list of what's turned over and the date of what's turned over so that there's no "I thought I turned it over, but I didn't." So you go back in your case file, you know what's been turned

over.

Now, moving on to the defendant's motion to dismiss the case, that motion is denied. All right? Respectfully denied. Okay?

And I've looked at or my trusty law clerk has looked at more thoroughly than me, but has looked at the *Strickler v. Greene*, 527 U.S. 263. In that particular case, exculpatory evidence had not been turned over by the State. The U.S. Supreme Court granted a writ of cert; however, concluded that the petitioner was unable to prove that there is a reasonable probability that his conviction would have been different if the materials had been turned over.

In *Monroe v. Angelone*, 323 F.3d at 286, petitioner was granted habeas relief concluding that the State had violated established Brady principles in that particular case, wherein the Fourth Circuit found that the suppression of this exculpatory evidence was material to the outcome of the trial.

In *State v. Kennerly*, 331 S.C. 442, that involved a juror, some juror misconduct. The Court of Appeals found the State did not violate Brady and Rule 5.

In *State v. Moses*, 390 S.C. 502, which is probably the most analogous case to what we have here in large respects, in that -- in that particular case, it involved a pretrial Brady motion based on the State's failure to turn over video

surveillance evidence which was destroyed prior to trial. The video evidence wasn't destroyed in this particular case as it pertains to Mr. Barclay.

The petitioner or the defendant in that case asserted that the videotaped evidence would have been helpful to the student in identifying witnesses. They further argued that if he had been presented with the entire surveillance video, he may have been able to locate, interview, and present favorable witness testimony.

In light of that, the Court of Appeals held there was no Brady violation because the record failed to establish the exculpatory value of the evidence. While defense asserted the tape would most likely have allowed it to identify witnesses who may reasonably have been able to have presented favorable evidence, what evidence which could have led the defense to impeaching evidence, the Court of Appeals went on to say that there were alternatives to get this very same information, including a yearbook provided by the State which could have helped the student identify other witnesses.

The Court further found that there was no reversible error in the trial court's denial of Moses' motion to dismiss the case based on the alleged destruction of relevant evidence.

In this case, the *State v. Moses* case, it involved a video, which we have here. It involved potential witnesses

on the video, which very well may have been favorable to the defense and, in essence, the Court of Appeals indicating that the defendant had a yearbook that they could have identified witnesses to assist in that situation.

Not the case here. Not the case here, which, in essence, really leads into -- it kind of circles back around, I think, to -- and I don't know, Ms. Henderson, if you made this request.

I just noticed my microphone was off. Did y'all hear me okay?

MS. HENDERSON: I can hear you. Yes, sir.

THE COURT: Okay. I don't know if you made this request this morning separate and apart from your motion to dismiss, and you may have and I just didn't hear you or didn't make a mental note of it anyway of a potential continuance. Did you bring that up this morning?

MS. HENDERSON: I did, Judge.

THE COURT: Okay.

MS. HENDERSON: I requested in the alternative a continuance and a motion for bond.

THE COURT: All right. Which comes back around in this situation, of which I think at this point is a viable and legitimate request.

MR. CLEMENTS: We will not dispute that, Your Honor, only in regards to bond.

THE COURT: So I'm going to continue the case next week.

MS. HENDERSON: Thank you, Judge.

THE COURT: And this is frustrating a little bit on the Court's part because of the oversight of law enforcement here wherein the County has expended money to have a large jury pool coming in for this case, for a murder case.

So Ms. Henderson has asked for a bond. I believe that to revisit the bond issue, if at all, then the State needs to be given time to notify the victim's family. They're entitled to be here. If it can't be done tomorrow, then it needs to be set before Judge Seals or Judge Nettles next week for that to be revisited.

MS. HENDERSON: Thank you, Judge.

THE COURT: All right.

MR. CLEMENTS: Thank you, Your Honor.

THE COURT: And I would ask --

MR. CLEMENTS: Your Honor?

THE COURT: Sir?

MR. CLEMENTS: Excuse me. I'm sorry. We would ask Your Honor if you would set this for a day certain the next term of General Sessions court here.

THE COURT: All right. Anything, Ms. Henderson, on that request?

MS. HENDERSON: Judge, I would love to try this case as quickly as possible. Of course, that is dependent upon

anything else the defense might receive from the State that we haven't seen before.

THE COURT: I'm going to set it for a day certain that week of August 23rd, August 23rd. It'll either be in front of me or Judge Seals. He and I both are here that week.

MR. CLEMENTS: Your Honor, I just have one more thing.

THE COURT: Yes.

MR. CLEMENTS: Just I think this might have a better understanding between Ms. Henderson and I so we don't argue about stuff we don't need to argue about, and I would just refer her to read Rule 5(b)(2), some types of information subject to disclosure.

That's all I have. Thank you.

THE COURT: Anything else, Ms. Henderson?

MS. HENDERSON: No, Your Honor.

MR. CLEMENTS: Your Honor, we think we can get the family here Monday. We kind of doubt we can get them here tomorrow.

THE COURT: Sir?

MR. CLEMENTS: For the bond hearing.

THE COURT: Monday?

MR. CLEMENTS: Monday. I think we'd have a hard time getting them here tomorrow.

THE COURT: All right.

MS. HENDERSON: Thank you.

THE COURT: Well, I'll -- this will be the last thing I say about this. Our dockets are backed up enough or the dockets are backed up enough with enough murder cases pending right now that we can't be -- we don't need to be continuing cases because of stuff like this.

CHIEF MCFADDEN: That'll be the last time under my watch, Your Honor.

THE COURT: And I don't doubt that, Chief. All right. Thank you.

MS. HENDERSON: Thank you, Judge.

MR. CLEMENTS: Thank you, Your Honor.

(WHEREUPON, the proceedings ended at 3:26 p.m.)

(WHEREUPON, the proceedings ended at 3:26 p.m.)

--- END REQUESTED TRANSCRIPT ---

State of South Carolina)

) Certificate

County of Florence)

I, the undersigned, Krystal J. Smith, Notary Public and Official Court Reporter for the Twelfth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing pages, numbered 1 through 41, constitute a true, accurate, and complete Transcript of Record of all the proceedings had and evidence introduced in the hearing of the above captioned case, relative to appeal, in the Court of General Sessions for Florence County, South Carolina, on the 20th day of May, 2021.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

s/Krystal J. Smith

Court Reporter

Florence, South Carolina

October 26, 2021

State of South Carolina	)	Court of General Sessions
	)	Twelfth Judicial Circuit
County of Florence	)	Case No. 2019-GS-21-00579
	)	
	)	
State of South Carolina,	)	
	)	
Plaintiff,	)	
	)	
-vs-	)	Transcript of Record
	)	
	)	
Michael Christian Barclay and	)	
Demonta Kabora Hickson,	)	
	)	
Defendants.	)	
	)	

August 23-26, 2021
Florence, South Carolina

B E F O R E:

The Honorable D. Craig Brown, Judge; and a jury

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

Edgar L. Clements III, Esquire
Attorney for the State

Christie Henderson, Esquire
Attorney for the Defendant Barclay

James Hoffmeyer, Esquire
Attorney for the Defendant Hickson

Krystal J. Smith
Official Circuit Court Reporter

MR. HOFFMEYER: No, sir.

THE COURT: All right. Yes, ma'am, Ms. Henderson?

MR. HENDERSON: I'm good. We'll have -- I'm sorry. I apologize.

THE COURT: Well, the Court has, you know, looked at this pretty hard before the hearing last week. Certainly, I appreciate what you all have put forward to me in your motion to sever. It's very well thought out, very well argued by both of you.

However, the Court's rulings remain the same on your request that these cases be severed. The Court's rulings remain the same, which in essence is denying both defendants' motion to sever. However, your motion, objection, etc., is so noted for the record. All right?

Anything else, Ms. Henderson?

MS. HENDERSON: Judge, yes. I would like to renew my motion to dismiss that I argued before you on May the 20th of this year. I also would like to renew my previous discovery motion. At the appropriate time I would like to place on the record that discovery that remains outstanding that Defendant Barclay does not have.

THE COURT: Well, I mean we did -- we continued the case the last term of court because there was some outstanding discovery, which namely the video that was turned over at the 11th hour, so to speak. There's additional discovery out

there that I mean I need to address?

MS. HENDERSON: I've been informed that Mr. Clements has indicated to me that it does not exist or it was purged, and I would just like to place that on the record.

THE COURT: All right. Go ahead, please, ma'am.

MS. HENDERSON: All right. What I believe has been placed on the record pursuant to my conversation with Mr. Clements -- excuse me. What I believe has been purged or is unavailable based upon my conversations with Mr. Clements:

The Florence County Sheriff's Office Deputy Marlon Mack's in-car camera footage from the scene 8/25 to 8/26, 2018.

Florence County Sheriff's Officer Deputy Michel McFadden's in-car camera footage.

South Carolina Highway Patrol Jordan Smith's body-worn camera footage, in-car camera footage, and any reports prepared in conjunction with his response to the scene on August 25th and August 26th, 2018.

Timmonsville Police Department Officer Christopher Miles' body-worn camera footage and in-car camera footage from the scene August 25th to August 26th, 2018.

Timmonsville Police Department Officer Mark Strickland's in-car camera footage from August 25th to August 26th, 2018.

Timmonsville Police Department Chief Billy Brown's body-worn camera footage, in-car camera footage, and any reports

prepared regarding the incident.

And any other in-car camera footage from any law enforcement vehicles present on the scene August 25th to August 26th, 2018.

THE COURT: Okay. All right. Mr. Clements, anything in response?

MR. CLEMENTS: Your Honor, some of those things she asked for didn't exist. Some of them were purged. I think Miles' was the only one that was purged. The other ones did not exist.

THE COURT: Okay. All right. Your objection or motion, etc., is noted for the record.

MS. HENDERSON: Thank you, Judge.

THE COURT: All right. Any other matters, Ms. Henderson?

MS. HENDERSON: Nothing from Defendant Barclay.

THE COURT: Mr. Hoffmeyer, anything else, sir?

MR. HOFFMEYER: No, sir. Thank you, Judge.

THE COURT: All right. Ma'am?

MS. HENDERSON: One other housekeeping matter. Could we just move the chairs up a little bit just for the jury -- for purposes of the jury?

THE COURT: I mean that's fine.

Can you move them up a little bit, Mr. Johnny? Ms. Mary?

OPENING STATEMENT ON BEHALF OF THE STATE

MR. CLEMENTS: Where's Boogie? Where's Boogie? Bam, bam, bam, bam, bam. That was a horrible, tragic, no excuse for thing that took place in Timmonsville at 301 Byrd Street on August 25th, 2018.

Earlier that evening, a bunch of kids went to the fair with their Uncle Trap, and they came back to their grandmama's house where everybody was hanging out and having a good time. And then it wasn't but about a couple minutes later when all hell broke loose with people yelling, "Where's Boogie?"

Who is Boogie? Cedric Young, also known as Boogie, was down at a party at Cassandra's in Timmonsville. She lives on the end of Timmonsville close to Florence, and a lot of people were there.

Well, a fight started up between Boogie and a much younger fellow, JJ Hampton. Well, JJ's uncles and cousins got in and broke it up and made JJ go home, and they went on about enjoying themselves at the party. The next thing you know, messages get passed that someone had come and shot up Aunt Dot's house, and they believed it to be Boogie riding in a gray car.

So they all jump in cars and take off, and they're going to do something, something kind of like a rolling firing squad. They go by Aunt Dot's house and turn around and go.

The leader of the pack was a red Dodge Challenger that had been rented that week by Jimmy Lee Hampton, Jr., for his cousin, Michael Barclay, to drive. Well, that red car was leading the pack and they all come charging up to the corner of Byrd and Tanyard and jumped out and said, "Where's Boogie?" Bam, bam, bam.

Now, Mr. Hickson, known by everybody as KB, he was riding in Jimmy Lee Hampton's car, a blue Dodge Charger. He jumped out the car, and witnesses there said the only one they saw jump out of the car was KB. They saw him fire. They saw him shoot.

In the area he was in, around that area they picked up five spent shell casings of a .380. Also, there were bullets from another caliber gun retrieved from the walls of the trailer where they got shot there, and there was a bullet that did not match the .380. It was a 9mm that they retrieved from Fantasia at her autopsy.

Now, [redacted] had just come up with her Uncle Trap, and she walked over to her mom and dad's car -- and later on we'll show you where all these cars were parked and where the people were -- and asked if she could go spend the night at her uncle's house with her cousin, and they said sure. She started to walk away and about then is when all the cars come charging up. There's a lot of cars. Probably some just want to know what's going on or know that -- heard what happened

about it and think they're going to see a fight. You know, a lot of cars pulled up, but we know the first couple cars, they were a rolling firing squad. They were going there and they were going to take care of things.

And they didn't wait on Boogie. They didn't see if he was there. They didn't get people to help them find Boogie so they could find out what was what. They just jumped out and said where's Boogie and used that as an excuse to just open fire and throw bullets everywhere, not knowing whose name is on the bullet. Well, one of those bullets had Fantasia's name on it.

This was one of the most horrible, senseless things I've ever seen happen. You've got people involved that have never really been in trouble before, but now here they are in this court facing a murder charge.

Your job, as the judge told you, is to judge the facts. We're going to do our best to present the facts. That's my -- that is my job, to find the facts and present them. I've got a high burden, a burden beyond a reasonable doubt, that I've got to crawl over as I represent the State of South Carolina to show what happened, to show what the truth is, present you with the facts beyond a reasonable doubt, and I'm going to do my best job to do that for Fantasia. I want to see justice for her and I'm going to do my best.

And we're going to go and together I hope we're going to

go down the road where the facts lead and where the evidence points, and we're going to reach a conclusion at the end of it and we're going to find the truth that's there, and the truth is going to be that KB Hickson and Michael Barclay are guilty of murder.

And it doesn't matter if one bullet hit her from one gun and one didn't hit her from the other gun because, as the judge is going to tell you when he talks about the law, he's going to tell you about something called accomplice liability, and that is a fancy word of saying the hand of one is the hand of all.

If Chief McFadden and I decided we were going to go rob a bank and I just waited outside because I'm chicken and I'm not going in and I kind of keep watch, if he goes in and shoots up the place, I'm guilty of everything he's done because I'm doing it with him, and that's the law in South Carolina. The hand of one is the hand of all. They went together and they shot and they opened fire and they sprayed bullets around, then they're both accountable.

When we get to the end of the road and it's time for y'all to go back and deliberate, I hope you will take that in your hearts, that the law will be in your heart, and the law is the hand of one is the hand of all. Thank you.

THE COURT: Ms. Henderson?

MS. HENDERSON: May it please the Court?

THE COURT: Yes, ma'am.

MS. HENDERSON: Counsel. Counsel.

OPENING STATEMENT ON BEHALF OF DEFENDANT BARCLAY

MS. HENDERSON: Ladies and gentlemen of the jury, good afternoon. I know we introduced ourselves earlier. Again, my name is Christie Henderson. I'm an attorney with the Public Defender's Office here in Florence. I'm here today along with Mr. Scott Floyd. He is circuit defender of the Twelfth Judicial Circuit.

It's our pleasure to represent Mr. Michael Christian Barclay. He's sitting right over there at the table beside Mr. Floyd. Mr. Barclay has some family members here with him as well. His aunt, Ms. Lori Alston. His child's mother and girlfriend, Ms. Zuniah McLeod. His cousin, Mr. Jaheim Alston.

Thank y'all for being here. Our defense is simple. Michael Barclay should have never been charged. And before I talk more about this, let me make one thing clear.

As a mother, I cannot imagine the pain and the heartbreak that that family has gone through. I can't. No parent should have to bury their child, and what happened to 12-year-old [redacted] should have never happened. It's unacceptable, it's tragic, it's heartbreaking, and it's wrong, but, ladies and gentlemen of the jury, I stand before you today and I say that two wrongs do not make a right and

there is also another wrong in this case. That wrong is that that man sitting right there at that table, my client, that wrong is that Michael Barclay, my client, was charged and this should have never happened. The evidence and the testimony that you'll hear this week all goes into three reasons why this should have never happened.

The first, law enforcement mishandled this investigation. They did it wrong. We can't trust this investigation.

The second, there is no credible evidence against Michael Barclay. Ladies and gentlemen of the jury, let me say that again. There is no credible evidence against Michael Barclay. And when I say credible evidence, I mean that evidence that you can trust, that's reliable, that's unbiased.

And the third reason, the credible evidence that we do have, it doesn't point to Michael Barclay. It points at his co-defendants, Jimmy Lee Hampton, Jr., Demonta Kabora Hickson. It points to other individuals present on scene that night. It does not point to Michael Barclay.

At the end of this case, after all of the evidence is presented before you go into the jury room to deliberate, Judge Brown will spend some time instructing you on the law. He talked earlier this morning, as he will at the end of this this case, about witness credibility. Judge Brown will tell

you that it is your job and your job alone to judge the credibility of the witnesses.

Ladies and gentlemen, ask yourselves as these witnesses testify this week are these witnesses biased? Are these witnesses reliable? Can I trust these witnesses? Do these witnesses have something to gain by testifying in a certain way?

This brings me to two other issues that I ask that you keep in mind during the course of this trial. The first, as Mr. Clements pointed out, the State's burden of proof. And the second, my client Michael Barclay's presumption of innocence. Let's talk first about the State's burden of proof.

As Mr. Clements said, the State has the burden of proof in this case. This burden never shifts to the defendant. This means that the State, as required by the United States Constitution, the highest law of this land, this means that the State must prove Mr. Barclay guilty beyond a reasonable doubt. This means that we -- as the defense, we don't have to prove a thing. You, as the jury, can only convict Mr. Barclay if you are satisfied beyond a reasonable doubt of his guilt.

And what is reasonable doubt? It is proof that leaves you firmly convinced of Michael Barclay's guilt.

The second, presumption of innocence. Mr. Barclay is

presumed innocent. Again, mandated by the United States Constitution, our country's highest law, and what this means is that you cannot assume that Mr. Barclay has done anything wrong. If you have any inkling of any kind whatsoever in your body and your mind and your soul that that man has done anything wrong, then you have violated that oath that you just took mere seconds ago when you held up your hand and swore to uphold the law in this case. You must presume that Michael Barclay is innocent.

In conclusion, ladies and gentlemen, our defense is simple. Michael Barclay should have never been charged. I believe that -- I believe that after hearing the evidence this week and listening to the testimony, you will render a verdict that is fair, a verdict of not guilty. Thank you.

THE COURT: Mr. Hoffmeyer?

MR. HOFFMEYER: Thank you, Your Honor.

Mr. Clements.

Ms. Henderson.

OPENING STATEMENT ON BEHALF OF DEFENDANT HICKSON

MR. HOFFMEYER: Ladies and gentlemen of the jury, I want to take just a brief moment to thank you as the solicitor did and the Court did and, of course, Ms. Henderson did for the time and attention that you give us in this case. I think we all know and we all understand that when you get that jury summons in the mail, you think, my goodness gracious, I've

got a hundred things to do or a 101 things to do, whether they are work responsibilities, whether they are family responsibilities, all the things that each and every one of you has to do.

And I think we all appreciate it. In fact, I know we appreciate it. We talk about it. We appreciate the time and attention that you give us in this case. We appreciate the talent that you bring to this courtroom.

It's an amazing thing when you think about it when you take folks with different backgrounds, different upbringings from all across the county and they sit and listen carefully to the trial of a case, and they go back there at some point after they've heard from the judge and share that information with one another, deliberate, share the information and come out with a verdict, a verdict that draws this matter to a conclusion.

And so you're doing an amazing thing for us in this courtroom and then later and, certainly, the Court appreciates it, the prosecution appreciates it. I'm sure Ms. Henderson and her client appreciate it, but no doubt that Mr. Hickson appreciates it because he is on trial for a terrible crime. He's the one that's accused. He's the one that the solicitor has said what he said. He's the one that Ms. Henderson has said the things that she said.

He needs you folks here. This happened in 2018, a

tragedy, an awful event, but he has been waiting for a trial, an opportunity for his day in court. So he desperately needed you folks here. So on his behalf we are extremely grateful.

Now, as far as the law of the case -- and His Honor will tell you about it at the end, but as has been mentioned previously, the State has the burden of proof beyond a reasonable doubt as to each and every part, each and every element of the crime charged. Now, that is the highest burden of proof in the law.

To charge someone, probable cause, to end up just sitting there on trial for your life in a sense, probable cause, a very low standard. That's why being charged, that's why an indictment being brought here today is proof of nothing, and he's presumed innocent. And that charge, that indictment, that probable cause standard is so low, it's absolutely proof of nothing.

Then in civil cases, like an accident case, you will have the burden of preponderance of the evidence, more likely than not. That is a burden that pales in comparison to beyond a reasonable doubt.

There's a higher burden than preponderance of the evidence. It's called clear and convincing evidence, such as if you're seeking punitive damages in a civil case, a civil case, a much higher burden than preponderance of evidence,

but still a much lower, lesser standard than beyond a reasonable doubt. Beyond a reasonable doubt. That is the appropriate standard. That's what our Constitution holds, and that's what we know you folks will hold the State to in this case.

Now, another part of the law of this case -- and it's been touched on -- is Mr. Hickson does not have to prove a single thing, nothing. He's presumed innocent.

But another part of the law that touches on that a little bit when you're dealing with a case such as this where there's so much understandable emotion involved is you not only have to hold the State to the burden of proof beyond a reasonable doubt, you can't base a verdict on, well, it seems likely, it seems that's probably what happened, it sure makes sense to me. You know, that's not beyond a reasonable doubt, but also -- and the Court will instruct you later. You can't base a verdict on emotion because anybody hearing this case and the loss of that child would feel enormous emotion. Anybody would want to hold someone responsible for that.

Nobody will blame anyone for having those types of feelings and emotions, but you can't allow that to be a part of your verdict. Your verdict can only be based on hard facts, hard evidence, beyond a reasonable doubt, and we trust and know you will do that.

So on behalf of Mr. Hickson, we believe you will hear

the evidence, we know you will pay attention, we know that you will share with one another. We know you will apply the law to the facts in this case and when you do, you will have a lot of emotion over the tragedy, but you will find Demonta Hickson not guilty in this case. Thank you again on his behalf, all of you.

THE COURT: All right. Ladies and gentlemen, what we're going to do now -- ordinarily, we'd go ahead and start calling witnesses, but I -- in discussing this with the lawyers before you all came out, we're going to stop right now for the day. All right?

I'm going to let you go home for the balance of today. I'm going to ask that you be back tomorrow morning in the jury room ready to go at 9:30. Be ready to go at 9:30. Okay?

Now, in my opening charge to you, ladies and gentlemen, I told you not to discuss this case with anyone. Okay? That remains throughout. Not only are you not to discuss the case with anyone, no one should try to talk to you about the case. All right? If anyone tries to talk to you about the case, you let the bailiffs know as soon as you return and we will make sure that's taken care of.

Just for planning purposes for this week, I'll kind of give you a blueprint of where we're going this week as far as your time. I promise you I know you have lives outside of

as the foreperson of this jury, and that will be Ms. Varner's seat. That'll be a Court's exhibit. Her name was written on a piece of paper along with her juror number, and it's been given to the court reporter to mark as a Court's exhibit.

(WHEREUPON, the foreperson note was marked as Court's Exhibit No. 2.)

THE COURT: Now, ladies and gentlemen, we will begin the trial with the State calling its first witness.

MR. CLEMENTS: If it please the Court, Your Honor, we would call John Hampton, Jr., also known as JJ.

(WHEREUPON, there was a pause in the proceedings until the witness entered the courtroom.)

THE COURT: Sir, if you'd come over here to be sworn, please. Left hand on the Bible, raise your right hand.

THE CLERK: Do you swear that the testimony you will give in this case will be the truth, the whole truth, and nothing but the truth, so help you God?

THE WITNESS: Yes, ma'am.

THE CLERK: You may be seated on the witness stand and please state your full name for the record.

THE COURT: And, Mr. Hampton, you can pull that mask down while you're testifying. Okay?

THE WITNESS: My name is John Hampton, Jr.

JOHN HAMPTON, JR., being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. CLEMENTS:

Q: Mr. Hampton, do most people refer you as JJ?

A: Yes, sir.

Q: Is it all right if I call you JJ?

A: That's fine.

Q: I'm going to stand back over here because it's very important that everybody hears what you say. And I know that if I can hear you with my deaf ears that these jurors ought to be able to hear you. Okay?

A: Yes, sir.

Q: And if I ask you a question and you're not sure what I said or it's confusing to you, ask me to ask it again. I'll be happy to do so. Okay?

Now, one thing I'm going to tell you because the judge is probably getting ready to tell you is we can all see this and we know what that means and we can see this and we know what that means, but the court reporter has to take down what is said. So I'm going to ask you to say yes or no along with shaking your head. Okay?

A: Yes, sir.

Q: All right. Thank you. Now, JJ, do you remember back on August the 25th of 2018? Do you remember that time period?

A: I mean I got a bad memory. I got a real bad memory.

Q: Okay. Well, do you remember being at a party at

Cassandra Simon's house with a bunch of other people?

A: Yes, sir.

Q: Do you know a guy named Cedric Young that everybody refers to as Boogie?

A: That's who I got into it with.

Q: Okay. Tell us about that, if you would?

A: Like what? What do you want to know?

Q: Y'all got in a fight?

A: I mean yeah. He bumped me and we started fighting.

Q: All right. Was he shooting the bird at you?

A: Say that again?

Q: Did he shoot the bird at you? Did he give you the middle figure?

A: Oh, yes, sir.

Q: Okay. And so y'all started fighting. What happened when y'all started fighting?

A: Everybody broke it up. They broke it up and went home.

Q: Who were the people that broke it up?

A: A couple of my family members.

Q: Okay. And they stopped it and they got it all stopped?

A: Yes, sir.

Q: And what did you do?

A: I went home.

Q: How did you go home?

A: I drove.

Q: What kind of car did you drive?

A: I had a blue Mustang.

Q: A blue Mustang?

A: Yes, sir.

Q: You went home. Why was -- what were you trying to avoid when you went home?

A: What was I tried to avoid?

Q: Yeah.

A: I needed to go. It was time to go home. After what I done get into it with somebody, I was supposed to hang out on the street and wait for somebody to come and get me or out to get me?

Q: So you went home to avoid trouble?

A: Yes, sir.

Q: Who was at home?

A: My father, my mother, my baby.

Q: Did you ever leave home again that evening?

A: No, sir.

Q: Did you know if there was any other trouble around --

A: No.

Q: -- after you went home?

A: I don't know what happened after. When I went home, I went home. Whatever happened after that, I don't know what happened.

Q: So you didn't mess with Boogie anymore that night?

A: No. I ain't even seen him since but a couple months out of that.

Q: All right. And you don't know what else happened that night, but you went home and stayed home?

A: I went home and never came out.

Q: Okay. All right. Can you please answer any questions that the defense counsel may have? Okay? Oh, first let me ask you this. Are you on probation or in any trouble? Did you ever get in any trouble for anything?

A: I have in the past.

Q: Okay. What was it?

A: A couple of drug incidents.

Q: Okay.

MR. CLEMENTS: All right. Please answer any questions that they have.

MS. HENDERSON: May I beg the Court's indulgence -- indulgence one moment, please, Judge?

THE COURT: Yes, ma'am.

MS. HENDERSON: Judge, we have no questions for Mr. Hampton.

THE COURT: All right. Mr. Hoffmeyer?

MR. HOFFMEYER: Your Honor, we have no questions for Mr. Hampton either. Thank you, sir.

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

down while you talk, please, sir.

All right. Mr. Clements, you're so recognized.

MR. CLEMENTS: Thank you.

JOSHUA HAMPTON, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. CLEMENTS:

Q: Mr. Hampton, speak up so I can hear you and more importantly so these jurors can hear you. Okay? If I ask you a question that's confusing, just ask me to ask you again or take another shot at it, and I will. All right?

Mr. Hampton, where are you from?

A: Timmonsville.

Q: And do you know JJ Hampton?

A: Yes, sir.

Q: What's your relationship to him?

A: Brother.

Q: Brother? And how about Jimmy Lee Hampton, Jr.? Do you know him?

A: Yes, sir.

Q: What's your relationship with him?

A: Cousin.

Q: Cousin? How about KB?

A: Yes, sir.

Q: Do you know KB?

A: Yes, sir.
Q: Do you see him here in the courtroom?
A: Yes, sir.
Q: Where is he? Point him out for me, please.
A: (Indicating.)
Q: Sitting there with the white shirt on?
A: Yes, sir.
MR. CLEMENTS: May the record reflect he's identified Mr. Hickson.
THE COURT: So noted for the record.
BY MR. CLEMENTS:
Q: Mr. Hampton, how old are you?
A: Twenty-five.
Q: Where do you work?
A: At FedEx.
Q: FedEx? It's a hard job? Do you work hard?
A: Yes, sir.
Q: Back on August 25th, 2018, where were you then? Where were you living at that time?
A: With my parents.
Q: In Timmonsville?
A: Yes, sir.
Q: Okay. And do you remember anything out of the ordinary that happened on August the 25th, 2018?
A: Yes, sir.

Q: Okay. Can you please tell this jury what you were doing that night when all this started happening? First, let me ask you this. Were you at the party where JJ had got in a fight with Boogie and they got -- did you help break it up? Were you there?

A: No, sir.

Q: Where were you?

A: In Florence.

Q: What were you doing in Florence?

A: At Little Caesars getting pizza.

Q: Getting pizza? How many pizzas did you get?

A: One box.

Q: One box? After you got pizza, where did you go and what happened?

A: I was on the way back to Timmonsville and I received a phone call.

MR. HOFFMEYER: Your Honor, I object to any hearsay.

MR. CLEMENTS: Your Honor, what he's going to say is not being presented for the truth of the matter asserted, just that it was said.

THE COURT: At this point all he's testified to is he got a phone call.

MR. HOFFMEYER: Yes, sir. I was just trying to head it off at the pass.

THE COURT: Yes, sir.

BY MR. CLEMENTS:

Q: What was that phone call about?

A: That something had happened in Timmonsville that my brother -- about my brother.

Q: All right. And when you got that call, did you do anything out of the ordinary or just carried on?

A: No, sir.

Q: All right. And where were you going in your car then?

A: I was going to --

Q: Back to Timmonsville?

A: Yes, sir.

Q: Did you hear anything else?

A: No, sir. Not until I got to Timmonsville.

Q: And what did you hear when you got to Timmonsville?

A: That a shooting was going on.

Q: Okay. Where at?

A: At my aunt's house.

MR. HOFFMEYER: Your Honor, I object to that. This is based upon hearsay evidence. I move that his response be stricken. If he's saying he heard gunshots, I understand that.

MS. HENDERSON: And, Judge, Defendant Barclay joins in that objection.

THE COURT: Objection sustained.

BY MR. CLEMENTS:

Q: When you got to Timmonsville, where did you go and what did you do?

A: I was on the way home and then I went to my aunt's house instead.

Q: What did you find at your aunt's house?

A: I didn't know what was going on. I didn't find anything. I didn't get out of the vehicle.

Q: Who did you see there? Anybody there?

A: Cars.

Q: Okay. Do you know whose cars?

A: I seen a bunch of cars.

Q: And what were they doing? Were they sitting still or driving going somewhere?

A: Driving off.

Q: Fast or slow?

A: Fast.

Q: Okay. And what kind of car do you have?

A: A white Challenger.

Q: All right. What kind of cars were the cars that you saw, some of them?

A: A blue Charger, a red Challenger.

Q: Let me stop you right here. Do you know who drives a blue Charger? Did you recognize that blue Charger?

A: Yes, sir.

Q: Whose car was that?

A: My cousin.
Q: Which one?
A: Jimmy.
Q: Jimmy, Jr.?
A: Yes.
Q: So he has a blue Dodge Charger?
A: Yes.
Q: You've got a white Dodge Challenger?
A: Yes.
Q: What other car did you see that stood out to you?
A: A red -- red Challenger.
Q: A red Challenger? Okay. Were you familiar at all with that Challenger?
A: No, sir.
Q: You don't know who was driving that Challenger?
A: No, sir.
Q: Okay. Did you see -- did you see who was driving that Challenger?
A: No, sir.
Q: All right. Well, when you saw these cars driving off, what did you do?
A: I proceeded to follow.
Q: Follow them? Why did you follow them?
A: To see what was going on.
Q: Okay. Well, first let me ask you this. Was everything

okay at your aunt's house?

A: I didn't stop. I don't know.

Q: Okay. Why did you not stop? Because the cars were leaving?

A: Yes.

Q: And where was your aunt's house?

A: The corner of -- near the high school.

Q: You know where it is, but you don't know the address?

A: Yeah. I don't know the address.

Q: Yeah, that's the way I am. But just close to the high school you said?

A: Yes.

Q: All right. And you don't know the name of the street?

A: White Street.

Q: White Street?

A: Uh-huh.

Q: Okay. And when y'all left the -- well, when you pulled through and you didn't stop and you kept going, which direction where you going in from White Street?

A: Right.

Q: And did you come -- where did you come out and what main streets did you cross over?

A: I don't know the street names.

Q: Okay. Were you -- what were you paying attention to? The cars in front of you or behind you or what?

A: In front.
Q: In front of you? Who was -- who was leading the pack? Who was the lead car?
A: I don't recall.
Q: You don't know which color it was?
A: I don't recall.
Q: Okay. And when you stopped, tell this jury where you stopped at?
A: I don't recall.
Q: Do you know what street that was on? You don't know which street that was on? You don't know whose house that was on?
A: Huh-uh.
THE COURT: Is that a yes or a no?
THE WITNESS: A no.
THE COURT: Thank you.
BY MR. CLEMENTS:
Q: Now, when you came up to the place, you stopped? You did -- this time you stopped, didn't you?
A: I didn't come to no complete stop.
Q: You didn't come to no complete stop?
A: No.
Q: All right. Where were you in relation to where you slowed down at and almost stopped? What -- where was that in conjunction to where the blue Charger was?

A: I'm not understanding.

Q: When you pulled up to that place where you got to your slowest spot and almost stopped, but you didn't stop -- but you almost stopped, right?

A: Almost.

Q: How close were you to the blue Charger?

A: I didn't see the blue Charger.

Q: All right. How close were you to the red Challenger?

A: I wasn't too close.

Q: But you saw it; right?

A: No, sir.

Q: Okay. But what did you hear?

A: I heard shots.

Q: Where -- where did they sound like they were coming from?

A: Everywhere.

MR. HOFFMEYER: I object. Calls for speculation.

THE COURT: Overruled. You can answer the question if you know -- if you know the answer.

BY MR. CLEMENTS:

Q: Where did it sound like they were coming from? Close by, far away or where did it sound like they were coming from?

A: Everywhere.

Q: Everywhere? Was it single shots or multiple shots?

A: Multiple.
Q: Did you see anybody get out of a car?
A: No, sir.
Q: Was anybody in the car with you riding with you?
A: No, sir.
Q: When you heard the gunshots, what did you do?
A: I left.
Q: Where did you go?
A: Home.
Q: You went home?
A: Yes, sir.
Q: What did you do when you got home?
A: Paced. I didn't know what was going on.
Q: What did you do to try to find out what was going on?
A: Nothing.
Q: You didn't call the police?
A: No.
Q: You didn't talk to anybody and say, hey, I heard gunshots in this neighborhood?
A: No.
Q: When you said you went home, how far was your home from where this took place?
A: Maybe five minutes.
Q: All right. Where do you live?
A: Down the street in Timmonsville.

Q: Down which street?
A: Vanda. Vanda.
Q: Okay. How long have you lived in Timmonsville?
A: Since I was young until 21, 22.
Q: And are you familiar with all -- ever heard of Byrd Street?
A: Yes, sir.
Q: All right. Do you know where Byrd Street is?
A: Yes, sir.
Q: How about Tanyard Street? You ever heard of that?
A: Yes, sir.
Q: Do you know where Tanyard Street is?
A: Yes, sir.
Q: Well, where was -- where you heard the gunshots, where was that in conjunction with Byrd Street and Tanyard Street?
A: I'm not understanding.
Q: All right. When you heard the gunshots, you were somewhere there in Timmonsville; right?
A: Yes.
Q: Where were you and how close were you to Byrd and Tanyard Street?
A: Near the barber shop on Byrd Street, the new barber shop and the church.
Q: The church that's there on the corner of Byrd and Tanyard?

A: I'm not sure.
Q: Do you know which church I'm talking about?
A: No, sir. The one on the right on Bethlehem?
Q: That's it. I don't know if that would be on the right because it would be on the right if I'm standing this way, but if I'm standing this way, it would be on the left.
A: Uh-huh.
Q: I'm not too sure about that, but it's Bethlehem Church; right?
A: Uh-huh.
THE COURT: Is that a yes?
THE WITNESS: Yes, sir.
MR. CLEMENTS: I beg the Court's indulgence a moment. I beg the Court's indulgence a moment.
THE COURT: Yes, sir.
BY MR. CLEMENTS:
Q: Let me ask you this, Josh. After you left your Aunt Dot's house, how far -- how many blocks did you drive? How many miles do you think you drove?
A: Maybe three and a half miles, four miles.
Q: A quarter mile?
A: About three to four -- three to four miles.
Q: And you saw a lot of cars?
A: Yes.
Q: But you saw one red Challenger for sure that was up in

front; right?

A: I'm not sure where it was located.

Q: You're not sure where it was located, but you saw it there?

A: Yes.

Q: Okay. When you pulled in and you slowed up and you didn't stop, you said you went on because you heard gunshots. Could you tell if any gunshots were coming from the red car?

A: No, sir.

Q: Could you tell where any of them were coming from?

A: No, sir.

Q: Well, is it fair to say they were close and not far?

A: I don't understand.

Q: I mean when you hear a gunshot go off close by you, it's going to be loud. If it's in the distance, it's not going to be as loud. Were these gunshots loud or not?

A: I mean it was multiple. So it seems like they all was loud.

Q: They all was loud?

A: They wasn't. Some wasn't and some was.

Q: Okay. Did it sound like more than one type of gun?

A: I have no idea.

Q: Okay. You just know it was a gun. You couldn't tell any difference between the two sounds, for example?

A: No, sir.

Q: All right.

MR. CLEMENTS: Please answer any questions defense counsel may have.

THE COURT: Ms. Henderson?

MS. HENDERSON: Judge, Defendant Barclay has no questions for this witness.

THE COURT: Mr. Hoffmeyer?

MR. HOFFMEYER: Your Honor, Mr. Hickson has no questions for this witness. Thank you.

THE COURT: All right. Mr. Hampton, you may step down, sir.

MR. CLEMENTS: Your Honor, I'd ask that he be released from his subpoena.

THE COURT: Any objection, Ms. Henderson?

MS. HENDERSON: No, sir, Judge.

THE COURT: Mr. Hoffmeyer?

MR. HOFFMEYER: No, sir, Your Honor. Thank you.

THE COURT: Without objection, Mr. Hampton, you're released from your subpoena. You're free to go. Have a nice day.

Call your next witness, please.

MR. CLEMENTS: Your Honor, we'd call Fanando Jackson, Jr.

(WHEREUPON, there was a pause in the proceedings until the witness entered the courtroom.)

THE CLERK: Sir, please place your left hand on the Bible and raise your right hand. Do you swear -- raise your right hand. Do you swear that the testimony you will give in this case will be the truth, the whole truth, and nothing but the truth, so help you God?

THE WITNESS: Yes, ma'am.

THE CLERK: Please be seated on the witness stand and state your full name for the record.

THE WITNESS: Are they going to ask me a question?

THE COURT: State your full name for the record, please, sir.

THE WITNESS: Fanando Jackson, Jr.

THE COURT: All right. Thank you, sir.

Mr. Clements?

MR. CLEMENTS: Has he been sworn, Your Honor?

THE COURT: Yes, sir, he was.

FANANDO JACKSON, JR., being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. CLEMENTS:

Q: Mr. Jackson, how are you doing this morning?

A: I'm doing fine.

Q: Where do you live?

A: Timmonsville.

Q: How long have you lived in Timmonsville?

A: Probably about seven or eight years.
Q: Eight years? How old are you?
A: Twenty.
Q: I'm going to ask you to speak up because I played too much rock and roll in my car and I can't hear good.
A: Yes, sir. Twenty.
Q: If you'll get down to that microphone.
A: Yes, sir.
Q: And speak up. Speak up loud. Don't be afraid.
A: Yes, sir.
Q: All right. Who do you live with in Timmonsville?
A: My grandparents.
Q: And who else in your family lives in that area?
A: My uncle, but he -- he be there sometime.
Q: Your uncle? How about your mom and dad? Where are they?
A: They live in Timmonsville too, but in a different location.
Q: Okay. You live with your grandparents. What's the address where you live at now?
A: [redacted] East Byrd Street.
Q: [redacted] East Byrd Street? Is that a corner lot?
A: A corner light?
Q: Is that a corner lot where it's got two roads going by it?

A: Yes, sir.

Q: What's the other road that goes by your grandparents' house?

A: Tanyard.

Q: Tanyard? So they live on the corner of Byrd and Tanyard; right?

A: Yes, sir.

Q: Okay. Do you have any other brothers or sisters?

A: I've got a brother.

Q: Okay. Have you ever had a sister?

A: Yeah. The one that got killed.

Q: And what was her name?

A: [redacted].

Q: [redacted]? And she got killed in this incident we're here today talking about, didn't she?

A: Yes, sir.

Q: Okay. What were y'all doing that night, the children?

A: Well, she had just got back from the fair.

Q: You didn't go to the fair with them?

A: No, sir. She was with my uncle.

Q: Your Uncle Trap?

A: Yes, sir.

Q: Okay. They went to the fair and they had just gotten back?

A: Yes, sir.

Q: Where were you when they came back?
A: I was outside on my porch on my phone.
Q: Okay. Were there other people out there too?
A: Yes, sir. My cousin and them.
Q: A good number or just a few?
A: A few. Five or so.
Q: Okay. And could you see when [redacted] got back home?
A: Yes, sir.
Q: Did you talk to her?
A: No, sir.
Q: When she was coming up, did you see her stop and talk to anybody?
A: Oh, yeah, I did. She had came to me and told me one of my homeboys gave her some money at the fair.
Q: Okay. And were y'all just kind of there in the front yard?
A: Yes, sir.
Q: Hanging out?
A: Yes, sir.
Q: Do you know where your parents were?
A: They was in the yard.
Q: In a car or not in a car?
A: They was in the car.
Q: In the car? Do you know exactly where that car was parked or not?

A: Right side of the house.
Q: On the side? All right. Was anybody with them, if you know?
A: Sir?
Q: Was anybody with your parents in the car, if you know?
A: Yeah. George. A dude named George.
Q: A dude named George?
A: Yeah. He rode with them.
Q: Okay. So you were there hanging out in front of your grandma's house, several people out there. What happened?
A: Like, three cars pulled up on Tanyard, the red car, a white car, and a blue.
Q: Okay. And what happened when they pulled up? Did they come in all at the same time or one after another?
A: One after another behind each other.
Q: Okay. What happened?
A: Like, they had asked where Boogie was at, a dude named Boogie. Before anybody can tell them, they just start shooting.
Q: They started shooting? Did you see if anybody got out the cars?
A: Yeah. I wasn't really looking because it was kind of, like, dark.
Q: So you don't know if anybody got out the cars or not?
A: I know, like, three of them -- like, all of them got out

the car.
Q: All of them got out the car?
A: Yes, sir.
Q: And what happened? What did you do when the shooting started?
A: I ran in the house.
Q: Where was F. J. ?
A: She was -- she was running too. She was, like, two people behind me, but she got hit. She got hit.
Q: She told you she was hit?
A: Yes, sir.
Q: And where were y'all when she told you she was hit?
A: Inside the house.
Q: Inside the front door?
A: Yes, sir.
Q: Okay. Is that where she died right there at your grandma's house?
A: I guess. I don't know if she was still breathing or not. I don't know.
Q: I know this is painful. Okay. If you need a minute, just let us know. You heard -- could you tell us how many shots you heard or you're not sure about that?
A: I heard multiple.
Q: Multiple shots? Did they sound like one gun or more than one gun?

A: More than one.

Q: Why did it sound like it was more than one?

A: Like, some of them -- one was louder kind of.

Q: Like a bigger gun?

A: Yeah.

Q: Okay. So it was different sounds?

A: Yes, sir.

Q: Okay. After the shooting, about how long did that take? Seconds or --

A: Yeah. Seconds. Yes, sir.

Q: Okay. I mean you were trying to get in the trailer, the mobile home. You weren't looking back counting anything, were you?

A: No, sir.

Q: What were y'all just trying to do?

A: All of us were running in the house.

Q: Okay. Did anybody else get hit?

A: No, sir.

Q: All right.

MR. CLEMENTS: I beg the Court's indulgence a moment.

Your Honor, we probably need to settle up a matter of law.

THE COURT: All right. Ladies and gentlemen, I'm going to have to ask you to step to the jury room for just a minute. Do not discuss the case. I'll get you back out here

THE COURT: Yes, sir. If he's going to step down, I would ask that he stand in a way where his voice --

MR. CLEMENTS: Carries.

THE COURT: -- carries back towards my court reporter, please.

Mr. Jackson, you may step down, please, sir.

And I see the defense lawyers moving. You all feel free to move. You don't have to ask me permission. You all get to where you need to get to see. Okay?

MR. CLEMENTS: Mr. Jackson, I'm going to ask you to stand right here to where I am. Right there so you can point.

RESUMED DIRECT EXAMINATION

BY MR. CLEMENTS:

Q: Now, that little diagram there says not to scale. Do you understand what not to scale means, Mr. Jackson?

A: It's not too accurate.

Q: It's not too accurate. It's not too accurate because Chief McFadden drew it. But you see listed there what are the two street names that are put on that corner?

A: Byrd and Tanyard.

Q: Okay. And if that was accurate, Byrd and Tanyard, what would be sitting right here? What is that?

A: My grandma's.

Q: Your grandma's house?

A: Yes, sir.

Q: All right. And you said you saw cars drive up. Are those basically the same order, same place as you saw those drive up?

A: Yes, sir.

Q: And which car was first?

A: The red one.

Q: And second?

A: The white one.

Q: And third?

A: The blue car.

Q: All right. There's another little car right there.

MR. CLEMENTS: Can everybody see that?

Q: Whose car was that?

A: That's my mom and my car. My dad and my mom was in the car.

Q: All right. Your dad and your mom and George, and they were there at the end of the trailer; right?

A: Yes, sir.

Q: End of the mobile home?

MR. CLEMENTS: All right. I beg the Court's indulgence.

Mr. Jackson, thank you. If you'll have a seat.

And for the record, this is State's Exhibit No. 32 for demonstrative purposes.

THE COURT: All right.

MR. CLEMENTS: Mr. Jackson, I'm almost done. I appreciate your patience.

BY MS. CLEMENTS:

Q: Now, Mr. Jackson, do you know somebody named Boogie?

A: Yes, I do.

Q: Do you know his real name?

A: Cedric Young.

Q: Cedric Young? All right. Did you see Boogie out there that night?

A: No, sir.

Q: Okay. All right.

MR. CLEMENTS: Please answer any questions these two fine attorneys ask of you.

THE COURT: Ms. Henderson, any questions?

MS. HENDERSON: Yes, Your Honor.

THE COURT: All right.

CROSS-EXAMINATION

BY MS. HENDERSON:

Q: And, Mr. Jackson, first and foremost, I am so sorry for you having to be up here. I cannot imagine what you and your family have gone through.

You testified with Mr. Clements just now that the night of this incident you saw a red car, a white car, and a blue car pull up; correct?

A (No verbal response.)

THE COURT: Is that a yes?

BY MS. HENDERSON:

A: Correct.

Q: All right. And you testified, sir, that you saw all of the individuals get out of those cars; correct?

A: Correct.

Q: Okay. And, Mr. Jackson, again, I know this has been a traumatic experience for you, for your family. I certainly understand when testimony in court might be different than what you told law enforcement earlier. You're under a lot of pressure and I know you want this resolved for your family; correct?

A: Correct.

Q: You want justice for your sister; correct?

A: Correct.

Q: Do you recall back in 2018 giving a statement to Inv. McFadden at the Timmonsville High School?

A: Yes.

Q: Yes, sir. And he recorded you during the statement; correct?

A: Yes.

Q: You were a senior in high school; right?

A: Yes, I was.

Q: This was on September the 6th, 2018; correct?

A: Uh-huh. Yes, ma'am.

Q: And this incident again happened August the 25th; correct?
A: Correct.
Q: So a couple weeks after, a week and a half, two weeks. My math is poor. Forgive me. But shortly after the incident; correct?
A: Correct.
Q: Do you recall what you said to Inv. McFadden during this statement? Let me -- let me ask you a second. You said to Inv. McFadden that you were at the front of the house; correct?
A: Yes.
Q: In the middle of the yard?
A: Yes.
Q: All right. And you told him that you saw -- it was like three. You saw a white Dodge and a blue -- a blue Charger or something like that, I wasn't looking; correct?
A: Yes.
Q: Okay. You said you heard shooting, you just ducked, you ran in the house; correct?
A: Yes.
Q: Okay. You said before you ran in the house you looked, you saw someone in dreads; correct?
A: Correct.
Q: Do you recall saying you might've heard someone say it

looked like KB, but to you it didn't look like him? Correct?

A: I don't know.

Q: You don't recall?

A: No, I don't.

Q: Okay. You told Inv. McFadden during this interview that the gentleman Boogie, who you just talked about, he was present on the scene; correct?

A: Correct.

Q: Correct? And Boogie is related to you; correct?

A: No.

Q: He's not? My apologies. Is he related to your aunt?

A: No, ma'am. Not that I know of.

Q: Okay. Okay. Your cousin -- you have a cousin named Sha'Tyra Gee; correct?

A: Yes.

Q: Is he related to Ms. Sha'Tyra Gee?

A: I don't know.

Q: Okay. Yes, sir. During this conversation that you had with Inv. McFadden at Timmonsville High School, do you recall Inv. McFadden telling you that he would go back out to the scene and reconstruct the accident -- excuse me, the crime?

A: Yes, ma'am.

Q: Do you remember that?

A: Yes, ma'am.

Q: Yes, sir.

MR. CLEMENTS: Your Honor, I have to object. This is hearsay after hearsay after hearsay.

THE COURT: Overruled. You may continue.

MS. HENDERSON: Thank you, Judge.

BY MS. HENDERSON:

Q: Going back to your conversation with Inv. McFadden, you say you saw a white and a blue Charger; correct?

A: Yes, ma'am.

Q: Okay. You denied seeing a red car; correct?

A: I don't know if I denied or not.

Q: Okay. Did you -- do you remember telling Inv. McFadden you saw a red truck?

A: No, ma'am.

Q: Okay.

MS. HENDERSON: Judge, I would request permission to play Mr. Fanando Jackson's statement to Inv. McFadden on September the 6th.

THE COURT: Any objection?

MR. CLEMENTS: Yes, sir.

THE COURT: Sir?

MR. CLEMENTS: Yes, Your Honor, we object.

THE COURT: Can the lawyers approach a minute, please.

(WHEREUPON, a bench conference was held in the presence of the jury but out of the hearing of the jury as follows.)

back down here again with me? Can you come back down here for me, sir?

(WHEREUPON, the witness complied.)

MS. HENDERSON: And you can just stand right over there on the other side. I want to make sure everybody on the jury can see this.

BY MS. HENDERSON:

Q: Again, you just spoke with Mr. Clements about this exhibit. Of course, it's not to scale. Just so that I'm clear, this was your grandmother's or is your grandmother's trailer? That's 301 East Byrd Street; correct?

A: Yes, ma'am.

Q: Okay.

THE COURT: All right. Hold on a minute.

MS. HENDERSON: I apologize.

THE COURT: Let me get him to step to the other side so his voice comes back or reflects back towards my court reporter.

Mr. Jackson, if you'd stand on the other side like you did when Mr. Clements was questioning you. And you can -- please pull your mask down so it doesn't muffle your voice. Okay?

THE WITNESS: Yes, sir.

BY MS. HENDERSON:

Q: This was the first time seeing this exhibit in court

today; correct? Your first time?

A: Yes, ma'am.

Q: Yes, sir. And stand back so everybody in the jury can see you, sir. Okay? Come just stand right by it, if you could.

And a few things that were left off when you were discussing with Mr. Clements. Are these the dog kennels at your grandmama's house or in the location where the dog kennels would be?

A: I guess so.

Q: Okay.

MS. HENDERSON: Judge, may I stand on this side? Just I'll try to speak loudly.

THE COURT: All right.

MS. HENDERSON: My apologies. Thank you.

All right. Let's try to get this right this time. My apologies, sir.

BY MS. HENDERSON:

Q: Okay. This is Tanyard Street; correct?

A: Yes, ma'am.

Q: This is Byrd Street; correct?

A: Yes, ma'am.

Q: This is your grandmother's trailer; correct? 301 East Byrd Street?

A: Yes, ma'am.

Q: Yes, sir. You told Mr. Clements this was your parents' vehicle; correct?

A: Yes, ma'am.

Q: Yes, sir. You left a couple of things off when we were discussing this diagram. Your grandmama has some dog kennels on this side of her trailer to the right; correct?

MR. CLEMENTS: Your Honor, I would object to her saying he left some things off. I never asked him about those. So he didn't -- he didn't leave anything off intentionally.

THE COURT: Rephrase. Rephrase your question, please.

BY MS. HENDERSON:

Q: There are a few things on the diagram that you did not explain to the jury; correct?

A: Yes, ma'am.

Q: For example, this item right here. That marks the area where your grandmother has dog kennels or used to have dog kennels at her home; correct?

A: Yes.

Q: All right. This item right here. This is near the mailbox; correct? To your grandmother's home?

A: Yes, ma'am.

Q: And you testified earlier or you told Mr. Clements that Cedric Levern Young, Boogie, was not present on scene; correct?

A: Well, my people said they seen him. I didn't see him.

Q: Okay.

THE COURT: I need you to speak up. Okay, Mr. Jackson?

THE WITNESS: Yes, sir.

BY MS. HENDERSON:

Q: So you said that your people saw him, but you didn't see him?

A: Yes, ma'am.

Q: Okay. Okay. These were the vehicles that Mr. Clements described?

A: Yes, ma'am.

Q: Correct. And you met with Mr. Clements before talking today to the jury; correct?

A: Correct.

Q: Back in 2018 when you gave this -- your statement to Inv. McFadden, you never saw a diagram; correct?

A: No, ma'am.

Q: You've never had the opportunity to tell him what cars you saw; correct?

A: No.

Q: You never had the opportunity to show him on a diagram what cars you saw; correct?

A: No, ma'am.

Q: And these are the cars that Mr. Clements has, in fact, told you today were there; correct?

MR. CLEMENTS: Objection, Your Honor. I didn't --

THE COURT: Objection sustained.

BY MS. HENDERSON:

Q: So is it your testimony today, Mr. Jackson, that there was a red truck present the night that this happened?

A: No.

Q: There was no red truck present?

A: No. No red truck.

Q: Okay. Were there any other cars present?

A: Not that I know of.

Q: Yes, sir. Can you point out to the jury where you were at in the yard?

A: By the porch.

Q: Okay. Can you point out to the jury to your recollection where your sister was at?

THE COURT: You speak up. Okay, Mr. Jackson?

BY MS. HENDERSON:

A: Probably, like, coming off the porch, kind of on the side.

Q: There were other individuals on scene as well; correct?

A: Yes, ma'am.

Q: Your cousin, Sha'Tyra Gee; correct?

A: Yes, ma'am.

Q: Can you point out to the jury where she was at?

A: I'm not sure.

Q: Okay. Timothy Washington. He's one of your cousins;

correct?

A: No.

Q: He was present; correct?

A: Yes, ma'am.

Q: Can you point out to the jury where he was at?

A: He was, like, by me on the side.

Q: Okay. James Jackson, Jr.? James Jackson. Can you point out where he was at?

A: We all was, like, kind of together.

Q: Okay.

MS. HENDERSON: May I beg the Court's indulgence?

THE COURT: Yes, ma'am.

MS. HENDERSON: Mr. Jackson, you can go ahead and have a seat. Thank you, sir.

Judge, I have no further questions for Mr. Jackson.

THE COURT: All right. Mr. Hoffmeyer?

MR. HOFFMEYER: Yes, sir. Thank you very much.

CROSS-EXAMINATION

BY MR. HOFFMEYER:

A: Mr. Jackson, my name is Jim Hoffmeyer and I too join in the others in the sympathy we have for you and your family. I know it's a difficult thing, a difficult time for you.

Now, as far as what you've shared with us about this incident, I believe you told the solicitor and perhaps Ms. Henderson earlier that this would have been a time of day in

which it was dark?

A: Yes.

Q: Okay. And in fact, I think that the evidence will later show, if it hasn't already, that this would've occurred at 11 to 11:30 p.m.; is that right?

A: Yes, it did.

Q: I gotcha. Now, as far as this particular occasion, it also appears based on what you've shared with us is that you and the other family members that you just discussed with us were over there near the porch when you saw the cars pull up; is that right?

A: Yes, sir.

Q: And at that point, given the circumstances, understandably, you chose to turn around, duck your head, and run; is that right?

A: Yes, sir.

Q: I see. Now, as far as the --

MR. HOFFMEYER: Where's the exhibit? Could you bring me that?

I hate to ask you to do this. We'll make this quick though, if you'll stand over here like you did for Ms. Henderson.

(WHEREUPON, the witness complied.)

THE COURT: And again, you're referring to State's Exhibit what for identification?

MR. HOFFMEYER: State's Exhibit No. --

THE COURT: 32?

MR. HOFFMEYER: 32.

BY MR. HOFFMEYER:

Q: All right. Now, you've shared with us previously how you were over here by the porch; is that right?

A: Yes, sir.

Q: And we've already discovered this was 11 -- 11:30 at night?

A: Yes, sir.

Q: Okay. And then this is Tanyard Street; is that right, young man?

A: Yes, sir.

Q: Okay. All right. And over here we have the church?

A: Yes, sir.

Q: Now, as far as the church area, there are no streetlights whatsoever on the church side, are there?

A: Yes, sir. Further down.

Q: Further down? Down this way?

A: Uh-huh.

Q: All right. Not directly across the street from your grandmom's or anything like that?

A: Across the street from the church.

Q: Okay. Well, I may not be asking my question very well, but when I went out there, I didn't see any lights over here.

So are the streetlights down this way?

MR. CLEMENTS: Your Honor, I object to Mr. Hoffmeyer testifying.

MR. HOFFMEYER: I'll withdraw the question.

THE COURT: Sustained.

BY MR. HOFFMEYER:

Q: As far as your knowledge of the streetlights, they're on further down this way; is that right?

A: Yes, sir.

Q: Okay. And then we have a streetlight on Tanyard Street that would be in this area; is that correct?

A: Correct.

Q: That would have been on the other side of these vehicles; is that right?

A: Yes, sir.

Q: Okay. Thank you, young man. Please have a seat and I'll ask you a few more questions, just a few more.

(WHEREUPON, the witness complied.)

BY MR. HOFFMEYER:

Q: Now, you discussed previously that you met with Inv. McFadden; is that right?

A: Yes, sir.

Q: Okay. And at that time, that would have been a few days or several days after this incident occurred?

A: Yes, sir. Several days, yeah.

Q: Yes. Yes, sir. You met at the high school. Your high school?
A: Yes, sir.
Q: All right. And of course, Inv. McFadden, who is now the chief over there, that's the fellow you spoke with?
A: Yes, sir.
Q: All right. And during that interview, you were asked various questions?
A: Uh-huh.
Q: Okay. And at some point during that interview, the name KB came up. Do you remember that?
A: Not quite.
Q: Okay. Well, let me -- let me ask you a little more detail about the statement to see if you recall. Now, the investigator was asking you who was there?
A: Yes, sir.
Q: And you mentioned Ms. Gee being there, your cousin I believe?
A: Oh, yes, sir.
Q: Okay. You mentioned her, and then at some point you told Mr. McFadden, Inv. McFadden, that the person that you saw there did not look like KB. Isn't that what you said?
A: No, sir.
MR. HOFFMEYER: Your Honor, I have a portion I'd like to cross-examine the witness with.

THE COURT: All right.

MR. CLEMENTS: Your Honor, I'm not sure what exactly he's going to play. So I don't know if I need to object or not. So out of an abundance of caution, I would object right now.

MR. HOFFMEYER: It's a statement, a prior inconsistent statement I'm using to question this witness.

THE COURT: Specifically to that question.

MR. HOFFMEYER: Very, very specifically.

THE COURT: All right. Overruled at this point.

MR. CLEMENTS: Yes, sir.

MR. HOFFMEYER: Your Honor, as usual, I'm having technical difficulties.

(WHEREUPON, there was a pause the proceedings, after which the proceedings resumed as follows.)

MR. HOFFMEYER: Your Honor, I think we're ready to play it.

THE COURT: All right. Go ahead.

(WHEREUPON, a portion of an audio statement was played and then stopped.)

BY MR. HOFFMEYER:

Q: Did you hear that?

A: Yeah. I said it.

Q: You said it didn't look like him.

A: I said it did look like him, but --

Q: Do you want to hear it again, young man?

A: Yeah. That's what I said.

(WHEREUPON, the portion of an audio statement was played again and then stopped.)

BY MR. HOFFMEYER:

Q: Now, you're saying that in that audio that you said it did look like him?

A: Yeah. I didn't say it didn't.

Q: Okay.

A: I said it did.

Q: Well, I guess the jury will have to determine that. Earlier when you were testifying with this jury, you said you didn't know whether it was KB or not, earlier today?

A: No, I don't recall that.

Q: Okay. And you were asked earlier about whether you recalled saying it didn't look KB or not and you didn't know, did you?

A: No.

Q: Okay. And by the way, when it comes to this particular incident, when you gave that statement to the investigator, you naturally knew the importance of it, the significance of it. In other words -- and I'm not fussing at you. I'm just trying to make sure I understand. When you talked to the investigator, you knew that it was important to tell everything you knew?

A: Yes, sir.

Q: Okay. All right. And now, the individuals that you saw or that you didn't see at that time were naturally going to be an important part of this case. Would that be fair to say?

A: Yeah. It was to the best of my knowledge.

Q: Well, since that incident, you've never been shown any type of photographic lineup of any individual to try to identify them, have you?

A: No, sir.

MR. HOFFMEYER: If you'll excuse me one second. If you'll indulge me one more second, Your Honor.

THE COURT: Yes, sir.

MR. HOFFMEYER: Thank you very much, Mr. Jackson. I don't have anything further for you.

THE COURT: All right. Any redirect?

MR. CLEMENTS: May it please the Court.

THE COURT: Yes, sir.

REDIRECT EXAMINATION

BY MR. CLEMENTS:

Q: Mr. Jackson, Mr. Hoffmeyer just asked you about identifying Mr. KB by any pictures, and you said, no, you haven't seen any pictures. Do you see him in the courtroom today?

A: No, sir.

Q: You don't see him sitting anywhere today?

A: No, sir.

Q: All right. When you said to Mr. Hoffmeyer he had dreads and you're recorded as saying he had dreads, is that the way he looked at that time?

MR. HOFFMEYER: Your Honor, I object to that. It's also speculation.

THE COURT: Overruled. You can answer the question.

BY MR. CLEMENTS:

Q: At that time he wore dreads?

A: Yes, sir.

Q: Okay.

MR. CLEMENTS: Mr. Jackson, that's all I have. Thank you.

THE COURT: Ms. Henderson?

MS. HENDERSON: Judge, I have no questions for him.

THE COURT: Mr. Hoffmeyer?

MR. HOFFMEYER: No, nothing further, Judge. Thank you.

THE COURT: Mr. Jackson, you may step down, sir.

MR. CLEMENTS: Your Honor, we'd ask that he be released from his subpoena.

THE COURT: Any objection?

MS. HENDERSON: Not from Mr. Barclay.

THE COURT: Mr. Hoffmeyer?

MR. HOFFMEYER: None, Your Honor. Thank you.

MR. CLEMENTS: How are you doing today? You can take that off of your mouth so we can understand you better.

THE WITNESS: Okay.

MR. CLEMENTS: Speak up loudly. Okay?

THE WITNESS: Okay.

JAQUAN JACKSON, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. CLEMENTS:

Q: Jaquan, what do most people close to you call you?

A: Juice.

Q: Juice?

A: Uh-huh.

Q: How did to get that nickname? That's a cool nickname.

A: I guess because I'm juicy up here.

Q: All right. Well, do you -- did you know F. J. [redacted]?

A: Yes.

Q: How did you know her?

A: That's my cousin. I grew up with her. My cousin. My first cousin.

Q: Your first cousin?

A: Uh-huh.

Q: And are you kin to Fanando Jackson?

A: Yes.

Q: Senior and junior?

A: Uh-huh.

Q: How about James Jackson? Are you kin to him?

A: Yes.

Q: Were you in the general vicinity or close to them the night of August the 25th?

A: Yes, sir.

Q: 2018?

A: Yes, sir.

Q: Where were you?

A: My grandma's house.

Q: And who is your grandmama?

A: Beverlena [*ph*] Gee.

Q: And where did she live?

A: 301 East Byrd Street.

Q: Is that a corner lot?

A: Yes.

Q: Corner of Byrd and what?

A: Sir?

Q: The corner of Byrd and what other street is there?

A: Tanyard, I think.

Q: Tanyard?

A: Uh-huh.

Q: All right. What had you been doing that evening?

A: Well, we just got back from the fair and, you know, we

were about to go staying at my uncle's house, talking, like a regular night.

Q: All right. Did you know somebody named Boogie?

A: Yes.

Q: Was he -- did you see him there that night?

A: Yes, sir.

Q: What was he saying or talking about? What was he doing?

A: Just bragging about coming from a party, shooting people house up, that -- Aunt Dot's house, I guess.

Q: He was -- he was bragging about it?

A: Uh-huh.

THE COURT: Is that a yes?

THE WITNESS: Yes, sir.

THE COURT: Thank you.

Hold on a minute, Mr. Clements.

When he asks -- when a question is asked of you, whether it be Mr. Clements, Ms. Henderson or Mr. Hoffmeyer --

THE WITNESS: Uh-huh.

THE COURT: If it warrants a yes or no, please give me a yes or no as opposed to an uh-huh or an huh-uh.

THE WITNESS: Okay.

THE COURT: We know what you're talking about in the courtroom, but for the record I want to make sure it's clear as to a yes or no. Okay, sir?

THE WITNESS: Yes, sir.

THE COURT: All right. Mr. Clements, you may continue, sir.

MR. CLEMENTS: Thank you, Your Honor.

MR. HOFFMEYER: Your Honor, if I may? I was scribbling while that was going on. I believe that the question called for hearsay and the answer that he gave was hearsay, and I object to that and ask that it be stricken.

MR. CLEMENTS: Your Honor, it was an excited utterance. It was also a statement against pecuniary interest.

MS. HENDERSON: And I join in Mr. Hoffmeyer's objection.

THE COURT: Objection sustained. Next question.

MR. CLEMENTS: Your Honor, those are our exceptions, and we would put the reason for it on at another time.

BY MR. CLEMENTS:

Q: Mr. Jackson, you were -- were you in the yard or in the house?

A: In the yard.

Q: And who else was out there close to you?

A: Fanando, James, Little Tim, Sha'Tyra, [redacted].

Q: Was everybody standing in one place or moving around talking to other people?

A: Yeah. We was, like, all spread out in the yard.

Q: Spread out?

A: Uh-huh.

Q: Okay. You had come from the fair?

A: Yes.
Q: And F. J. had come from the fair?
A: Yes, sir.
Q: And who did y'all go to the fair with?
A: My Uncle Trap.
Q: Okay.
A: Travis Gee.
Q: When he -- he let y'all out, was Fanando's mom and dad there?
A: Yes.
Q: Where were they?
A: In the yard.
Q: Okay. Were they in a car or not in a car?
A: In a car.
Q: Okay. Who was with them, if you know?
A: With my aunt? It was just her and my uncle, Fanz.
Q: Okay. You didn't see anybody else with them?
A: No.
Q: All right. Now, what happened that got everybody's attention? What happened?
A: Sir?
Q: Did something happen that got everybody's attention?
A: Right.
Q: What happened?
A: Okay. So Boogie came from the party, came bragging

about shooting up people house and --

MR. HOFFMEYER: Your Honor, same objection.

THE COURT: Objection sustained.

MR. HOFFMEYER: And, Your Honor --

MS. HENDERSON: Join in that objection.

MR. HOFFMEYER: Especially since this -- and I should've done this the first since, but since he said that twice even more so, I would ask that you instruct the jury that they not consider any testimony that this Court has stricken.

THE COURT: All right. Ladies and gentlemen, that testimony is ordered stricken, not to be considered by you in your deliberations.

You may continue, Mr. Clements.

MR. CLEMENTS: Your Honor, while I'm asking questions of the witness, will you also take a look at 804(b)(3)?

THE COURT: Yeah. Go ahead.

MR. CLEMENTS: All right.

BY MR. CLEMENTS:

Q: Mr. Jackson?

A: Yes, sir.

Q: Did you notice any people pull up?

A: Yes, sir.

Q: What did you notice?

A: Three cars pulled up, a truck.

Q: How did they pull up?

A: Like, the post office, where the church yard is, they came from that way, and that's all I seen.

Q: Okay. Did you see any colors?

A: Red, blue, and white.

Q: Okay. Do you know what order they were in or not?

A: No, sir.

Q: Okay. What happened then when they pulled up?

A: They got out of the car and asked for Boogie and then started shooting.

Q: All right. And who -- who did you see out of the car, if anybody?

A: I didn't see nobody.

Q: You didn't see anybody?

A: No, sir.

Q: You were too busy ducking for your life?

A: I was in the house. It happened too fast.

Q: And when you got in the house, who was there with you?

A: My cousin, Sha'Tyra Gee, and my grandma.

Q: All right. Where was F. J. ?

A: Still outside running.

Q: Did she get into the doorway?

A: Yes.

MR. CLEMENTS: I beg the Court's indulgence a minute.

All right. That's all I have. Please answer any questions these lawyers have.

THE WITNESS: Okay.

THE COURT: Ms. Henderson?

MS. HENDERSON: Thank you, Judge.

CROSS-EXAMINATION

BY MS. HENDERSON:

Q: Mr. Jackson, now I don't want you to say anything that anyone else has said, but the night of this shooting you testified that Sha'Tyra was present on scene, Sha'Tyra Gee, your cousin?

A: Uh-huh. Yes, ma'am.

Q: Timothy Washington?

A: Yes, ma'am.

Q: James Jackson?

A: Yes, ma'am.

Q: Fanando Jackson?

A: Yes, ma'am.

Q: And yourself?

A: Yes, ma'am.

Q: Am I incorrect in saying that y'all were the kids in the family aside from maybe Tyra, who is an adult?

A: Yes.

Q: At the time?

A: Uh-huh.

Q: Yes, sir. Okay. And then your parents were present in their car on the other side of the trailer?

A: Not my parents.
Q: Excuse me. Mr. and Mrs. Fanando Jackson?
A: Right.
Q: Yes, sir. And also present was Cedric Levern Young; correct?
A: Uh-huh.
Q: Boogie?
A: Yes, ma'am.
Q: And he was over -- he was present?
A: Right.
Q: Yes, sir. I don't want you to say anything about what he was talking about at the time.
A: Okay.
Q: You gave a statement to Inv. McFadden when you were in the 10th grade at Timmonsville High School back in 2018; correct?
A: Yes, ma'am.
Q: Do you recall giving this statement?
A: Yes, ma'am.
Q: Yes, sir. Do you recall telling Inv. McFadden that at the time of the shooting you were standing on the porch? Correct?
A: No.
Q: You need to answer yes or so -- yes or no.
A: No, ma'am.

Q: Okay. Do you recall telling Inv. McFadden that F. J. was standing on the ground talking to you through the rails of the porch?

A: Yes, ma'am.

Q: You recall that?

A: Uh-huh.

Q: So that would mean that you were on the porch?

A: Not during the shooting.

Q: Okay.

MS. HENDERSON: Judge, permission to play one portion of Mr. Jackson's statement to Inv. McFadden, now Chief McFadden, on September the 6th.

THE COURT: If you can narrow it down there.

MS. HENDERSON: I can.

THE COURT: Not to include any hearsay.

MR. CLEMENTS: Object just for the record.

THE COURT: All right. While they're looking that up, with regards to Mr. Clements' request the Court review Rule 804(b)(3), the Court has looked at that and, pursuant to *Dodd v. Berlinsky*, 344 S.C. 172, the Court's ruling remains the same.

MS. HENDERSON: Judge, I apologize. I'm having technical difficulties. I'm trying to figure it out. Judge, could I try to play it directly from my laptop?

THE COURT: Yes, ma'am.

(WHEREUPON, a portion of an audio statement was played and then stopped.)

MS. HENDERSON: Judge, I have no further questions for this witness.

THE COURT: All right. Mr. Hoffmeyer?

MR. HOFFMEYER: Thank you, Your Honor. Just briefly.

CROSS-EXAMINATION

BY MR. HOFFMEYER:

Q: Mr. Jackson, you were asked several questions by the solicitor when you first came up, including where you got your name and all that kind of stuff, but also you talked about what you were able to see that evening.

A: Correct.

Q: And I believe that would have been 11 to 11:30 p.m.; is that right?

A: Correct.

Q: Okay. And I believe, young man, that you shared with the jurors and with all of us here in the courtroom that you were unable to see who was shooting; isn't that right?

A: Yes, sir.

Q: Okay.

MR. HOFFMEYER: Thank you very much for your time.

THE COURT: Mr. Clements?

MR. CLEMENTS: Your Honor, we ask that he be released from his subpoena.

state your full name for the record.

THE COURT: Sir, once you sit down, if you'd move that mask down so your testimony is clear. Okay? I'll also tell you before you begin your testimony, go ahead and state your name for the record.

THE WITNESS: James Jackson.

THE COURT: All right. When these lawyers ask you a question, Mr. Jackson, if it warrants a yes or no answer, please give us a yes or no answer as opposed to an uh-huh or an huh-uh. Okay? So our record is clear. Okay?

THE WITNESS: Yes, sir.

THE COURT: All right. Mr. Clements, you may proceed.

MR. CLEMENTS: Thank you, Your Honor.

JAMES JACKSON, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. CLEMENTS:

Q: Mr. Jackson, how old are you?

A: Nineteen.

Q: Where do you live?

A: Lake City.

Q: Are you working or going to school or anything like that?

A: Working.

Q: Where do you work?

A: On the beach at Broadway.

Q: Okay. Is that a fun job?

A: Yes, sir. It's all right.

Q: Do you remember -- well, let me ask you this. What ties or connections do you have to Timmonsville?

A: My family. Half of my family live there, you know.

Q: Who are some of the family members?

A: My grandma, my aunties, half of my cousins, plenty of people.

Q: Are you related to [redacted] F. J. [redacted]?

A: Yes, sir.

Q: How are you related to her?

A: Blood ties, first cousin, daddy and mama.

Q: Now, that night that she was killed, were you there?

A: Yes, sir.

Q: Where were you?

A: Outside.

Q: What had you been doing that evening?

A: Having fun like we always do. You know what I'm saying? Everybody outside my grandma's house like the usual.

Q: Then what happened? Everything was like usual, but then it all changed, didn't it?

A: Uh-huh. In a quick second.

Q: Tell us what happened, what you saw and what you heard and what happened?

A: What I saw, what happened was crazy because it happened so fast, you know.

Q: I know this is tough. Take a minute. Take the time you need.

A: All right. So we was all outside. You know what I'm saying? Chilling, having fun or whatever, you know, and then all of a sudden, all these cars pulled up. Persons out the car got out shooting, two different guns. It was just crazy that night.

Q: Can you -- can you describe any of the cars that drove up?

A: The main car that the person got out shooting was a blue Charger.

Q: Okay. What other cars did you see there?

A: A white Dodge, a burgundy truck, a red Dodge. That was it.

Q: Where was the burgundy truck? At the beginning or the tail end or where?

A: The beginning.

Q: What about the red car?

A: In the middle.

Q: Behind the burgundy truck?

A: Uh-huh.

Q: Did you see anybody get out of those cars that you knew or in those cars that you knew?

A: Yes.
Q: Who?
A: KB.
Q: Who?
A: KB.
Q: How do you know KB?
A: Cousin.
Q: Cousins?
A: He had dreads at the moment. He's a cousin.
Q: Your cousin?
A: Uh-huh.
Q: Do you see him here in the courtroom?
A: Yep.
Q: Where is he?
A: (Indicating Defendant Barclay.)
Q: Right there by Mr. Hoffmeyer?
A: Right here.
MS. HENDERSON: Judge?
Q: Are you identifying him or him?
A: (Indicating Defendant Barclay.)
Q: Him? All right. Are you sure about that?
A: Uh-huh.
Q: All right. What did you do when the shooting started?
A: What you mean? I ran in the house.
Q: When did you find out [redacted] was hit?

A: When she hit the door.
Q: When she hit the door on the front porch?
A: (No verbal response.)
Q: Now, who else was out there? Do you know if Fanando Jackson, Sr., was out there and his wife or not?
A: Yes. They was all standing on the other side when my grandma running back.
Q: They were down at that end?
A: Say that again?
Q: They were down at that end of the trailer?
A: Uh-huh.
Q: And you were and the people around you were?
A: (No verbal response.)
Q: Is that correct?
A: Yes, sir.
MR. CLEMENTS: Your Honor, can we momentarily have the two defendants remove their facemasks?
THE COURT: All right.
All right. They've removed their facemasks, for the record.
MR. CLEMENTS: All right.
BY MR. CLEMENTS:
Q: Does that help you at all or it doesn't make any difference or does it change your answer who was KB or not?
A: (No verbal response.)

THE COURT: Is that a yes or a no?

THE WITNESS: No.

BY MR. CLEMENTS:

Q: Okay. All right. Mr. Jackson, just to be clear on this, you stated that a guy jumped out of a blue car, a blue Charger, and was shooting; is that correct?

A: Yes, sir.

Q: And that was the guy with dreads?

A: Yes, sir.

MR. CLEMENTS: Please answer any questions these lawyers may have.

MS. HENDERSON: One moment, please, Judge.

CROSS-EXAMINATION

BY MS. HENDERSON:

Q: All right. Mr. Jackson, again, you testified that it was KB who got out of the blue Dodge shooting; correct?

A: Yes.

Q: You testified you know KB?

A: I don't -- I don't really know him. You feel me?

Q: And you testified it was that gentleman right there who got out the blue car shooting?

A: About his size, his height.

Q: Okay. And you know that gentlemen's name is not KB?

A: Well, he the one that got charged for it first, ain't it? That the one they caught with the gun, ain't it?

MS. HENDERSON: Judge, I have no further questions for this witness.

THE COURT: Mr. Hoffmeyer?

MR. HOFFMEYER: Just briefly.

CROSS-EXAMINATION

BY MR. HOFFMEYER:

Q: Mr. Jackson, I understand from what you have told us previously on direct and then cross, and I think we would all agree this happened about 11 -- 11:30 on a Saturday night I believe, dark out there; is that correct?

A: Uh-huh.

Q: Yes? Is that a yes?

A: Yes, sir.

Q: Okay. Thank you. And I'm not fussing at you either. We just have to do that for the court reporter so she knows exactly what we mean. Okay?

All right. And I believe that you told us in response to -- before I ask you that, do you recall where you were at that time, Mr. Jackson? Were you over there near the porch of the mobile home?

A: Uh-huh.

Q: That's about where you were? Is that a yes?

A: Yes, sir.

Q: Okay. Thank you. And you also told us in response to Mr. Clements your description of the way this event occurred

is that it happened so fast. That's how you would describe it?

A: Yes, sir.

MR. HOFFMEYER: Thank you very much, Mr. Jackson. I don't have anything further?

THE COURT: Any redirect?

MR. CLEMENTS: No, Your Honor.

THE COURT: Mr. Jackson, you may step down, sir.

MR. CLEMENTS: We'd ask that he be excused from his subpoena.

THE COURT: Any objection, Ms. Henderson?

MS. HENDERSON: No, sir.

THE COURT: Mr. Hoffmeyer?

MR. HOFFMEYER: No, sir. Thank you.

THE COURT: Without objection, sir, you're excused from your subpoena. You're free to go. Have a nice day.

Call your next witness, please.

MR. CLEMENTS: Yes, Your Honor.

(WHEREUPON, there was a pause in the proceedings until the witness entered the courtroom.)

MR. HOFFMEYER: Judge, may we have a sidebar?

THE COURT: Yes. She can come up to be sworn.

THE CLERK: Ma'am, please place your left hand on the Bible and raise your right hand. Do you swear that the testimony you will give in this case will be the truth, the

year plus or minus a few additional months, our court system has been shut down too in large part and not having jury trials. So -- which kind of takes some time to get back into things as we go forward. All right? Which means when we haven't had jury trials, lawyers haven't been trying cases and judges haven't either. Okay? So I appreciate your patience as we go through this. Okay?

I have to address -- a lot of times trials go straight through and a lot of times some issues come up that we have to address with the Court and talk to the lawyers about. So again, I just ask that you be patient as we go through this. Okay?

All right. Mr. Clements, you may continue, sir.

MR. CLEMENTS: Thank you, Your Honor.

SHA'TYRA GEE, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. CLEMENTS:

Q: Is it all right if I call you Tyra?

A: Yes, sir.

THE COURT: Ma'am, can you -- please take your mask down while you talk, if you don't mind, please.

BY MR. CLEMENTS:

Q: Tyra, how old are you?

A: Twenty-two.

Q: Where do you live?
A: Timmonsville, South Carolina.
Q: Have you lived there all your life?
A: Yes, sir.
Q: Okay. Do you know [redacted] F. J. [redacted]?
A: Yes, sir.
Q: What is your relationship with her?
A: First cousin.
Q: Okay. Do you know James Jackson?
A: Yes, sir.
Q: Do you know Juicy Jackson?
A: Yes, sir.
Q: Do you know Fanando Nelly Jackson?
A: Yes, sir.
Q: Are they all kin to you?
A: Yes, sir.
Q: Okay. Okay. I know it's tough being here. Do you know Demonta Hickson?
A: Yes, sir.
Q: What's his nickname?
A: KB.
Q: Do you know Michael Barclay?
A: I know him, but I didn't know him.
Q: You know him, but you didn't know him?
A: No, sir.

Q: Tell me about the knowing him part?
A: Well, he was living -- the situation that happened. That's how I know him.
Q: Did you know him before this night?
A: No, sir.
Q: Did you know anything about him before this night?
A: No, sir.
Q: Okay. Now, do you remember being involved in an incident at the high school about a girl's cell phone?
A: Yes, sir.
Q: Were all those charges dropped, dismissed?
A: Yes, sir.
Q: Would any of that have any cause -- have you have any bias or motive or idea that you're going to help the State in any way because of this?
A: Say that again?
Q: I said is the fact that those charges were dismissed or dropped, is that going to cause you to be biased or prejudiced on behalf of the State?
A: No, sir.
Q: Okay. Did you know Cedric Young, also known as Boogie?
A: Yes, sir.
Q: Do you remember where you were August 25th, 2018?
A: Yes, sir.
Q: Can you tell us where you went first that evening?

A: Well, Cedric Young and some more boys pulled up from a party that everybody was at. He come back bragging.

MR. HOFFMEYER: Your Honor, we object to the hearsay.

MR. CLEMENTS: She hasn't said anything yet that's hearsay.

THE COURT: Sustained.

MR. HOFFMEYER: Thank you.

BY MR. CLEMENTS:

Q: Were you at that party?

A: No, sir.

Q: Okay. So you were -- you were at the Jackson's on Byrd and Tanyard the whole evening?

A: Yes, sir.

Q: Okay. And when you were there, do you remember when everybody got back from the fair?

A: Yes, sir.

Q: Who went to the fair and come back?

A: My Uncle Trap, [redacted], and Jaquan. They all went to the fair.

Q: When they got back, do you know about what time that was? If you don't know the answer, that's fine.

A: No, sir.

Q: Okay. Did you see when Fanando Nelly Nelson [*sic*] got there?

A: Yes, sir.

Q: Did they get there before the people from the fair or after the people from the fair, if you know?
A: I don't remember.
Q: You don't remember? Okay. Do you know where they pulled in and parked at?
A: On the side of the house.
Q: Okay. Who was in the car with them, if anybody, that you know? If you don't know, that's okay.
A: I don't.
Q: You don't know? Did you see F. J. go and talk to her father?
A: Yes, sir. They were about to go.
Q: They were about to go? And after F. J. talked to Mr. Jackson, what did she do? Which direction did she come back?
A: Towards to go in the house.
Q: Towards going in the house? And then what happened?
A: Cars pulled up fast. A red Challenger, a white Challenger, and a blue Charger. And that's when they asked where Cedric was at, and nobody said nothing. They just started shooting and that's when KB got out by the stop sign and that's all I saw. I ran in the house.
Q: You saw him get out? Did you see him shoot?
A: Yes, sir.
Q: How many shots do you think were fired?
A: Several. Two different sounds.

Q: Two different sounds?

A: (No verbal response.)

Q: When did you find out that [redacted] had been hit?

A: When my grandma told us to grab her. She fell in the door.

Q: You say KB got out of the car and shot? How do you know it was KB?

A: He had dreads then, but now he don't got no dreads.

Q: Would you recognize him without dreads?

A: Yes.

Q: Do you see him in the courtroom?

A: Yes.

Q: Can you point him out to the jury?

A: (Indicating.)

Q: Can you tell who is sitting beside him, what color and kind of clothes they have on?

A: The gray and white.

Q: Which table is he sitting at? That one or that one?

A: The first, right there.

Q: That table right there?

A: (No verbal response.)

Q: Okay. Did you see anybody else get out?

A: No, sir.

Q: From the angle you were at, could you see the front car then after they pulled up?

A: No, sir.
Q: But you could see the white car?
A: Yes, sir.
Q: And you could see the blue car?
A: Yes, sir.
Q: And you know somebody got out of the blue car?
A: Yes, sir.
MR. CLEMENTS: I'd ask permission for the witness to step down.
THE COURT: All right. Yes, ma'am. Ma'am, you may step down.
MR. CLEMENTS: I'm going to ask, if you will, if you'll stand on that side over there.
BY MR. CLEMENTS:
Q: Does this look -- is this a fair description of what the place was like that evening at the crosswords of Byrd and Tanyard Street?
A: Yes, sir.
Q: It's not to scale so it's not completely accurate. Okay? Tell me what does that depict about the cars you saw -- that you said you saw pulling in? Is that the way they were parked or not?
A: Yes, sir.
Q: Which car did KB get out of?
A: The blue car.

Q: And after you saw him get out, what did you do? Where did you go?

A: In the house.

Q: Okay. This is your grandmama's; right? The trailer right here?

A: Uh-huh.

Q: Whose car was that? Who was that that was there, if you know?

A: It was my uncle.

Q: Mr. and Mrs. Jackson, F.J. 's parents?

THE COURT: Ma'am, I need you to speak up and give me a verbal answer. I see you shaking your head yes, but I need you to give me a verbal answer and speak up. Okay?

THE WITNESS: Yes, sir.

BY MR. CLEMENTS:

Q: So this was the front yard and you were somewhere in the front yard?

A: Yes, sir.

Q: And you went to get to the porch to get in; right?

A: Yes, sir.

Q: There's a car over here. Do you know anything about that car?

A: No, sir.

Q: There's a little building over here. Do you know anything about that little building?

A: No, sir.
Q: Okay. Where was the church at?
A: Across the street.
Q: Here or here?
A: There.
Q: All right. That's your grandmama's trailer.
A: The church is over here.
Q: The church is over here?
A: Yes.
Q: Okay. Thank you. You can sit down.
(WHEREUPON, the witness complied.)
Q: Let me make sure I understand you. If I state this wrong, you correct me. You know KB; correct?
A: Correct.
MR. HOFFMEYER: Your Honor, I object. This is asked and answered. He just wants to replay the testimony.
MR. CLEMENTS: I just want to be sure I'm accurate with this.
THE COURT: Overruled. Go ahead, Mr. Clements.
BY MR. CLEMENTS:
Q: You don't know Mr. Barclay?
A: Correct.
Q: And you could see shooting coming from the blue car or by the blue car; right?
A: Correct.

Q: But you couldn't see down at the other end whether anybody was shooting out of the red car or not?

A: Correct.

Q: Because of the angle of where you were?

A: Correct.

Q: So it's fair to say you can't say if there were shots coming from the red Challenger or not?

A: Correct.

Q: Did you see Boogie before all the shooting started?

A: Yes, sir.

Q: I don't want you to tell me anything about what somebody said, but what kind of -- what kind of attitude -- what kind of mood was he in?

A: Happy, bragging.

Q: Okay. This is my last matter I'm going to ask you about. Was there anybody returning fire or firing on those cars in the group in the house where you were or in the yard where you were?

A: No, sir.

Q: Nobody shot back? Nobody fired back?

A: No, sir.

Q: Okay.

MR. CLEMENTS: I believe that's all the questions I have. Please answer any questions Ms. Henderson or Mr. Hoffmeyer has.

THE COURT: Ms. Henderson?

MS. HENDERSON: One moment, please, Judge.

THE COURT: Yes, ma'am.

MS. HENDERSON: Judge, I have no questions for Ms. Gee.

THE COURT: All right. Mr. Hoffmeyer?

MR. HOFFMEYER: Thank you, sir.

CROSS-EXAMINATION

BY MR. HOFFMEYER:

Q: Ms. Gee, I just have a few follow-up questions for you. Now, Mr. Clements, when he first got up to talk to you and ask you a few questions about the case, indicated that you had some pending charges that had been dismissed; is that right?

A: Correct.

Q: Okay. And I believe those charges were from a March 31st, 2020, incident were common-law or strong-armed robbery and assault and battery by a mob, third degree. Is that what was dismissed?

A: Correct.

Q: Okay. And those charges that were dismissed from the incident in March of 2020, those were charges that were being prosecuted by this Solicitor's Office; right?

A: No, sir.

Q: Okay. Well, who was prosecuting them?

A: I don't know.

Q: Okay. Well, the indication we have is they were prosecuting it and, of course, you are testifying for the State in this particular case obviously; is that right?

A: Correct.

Q: Okay. Now, I'd like to talk to you for a few minutes about the situation out there that evening and, has as been testified to throughout this trial, this happened at night, 11 to 11:30 p.m.; is that right?

A: Right.

Q: Okay. And I was trying to figure out when you were asked -- answering questions of Mr. Clements where you were out there in relation to the porch or whatever you can share with us at the time that the cars pulled up. Where were you, so to speak?

A: Standing on the other end of the house.

Q: Okay. When you say other end of the house, where are you referring to, Ms. Gee?

A: In the yard.

Q: Okay. In the yard? If I've got this diagram, would you mind showing me that?

A: (No verbal answer.)

Q: We'll try to be quick. I hate to ask you to come down again, but if you don't mind, Ms. Gee, and if you'll face our court reporter and I'll stand right here.

(WHEREUPON, the witness complied.)

Q: Okay. Now, you were telling me just a moment ago where you were when the cars pulled up. Would you mind showing me now on this diagram, which is State's Exhibit No. 32?

A: Over here.

Q: Okay. So it looks like -- and feel free to correct me if I'm wrong. You are, I guess, toward the end of the mobile home, kind of in front of the end of the mobile home. Is that fair to say, Ms. Gee?

A: Yes, sir.

Q: Okay. Thank you. And that is where you were when things started happening; is that right?

A: Correct.

Q: Okay. Thank you, Ms. Gee. You can have a seat.

(WHEREUPON, the witness complied.)

Q: Now, Ms. Gee, you -- obviously, before today -- but before I move on to that, you told me it was dark out there and you told me where you were. Now, when these cars started to pull up, you were asked by Mr. Clements about Mr. Young, and you indicated that he was bragging at that point?

A: Uh-huh.

Q: Now, that -- is that a yes?

A: Yes, sir.

Q: And that would have occurred before the cars pulled up as you have described; is that right?

A: Correct.

Q: Now, Ms. Gee, when those cars pulled up, at that point you believed there was a problem, didn't you?
A: Correct.
Q: All right. So at that point when the cars pulled up, because you had your family out there, you told everybody to run, didn't you?
A: Correct.
Q: And you told everybody to run and, of course, you ran yourself; isn't that right?
A: Correct.
Q: Now, you discussed this incident with law enforcement after this tragedy and do you remember discussing this incident with Inv. Strickland, Mark Strickland?
A: Yes, sir.
Q: I believe you sat in his car and discussed it with him; is that right, Ms. Gee?
A: Yes, sir.
Q: Okay. And when it comes to this discussion with Officer Strickland -- I don't know if you're aware or not, but he was wearing a body camera when he was talking to you. Did he tell you that by chance?
A: I don't know.
Q: Okay. That's all right. Now, when you were discussing this incident with Inv. Strickland, you told him when you saw the cars pull up, you told everybody to run, just like you

told us a moment ago; right?

A: Correct.

Q: And you told him that you were trying to get out of the way?

A: Correct.

Q: Naturally, and you also told him that you didn't see anybody, didn't you?

A: No, sir.

Q: Okay. Well, I'm going to play a portion of that conversation as soon as we can pull it up?

MR. HOFFMEYER: Judge, it's going to take me about five minutes to get there though, but I was just going to not play it out loud until we get to the part where the question is asked.

THE COURT: Can you fast forward it?

MR. HOFFMEYER: Unfortunately, this statement does not have, you know, one minute, two minutes, three minutes.

THE COURT: Can the lawyers approach, please?

(WHEREUPON, a bench conference was held in the presence of the jury but out of the hearing of the jury off record, after which the proceedings resumed as follows.)

THE COURT: All right. Ladies and gentlemen of the jury, what I'm going to do right now, I'm going to let you go ahead and go to lunch rather than sit here and wait on this right now. There's some matters that we can hopefully take

THE COURT: All right. Ms. Gee, if you'd could come back up here, please, ma'am.

(WHEREUPON, the witness complied.)

THE COURT: All right. Ms. Gee, before I bring the jury out, I'll remind you you're still under oath. Okay?

THE WITNESS: Yes, sir.

THE COURT: And you can take your mask down. Now, before we broke, I instructed you not to talk to anyone about your testimony. Did you comply or obey the Court's instructions?

THE WITNESS: Yes, sir.

THE COURT: All right. Very well.

All right. Bring me the jury, please, ma'am.

(WHEREUPON, the jury entered the courtroom at 2:02 p.m.)

THE COURT: All right. Madam Forelady and ladies and gentlemen of the jury, I hope you all had a nice lunch and are ready to proceed here this afternoon.

At this time, I'll recognize Mr. Hoffmeyer. You may continue your cross-examination.

MR. HOFFMEYER: Thank you, Your Honor.

RESUMED CROSS-EXAMINATION

BY MR. HOFFMEYER:

Q: Ms. Gee, just a few more questions for you, and we were discussing a statement you gave, but I didn't do a very good job of explaining that statement to you because you were with

Inv. Mark Strickland and you were in his vehicle at that time and that was the night of the incident. Do you recall that?

A: That was three years ago.

Q: Okay. Three years ago. So with regard to this particular statement, do you recall an officer, an Officer Billy Brown, coming up to the vehicle and asking you if you saw anyone in the vehicles, that being the vehicles that were reportedly shooting or were shooting. Do you recall Billy Brown asking you that?

A: I don't remember.

Q: Well, according to this statement, you indicated that you didn't see anyone. Do you recall that?

A: No, sir.

Q: Okay. Let me just play just a little snippet of that. It may refresh your recollection.

(WHEREUPON, a portion of a statement was played and then stopped.)

BY MR. HOFFMEYER:

A: Yeah.

Q: Now, Ms. Gee, with regard to this particular case -- before I ask you that, you mentioned dreads, someone wearing dreads, I believe in your direct examination. It's fair to say that that type of hairstyle, dreads, is not unusual in the African-American community, is it? That's a common thing to see? Is that fair to say?

A: Yes, sir.

Q: And as far as this particular case, after that evening at any point from August the 25th, 2018, until we sit here today and my client is on trial, have you ever been given any type of photographic lineup to try and identify the individuals involved?

A: No, sir.

MR. HOFFMEYER: If you'll excuse me one second, Ms. Gee. Thank you, Ms. Gee.

THE COURT: Any redirect?

MR. CLEMENTS: Yes, Your Honor.

REDIRECT EXAMINATION

BY MR. CLEMENTS:

Q: Tyra, when Mr. Hoffmeyer was asking you questions just a minute ago, it looked to me like you wanted to say something. You kind of raised your finger like that. What were you doing?

A: Because he asked me did I see anyone in the car. That's why I said no. He didn't ask me did I see who got out of the car.

Q: Well, who did you see get out of the car?

A: KB.

Q: Okay.

MR. CLEMENTS: No further questions. Thank you.

THE COURT: Ms. Henderson, anything else?

MS. HENDERSON: Nothing from Mr. Barclay, Judge.

THE COURT: Mr. Hoffmeyer?

MR. HOFFMEYER: Yes, ma'am.

RECROSS-EXAMINATION

BY MR. HOFFMEYER:

Q: Now, Ms. Gee, when an officer involved in a case like this is asking you if you saw anybody in a car, at one point according to you he was in the car because he got out according to you, and you didn't bother to tell him KB at that time?

A: No.

Q: And in fact, you've heard the name KB from your cousin, and that is why you began using the term KB; is that right?

A: No, sir.

Q: And I know you weren't here earlier, but we had James in here testifying. James is your cousin? Do you know who that is?

A: Yes, sir.

Q: Okay. You weren't here, but --

MR. CLEMENTS: Your Honor, I object. This is way out of the scope of recross.

MR. HOFFMEYER: Your Honor, he's brought up this issue about the cars and not seeing this and not seeing that, and my client is, you know, in this very serious trial and I'd like to ask her --

THE COURT: Hold on a minute. Hold on. We're not going to go through speaking objections --

MR. HOFFMEYER: I apologize.

THE COURT: -- and responses. Can y'all approach a minute, please?

(WHEREUPON, a bench conference was held in the presence of the jury but out of the hearing of the jury as follows.)

THE COURT: You're going beyond redirect here.

MR. HOFFMEYER: Well, Your Honor, you mean recross?

THE COURT: Recross.

MR. HOFFMEYER: That's okay. I gotcha. But anyway, you know, he's -- she's essentially explaining away what she testified to.

THE COURT: And she has a right to.

MR. HOFFMEYER: But I have a right to question her about it this juncture because she didn't explain it away when I talked to her.

THE COURT: She was going to, and she didn't.

MR. HOFFMEYER: I'm sorry. I'd have preferred if she would have.

THE COURT: She could.

MR. HOFFMEYER: I will.

(WHEREUPON, the bench conference ended, and the proceedings resumed as follows.)

BY MR. HOFFMEYER:

Q: Now, Ms. Gee, just to follow-up and I'll try and be quick about this. All right. You weren't in the courtroom earlier, but with James, your cousin, he began talking about KB, didn't he?

A: No, sir.

Q: Well, didn't you give an interview with Mr. Strickland in which y'all were together discussing the case at the police station?

A: Yes, sir.

MR. HOFFMEYER: Thank you. I don't have anything further.

THE COURT: Ms. Gee, you may step down. Thank you.

THE WITNESS: Uh-huh.

THE COURT: All right. Ladies and gentlemen of the jury, I'm sorry to do this, but I need to ask you to step to the jury room for just a minute. I'll get you back out here real quickly. Okay? Do not discuss the case.

(WHEREUPON, the jury exited the courtroom at 2:09 p.m.)

THE COURT: All right. We'll stand down for just a second.

(WHEREUPON, there was a break in the proceedings from 2:10 p.m. until 2:16 p.m., after which the proceedings resumed as follows.)

THE COURT: All right. Anything from the State before I

the Bible and raise your right hand. Left hand. Raise your right hand. Do you swear that the testimony you will give in this case will be the truth, the whole truth, and nothing but the truth, so help you God?

THE WITNESS: Yes, ma'am.

THE CLERK: You may be seated on the witness stand and please state your full name for the record.

THE WITNESS: Markev Moses.

THE COURT: Mr. Moses, you can take your mask down while you're talking. Okay?

All right. Mr. Clements?

MR. CLEMENTS: Thank you, Your Honor. May it please the Court.

MARKEV MOSES, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. CLEMENTS:

Q: Mr. Moses, what does everybody call you?

A: Huh?

Q: What does everybody call you that knows your nickname?

A: Markev.

Q: They call you Markev?

A: (No verbal responses.)

Q: Okay. Markev, do you know where you were on August 25th, 2018?

A: Byrd. On Byrd Street.
Q: And whose house were you at?
A: Ms. Bev.
Q: And you were out there with a lot of your friends?
A: My cousin.
Q: Your cousins? Do you recall around 11 or somewhere a little bit around 11 some vehicles coming up, pulling up at Byrd Street, [redacted]?
A: Yeah.
Q: What did you see?
A: I ain't see nothing. Well, I was -- I was standing around talking, talking to my cousin. You know what I'm saying? I just heard gunshots and I just started running.
Q: What kind of car did you see pull up?
A: I'm pretty sure. I mean a red car, I'm pretty sure.
Q: Okay. And they started shooting?
A: Yeah. I started running.
Q: You started running? And did anybody shoot back at them?
A: No.
Q: No? About how many shots did you hear?
A: I don't know. I mean I don't know. I was just running. I was trying to get out of something and run for my life really.
Q: Did you see shooting coming from every car?

A: No. I ain't -- I was running. I couldn't see all that.

Q: Okay.

MR. CLEMENTS: Thank you, sir. Please answer any questions they ask of you.

THE COURT: Ms. Henderson?

MS. HENDERSON: Judge, Mr. Barclay has no questions.

THE COURT: Mr. Hoffmeyer?

MR. HOFFMEYER: Your Honor, we have no questions for Mr. Moses.

THE COURT: Mr. Moses, sir, you may step down. Thank you.

(WHEREUPON, there was a pause in the proceedings until the next witness entered the courtroom.)

MR. CLEMENTS: Your Honor, this is Mr. George Dunn.

THE COURT: All right.

THE CLERK: Sir, please place your left hand on the Bible and raise your right hand. Do you swear that the testimony you will give will be the truth, the whole truth, and nothing but the truth, so help you God?

THE WITNESS: Yes, ma'am.

THE CLERK: You may be seated on the witness stand and please state your full name for the record.

THE WITNESS: My name is George Dunn.

THE COURT: Mr. Dunn, you can take your mask down while you're speaking, please, sir.

THE WITNESS: Yes, sir.

THE COURT: I notice you have sunglasses on.

THE WITNESS: Yes, sir.

THE COURT: Okay. And there may be a medical reason that you need to wear them. Are you okay to not wear them while you testify?

THE WITNESS: Yes. I will not wear them.

THE COURT: Okay. All right. Mr. Clements?

MR. CLEMENTS: Thank you, Your Honor.

GEORGE DUNN, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. CLEMENTS:

Q: Mr. Dunn, where do you live, sir?

A: Byrd Street.

Q: Where? What town?

A: Timmonsville, South Carolina.

Q: How long have you lived there?

A: A long time.

Q: Have you been in Timmonsville all your life?

A: Not all my life.

Q: All right. Well, you look mighty young. So it can't be that long a time. What were you doing on August the 25th, 2018?

A: I went to my cousin's birthday party.

Q: All right. And whose house was that at?

A: It was at one of my cousin's, one of my kin people. She's a Simon.

Q: Cassandra?

A: Yeah, Cassandra Simon.

Q: When you were there, who were you there with?

A: Vanessa and [redacted].

Q: Speak up for me.

A: I was there with [redacted] and Vanessa.

Q: And that's Mr. and Ms. Fanando Jackson?

A: Yes. Fanando Jackson, yes.

Q: Okay. [redacted]'s parents?

A: Yes, sir.

Q: So y'all all went to the party together. Were you riding with them or were they riding with you?

A: I was riding with them.

Q: What did you see happened at that party?

A: A fight broke out.

Q: Between who? Do you know?

A: I just heard somebody swung on Boogie. That's what I heard.

Q: Somebody swung on Boogie?

A: Yes.

Q: You ever heard anybody mention JJ?

A: No.

Q: When the fight started, what happened? Did they let them fight or did they break it up?
A: They broke it up, I believe. Yeah.
Q: That was pretty much it?
A: Yes, sir.
Q: Not too much excitement there?
A: No. No, sir.
Q: About how long did you stay at the party?
A: We was there for a little -- after all that broke out, we left and went back to Byrd Street.
Q: Okay. And where were you on Byrd Street? What road was intersecting Byrd Street?
A: What street? Right there by Bethlehem.
Q: Tanyard Street?
A: Yes.
Q: When y'all went back to the house, do you remember where you parked and where you were sitting?
A: I remember we parked beside the trailer. I remember that.
Q: And do you remember where you were in the car?
A: No, I don't remember where I was at.
Q: You can't recall whether it was the front seat or the backseat?
A: I was in the backseat.
MR. CLEMENTS: I'm going to get you to step down a

moment, with the judge's permission.

THE COURT: Yes, sir.

(WHEREUPON, the witness complied.)

MR. CLEMENTS: Stand there on the other side right there so you can talk and the jury can hear you.

This is State's Exhibit No. 32. It's not to scale, which means it's not, like, accurate, like a Google map. As a matter of fact, it was drawn by Thomas McFadden.

BY MR. CLEMENTS:

Q: If that's the intersection of Tanyard and Byrd Street, does that look familiar?

A: Yes, sir.

Q: All right. What would this be right here?

A: That's Ms. Gee's house.

Q: That's Ms. Gee's house?

A: Yes.

Q: And there's a car right there parked right there. Whose car was that?

A: That was a Chrysler 300.

Q: A Chrysler 300?

A: Yes, sir.

THE COURT: Sir, I need you to speak up so my court reporter can hear you please.

THE WITNESS: Okay.

MR. CLEMENTS: Stand right there so they can see you.

BY MR. CLEMENTS:

Q: Just tell me that one more time? Whose car was that?

A: That was Fanz. A Chrysler 300. Sorry.

Q: And is that the car you were sitting in?

THE COURT: Hold up a minute. Hold up, Mr. Clements.

Mr. Dunn, we can't hear. My court reporter can't hear you. If you'd speak up like you're speaking to her --

THE WITNESS: Yes, sir.

THE COURT: -- instead of speaking directly to Mr. Clements.

BY MR. CLEMENTS:

A: That's the car I was sitting in.

Q: Okay. You were sitting in the backseat?

A: Yes, sir.

Q: Okay. And were there other people around out in the yard?

A: Everybody.

Q: A lot of people?

A: Yes.

Q: Okay. Tell me when you were sitting in that car with Mr. and Ms. Jackson what happened?

A: Well, I got out the car. I went to the road.

Q: All right. Did you see when [redacted] came over there to talk to them? Were you there when she did that?

A: (No verbal response.)

Q: And what were you doing? You were standing out at the road?

THE COURT: Hold on a minute. Hold on a minute. Did you answer that question? I saw you shaking your head no.

THE WITNESS: No, sir.

THE COURT: Speak up. Okay?

THE WITNESS: No, sir.

THE COURT: Mr. Dunn, I don't usually speak this loud either.

THE WITNESS: Okay.

THE COURT: Because I know you're far away from me, I'm raising my voice. Please make a point to do that. I know it's not something that you do on a regular basis. I do on a regular basis; so that's why I raise my voice. So please make a mental note to do that, if you would, please.

THE WITNESS: Okay.

THE COURT: Okay?

THE WITNESS: Yes, sir.

THE COURT: Thank you.

BY MR. CLEMENTS:

Q: You were standing over there at the road?

A: Yes, sir.

Q: What happened next?

A: I saw cars coming through, coming through, and the next thing I know somebody had asked for Boogie. They was calling

Boogie's name and then they started shooting at me.

Q: All right. What did you do?

A: I realized that they were shooting at me, and I got between the cars.

Q: All right.

A: The car right here.

Q: Tell us about -- if you can point out to the jury. They can't see on this end. Stand right here. Is that better? About where were you standing with the cars came pulling up?

A: Right here.

Q: Okay.

A: I was standing in the yard right in there.

Q: Could you see what kind of cars pulled up and stopped?

A: I saw a red car.

Q: A red car?

A: Yes.

Q: Okay.

A: Because he was asking about Boogie, and he started shooting.

Q: He started shooting?

A: Yeah.

Q: And you're positive it happened?

A: Yes, sir.

Q: What about the other cars? Were you paying any attention to them?

A: I saw them come through. That's it.

THE COURT: Sir?

Q: You saw them come through? That's it?

A: I saw them come through.

THE COURT: Okay.

Q: Now, so you were right here? If you will kind of turn where this jury can see, if you'll point out to them where you went?

A: I ran right behind this car right here, the Chrysler 300.

Q: Right behind the Chrysler 300?

A: Yes.

Q: So you were between the trailer?

A: Yes.

Q: On your knees or kneeling down?

A: Getting down. I was getting down.

Q: What did you hear, if anything?

A: I just heard gunshots.

Q: When the gunshots stopped, what happened to the cars?

A: They kept -- they went on. All of them, they went on.

Q: All of them went on?

A: Yes.

Q: And you can't say -- can you or not? -- if anybody was shooting out of these other cars?

A: This car was shooting.

Q: Okay. And that was closest to you?
A: Yes.
MR. CLEMENTS: Thank you. Have a seat.
(WHEREUPON, the witness complied.)
BY MR. CLEMENTS:
Q: Mr. Dunn, after the cars stopped shooting and drove off, you were still behind the car at that time ducking down?
A: Yes, sir. I was ducking down. I didn't want to get hit.
Q: And when they left, did you stay there or did you leave?
A: I left.
Q: You left?
A: Yeah.
Q: You went home?
A: Yes, sir.
Q: Okay. Did you know anybody or could you recognize or see anybody in any of the cars?
A: I didn't know nobody in that car, none of them cars. I didn't know nobody. I'm just a --
Q: They didn't say much?
A: One did say something. He sounded like he was from up top, up north.
Q: What did he --
A: He was calling Boogie's name.
Q: When you say from up top --

A: He said where Boogie at, where Boogie at, and then he -- then he started shooting at me.

Q: What do you mean when you say he sounds like he's from up top?

MS. HENDERSON: Objection, hearsay, Judge. Mr. Dunn --

THE COURT: Objection overruled.

BY MR. CLEMENTS:

Q: What do you mean when you say he sounds like he's from up top?

A: He sounded like he was from up north.

Q: Okay.

A: Yes, sir.

Q: Did you notice or see anybody shoot back at them?

A: No, ma'am. No, sir. No, sir. No, sir.

Q: Okay.

A: No, sir.

MR. CLEMENTS: That's all the questions I have at this time. Please answer any questions the defense may have.

THE COURT: All right. Ms. Henderson, cross-examination?

CROSS-EXAMINATION

BY MS. HENDERSON:

Q: Mr. Dunn, you came in earlier today and you had on glasses. Why did you have on your sunglasses?

A: Why did I have my glasses on? Because --

Q: Yes.
A: Because my eyes were bothering me.
Q: Okay. Do you have vision problems?
A: Yes. I wear glasses.
Q: Okay. Were you wearing your glasses the night that this happened?
A: No, ma'am.
Q: Okay. You stated that you didn't know any of the individuals in the cars that you saw?
A: No. I was an innocent bystander. That's what I was.
Q: Yes, sir. Yes, sir. After the shooting happened, did you call 9-1-1?
A: No.
Q: Okay. You didn't make any written -- give any written statements to law enforcement; correct?
A: No.
Q: Didn't give any recorded statements to law enforcement; correct?
A: No.
Q: Are you related to anyone in Ms. [redacted] F.J. 's family?
A: I'm a friend of the family, but I've been == I've been around them for years. So, you know, I'm like family.
Q: Yes, sir. Yes, sir. And the vehicle that you were in, you said first you didn't know where in the vehicle you were

located; correct? And then you said you were in the backseat?

A: Yes. It was -- it was by the trailer.

Q: Yes, sir.

A: It was parked by the trailer.

Q: And was the vehicle --

A: And when I got down for cover, I was right between the trailer.

Q: Okay.

A: And they started shooting.

Q: Okay. Was the vehicle pulled facing forward into the trailer?

A: Yes. That way.

Q: So you were facing towards the trailer, not the street?

A: I was behind the trailer right between trying to duck, trying to duck.

MS. HENDERSON: One moment, please.

THE COURT: All right.

MS. HENDERSON: That's it for Defendant Barclay, Mr. Dunn.

THE COURT: Mr. Hoffmeyer?

MR. HOFFMEYER: Thank you very much, Mr. Dunn. I don't have any questions for you.

THE COURT: Hold on a minute. Hold on a minute.

THE WITNESS: I'm sorry.

THE COURT: Any redirect?

MR. CLEMENTS: Just one issue.

REDIRECT EXAMINATION

BY MR. CLEMENTS:

Q: Mr. Dunn, Ms. Henderson asked you about your vision and wearing your glasses. That vision doesn't change colors -- does it? -- with your glasses?

A: No, sir.

Q: It doesn't affect your seeing colors at all, does it?

A: No, sir.

Q: Okay.

MR. CLEMENTS: Thank you, sir.

THE COURT: Ms. Henderson?

MS. HENDERSON: Nothing further, Judge.

THE COURT: Mr. Hoffmeyer?

MR. HOFFMEYER: No, sir, Your Honor.

THE COURT: Now you may step down, sir. Thank you.

THE WITNESS: Okay.

MR. CLEMENTS: Your Honor, our next witness I think will be Timothy Washington. We'll check if he's out here.

THE COURT: All right.

(WHEREUPON, there was a pause in the proceedings until the witness entered the courtroom.)

THE COURT: This is Mr. Washington, Mr. Clements? Timothy Washington?

MR. CLEMENTS: Yes, sir.

THE COURT: Okay.

THE CLERK: Sir, please place your left hand on the Bible and raise your right hand. Do you swear that the testimony you will give in this case will be the truth, the whole truth, and nothing but the truth, so help you God?

THE WITNESS: Yes, ma'am.

THE CLERK: Please be seated on the witness stand and state your full name for the record.

THE COURT: State your full name for the record, please, sir.

THE WITNESS: What now?

THE COURT: Sir?

THE WITNESS: Say it again.

THE COURT: Tell me your full name for the record.

THE WITNESS: Timothy Washington.

THE COURT: And, Mr. Washington, you can pull that mask down while you're testifying. Okay? Thank you, sir.

Mr. Clements?

TIMOTHY WASHINGTON, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. CLEMENTS:

Q: Mr. Washington, it's very important that we can all hear what you say. So I'm going to ask you to speak up loudly.

A: Yes, sir.

Q: Where do you live?

A: I stay in the projects with my mama now, but I was staying on Byrd street with my grandma.

Q: In Timmonsville

A: Yes, sir.

Q: Who was your grandma?

A: Bevalena Gee.

Q: Bevalena Gee? That was also [redacted]'s grandma?

A: Yeah. Yes, sir.

Q: You -- you were first cousins with her?

A: Yes, sir.

Q: Were you there that night she was killed?

A: Yes, sir.

Q: Can you tell us -- tell this jury -- I'm going to stand over here. Can you tell us exactly what happened from the point from -- well, first, let me ask you this. Did you go to the fair with them?

A: No, sir.

Q: Do you remember when they got back from the fair?

A: Yes, sir.

Q: From the time they got back from the fair, tell us your -- tell us what happened and what you did and what you saw?

A: Well, we was just -- we was at my grandma's chilling. [redacted] and them -- [redacted] and Juicy, my other cousin, and

Tripod, but before we got down -- before they came, Cedric pulled up and they pulled up, like, telling how they got down and shot somebody Grandma's house or something like that in a drive-by. I'd say a couple minutes later we seen a couple cars pull up asking where Cedric was at and started shooting. We were running in the house.

Q: Could you tell what -- how many cars there were pulled up?

A: I would say round about four, four or five, something like that.

Q: And what colors?

A: I know there was a red -- a red Charger. A red Charger, a white Charger, and a blue Charger, and there was a -- I forgot what kind of truck it was, but, like, a burgundy truck.

Q: And did you see anybody out of the cars?

A: I can't really -- yeah. People was outside the cars shooting, but I can't tell who they was, but --

Q: Okay.

A: -- they was outside.

Q: Did anybody shoot back at them?

A: No, sir.

Q: You ran for the house?

A: Did you say I ran in the house?

Q: You ran for the house when the shooting started?

A: Yes, sir.
Q: And thank goodness you weren't hit.
A: What you say? Say that again.
Q: Thank goodness no one else was hit.
A: Oh, yes, sir.
Q: It could've been a lot worse. And [redacted] -- were you there in the room with her when she fell in and they said she was hit?
A: Yes, sir. I was behind her. When she fell through the door, I jumped over her and I had jumped on the couch. And shots were still going off and that when she had said she got hit. We went to her and stuff.
Q: All right.
MR. CLEMENTS: I beg the Court's indulgence a moment.
BY MR. CLEMENTS:
Q: Mr. Washington, do you have a sister?
A: Yes, sir.
Q: What's her name?
A: Sha'Tyra Gee.
Q: Sha'Tyra Gee?
A: Yes, sir.
Q: She was there as well, wasn't she?
A: Yes, sir.
Q: About how many people were in that front yard, if you know?

A: There were probably -- probably -- there was probably about eight or whatever, I think.

Q: All right.

A: I'd say probably.

Q: All right.

MR. CLEMENTS: Thank you, Mr. Washington. Please answer any questions they may have.

THE COURT: Ms. Henderson?

MS. HENDERSON: Judge, Mr. Barclay has no questions for Mr. Washington.

THE COURT: Mr. Hoffmeyer?

MR. HOFFMEYER: Your Honor, no questions for Mr. Washington. Thank you.

THE COURT: Sir, you may step down. Thank you.

MR. CLEMENTS: The next witness will be Doc Smith.

THE COURT: All right.

(WHEREUPON, there was a pause in the proceedings until the witness entered the courtroom.)

THE CLERK: Sir, please place your left hand on the Bible and raise your right hand. Do you swear that the testimony you will give in this case will be the truth, the whole truth, and nothing but the truth, so help you God?

THE WITNESS: Yes, ma'am.

THE CLERK: Please be seated on the witness stand and state your full name for the record.

THE WITNESS: Say that again?

THE CLERK: State your full name.

THE WITNESS: Doc L. Smith.

THE COURT: Have a seat in the witness chair, please, sir. Mr. Smith, you -- yes, sir. You take your mask down while you testify, sir.

All right. Mr. Clements?

DOC SMITH, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. CLEMENTS:

Q: Mr. Smith, how are you doing today?

A: Say that again?

Q: How are you doing today?

A: I'm doing good.

Q: Good. Do you -- well, let me ask you this first. Where do you live?

A: In Timmonsville.

Q: Where at in Timmonsville?

A: [redacted] E. McLendon Street.

Q: And you've been there a long time?

A: I just bought this house.

Q: How long have you been in Timmonsville?

A: I've been in Timmonsville all my life.

Q: Know most everybody there? It's a small town; right?

A: Yes, sir.

Q: Did you go down to a party at Cassandra Simon's house on August 25th, 2018?

A: No, sir. I wasn't there. You said was I there?

Q: Sir?

A: I can't hear you.

Q: I'm sorry.

A: There you go.

Q: I'm getting old and my voice is getting weak. I used to never be accused of not being heard. I was a loud mouth.

A: I can't hear you now. Say again?

Q: Now, did you have occasion to go to a party at Cassandra Simon's house?

A: No, sir.

Q: There were a lot of people there though -- right? -- that you know of?

A: I wasn't there.

Q: Okay. Where were you?

A: I was home.

Q: All right. And did something unusual happen?

A: Well, I was sitting on my porch. I heard gunshots.

Q: Where did they come from?

A: They came from down the street. Okay. After I heard the gunshots, then, you know, three cars passed through. These are my family members, both sides of my family members.

So I didn't know exactly what was going on. I jumped behind those guys to see exactly what was going on.

Okay. When I got to the light, they were at Candy's, like at the Candy's. They were at the post office. After the post office, there was cars around the Gee's house. I know the Gees real good because, like I said, both the parties are my family. When I jumped out the truck, I went to holler, like, hold up. All I heard was pow, pow, pow. I jumped back in the truck and drove off.

Q: Now, what kind of truck do you have?

A: A Pilot, Honda Pilot.

Q: And what color is it?

A: Burgundy. Well, cherry.

Q: Cherry or burgundy? Kind of close to garnet maybe?

A: Say that again?

Q: Close to garnet maybe?

A: Garnet? What do you mean garnet?

Q: The garnet and black.

A: No.

Q: All right. And where did the Gees live, corner of what two streets?

A: Say that again?

Q: Where did this occur where the Gees, live, the corner of what two streets?

A: Clifford -- not -- not Clifford, but Tanyard and --

what's the name of the other street?

Q: Does Byrd sound right?

A: Byrd Street.

Q: Now, when you saw cars go by, you said that a lot of them were your family, that you knew who they were?

A: Say that again?

Q: When you said that some cars went by --

A: Uh-huh.

Q: You said they were your family. You had family on both sides and you knew who they were?

A: Yes, I have family on both sides.

Q: Can you tell me what the three cars looked like?

A: They were three -- what do you call them? Dodges.

Q: What colors?

A: White, blue, the other one looked red or cherry-colored.

Q: Now, who do you know that drives a blue Dodge Charger?

A: Mr. Hampton. Mr. Hampton.

Q: Jimmy Lee, Jr.?

A: Yes, sir.

Q: Do you know anybody that drives a white car, white Challenger?

A: Mr. Hampton.

Q: Another Mr. Hampton?

A: Yes, sir.

Q: Do you know anything about the red car?

A: No, sir. The red car is new to me.
Q: The red car is new to you?
A: Yes, sir.
Q: Okay. When you drove and you came up on the corner of where all this was going on, you said you pulled up, jumped out your truck, and then heard gunshots?
A: I pulled up, jumped out the truck because, like I said, both the parties are my family and they were looking for one suspect, and that was Mr. Cedric Young. I don't know if he was there.
Q: Also known as Boogie?
A: But this is what was going on. They were looking for Mr. Cedric Young
MR. HOFFMEYER: Your Honor, I'm going to have to object to hearsay and speculation.
THE WITNESS: Well, either way --
THE COURT: Hold on a minute. Hold on a minute, Mr. Smith.
THE WITNESS: Yes, sir.
MS. HENDERSON: And I join Mr. Hoffmeyer in his objection.
THE WITNESS: Okay.
THE COURT: Hold on a minute. Hold on a minute.
THE WITNESS: When they --
THE COURT: Hold on a minute. Hold on a minute.

THE WITNESS: Okay.

MR. CLEMENTS: The judge has got to rule on the objection.

THE COURT: Objection sustained.

MR. CLEMENTS: Okay.

BY MR. CLEMENTS:

Q: Don't tell us what somebody has told you.

A: No. I ain't telling you what somebody told me.

Q: Okay. When you went there and you got in your truck and drove off, where did you go?

A: Where did I go?

Q: Yeah.

A: I went back home.

Q: Okay. When did you find out somebody had gotten killed?

A: Well, I was sitting on the porch, and I looked on the Facebook and that's when I seen RIP [redacted].

Q: And you said the red car was unfamiliar to you?

A: Unfamiliar. I don't know who was driving that car.

Q: You don't know who was driving that car? Could you -- can you tell us who was driving the other cars or that's just what you suspect?

A: I mean, like I said, I know the cars when they're driving them, but I can't tell you that night who was driving that car. When I jumped out and I went this way, I pulled up a minute, I heard the gunshots, and jumped back in my truck.

I drove off.

Q: Who did you see there with the cars?

A: I didn't see anything.

Q: Okay.

A: I'm not Superman.

Q: All right.

A: I can't dodge bullets.

Q: All right. If I can have you to step down a moment?

THE COURT: Can you step down, please, sir, or step around?

(WHEREUPON, the witness complied.)

BY MR. CLEMENTS:

Q: I keep turning my back to you and that's hard to hear. I'm sorry.

A: Sir?

Q: I keep turning my back and talking and I shouldn't. That makes it harder for you hear.

A: All right.

Q: I want you to stand right here, if you will, and face this jury. You said you saw a red car, a white car, and a blue car; is that right? And in that order as well?

A: No, sir.

Q: What order did you see them in?

A: I seen the blue car, if I'm not mistaken. I'm coming from -- coming off of by the post office.

Q: Coming from this way?
A: Yes, sir. The blue car was in front, the red car I think was in the back, the white car was on the other side of -- on this side of the street.
Q: And when you pulled up, can you tell us about how close you got?
A: Right here on the side.
Q: You were on the other lane?
A: Yes, sir.
Q: The other side?
A: Yes, sir.
Q: Okay. And you were only there, like, a second or two?
A: A second or two. I hollered out hold up. I heard the gunshots, I jumped back in my truck and pulled off.
Q: Okay.
MR. CLEMENTS: All right. You can go back up there.
(WHEREUPON, the witness complied.)
MR. CLEMENTS: Mr. Smith?
THE WITNESS: Yes, sir.
MR. CLEMENTS: I believe that's all the questions I've got. I appreciate you coming. Will you answer any questions these fine lawyers have for you?
THE WITNESS: Uh-huh.
THE COURT: All right. Ms. Henderson?
MS. HENDERSON: I'll be quick, Judge.

CROSS-EXAMINATION

BY MS. HENDERSON:

Q: Mr. Smith, you said -- and I might've misunderstood you; so let me get close. I know it might be hard to hear. You said you have family on both sides?

A: Yes, ma'am.

Q: Okay. You're related to the Hampton family?

A: My mom.

Q: Okay. Are you related to the Hickson family?

A: My dad.

Q: Okay. Are you related to the Jackson family?

A: I'm related to the Jackson and the Harrison family.

Q: Okay. And so you said that you were sitting on your porch?

A: Yes, ma'am.

Q: And you saw cars drove by?

A: Yes, ma'am.

Q: Drive by. Excuse me. You followed them to see what was going on?

A: Yes, ma'am.

Q: And then this is when this shooting occurred?

A: Yes, ma'am.

Q: Okay. You didn't call 9-1-1 after the shooting?

A: No, ma'am.

Q: You didn't give a recorded statement to law enforcement

at any time?

A: No, ma'am.

Q: You didn't give a written statement to law enforcement at any time?

A: No, ma'am. I can tell you what I did do.

Q: Let's just answer what I'm asking you, sir, right now.

A: Okay.

Q: The first time you're really giving a rendition of this statement is today in court?

A: Okay.

Q: Correct?

A: Yes, ma'am.

Q: Okay.

MS. HENDERSON: I think that's it, sir. Thank you.

Thank you, Judge.

THE COURT: Mr. Hoffmeyer?

MR. HOFFMEYER: Thank you. Mr. Smith, I don't have any questions for you, but I appreciate it.

THE COURT: Any redirect?

MR. CLEMENTS: No, Your Honor.

THE COURT: Mr. Smith, you may step down. Thank you, sir.

THE WITNESS: Thank you, sir.

MR. CLEMENTS: Your Honor, we'd call retired Chief Billy Brown. They've gone to get him, Judge.

THE COURT: While they've gone -- can the lawyers approach over here for just a second?

MR. CLEMENTS: Yes, sir.

(WHEREUPON, there was a pause in the proceedings until the witness entered the courtroom, and a bench conference was held in the presence of the jury but out of the hearing of the jury off the record, after which the proceedings resumed as follows.)

THE COURT: All right.

MR. CLEMENTS: Your Honor, retired chief of police for the Town of Timmonsville, Mr. Billy Brown.

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

THE CLERK: Sir, please place your left hand on the Bible and raise your right hand.

THE WITNESS: Okay.

THE CLERK: Do you swear that the testimony you will give in this case will be the truth, the whole truth, and nothing but the truth, so help you God?

THE WITNESS: Yes, ma'am, I do.

THE CLERK: Please be seated on the witness stand and state your full name for the record.

THE WITNESS: Billy Brown.

BILLY BROWN, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. CLEMENTS:

Q: Mr. Brown, you are enjoying the wonderful status of retirement, are you not?

A: A little bit.

Q: Where did you -- where did you retire from?

A: Timmonsville Police Department.

Q: And how long did you work as the chief of police in Timmonsville?

A: Approximately five years.

Q: And you had many years of law enforcement service prior to that, didn't you?

A: Yes, sir. Thirty-six years.

Q: Now, you remember what happened August the 25th of 2018?

A: Yes, sir.

Q: You were out with your knees, weren't you?

A: Yes, sir. I got -- I got injured working during a hurricane.

Q: Now, when all that was going on, you couldn't do much work, but you rode out there to see what was -- what you could offer, did you not?

A: Yes, sir. I was actually on Worker's Comp, but I couldn't stay home. I actually had to go out and try to do whatever I could do.

Q: Okay. What did you do? Who did you talk with that

night?

A: Officer Strickland mainly. Mainly, Officer Strickland. When we found out, I actually helped him out with whatever I could, mostly being there if they needed anything, and I actually called the Sheriff's Department in to assist us.

Q: Now, do you remember speaking to Tyra Gee?

A: Who's that?

Q: The young lady who was a cousin of the deceased.

A: I really don't recall.

Q: It's been a number of years, hasn't it?

A: Yes, sir.

Q: Do you recall anything you did after that evening?

A: Mainly, I really didn't do a whole lot. Mainly, the -- Officer Strickland, at the time Inv. Strickland, said that they think they may have located a suspect vehicle. Excuse me.

Q: Yes, sir.

A: I didn't have any input in the investigation. So I told them wherever -- they thought the vehicle would be at one of the rental places. So I offered to go and look to see if I actually saw the vehicle.

Q: Where did you go?

A: I went to -- on Palmetto Street to the -- one of the rental places. I don't recall the name of it. On West Palmetto Street.

Q: Is it Enterprise?

A: Enterprise. That's it. Yes, sir.

Q: And did you see anything?

A: I did. I saw a vehicle that fit the suspect vehicle's description.

Q: And what did you do?

A: At that time, I wasn't sure if that was it. There was some numbers there. The business wasn't open. So there was some numbers there and I contacted -- tried to call someone to let us look into the vehicle and whatnot. We couldn't get anyone. So at that time I called the Sheriff's Department. Since we'd asked them to lead an investigation, I called them and pretty much told them I think I may have found the vehicle, and they came out. They actually took possession of the vehicle.

Q: This was how many days after this event occurred?

A: I'm not sure. It may have that one. I'm just not sure how many days. I'm not sure.

Q: I'm going to show you what's been marked as State's Exhibit 22 for ID purposes. Does that look familiar to you?

A: Yes, sir. That look like the vehicle that I saw at Enterprise.

Q: All right. I'm going to show you State's Exhibit 23.

A: Okay.

Q: Same question?

A: Yes, sir. This is -- this is the -- this is the vehicle. It's similar to the vehicle I saw at Enterprise.

Q: Okay. You never looked inside the car, did you?

A: No, sir. I didn't touch the car or anything. I wasn't a hundred percent sure it was the car.

Q: Okay. But it turned out it was?

A: It did. Yes, sir.

MR. CLEMENTS: Your Honor, I would move State's Exhibit 23 and 22 into evidence at this time, I believe without objection.

THE COURT: Ms. Henderson?

MS. HENDERSON: That's correct, Judge.

THE COURT: Mr. Hoffmeyer?

MR. HOFFMEYER: Your Honor, I don't have any objection to the photos. I don't have any objection.

THE COURT: All right. 22 and 23 admitted without objection.

(WHEREUPON, State's Exhibit No. 22, photograph, and State's Exhibit No. 23, photograph, were admitted into evidence.)

MR. CLEMENTS: Chief Brown?

THE WITNESS: Yes.

MR. CLEMENTS: Will you please answer any questions these attorneys have for you?

THE WITNESS: Yes, sir.

THE COURT: Ms. Henderson?

CROSS-EXAMINATION

BY MS. HENDERSON:

Q: Chief Brown, you testified you were chief of police of Timmonsville for five years?

A: Yes, sir. I'm sorry. Yes, ma'am.

Q: You're fine. I do the same. And you testified that you were in law enforcement for 36 years?

A: Yes, ma'am.

Q: I assume that means that you have graduated from the South Carolina Criminal Justice Academy?

A: I did.

Q: Yes, sir. At the Academy, you're taught how to write reports; correct?

A: Yes, ma'am.

Q: You're taught that you must document each and every case; correct?

A: That's right.

Q: You're taught that you must document each and every case thoroughly; correct?

A: That's right.

Q: Accurately; correct?

A: That's right.

Q: You want to keep a record of the case; correct?

A: That's right.

Q: Because you don't want there to be any question as to that investigation's trustworthiness?
A: That's right.
Q: That investigation's reliability?
A: Right.
Q: You want to be able to come into court and be able to recite everything that you know about that case?
A: That's right.
Q: Yes, sir. You didn't prepare any reports in this case, did you?
A: No, ma'am.
Q: You did not have a body-worn camera worn at this time, did you?
A: No, ma'am.
Q: Timmonsville did have a procedure and policy for body-worn cameras though in place; correct?
A: We did.
Q: Yes, sir. You have a personal relationship with the Hampton family, don't you?
A: I do. I've known them for a long time.
Q: Yes, sir.
A: Uh-huh.
Q: One of the individuals charged in connection with this case was Jimmy Hampton, Jr.; correct?
A: That's right.

Q: You know his father personally, Jimmy Hampton, Sr.; correct?

A: I do.

Q: Mr. Hampton, Sr., is a former Timmonsville police officer; correct?

A: That's right.

Q: Yes, sir. And he was relieved from the force; correct?

A: Yes.

Q: He had to plead guilty to federal drug charges; correct?

A: I know it was charges. I don't remember.

Q: Okay. He was a DARE officer at the high school?

A: That's right. Yes.

Q: It turns out the drugs that he was taking off the streets he was actually selling?

A: Well, I can't -- I don't know that.

Q: Sure. Okay. Mr. Hampton, Sr., called you the night this happened, didn't he?

A: He may have. I talked to him a couple times. I don't know about that night.

Q: Sure. You didn't make any record of it though, did you, sir?

A: No, I didn't.

Q: So we really have no way to go back and remember what it was that you did on this case?

A: Well, I really didn't do anything on this case pretty

much.

Q: Okay. You were on the scene after the incident occurred?

A: Yes, I did.

Q: You were looking at evidence with Officer Strickland?

A: I don't recall what I looked at. I may have. I'm sure I did.

Q: Sure.

A: I'm sure I did.

Q: Yes, sir. Yes, sir. You spoke to witnesses?

A: He pretty much spoke with witnesses. I was there.

Q: Okay. The next day you were present in the police station; correct?

A: I'm in the police station all the time every day.

Q: Let me rephrase that question. You were present in the police station during the interview of potential suspects; correct?

A: If I was, I just stepped through. I didn't stay for, you know, any interviews. If I was, I just came through for a minute or so. I'm not going to say I was. I just don't -- I just don't remember.

Q: Yes, sir.

MS. HENDERSON: May I beg the Court's indulgence?

THE COURT: Yes, ma'am.

MS. HENDERSON: Chief Brown, I have no further

questions.

THE WITNESS: Yes, ma'am.

THE COURT: Mr. Hoffmeyer?

MR. HOFFMEYER: Thank you. Chief Brown, I don't have any questions for you, but thank you.

THE COURT: All right. Any redirect, Mr. Clements?

MR. CLEMENTS: Briefly.

REDIRECT EXAMINATION

BY MR. CLEMENTS:

Q: Chief Brown, you were really out with your knees, weren't you?

A: Yes, sir.

Q: And you were basically just there to give some advice and answer questions from Mark Strickland; right?

A: Pretty much, and to be available if they needed anything financially or whatever. And I actually called the Sheriff's Department to actually come in and assist.

MR. CLEMENTS: Thank you. Nothing else.

THE COURT: Ms. Henderson?

MS. HENDERSON: No further questions, Judge.

THE COURT: Sir, you may step down. Thank you.

MR. CLEMENTS: Your Honor, the State would ask for a brief recess.

THE COURT: All right. Okay.

All right. Ladies and gentlemen, as the witness is

nothing but the truth, so help you God?

THE WITNESS: I do.

THE COURT: All right. Come around and have a seat in the witness stand. State your full name for the record and spell your last, please, ma'am.

THE WITNESS: My name is Michelle Eichenmiller, E-i-c-h-e-n-m-i-l-l-e-r.

THE COURT: All right.

MICHELLE EICHENMILLER, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. CLEMENTS:

Q: Ms. Eichenmiller, where do you work?

A: I work for the South Carolina Law Enforcement Division in the forensic lab in the firearms department.

Q: And how long have you been working there at SLED?

A: I have worked for SLED for 15 years.

Q: All in the same department?

A: Yes.

Q: Can you tell us what your title is?

A: I'm a forensic firearms examiner.

Q: How do you become a forensic firearms examiner? What do you take? Do you take courses for it or training? Tell us all about that.

A: In order to get hired at SLED as a SLED agent, you have

to have a bachelor's degree. So I have a bachelor's degree in biology. I also have a Master of Science in forensic science.

In order to be a firearms examiner though, there's no class you can go to. No college offered it at the time I was taking classes. So you have to be an apprentice with the firearms examiners that are already trained at your agency.

So I learned from the firearms examiners at SLED. I did a lot of reading and casework or practice casework on my own. I watched how they worked cases. It's about a three- to four-year training program and at the end of that you take a comprehensive test, and they deem you that I could work cases on my own.

Q: And that took a total of how long before you became able to do firearms examination by yourself?

A: It was from beginning to end about four years.

Q: And how long ago was that?

A: 2010.

Q: Can you tell us a little bit more? Can you tell us a little bit about your education? Tell us about your full curriculum vitae.

A: Like, where I went to college or --

Q: Where you went to college and what you studied.

A: I studied biology at Case Western Reserve University in Cleveland, Ohio. My master's degrees is from Marshall

University, which is an accredited forensic science program.

Q: Are you a member of any societies or something with firearms and analysis?

A: I'm a member of the Association of Firearm and Tool Mark Examiners, which is an international organization. We collaborate on, you know, different new ammo that comes out, new firearms, new techniques to examine the evidence. We have an online page where we can talk to each other, and then we have training once or twice a year.

Q: Now, have you been certified as an expert before?

A: I have.

Q: In approximately how many courts?

A: About 100 times in South Carolina General Sessions.

Q: Anywhere else?

A: No.

Q: Any court or anything like that?

A: No.

Q: Do you recall getting a request or getting some information submitted to you on the murder of Fantasia?

A: Yes.

Q: And when was that?

A: It was submitted to the lab in August of 2018.

Q: All right. And at that time you were certified as an expert?

A: Yes.

MR. CLEMENTS: Right now, I'd offer you as an expert in the area of firearms analysis.

THE COURT: Ms. Henderson?

MS. HENDERSON: No objection, Judge.

MR. HOFFMEYER: No objection, Your Honor.

THE COURT: All right. Ladies and gentlemen, before we go any further, let me give you a brief instruction.

Normally, when a person testifies, they cannot give opinion testimony. Normally, when a person testifies, they must testify as to what they either saw, heard or sensed by smell or something of that nature. However, there is an exception when someone is qualified because of education or experience. They are in those situations permitted to give opinion testimony in certain areas if the Court qualifies them that way.

This witness is being qualified as an expert in the area of firearm analysis to give opinion testimony in that area. That does not mean, ladies and gentlemen, that you must accept the opinion, but it is evidence for you to use in any way that you see fit and give it the weight and credibility that you believe is appropriate.

Mr. Clements?

MR. CLEMENTS: Thank you, Your Honor.

BY MR. CLEMENTS:

Q: Back on the date you just mentioned, what was submitted

to you?

A: Let me refer to my notes. The first submission was five fired cartridge cases and two projectiles.

Q: And were you told as part of the submission where it came from, where it was retrieved from or anything about that?

A: No. There are what I perceive as marker numbers, but I don't have any idea where they came from.

Q: Okay. And what did you do with that? Well, tell me this. When it comes into SLED, how is it taken into SLED?

A: Any agency in South Carolina can submit evidence to the lab. They come in through the log-in department. We've now implemented a locker system where they electronically register their evidence back at their agency and then they come to SLED and they put it in a locker.

Our evidence technicians will take it out of the locker and log it in to the lab. So it will get its own lab identification number and all the items get their own item numbers. Once it's logged in, assignments are made. The departments are notified and then an analyst will be assigned. So I was assigned this case.

Q: I'm going to show you a document and ask you if you can identify this and tell us what this is.

A: This is a certified chain of custody from the lab.

Q: And that certifies exactly who has been in contact with

that evidence?

A: Yes. From the time it was logged in, the first person to touch it. We all have our own barcodes; so every time evidence transfers, it gets scanned from either a location or a person.

MR. CLEMENTS: I'd like to mark this and move this into evidence.

THE COURT: Any objection, Ms. Henderson?

MS. HENDERSON: No objection, Judge.

THE COURT: Mr. Hoffmeyer?

MR. HOFFMEYER: No objection, Judge.

THE COURT: What number is that?

THE COURT REPORTER: 34.

THE COURT: All right. State's Exhibit 34 admitted without objection.

(WHEREUPON, State's Exhibit No. 34, chain of custody, was admitted into evidence.)

BY MR. CLEMENTS:

Q: I'm going to show you what's been marked as State's Exhibit 33 for ID purposes. Can you tell us what this is?

A: This is the paperwork that was submitted in this case and the evidence that was submitted. It's still sealed with my initials, the date on the heat seal.

Q: And what is the purpose for heat sealing it?

A: So that we can ensure it doesn't get tampered with.

From the time I heat sealed it and initialed it and dated it, no one else has opened it. If someone else had opened it, they would have also heat sealed with their initials and the date.

Q: Did someone heat seal it before you got a hold of it?

A: Yes. There's a date of February 13th, 2020, and the tape on this one is also sealed with my date and the initials.

MR. CLEMENTS: Your Honor, at this time I'd like to move this into evidence, I believe without objection.

THE COURT: State's 33? Is that right?

MR. CLEMENTS: Yes, sir.

THE COURT: Any objection?

MS. HENDERSON: No, sir.

MR. HOFFMEYER: No objection.

THE COURT: All right. Without objection, State's 33 admitted into evidence.

(WHEREUPON, State's Exhibit No. 33, ballistics evidence in sealed envelope, was admitted into evidence.)

BY MR. CLEMENTS:

Q: Ms. Eichenmiller, can you tell us what was the first thing you did to begin the analysis and examination of this evidence that was submitted from Florence and carry us through, if you will, the process and what tools you used and how you do this?

A: Okay. Whenever I receive an assignment in a case, I'll get the evidence from the log-in department. I'll bring it back up to my office. I'll make sure that the seals are intact. The log-in technicians also make sure the seals are intact; so I just double check.

I'll take photographs of how I received it and then I'll start opening the evidence. So I'll open the first layer, take pictures, open the next layer if there's another layer, take pictures of everything. So if there were a firearm, if there were bullets, cartridge cases, whatever I receive.

And then we do worksheets. We have a worksheet for every piece of evidence. So bullets have their own worksheet which takes down their general characteristics, measurements, how much they weigh. Ammunition components, like cartridge cases, also have a worksheet. That's like the headstamp, the caliber, anything I can tell from it. Firearms have their own worksheet as well.

Once I do that, then I take them to my comparison microscope, which looks like a pair of binoculars that you can put evidence on one side and evidence on the other. You can turn them independently, look through the binoculars to compare the evidence. What I'm looking for is any individual characteristics that will lead me to believe that they were fired by the same firearm. In the case of getting a firearm, I would compare the fired evidence to test fires from a

firearm.

Once I determine my opinion, I'll write it down. All of the casework at SLED is 100 percent verified by another qualified firearms examiner. So I will call one of my coworkers in. They'll come to their own answer. When we agree, then we -- I will issue a report. He'll -- he or she will review it technically and administratively to make sure it's correct, and then we'll issue our report, which the submitting agency can get off the Internet.

Q: And ideally, it's better if you've got a weapon to compare ammunition to, isn't it?

A: Yes.

Q: But when you don't have a weapon, there's still work you can do; right?

A: Correct. We can try to determine how many firearms were used and if they -- if any of the evidence matches each other.

Q: And in this case, you had five shell casings to examine; is that correct?

A: Yes.

Q: And you don't pay attention to where they were retrieved from, you just get them; is that correct?

A: Correct.

Q: Did you do a comparison on these five shell casings?

A: I did. I used my comparison microscope. I compared

them to each other. Primarily -- first, I looked at are they the same calibers. So can I even compare them to each other? So they were the same caliber. I compared them to each other and concluded that they were fired by one firearm.

Q: What type of firearm was that?

A: A -- the cartridge cases were .380 auto caliber.

Q: And what else did you receive in addition to the five shell casings?

A: I also received two fired bullets.

Q: And do you know where they came from?

A: No. They just have marker numbers with them.

Q: Okay. What did you do with the bullets comparing and contrasting them?

A: In the absence of a firearm in a case, we can look at a bullet, get its general characteristics. So the general characteristics that I look for are how many lands and grooves it has. Those are made by the -- by a firearm. If the direction of twist is left to right, the diameter of the projectile, also the width of the lands and grooves.

Q: Okay. That was quick.

A: Sorry.

Q: That's no problem. I'll go back and ask you specifically. Tell us what a land and a groove is?

A: So a land and a groove is manufacturing. During manufacture, a firearm manufacturer will put marks in a

barrel. It's a number of spiral turns in a barrel. It helps the bullet stay on path when it's being shot. This is dependent on the manufacturer. They can pick whatever number, whatever direction of twist, however big they want them to be, and it's particular to those manufacturers.

Q: And you can look at the marks on there from when they passed through the barrel? Is that when the marks are made?

A: Yes.

Q: Did you find anything comparable or are these two bullets anything that's consistent?

A: The two bullets I received were different calibers and different general characteristics. So in this case there was no reason to compare them to each other. We have a database that I can put in the general measurements that I found, and the database will tell us what manufacturers make firearms with those specifications. So in this case that's what I had was two bullets with two different lists of firearms that could have fired them.

Q: Was one a .380?

A: Yes.

Q: What was the other one?

A: The other one was a 9 millimeter.

Q: So there was at least two guns used in this incident?

A: Correct.

Q: At that time did you submit a report?

A: I did.
Q: Did you come to find that there was another item that needed to be considered?
A: I was contacted that there was another projectile that needed to be examined.
Q: Okay. And you don't know if that projectile came from the autopsy or do you?
A: That one on its submission paperwork said it was extracted from victim.
Q: Okay. Can you tell us what you did to examine that bullet and what you found and what you concluded?
A: I did the same general examinations that I did on the first two, with the exception that this time the third bullet I received was also a 9 millimeter; so I can compare it to the 9 millimeter I had previously received.
Q: Did you make that comparison and, if so, what did you find?
A: We have a couple of different answers we can give in the firearms field. We can say it's positive, which means it was fired by the same firearm; negative, which means it wasn't fired by the same firearm; or inconclusive, which is I can't tell. There's not enough information or there's too much damage for me to be able to tell. In this case, the bullets were damaged, and they had insufficient characteristics for me to be able to determine if they were fired by the same

firearm.

Q: So your conclusion on that was inconclusive?

A: Inconclusive that the two 9 millimeter bullets were fired by the same firearm. They were not fired by the firearm that fired the .380 caliber bullet.

Q: Now, can you tell us to a reasonable degree of certainty in your field of expertise if the five shell casings all matched?

A: Yes, they did.

Q: And they were all .380s?

A: Correct.

Q: Was there any way you could compare those shell casings to the .380 bullet that was retrieved and sent to you?

A: There's no scientific comparison for a cartridge case and a bullet.

Q: And you can testify to a reasonable degree of certainty in your field of expertise that that was a .380?

A: Correct.

Q: And you can testify to a reasonable degree of medical certainty -- medical certainty -- certainty in your field that the other bullet was a 9 millimeter?

A: Yes.

Q: And you can testify to a reasonable degree of certainty in your field of expertise that the final bullet that was sent to you to analyze, which came from the autopsy, was a 9

millimeter?

A: Yes.

Q: And the conclusion between the bullet that was in the wall and the bullet that was retrieved from the autopsy was inconclusive because it was too much damage?

A: Correct.

MR. CLEMENTS: Thank you, Ms. Eichenmiller. Please answer any questions the defense counsel may have.

THE COURT: Ms. Henderson?

MS. HENDERSON: Judge, I have no questions for Ms. Eichenmiller.

THE COURT: All right. Mr. Hoffmeyer?

MR. HOFFMEYER: Just briefly.

CROSS-EXAMINATION

BY MR. HOFFMEYER:

Q: Ms. Eichenmiller, those items that you previously described for the jury, I believe, there were how many items altogether that were submitted to you?

A: I had five fired .380 auto caliber cartridge cases and three bullets.

Q: Yes, ma'am. Other than those items which you shared with us and again now, nothing else was submitted for your review?

A: No.

MR. HOFFMEYER: Thank you very much.

THE COURT: Mr. Clements, any redirect?

MR. CLEMENTS: No, Your Honor. We'd ask that Agent Eichenmiller be released from her subpoena.

THE COURT: Any objection, Ms. Henderson?

MS. HENDERSON: No, sir, Judge.

THE COURT: Mr. Hoffmeyer?

MR. HOFFMEYER: No, sir, Your Honor.

THE COURT: You may step down and you are free to go.

THE WITNESS: Thank you.

THE COURT: Have a nice day.

THE WITNESS: Thanks. You as well.

MR. CLEMENTS: I beg the Court's indulgence for a moment.

Your Honor, at this time we would move into evidence photos that are numbered just from my sheet No. 1 through 11 and with -- we believe there will be an objection by Mr. Hoffmeyer.

THE COURT: Mr. Hoffmeyer?

MR. HOFFMEYER: Your Honor, I just renew my previous objection.

THE COURT: Objection so noted for the record, but they are so admitted over objection.

(WHEREUPON, State's Exhibits No. 1 through 11, photographs, were admitted into evidence.)

MR. HOFFMEYER: Thank you, Your Honor.

THE COURT: And Ms. Henderson didn't have any objection?

MS. HENDERSON: That's correct, Judge.

THE COURT: All right.

MR. CLEMENTS: Photos No. 12 --

THE COURT: Through 31?

MR. CLEMENTS: Through 31 minus two I've already introduced and moved into evidence.

THE COURT: That's for 22 and 23.

MR. CLEMENTS: Yes, sir.

THE COURT: 22 and 23 have already been admitted. Any objection to 12 through 31, not including 22 and 23 because they've already been admitted, Ms. Henderson?

MS. HENDERSON: No, sir.

THE COURT: Mr. Hoffmeyer?

MR. HOFFMEYER: No, sir, Judge.

THE COURT: All right. So admitted.

(WHEREUPON, State's Exhibits No. 12 through 21 and No. 24 through 31, photographs, were admitted into evidence.)

(WHEREUPON, there was a pause in the proceedings until the witness entered the courtroom.)

MR. CLEMENTS: Your Honor, we'd call former deputy in charge of forensics at the Florence County Sheriff's Office, Ms. Kathleen Streett.

THE CLERK: Ma'am, please place your left hand on the

Bible and raise your right hand. Do you swear that the testimony you will give in this case will be the truth, the whole truth, and nothing but the truth, so help you God?

THE WITNESS: Yes, I do.

THE CLERK: Please be seated on the witness stand and state your full name for the record.

THE WITNESS: It's Kathleen, with a K, Vargovchik, V-as in victory-a-r-g-o-v-c-h-i-k, Streett, S-t-r-e-e-t-t.

KATHLEEN STREETT, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. CLEMENTS:

Q: Ms. Streett, are you currently enjoying the wonders of retirement?

A: I am.

Q: Before you retired this past year, tell this jury where you worked and what you did for the last several years?

A: I worked for the Florence County Sheriff's Office from 1994 until May of this year. I started out in uniform patrol and then was moved to the investigations division, and then in 2012 I took over the supervisor and lieutenant's position in the forensics division.

Q: Now, as the supervisor, you get calls for your people to go out to a scene. How do you decide who goes where and who takes each case?

A: Well, it all depends on what we have going on at the time. Sometimes we have two things going on at one time and I'll have one person out. So I might have to call in another person depending on what time of day it is. It just -- it varies from day to day and call to call.

Q: Do you remember getting a call on August 25th, 2018?

A: Yes.

Q: Where did y'all get that call?

A: Central dispatch called me and said that there had been a shooting with a possible homicide in Timmonsville.

Q: And did you subsequent to that get a call from Timmonsville asking for assistance?

A: I don't recall. They may have called my sergeant. I don't recall them calling me directly. A lot of times they would call my sergeant.

Q: Okay. Who -- you responded and you made an assignment to that case, didn't you?

A: I believe that -- Chase McDaniel, who is an investigator now. He was a corporal for me at that particular time. I believe he was sent to the scene.

Q: All right. And did you have any other duties in regards to this particular crime?

A: Not that I recall. I don't have a working file on it, so no.

Q: Okay.

MR. CLEMENTS: Thank you for coming. Please answer any questions the defense may have.

THE COURT: Ms. Henderson?

MS. HENDERSON: Judge, no questions for Ms. Streett.

THE COURT: Mr. Hoffmeyer?

MR. HOFFMEYER: If you'll excuse me one second, Judge?

THE COURT: All right.

MR. HOFFMEYER: Just briefly, Ms. Streett.

CROSS-EXAMINATION

BY MR. HOFFMEYER:

Q: There are photographs 1 through 11 that, subject to my objection, were entered into evidence in this particular case. Now, Inv. McDaniel would have been the one to take these photographs?

A: I would probably have to look at an evidence log sheet. Whoever logged them in would have been who actually took the photographs.

Q: I see. So -- and I realize that you weren't involved in that capacity. So you don't know who took those particular photographs?

A: Without looking at documentation, no, sir.

Q: Yes, ma'am. That's fine. And so you don't know, for lack of a better way to put it, how they were taken?

A: You mean as far as procedurally?

Q: Well, these particular photographs, what type of camera

was used, what type of flash was used, those types of things?

A: No. They have -- they -- that varies also from scene to scene and from circumstance to circumstance. So I would not know what he used without him, you know, documenting it.

MR. HOFFMEYER: Thank you, Ms. Streett. It was good to see you.

THE WITNESS: Uh-huh. You too.

THE COURT: Any redirect?

MR. CLEMENTS: Your Honor, we'd release her from her subpoena.

THE COURT: Any objection, Ms. Henderson?

MS. HENDERSON: No, sir, Judge.

THE COURT: Mr. Hoffmeyer?

MR. HOFFMEYER: No, sir, Judge.

THE COURT: Ma'am, you are free to go. Thank you for being here.

THE WITNESS: Thank you.

THE COURT: Have a nice day.

THE WITNESS: You too.

THE COURT: Call your next witness, please, sir.

MR. CLEMENTS: Your Honor, we would call Mark Strickland.

(WHEREUPON, there was a pause in the proceedings until the witness entered the courtroom.)

THE CLERK: Sir, please place your left hand on the

Bible and raise your right hand. Do you swear that the testimony you will give in this case will be the truth, the whole truth, and nothing but the truth, so help you God?

THE WITNESS: I do.

THE CLERK: Please be seated on the witness stand and state your full name for the record.

THE WITNESS: Mark Strickland.

MARK STRICKLAND, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. CLEMENTS:

Q: Mr. Strickland, can you tell us where you work and in what capacity?

A: Then, I was a captain with the Timmonsville Police Department.

THE COURT: Excuse me. Sir, you may pull your face mask down while you testify. Thank you.

THE WITNESS: Okay. Sorry.

BY MR. CLEMENTS:

A: I was a captain with the Timmonsville Police Department.

Q: What are you now?

A: Timmonsville Police Department.

Q: How long have you been at Timmonsville Police Department?

A: September the 1st will be five years.

Q: How much law enforcement experience have you got prior to that and where?

A: I started my career in 2004 and been in Olanta, Lake City, and Timmonsville twice.

Q: Do you recall being on duty on August 25th, 2018?

A: Yes, sir.

Q: Did anything unusual happen that night?

A: Yes, sir. We had a --

Q: Let me rephrase that because it might be usual for Timmonsville or used to be usual for Timmonsville. Anything that required your attention happen that night?

A: Yes, sir. There was a shooting at [redacted] E. Byrd Street.

Q: And did you respond?

A: Yes, sir, I did.

Q: When you responded, what did you find there?

A: I met with my officer that was on scene, Chris Miles, and he briefed me that a 12-year-old child had been shot.

Q: How many people did you all have working on shift at that time of night?

A: Chris --

Q: On that particular night?

A: Chris was the only one.

Q: And you, so that made two?

A: Yes, sir. I was called in.

Q: And then after you assessed the situation, did you

decide to call someone else for more assistance?

A: Yes, sir. I called Chief Brown.

Q: And what did you ask Chief Brown to do or what did he decide to do?

A: He decided he would go to the hospital and check on the child.

Q: And did he call for any help?

A: We had the Florence County Sheriff's Office there.

Q: Okay. Was that a pretty big scene with a lot of people out there?

A: Yes, sir. It was pretty good size.

Q: It was kind of -- would chaos be a fair word to use?

A: Yes, sir.

Q: What did you try to do to try to get rid of some of the chaos and settle things down?

A: Mainly get some more officers there and, you know, control the crime scene is much as possible.

Q: And what was -- what was the crime scene?

A: The highway and the mobile home.

Q: All right.

MR. CLEMENTS: I beg the Court's indulgence for a moment.

THE COURT: Yes, sir.

While he's doing that, Mr. Johnny, will you turn that thermostat down back there as low as it will go, please?

BY MR. CLEMENTS:

Q: Mr. Strickland, did you receive any other calls that evening or any other rumors that you had regarding any other shootings across town?

A: Yes, sir. I received one at [redacted] Green Drive that Cedric Young was there.

Q: Did you have any other calls?

A: Yes, sir. I think it was [redacted] White Street.

Q: Okay. And I'm going to ask you to step down, if you would, and come over to this map that I have marked here as State's Exhibit 35.

(WHEREUPON, the witness complied.)

Q: Do you ever fly around much over Timmonsville?

A: No, sir.

Q: This is what it looks like up high. There's two -- two places notated. If you will, tell the jury where they are and what their address is.

A: Okay. It would be [redacted]--

Q: Speak up real loud for the court reporter.

A: Okay. It would be [redacted] White Street and [redacted] Byrd Street.

Q: Now, [redacted] White Street, that's what part of town, close to what?

A: Close to the schoolhouse.

Q: Okay. And [redacted] Byrd Street, right here, what is it in the middle of? Midtown?

A: Pretty much. It's off Tanyard Street.

Q: And you responded to the shooting at [redacted] Byrd Street; is that correct?

A: Yes, sir.

Q: Was anybody ever able to respond to [redacted] White Street?

A: Yes, sir. At a later time.

Q: No one was shot or hurt there; is that correct?

A: No, sir.

Q: Can you trace for us -- if you would, stand where these jurors can see you and I'll get my fat self out of the way. What would be about a good direct route from White Street to Byrd Street between these two locations?

A: The most direct route?

Q: Yeah. Good quick route, I would say.

A: More likely Warren Street.

Q: Go up Warren Street?

A: Yes, sir.

Q: Until you get to Main Street?

A: Yes, sir.

Q: And then turn down Main Street?

A: Go down Main Street and go down Tanyard Street.

Q: And it takes about how long to get there?

A: Probably -- depending on how traffic is on Smith Street, probably three or four minutes.

Q: Not very long at all?

A: No, sir.

Q: All right. Stand right there. I'm going to still need you. This is kind of -- I wrote this on the wrong side upside down, but what intersection is this right here on this diagram?

THE COURT: And that's State's 32?

MR. CLEMENTS: State's 32.

THE COURT: All right. Thank you. I'm sorry.

BY MR. CLEMENTS:

A: Byrd and Tanyard Street.

Q: What -- Byrd runs this way?

A: Yes, sir.

Q: Tanyard runs this way?

A: Correct.

Q: Do you know what's over here?

A: A church.

Q: And do you know who lives in this building right here?

A: That's the Gee house.

Q: The Gee house?

A: Yes, sir.

Q: All right. Did your investigation -- what did your investigation reveal about what was important as to vehicles coming up to this house prior to the shooting?

A: That was three vehicles that came up to the house when the shooting -- well, when the shooting started occurring.

The first one pulled up and then the second one and the third one all simultaneously.

Q: It's one, two, three?

A: Yes, sir. One, two, three.

Q: And what -- what were the colors?

A; One was red, one was white, and one was blue.

Q: All right. And so you went from that information on your investigation and went from there; is that correct?

A: Yes, sir.

Q: All right. Did you get to talk to any of the people that were in this car?

A: I spoke briefly to them because it was so chaotic out there and I was trying to get other stuff done.

Q: And they went to the hospital?

A: Yes, sir.

Q: And this was the victim's parents?

A: Correct.

Q: You can have a seat back there.

(WHEREUPON, the witness complied.)

Q: The first part of your investigation, what was the first thing you tried to find out?

A: If my victim was still alive.

Q: Sir?

A: What happened and if my victim was still alive.

Q: Okay. After that when you find out either for good or

for bad, then what did you direct your attention to?

A: Who actually committed the crime.

Q: Did you successfully garner any information in regards to who did this crime that evening?

A: I'm sorry. I couldn't hear you.

Q: I said did you successfully develop information as to who might have done this crime?

A: Yes, sir. It came out that the Hampton boys were involved.

MR. HOFFMEYER: Your Honor, I object. It's hearsay and it's improper bolstering as to what the witnesses have already testified to in court.

MS. HENDERSON: And I join in Mr. Hoffmeyer's objection, Judge.

MR. CLEMENTS: And I do too.

Mr. Strickland, don't tell me what somebody said. Answer my -- listen to my question and answer my question.

BY MR. CLEMENTS:

Q: Did you -- did you develop any information as to who the subjects might be?

A: Yes, sir, I did.

Q: Okay. And as a result of that, what did you try to do further from that point?

A: Tried to ID all the subjects involved.

Q: And were you concerned with where they may be?

A: Yes, sir.

Q: Were you able to meet with them that evening?

A: No. It was a day later.

Q: Did anyone come to turn themselves in to talk to you?

A: No, sir. The call I had at [redacted] Green Drive was one of the guys that they were supposed to be shooting at.

Q: And that was -- that was Boogie?

A: Boogie.

Q: Okay. And that was that evening; is that correct?

A: Correct.

Q: The next day did you have an occasion to talk to anybody else that might be a suspect?

A: Yes, sir. I talked with all the Hamptons.

Q: Okay. Did they come to you or did you go to them?

A: They came to me.

Q: Okay. And at that point on did you follow up with any other information?

A: I did.

Q: What was that information you followed up on?

A: Who was the shooter and all. I interviewed each one of the Hamptons separately and went from there.

Q: In any -- on that occasion or any occasion did any information come in to you to point to another person?

A: Yes, sir.

Q: And who was that?

A: Mr. Barclay.

Q: Okay. Did your investigation reveal if there was any connection between Mr. Barclay and the Hamptons?

A: Yes, sir. They -- they're family.

Q: Okay. All right.

MR. CLEMENTS: I beg the Court's indulgence.

Thank you. Answer any questions that the defense counsel may have.

THE COURT: Ms. Henderson?

MS. HENDERSON: One moment, please, Judge.

CROSS-EXAMINATION

BY MS. HENDERSON:

Q: All right. Inv. Strickland, Christie Henderson with Mr. Barclay, and I apologize for jumping around. I've covered numerous things. So I'm sorry ahead of time. I'm going not in the best of order.

Let's talk first about your response to the scene. You responded to Byrd Street; correct?

A: Correct. Byrd and Tanyard.

Q: You received a call of the shooting; correct?

A: Correct.

Q: Okay. So from Byrd Street, you left Byrd Street to go back to the Timmonsville Police Department; correct?

A: Correct.

Q: Because you didn't have a crime scene log; correct?

A: Correct.

Q: You couldn't locate a crime scene log at the Timmonsville Police Department, so you then go to [redacted] Green Drive, as you testified; correct?

A: I was dispatched there while I was looking for the form.

Q: Right. And you were dispatched in regards to a female complainant calling that she overheard a male subject saying he had been jumped; correct?

A: That he had actually shot.

Q: He had shot the little girl; correct?

A: That's what the call came in as. Yes, ma'am.

Q: Yes, sir. And so you respond to [redacted] Green Drive. The woman who lived there, you didn't take her name; correct?

A: No, I didn't.

Q: Debra Young would reside at that house. Would you agree with that?

A: Yes. It was Boogie's aunt.

Q: Boogie's aunt. And Boogie is Cedric Levern Young?

A: Right.

Q: So you responded to a call on [redacted] Green Drive. You were dispatched. Excuse me. Dispatch called in that Debra Young, Boogie's aunt, called in and said she overheard Boogie; correct?

A: Correct.

Q: Say that he had been jumped; correct?

A: Yes.

Q: Shot at the boys that jumped him; correct?

A: I didn't hear anything about shot.

Q: And might have shot the 12-year-old little girl?

A: That's the way the call came out.

Q: Okay. So from [redacted] Green Drive, you then go back to the Timmonsville Police Department; correct?

A: With Boogie.

Q: With Boogie. You arrested him?

A: I was taking him into custody, yes.

Q: So that means you arrested him?

A: Correct.

Q: Right. And while at the Timmonsville Police Department he's belligerent?

A: Yeah, pretty much.

Q: Unruly?

A: Yes.

Q: Threatens violence towards law enforcement?

A: I didn't hear that.

Q: Okay. Do you recall preparing an incident report in this case when you responded to the shooting on White Street?

A: Yes, I do.

Q: Okay. And the shooting on White Street, you responded to White Street, where it was alleged that Boogie had shot up Ms. Dorothy Hickson's house?

A: Correct.
Q: And do you respond in that incident report stating while arrested the subject did threaten Capt. Strickland that he was going to kill him?
A: Yeah. Cedric was drunk at the time.
Q: Okay. And again, I apologize for jumping around. So you responded then to the White Street residence. You prepared an incident report in this case; correct?
A: Correct.
Q: You didn't prepare any incident reports regarding the Byrd Street shooting; correct?
A: No. Officer Chris Miles took care of that report.
Q: Okay. A 12-year-old little girl is dead, and you didn't write down one thing; correct?
A: I was kind of tied up at the moment.
Q: Okay. But you did have a body-worn camera; correct?
A: Yes.
Q: Yes, sir. And this case was originally scheduled to go to trial in May of this year; correct?
A: Correct.
Q: Correct. And by law, law enforcement is required to turn over their evidence in a case; correct?
A: Correct.
Q: Five days before trial, you turned over your body-worn camera footage from that night; correct?

A: I'm not sure exactly how many days before trial.

Q: The week before trial?

A: Possibly.

Q: About two and half years had passed since the time of this incident?

A: Yes.

Q: Yes. And you were demoted because of that; correct?

A: Yes.

Q: The State failed to talk to you about that, didn't they?

A: Who didn't never talk to me about it?

A: Excuse me. The fate staled -- the State failed to bring that issue up, didn't they?

A: As far --

Q: That you were demoted?

A: I guess.

Q: Because of your handling of this case?

A: I guess.

Q: Right. And on your body-worn camera footage regarding this incident, we see you respond to the scene; correct?

A: Correct.

Q: I said earlier you didn't have a crime scene log; correct?

A: Correct.

Q: Law enforcement officers -- let's just talk generally about crime scene investigation. You're a police officer.

That means you had to graduate from the South Carolina Criminal Justice Academy?

A: Correct.

Q: Talk to me a little bit about what you do at the Academy?

A: It's education.

Q: Education into what, sir?

A: A little bit of all, a little bit of everything.

Q: Yes, sir. Regarding being a law enforcement officer?

A: Right.

Q: Okay. You learned how to investigate a case? Yes or no?

A: No. Yes, pretty much.

Q: Okay. What does an investigation entail?

A: Details.

Q: Details? Does it entail documenting?

A: Yes.

Q: Does it entail recording?

A: Yes.

Q: Does it entail writing witness statements?

A: Yes.

Q: Let's talk about first crime scene response. I understand, Officer Strickland, that a crime scene can be chaotic; correct?

A: Correct.

Q: It can be dangerous?

A: Yes.

Q: I don't understand because I've never been in your position. So let me rephrase that. I would imagine it would be very violent and very chaotic at times?

A: Oh, yes.

Q: Dangerous. So you're taught at the Academy how to handle situations like that; correct?

A: Correct.

Q: First and foremost, when you respond to a crime scene, you want to secure the scene?

A: Correct.

Q: Ensure safety of yourself?

A: Yeah. And others.

Q: Other officers on scene? You're going to need to answer, sir, yes or no.

A: Yes.

Q: All right. You need to ensure safety of all individuals present on scene?

A: Yes.

Q: That can include victims?

A: Correct.

Q: That can include bystanders?

A: Yes.

Q: That can include potential suspects?

A: Yeah.
Q: How do you go about securing a crime scene?
A: Securing a crime scene? The presence of law enforcement.
Q: Okay.
A: Taping it off.
Q: Okay. There were numerous law enforcement officers on scene this night; correct?
A: Yes.
Q: Part of securing the crime scene you maintain a crime scene log; correct?
A: Correct.
Q: You want to maintain the crime scene log so that you can have an accurate record of who all was on scene; correct?
A: Correct.
Q: To be able to follow up; correct?
A: Who all have entered the crime scene, yes.
Q: Yes, sir. You want to restrict to authorized personnel only; correct?
A: Yes.
Q: You only want those law enforcement officers present who are assigned to the scene?
A: Which is pretty much all of them at the time.
Q: And I'm just -- okay. Sure. You want to restrict individuals that have no place being on the scene; correct?

A: Correct.
Q: You can secure a crime scene by putting up crime scene tape?
A: Yes.
Q: You want to block off the scene?
A: Right.
Q: Keep track of who all enters and exits the scene?
A: Right.
Q: Write that individual's contact information down?
A: Yeah.
Q: The time they entered the scene?
A: Yeah.
Q: The time they exit the scene?
A: Yeah. Well, yeah, pretty much.
Q: Yes, sir. And you maintain these crime scene logs again to keep an accurate record of the investigation?
A: Yes.
Q: And as you learn at the Criminal Justice Academy, you want to do this because you must ensure a reliable investigation; correct?
A: Correct.
Q: You want to make sure that you don't get the wrong person locked up?
A: Correct.
Q: Again, I know you didn't prepare any reports in

conjunction with this case, but how many law enforcement officers would you imagine or would you estimate were present the night of the crime?

A: I would estimate ten.

Q: Okay. And you -- the crime scene log that was prepared, did you prepare that, sir?

A: No, I didn't.

Q: Who did you have prepare that?

A: Chris Miles.

Q: Okay. And there are it looks like four law enforcement officers listed; correct? Cpl. Marlon Mack?

A: Yeah.

Q: Sgt. Michel McFadden?

A: Yes.

Q: Cpl. Austin Meggs?

A: Yes.

Q: Sgt. Chad Reed?

A: Yes.

Q: And then three individuals from the Timmonsville Rescue Squad; correct?

A: Yes.

Q: And in fact, there were numerous other individuals present on that scene; correct?

A: Yes.

Q: Names not documented on here; correct?

A: Yes. I was -- I was called away from the scene.

Q: Yes, sir.

A: You remember.

Q: Yes, sir. I understand.

A: Okay.

Q: You didn't document anything of what was seen on your bodycam footage; correct?

A: It's documented on my body camera.

Q: That you turned over the week before trial in May of this year?

A: Yes.

MS. HENDERSON: One moment, please.

Can all of y'all see?

Judge, could you ask the jurors if they can all see this?

THE COURT: Can they -- turn it a little bit more to your right. There you go.

MS. HENDERSON: Officer Strickland, do you mind stepping down?

(WHEREUPON, the witness complied.)

BY MS. HENDERSON:

Q: So you talked generally about -- and this is State's demonstrative -- State's Exhibit No. 32, and let's stand over. I want the jury to all be able to see. So this is the intersection of Byrd and Tanyard Street; correct?

A: Yes.
Q: Where were you able to determine the witnesses were on this scene?
A: The witnesses in the yard, multiple was here.
Q: Okay. And it's true the witnesses said that Cedric Levern Young was in that car right there in the yellow block; correct?
A: That's what they said. It was never -- I mean we didn't find him there, no.
Q: Okay. Because you found him -- and come stand back over here, sir. Because you arrested him at 103 Green Drive?
A: Right.
Q: Right. Okay. Now, I'm going to switch exhibits. I'm now showing you what's been labeled as -- excuse me -- State's Exhibit 35. You testified earlier -- I'll let you get up here so you can see. You testified earlier just from general vicinity this is 102 White Street; correct?
A: Yes, ma'am.
Q: This is where the shooting occurred where Cedric Levern Young shot that house up?
A: Right.
Q: Okay. Moving up on the board, 301 Byrd Street; correct?
A: Correct.
Q: Now, I heard Mr. Clements ask you what the route would be or the route taken that the individuals taking this path

would have to take; correct?

A: Well, he asked me the easiest route there.

Q: And you said Warren and Main Street?

A: Yeah. There's several different routes that they could have taken. I mean he just asked me the easiest one.

Q: Sure. And so let's talk about [redacted] E. Byrd Street where this shooting occurred that killed 12-year-old [redacted]. That's a very centralized location of Timmonsville; correct?

A: Yes.

Q: A stone's throw from Main Street downtown; correct?

A: Yeah, pretty much.

Q: In fact, the Timmonsville Rescue Squad is approximately a quarter of a mile from this home?

A: Yes. On Main Street.

Q: The police department is less than a quarter of a mile from this home?

A: Yes.

Q: Town Hall is less than a quarter of a mile from this home?

A: Yes.

Q: The post office, a federal building, is less than a mile -- quarter of a mile from this home?

A: Yes.

Q: There's a bank, First Citizens Bank, less than a quarter

of a mile from the home; correct?

A: Yes.

Q: Nobody from law enforcement ever checked to see if there was any surveillance videos from any of these establishments; correct?

A: No. The bank is shut down.

Q: There's an ATM there; correct?

A: Correct.

Q: Right. I think there's probably a camera.

MR. CLEMENTS: Objection, Your Honor, as to what she thinks is there.

THE COURT: Objection sustained.

MS. HENDERSON: Yes, sir.

BY MS. HENDERSON:

Q: Did you ever go to First Citizens Bank to see if there was any surveillance of anyone traveling that path?

A: No.

Q: Did you ever go to Timmonsville Police Department to check any surveillance cameras that might exist there at City Hall?

A: We had no cameras out there.

Q: Okay. What about the rescue squad?

A: No.

Q: What about the post office?

A: I don't think so.

Q: I think there's also a liquor store in that general vicinity. What about the liquor store?

A: They didn't have outside cameras at the time, but they do now.

THE COURT: Sir, I need you to speak up, please. Can you repeat your answer?

THE WITNESS: Yes, sir.

BY MS. HENDERSON:

A: They didn't have cameras at the time, but they do now that's on at the depot.

Q: Okay. And you can go back and have a seat, Mr. Strickland.

(WHEREUPON, the witness complied.)

Q: But what I'm getting at, Officer Strickland, is there were obviously some questions to this case; correct?

A: Yes.

Q: Questions that could have cleared up through just some basic law enforcement work; correct?

A: I guess.

Q: Okay. Jimmy Lee Hampton, Jr., is one of the individuals involved in this incident; correct?

A: That's what -- yes, ma'am. That's what he said.

Q: Yes, sir. You know his father; correct?

A: I know of him, yes.

Q: Jimmy Lee Hampton, Sr.?

A: Yes.
Q: He actually brought the gentlemen that you discussed earlier to the Timmonsville Police Department the next day; correct?
A: Yes.
Q: Where you interviewed them; correct?
A: Yes.
Q: You had them all sitting around a conference table together; correct?
A: Not when they were interviewed, no.
Q: What about when they wrote their statements?
A: When they wrote their statements, they wrote it in my office.
Q: Some of them might have written them in the conference table room?
A: No.
Q: Okay. You talked to Mr. Hampton on your cell phone about this; correct?
A: I don't remember talking to him.
Q: Okay. You didn't document any of this though in a written report; correct?
A: Not every time I talk on the phone, no.
Q: Okay. Let's walk through your response to the scene again. Numerous individuals present; correct?
A: Correct.

Q: None of whom you identify; correct?

A: Not at that time, no.

Q: Okay. You found shell casings; correct?

A: Yes.

Q: A car drove over one of the shell casings at one point; correct?

A: It was right there at the shell casing, yes, ma'am.

Q: A car drove onto the scene, non-law enforcement; correct?

A: Correct.

Q: Over the shell casing; correct?

A: I'm not sure if it was over it. It was beside of it.

Q: Okay. You had to call Florence County Sheriff's Office to come out and assist; correct?

A: They were out there when I got there.

Q: So you didn't? Okay. You know -- you knew Boogie prior to this evening; correct?

A: Yeah. I've dealt with him before.

Q: When you have him detained at the police department after you arrested him from [redacted] Green Drive, he asked if you could -- if you would let his wife come up; correct?

A: His girlfriend, yes.

Q: Okay. You told him, no, it was against protocol; correct?

A: I did.

Q: You then let him call her though; correct?
A: Correct.
Q: Then let her come up to the station; correct?
A: Yeah, to calm him down or something, yes.
Q: Sure. Okay. You needed to test Boogie for gunshot residue; correct?
A: Correct.
Q: Gunshot residue is a type of trace evidence; correct?
A: Yes.
Q: And what trace evidence is it's kind of -- I might very well butcher this, but it's particles that can be transferred during the commission of a crime; correct.
A: During discharge of a firearm, yeah.
Q: Okay. I was talking about trace evidence generally, such as gunshot residue particles, fibers, blood, those sorts of elements.
A: Yes.
Q: Gunshot residue specifically is -- can you explain that to the jury?
A: Gunshot residue is when you shoot a gun, the powder comes up and it gets all over your hands and stuff.
Q: And so in a gunshot residue test, what law enforcement will do is they need to bag a potential suspect's hands?
A: Correct.
Q: Correct. You need to limit that suspect's mobility;

correct?

A: Just --

MR. CLEMENTS: Your Honor, I object. I'm not sure if Mr. Strickland is qualified to go this deep into this or if Ms. Christie --

MS. HENDERSON: Judge, I'll withdraw. I'll withdraw my question regarding gunshot residue.

THE COURT: Can the lawyers come up here a minute, please?

(WHEREUPON, a bench conference was held in the presence of the jury panel but out of the hearing of the jury panel off the record, after which the proceedings resumed as follows.)

THE COURT: All right. Go ahead, Ms. Henderson.

BY MS. HENDERSON:

Q: All right. Mr. Strickland, discussing again Mr. Young being in custody of the Timmonsville Police Department, let's talk going back a little bit more about just your training, qualifications, and experience. As a law enforcement officer, you attend the South Carolina Criminal Justice Academy; correct?

A: Correct.

Q: You must graduate to serve; correct?

A: Correct.

Q: How long is that program?

A: It was nine weeks when I was in there.
Q: Okay. And during the course of this program, you go through -- you learn techniques, such as investigating a scene, investigating a case?
A: Actually, you learn legals.
Q: Okay. Could you talk to me a little bit more about that then, please?
A: You learn legals as far as prosecution of cases and stuff. There's another class that actually we call it investigative school.
Q: Okay. Okay. Talking about your interaction with Cedric Levern Young, Boogie, at the Timmonsville Police Department, you allowed his significant other to come up to the police station?
A: Yes.
Q: You knew that you needed to preserve his hands for GSR testing purposes; correct?
A: Yes.
MR. CLEMENTS: Objection to relevance on all this. She's not his wife. She's his girlfriend.
THE COURT: I don't think she asked a question pertaining to the wife as it relates to GSR. I'll allow it.
Restate your question, Ms. Henderson, please.
BY MS. HENDERSON:
Q: You had Mr. Young detained at the Timmonsville Police

Department; correct?

A: Yes.

Q: Against police policy, you allowed his significant other to come to the station; correct?

A: It's not against policy.

Q: Okay. You needed to -- while at the -- gunshot residue. Have you been taught how to preserve that in the event that it needs preserving as evidence?

A: Yes.

Q: What are you supposed to do regarding that?

A: Bag their hands.

Q: Bag their hands. Did you bag his hands?

A: I didn't have any bags at the time.

Q: Okay. Mr. Young gave you a statement at the police station; correct?

A: Mr. John who?

Q: Mr. Young, Cedric Levern Young.

A: Yes. He wrote down a statement.

Q: Okay. And then he destroyed it; correct?

A: Yes.

Q: Okay. You had multiple telephone conversations with Chief Billy Brown while at the station; correct?

A: Yes.

Q: At some point in the evening in the wee hours of the morning, Mr. Young was transported by another Timmonsville

officer to the Florence County Detention Center; correct?

A: Correct.

Q: And you returned back to the scene on Byrd Street; correct?

A: I went to [redacted] White Street first.

Q: Okay.

A: To answer that call.

Q: Okay. You answered that call. That's what you wrote the incident report about that we discussed earlier?

A: Right.

Q: Okay. And so then from [redacted] White Street, you returned back to [redacted] East Byrd Street?

A: Yes.

Q: Yes, sir. And upon your return you had Ms. Sha'Tyra Gee in your -- in your patrol car; correct?

A: Right.

Q: Okay. And she made some statements to you?

A: Yes.

Q: Billy Brown was present during that time; correct?

A: I don't recall if he was there at that time or not.

Q: After speaking with Ms. Gee in your patrol vehicle, you then went back outside to the scene; correct?

A: Correct.

Q: There were still numerous individuals present on the scene; correct?

A: Correct.
Q: You didn't take any of their information down or not any of their -- you didn't take a good number of their -- good number of those folks' information down; correct?
A: I think the people that saw it went to the hospital, the mother and father.
Q: So you don't recall talking to the father on scene?
A: I spoke with him briefly, yes.
Q: Okay. In your investigation on scene, you were only looking for any potential evidence from the vantage point of a shooting occurring from Tanyard Street; correct?
A: Or Byrd Street. They were still closing Byrd Street.
Q: Okay. Did you ever consider looking for any items of evidentiary value that could've been shot from any other locations on scene?
A: Like I said, Byrd Street.
Q: Okay. There was a bullet in the doorway of the mobile home; correct?
A: There was one in each end of the mobile home.
Q: Okay.
A: Or one in the same end of the mobile home on the Tanyard end of the mobile home.
Q: On the Tanyard side?
A: Yes.
Q: Okay. There was also a bullet hole over the doorway

where F. J. 's body was found; correct?
A: Yes, I believe so.
Q: And that bullet was left in the doorway; correct?
A: Yes. Florence County forensics took care of that.
Q: Okay. And so following your response to the scene that day -- so this is August the 26th; correct?
A: The day I went to the scene?
Q: The incident happened on August the 25th?
A: Yeah.
Q: About 11:30 in the evening?
A: Right.
Q: The shooting. You responded on scene, you were at the scene, you were at other locations, came back to the scene. Approximately what time did you end up leaving the scene for good?
A: I think it was around 4:21 a.m.
Q: Okay. And then that next day you said that individuals came and gave statements; correct?
A: Yes. They came to the PD.
Q: And those individuals were brought in by Jimmy Lee Hampton, Sr.; correct?
A: Yes.
Q: And Jimmy Lee Hampton, Sr.'s son, Jimmy Lee Hampton, Jr., was named as a suspect in this case; correct?
A: Yes.

Q: And Jimmy Lee Hampton, Sr., called you personally during all of this; correct?

A: He brought his family up there. Chief Brown arranged that. Him and Jimmy Hampton are kin. That's why the case was turned over to the Sheriff's Office.

Q: Okay.

MS. HENDERSON: May I beg the Court's indulgence?

THE COURT: Yes, ma'am.

MS. HENDERSON: Mr. Strickland, I have no further questions.

THE WITNESS: Okay.

THE COURT: Mr. Hoffmeyer?

MR. HOFFMEYER: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. HOFFMEYER:

Q: Mr. Strickland, just a few follow-up questions for you. I want to start out where Ms. Henderson began, if I remember correctly, or toward the beginning. She asked you, if my notes are correct, that you responded to a [redacted] Green Street; is that correct?

A: Green Drive. Yes, sir.

Q: Green Drive. I see. And that's the incident in which there was information that someone claimed to have been jumped and fired a weapon and shot a child; correct?

A: Supposedly. That was what 9-1-1 said.

Q: I gotcha. And she asked you this as well, I believe, and that turned out to be Cedric Young?
A: Correct.
Q: Now, when it comes to Mr. Young, your information -- and you went to the location -- is that he had shot up a White Street address; correct?
A: Yeah. That came in after I had him in custody.
Q: I see. And with the White Street address, did you or anyone in this investigation go over to retrieve any type of bullet that had struck that residence?
A: There was a bullet hole, but it went slap -- it went straight through the gable in and on the house. It's a block house.
Q: So was there any effort other than that one bullet that you described for us to work that crime scene, which it was, to find other bullets that had been shot at that White Street address?
A: There was no other bullets that hit.
Q: I gotcha. So there was no ability to compare any bullets from the White Street address -- from the White Street address to the bullet that unfortunately took the life of [redacted]?
A: No, sir.
Q: Okay. Now, in addition to going to White Street and going to the other address we just discussed, you were aware

that Mr. Young had been driving a vehicle when he was shooting at the other residence? You knew he drove by; correct? The White Street address when he shot?

A: Nobody told me that. No, sir.

Q: Well, nobody told you that. Let me ask you this. Did you ever make any effort to search any vehicle that had been driven in or owned by Mr. Young?

A: There was no vehicle at the scene at [redacted] Green Drive.

Q: I mean after these events. At any point after that terrible night of August 25th, 2018, was there ever any effort to determine what, if any, vehicle he was driving that evening and search it?

A: Cedric don't have a vehicle, but I mean I -- as far as his aunt's vehicle, I don't think he was driving it. I'm pretty sure he wasn't.

Q: How about Mr. Young's residence? Was there ever a search at his residence?

A: I'm trying to think because I know I've searched it one time. I'm not sure if it was this crime is the reason I don't want to --

Q: That's okay.

A: -- do that.

Q: You're just telling us what you know, and we appreciate that. So as it relates to this tragedy of August the 25th, 2018, you don't know or you don't recall if you searched Mr.

Young's residence?

A: I don't think I did at that time. No, sir.

Q: Now, there's also been information that's been presented before this jury about a blue Charger owned by Jimmy Hampton, Jr. You're familiar with that?

A: I'm familiar with a red, white, and blue Charger. Yes, sir.

Q: All right. And was there any type of search ever conducted on that blue Charger vehicle?

A: No. There was a search done on the red Charger, I think it was.

Q: Okay. All right. And how about a white Challenger? Was there ever a search executed on the white Challenger?

A: No.

Q: Now, I take it there was never any type of search done at either Jimmy Hampton, Jr.'s residence or Mr. Hickson's residence either, was there?

A: No, sir, not at the time. I turned the case over to the Sheriff's Office before all that happened.

Q: All right. So if there's going to be any of that type of information to share with the jury, somebody else would provide it, not you?

A: Yes, sir.

Q: Okay. That's fair. Now, Mr. Hickson, my client, is not Jimmy Hampton, Sr.'s son, is he?

A: Not that I'm aware of.

Q: Okay. All right. And Mr. Hickson -- on the day after this tragedy of August 25th on the 26th, Mr. Hickson voluntarily came in and talked to you, didn't he?

A: Yeah, along with the Hamptons.

MR. HOFFMEYER: If you'll excuse me one second?

THE COURT: All right.

BY MR. HOFFMEYER:

Q: Did you ever participate in any type of photographic lineup to see if people could actually identify --

A: No, sir. Right after --

Q: -- who was out there?

A: Right after I found out who was involved, Jimmy Lee Hampton brought up that he was kin to Billy Brown and it all got shifted to the Sheriff's Office.

Q: Okay. So you didn't do it and you don't know if they did?

A: Right.

Q: Okay. That's fair.

MR. HOFFMEYER: Thank you, Mr. Strickland.

THE COURT: Any redirect?

MR. CLEMENTS: Yes, Your Honor.

REDIRECT EXAMINATION

BY MR. CLEMENTS:

Q: You said Mr. Hickson came in when the Hamptons talked to

you that day after?

A: Yes, sir. With Jimmy Hampton, Sr., and Junior.

Q: And Mr. Hickson?

A: Yes, sir. As far as I know. There was five. One, two, three, four -- I think it was five people that came in that day.

Q: He didn't talk to you, did he?

A: Yes, sir.

Q: Mr. Hickson was one of them?

A: I believe he was.

Q: He had dreads?

A: Yeah. I think he had dreads at that time.

Q: How long ago has it been since you went to the Academy?

A: Right at 18 years ago.

Q: Have things changed and all kind of new methods and protocols and instrumentation and all kind of new things come up?

A: Yeah. Most definitely.

Q: Y'all try to stay on top of that as best you can?

A: As best we can.

Q: Now, you actually charged Boogie for shooting up 102 White Street, didn't you?

A: Correct.

Q: And on [redacted] Green Drive, I'm not sure I quite understand that. Did you arrest Boogie there?

A: Yes, sir. I detained him at the time because I knew I had a warrant on him.

Q: Okay. But not necessarily for shooting up 103 Green Street?

A: No, sir.

Q: As a matter of fact, there's been talk about shooting it up like it's got multiple shots, but actually it was only -- the allegation was one shot; right?

A: Correct.

Q: So let's don't mischaracterize it as a shoot up, but the main -- the event that happened at 301 Byrd, that was definitely a shoot 'em up, wasn't it?

A: Yes, sir.

MR. HOFFMEYER: Object to the leading, Judge. May his response be stricken?

MS. HENDERSON: I join in that objection, Judge.

THE COURT: Objection sustained. Rephrase your question, please.

BY MR. CLEMENTS:

Q: Do you -- do you know Boogie to own a car?

A: No, I don't know Boogie to own a car.

Q: Do you know what a smoker's whip is?

A: I do not.

Q: Okay. Boogie -- the information you got from Boogie is that he was -- a claim over the phone was that he was jumped?

A: Yes.
Q: Somebody was jumped?
A: Yes, sir.
Q: Are you aware or did your investigation lead you to anything close to knowing about a fight that took place between the youngest Hampton and Boogie?
A: A little bit later it did, not that night.
Q: Okay.
A: They were -- he said they were at a party and JJ jumped him.
Q: All right. But the fight got broken up, didn't it?
A: Yes, sir.
Q: Did you ever talk to JJ about it?
A: No, sir.
Q: So you got one side of the story?
A: Yes, sir.
Q: And on Green Drive you arrested him, but it was because of an outstanding warrant?
A: Correct.
Q: And I'm not sure, but the claim of being jumped and then what was the claim about he shot? He claimed somebody else shot or he shot?
A: It came in on 9-1-1. It said that they had been in a fight and he shot and might have hit a girl.
Q: Meaning Boogie?

A: Right.

Q: Okay.

A: That was from his aunt, I believe it was.

Q: His aunt?

A: Yes, sir.

Q: How old is his aunt?

A: Looked to be in her 40s.

Q: Okay. How old is Boogie?

A: I think he's in his late 20s, early 30s.

Q: All right.

MR. CLEMENTS: That's all the questions I have. Thank you.

THE COURT: Any recross, Ms. Henderson?

MS. HENDERSON: No, sir, Judge.

THE COURT: Mr. Hoffmeyer?

MR. HOFFMEYER: No, sir. Thank you, Mr. Strickland.

THE COURT: Sir, you may step down. Thank you.

THE WITNESS: Yes, sir.

All right. Ladies and gentlemen, at this point it's almost 5 o'clock. I'm going to let you step -- stop for the day. We're going to stop for the day at this point.

Do not discuss the case. Do not do any independent investigation on your own. As I've said from the outset, you're to decide this case based solely upon the evidence and testimony presented in this courtroom.

Anything from the State before I release the jury for the balance of the day?

MR. CLEMENTS: No, Your Honor.

THE COURT: Ms. Henderson?

MS. HENDERSON: No, sir, Judge.

THE COURT: Mr. Hoffmeyer?

MR. HOFFMEYER: No, sir. Thank you.

THE COURT: Please be back tomorrow morning at 9:30.

Are all of you all comfortable in here temperature-wise? All right. I'm kind of warm up here and that's why I told him to turn it on down. So it was not turned all the way down when we got here today.

I will make myself a note to check it in the morning before we resume to make sure it's turned down. All right? I think it goes down to 62 is what I had over here, 62. So that's what it will be set on tomorrow. So be prepared.

You all have a nice night. I'll see you tomorrow.

(WHEREUPON, the jury exited the courtroom at 4:57 p.m.)

THE COURT: All right. Anything from the State at this time?

MR. CLEMENTS: Yes, sir, Your Honor. Earlier in the past few weeks there's been some threats that have been passed out around the Timmonsville area about people testifying and stuff. I think there's been some more and at this time we would -- we didn't move for the bond to be

revoked yesterday to give them an opportunity to talk to their lawyers after court, but today we would move to have their bond revoked. We are concerned with some of the reports we have received.

THE COURT: Ms. Henderson?

MS. HENDERSON: Judge, I would respectfully request that you deny Solicitor Clements' motion. I do not know what the nature of these threats entail. As I will say as I said yesterday, Mr. Barclay has remained in compliance with the terms and conditions of his bond.

I have spoken with his bondsman. I can pull the email that he sent me yesterday saying he is -- acknowledging that Mr. Bond -- Mr. Barclay has been in compliance with the terms of his bond. He is fine to stay on any bond that this Court would necessitate.

Judge, Mr. Barclay is on house arrest. He's on an ankle monitor. All he is doing is going home to his aunt's house on High Hill Road with his daughter and his daughter's mother.

THE COURT: Where is he staying?

MS. HENDERSON: [redacted] S. Hill Road. And Ms. Laurie Alston is present and that is her home, and his child's mother/girlfriend is also present and staying there as well.

THE COURT: Mr. Hoffmeyer?

MR. HOFFMEYER: Yes, sir, Your Honor. And of course, I

MR. CLEMENTS: Thank you, Your Honor. The State would call Inv. Chase McDaniel.

THE CLERK: Sir, please place your left hand on the Bible and raise your right hand. Do you swear that the testimony you will give in this case will be the truth, the whole truth, and nothing but the truth, so help you God?

THE WITNESS: Yes, ma'am.

THE CLERK: Please be seated on the witness stand and state your full name for the record.

CHASE MCDANIEL, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. CLEMENTS:

Q: Inv. McDaniel, how are you doing today?

A: I'm doing well.

Q: Good. Glad you could be here today. You are currently an investigator; is that correct?

A: Yes, sir.

Q: With?

A: With the Florence County Sheriff's Office.

Q: How long have you worked in law enforcement?

A: Seventeen years.

Q: Prior -- prior to being an investigator with the Florence County Sheriff's Office, what did you do in law enforcement?

A: I was a forensic technician with the Florence County Sheriff's Office.

Q: All right. And what does a forensic technician do?

A: We usually respond to calls of service from patrol to come out and process crime scenes.

Q: Okay. So you all are the ones that are the CSI guys?

A: Yes, sir.

Q: Okay. Did you have a call to go out to a situation that was occurring about August the 25th and 26th, 2018, in Timmonsville?

A: Yes, sir.

Q: Can you tell me, please, what kind of call you got from dispatch? What did they tell you?

A: I received a call from patrol. They indicated that there was some shots fired in the area of Byrd and Tanyard Street in Timmonsville and indicated that there was a victim that was shot and was being transported to McLeod Hospital, and they asked me to respond.

Q: Okay. And where did you respond to?

A: I first responded to the victim at McLeod Hospital.

Q: Okay. What did you find there at the hospital?

A: I found a deceased black female, young. I can't remember exactly what her age was, but she was young.

Q: Was she 12?

A: I couldn't hear you.

Q: Was she 12?
A: Yes, sir. Yes, sir. Twelve. And she was in the -- one of the ER rooms at the hospital at McLeod Hospital.
Q: Did you do anything to process that scene or just made note of it?
A: Yes, sir. I did do some things. I took photographs of her person. I took photographs of all of the injuries that she had on her body as well.
Q: And after you finished doing that and documenting her injuries, what did you do next?
A: They then asked me to respond to the actual crime scene at the intersection of Byrd and Tanyard.
Q: And when you go in to Byrd and Tanyard, what did you find?
A: There was a mobile home that was blue in color. It was right at the intersection of Byrd and Tanyard. Several officers were on scene. They had crime tape up, had the scene blocked off, and I started taking overall pictures of that scene.
Q: Were there plenty of citizens out there as well?
A: Yes, sir.
Q: Was that a pretty controlled environment or chaotic or how would you describe it?
A: It was controlled as much as they could with the officers that were out there. It was as best they could.

They did manage to keep everybody from, you know, entering into the crime scene, but there were a good bit of people out there.

Q: All right. What were the -- what was the emotional temperature out there?

A: People were upset. You know, people were leaning on each other and talking, and you could hear people crying. Some people were upset. Vehicles were still going in and out of the area. It was -- it was an emotional time.

Q: Did your job include finding witnesses or taking statements from people?

A: No, sir.

Q: Or that was somebody else's job?

A: No, sir. That was somebody else's job.

Q: Okay. At this point in time, were you all there assisting Timmonsville at that point in time or had you already taken over the case?

A: No. We were there just to assist Timmonsville with their case.

Q: Okay.

A: There were several Timmonsville officers on scene as well.

Q: Now, can you tell this jury when you go to a scene just generally what is your routine? How do you process a scene?

A: Generally, when we go to a scene, we usually start out

by identifying exactly where the crime scene is. Once we identify where the crime scene is, we begin taking general photographs of the whole entire area just so we can show exactly where we're working.

Once we do that, we start identifying what pieces of evidence is necessary to collect and take or send off to be processed. Once we do that, we'll start placing markers next to the evidence, start taking photographs of that evidence, and then collecting it and taking it to the office and storing it until we send it off for whatever analyzing or whatever needs to be -- however it needs to be analyzed.

Q: So what was -- what was the first thing that you did after you got there and found the scene somewhat secure? What did you do next?

A: I was instructed by some of the officers that they had already located some of the spent shell casings that were at the intersection of Byrd and Tanyard. And from there I started taking just general overall pictures of the crime scene as it was when I arrived and then I started laying out evidence markers next to those spent shell casings as I found them.

Q: Okay. How many spent shell casings did you find?

A: I think there was approximately five of them. Five.

Q: And after you put the little -- little markers there, what did you do next with the area?

A: I took more photographs of them, did more of a close-up range to identify what kind of weapon -- what kind of ammunition it was and then started taking pictures of the -- the residence that was in play.

Q: Okay. What else did you do in regards to processing the residence? Did you find any evidence there?

A: Yes, sir. We -- we took overall pictures of the residence, went inside and took pictures on the inside. The -- as you walk into the trailer, there's a bedroom to the left all the way at the end of the hallway. We found that there was damage from shell -- from projectiles that came into the residence. One was at the top left corner of the wall and one was at the bottom left corner of the wall.

We then found -- we had to move some clothing and we pulled a projectile from out of the wall. Another one went into the wall and into the closet, and we were able to go into the top of the closet and found that projectile as well and recovered it.

Q: So you found -- you found five shell casings and two projectiles?

A: Yes, sir.

Q: Okay. You documented all of that in photographs?

A: Yes, sir.

Q: Now, after you collected the two projectiles, what did you do next?

A: We went up to the front and just took more pictures of the residence, as we found blood next to the entrance of the door as you're walking in. We took photographs of that as well.

Q: All right.

MR. CLEMENTS: I beg the Court's indulgence a second.

Your Honor, I'd ask permission for the witness to step down.

THE COURT: All right.

MR. CLEMENTS: Mr. McDaniel, if you'll step down here with me? I'm going to go over several pictures that are already into evidence.

THE WITNESS: Okay.

(WHEREUPON, the witness complied.)

MR. HOFFMEYER: Your Honor, if I may? Just to preserve my prior objection at this juncture, I believe he will be going through 1 through 11, and I want to be sure and preserve that objection.

THE COURT: So noted for the record. The Court's rulings remain the same. Thank you.

MR. HOFFMEYER: Thank you, Judge.

THE COURT: Thank you.

(WHEREUPON, there was a pause in the proceedings, after which the proceedings resumed as follows.)

BY MR. CLEMENTS:

Q: I'll show you what's State's Exhibit No. 1. Did you take that picture?

A: Yes, sir.

MS. HENDERSON: Your Honor, I would just ask -- there's a glare it looks like on these photos as they're being projected to the jury. I would just like for them to have an accurate representation of the photos. At least from my monitor that's what it appears.

(WHEREUPON, there was a pause in the proceedings, after which the proceedings resumed as follows.)

THE COURT: The jury is going to have these photos back in evidence anyway. Go ahead, Mr. Clements.

MR. CLEMENTS: Thank you.

BY MR. CLEMENTS:

Q: State's Exhibit No. 1, why did you take that photograph?

A: That's just identifying the area of where the actual crime scene was that we taped off.

Q: Okay. State's Exhibit No. 2, what is that a picture of?

A: That's just a picture of the front of the residence where the crime scene occurred.

Q: All right. And we're going to put State's Exhibit No. 2. I think it's the whole trailer in that.

A: Yeah. That's the whole trailer.

THE COURT: Hold on. I need you to speak up. Okay? The court reporter can't hear you.

THE WITNESS: Sorry.

THE COURT: Is that green light on?

THE WITNESS: Yes, sir.

THE COURT: Okay.

BY MR. CLEMENTS:

A: This part right here is the front door to the trailer and to the left is headed back towards Byrd and Tanyard where the shell casings were found in this area.

Q: And what was found in the wall here at the end?

A: The wall here at the end is where we found the entrance where the projectiles went in.

Q: Okay. State's Exhibit No. 4, same questions?

A: Yes, sir. This would be the left side of the trailer and over here to the left would be Byrd and Tanyard. And we found the entrance of the projectiles in this area right here.

Q: Okay. State's Exhibit No. 5, what is that a picture of?

A: That's a picture of the front door, the steps, and the little patio area.

Q: Where was the victim found?

A: I can't testify to where the victim was found because I went to the hospital where the victim was.

Q: Okay.

A: I was not here on scene at the time.

Q: Okay. Based on information that it was close to --

THE COURT: Mr. Clements, I need both of y'all to speak up, please.

And it may -- try this other microphone, Officer.

MR. CLEMENTS: I'll speak up.

BY MR. CLEMENTS:

Q: Based on the information, that was a necessary picture?

A: Yes, sir. That was a necessary picture. Yes, sir.

Q: Was there any other entrances into the trailer on that side of the trailer?

A: No, sir.

Q: Okay. I'm going to show you State's Exhibit No. 6. What is that?

A: That is the stairs leading to the front door of the residence.

Q: Are there any other entrances?

A: Not on this side. No, sir.

Q: State's Exhibit No. 7, which I will turn.

A: That's the front door going into the residence.

Q: What is State's Exhibit No. 8?

A: That's another angle of Byrd and Tanyard.

Q: The vehicles parked there, what street are they parked on there?

A: That is Tanyard Street.

Q: Okay. Right here?

A: This right here is Byrd and that's Tanyard.

Q: Are you sure about that?
A: Uh --
Q: I was looking for that picture. This is State's Exhibit No. 9. Explain to us -- that's the same vehicle that was in the last picture?
A: Right. And this would be -- this road right here would be Tanyard and this would be Byrd.
Q: Correct.
A: So yes, sir.
Q: All right. What did you -- why did you take that picture? What are you -- what are you showing there?
A: I took that picture to show the -- the shell casings that were in the roadway.
Q: Okay. What does it show about the mobile home?
A: It shows the side of the mobile home where the projectiles made entry into the trailer.
Q: Okay. State's Exhibit No. 10, what is that?
A: That's just a picture right at the corner of Byrd and Tanyard where the crime scene tape was at and the projectiles making entry into the trailer right in this area. That's still the left side of the trailer.
Q: Okay. And the corner of the yard?
A: Yes, sir.
Q: State's Exhibit No. 11?
A: That is the actual left side of the trailer where the

projectiles made entry and the room we went into, the window of the room that we went into and got those projectiles out of.

Q: Okay. And can you tell me about your best approximation where those bullet holes went into it?

A: Right here. Right here up at the top and down here right at the bottom.

Q: Okay. How many shell casings did you find?

A: We found approximately five shell casings in the roadway.

Q: Here's State's Exhibit No. 12. What does that show and document?

A: That shows the five shell casings that were found in the roadway.

Q: All right. Any other marks or anything on the roadway that were considered to be significant?

A: There were some tire markings on the roadway. However, we did not know that they were actually in play at the time.

Q: Okay. And what is that? It looks like sand. It looks like --

A: Yeah. From a --

Q: -- turning.

A: -- vehicle leaving from out of the yard.

Q: Okay. How many little tiles are there in this picture?

A: There's five.

Q: And that's for all the shell casings that you found?
A: Yes, sir.
Q: State's Exhibit 13?
A: That's a photograph of a spent shell casing found in the roadway.
Q: State's Exhibit 13 -- excuse me -- 14?
A: That's another picture of a shell casing found in the roadway.
Q: This one looks like it's a little crunched. What --
A: Yes, sir. There are times where you arrive on a crime scene and vehicles may have hit the shell casings and caused them to get bent up or get damaged.
Q: State's Exhibit 15?
A: That's another photograph of a spent shell casing.
Q: State's Exhibit No. 16?
A: That's another photograph of a spent shell casing.
Q: State's Exhibit No. 17?
A: A photograph of a spent shell casing.
Q: Is that all your shell casings accounted for there?
A: Yes, sir.
Q: I'm going to show you State's Exhibit No. 18. Can you explain to us what this is and where this was?
A: This is evidence tile marker No. 6. It was inside the bedroom inside the trailer that was to the left. When you walk in through the front door, go to the left of the trailer

all the way at the end. And this wall that is -- that's shown right here would be the wall that if you would have walked directly outside of that wall, you would be at the intersection of Byrd and Tanyard exactly where we found the shell casings. This is where we located the projectile that went into the bottom left of the wall inside that building.

Q: Okay. And you marked that with tile No. 6?

A: Yes, sir.

Q: I'll show you State's Exhibit 19. Can you explain to us what this is and how it relates to the last picture?

A: This relates to the last picture. Just a close-up shot of the actual projectile as we recovered it. It was among some clothing. We removed those clothes and found the projectile just sitting right here on the inside of the wall inside the trailer on the inside.

Q: Where? Can you point to where is the projectile found?

A: This is the projectile right here.

Q: Okay. And you collect those items like that and send them where?

A: We collected the items and sent them to SLED.

Q: All right. I'm going to show you State's Exhibit No. 20. What is that?

A: This is the area on the inside of the closet, which is just to the left of the wall where we found tile marker No. 6. We went inside and saw the damage to inside the closet

and located the projectile inside of the paperwork inside the top of the closet. This is a picture on the top of the closet.

Q: Is that where a hole is where the bullet came through the wall?

A: The hole would be right here.

Q: Okay. State's Exhibit 21?

A: This is just another close-up picture of the wall where we located -- we saw where the projectile came into the wall, and we located the projectile in that area.

Q: Okay. Now, that's not the only place you took pictures, was it?

A: No, sir.

Q: What else did you go document by photo?

A: At the Florence County Sheriff's Office we documented photographs of the red Dodge Challenger that was recovered and brought back to our impound.

Q: All right. I'm going to show you State's Exhibit 22. Can you tell me what that is?

A: That is the red Dodge Charger that was recovered and brought back to our impound. I took the overall impound pictures of the red Charger. I'm sorry. The red Challenger.

Q: Okay. State's Exhibit 23?

A: This is a front picture of the Challenger I took while it was at the Florence County Sheriff's Office impound.

Q: And State's Exhibit 24, what is that?
A: This is a photograph. Upon doing further inspection of the vehicle, we located Bluetooth-connected phones that were connected to the vehicle. Upon going through the radio system, I found that there were some phones connected to the vehicle, and I just documented the phones that were actually connected to it. The picture shows there's three phones that were actually connected to that Bluetooth system on the vehicle.
Q: What is number one?
A: It says Michael's phone.
Q: Michael's iPhone?
A: iPhone, yes. Michael's iPhone.
Q: Okay. The other two do not have a name; is that correct?
A: That's correct.
Q: I skipped one. I'm going to show you State's Exhibit No. 29.
MR. CLEMENTS: Is that sideways for everybody?
A: This is a photograph of what appears to be an Enterprise rental car agreement between the individual that rented this vehicle and Enterprise.
Q: Can you see there who rented this vehicle?
A: It says the renter is a Jimmy Hampton.
Q: I'm going to show you State's Exhibit 30. Can you tell

us where this photograph was made and why you made this photograph?

A: This photograph was on the inside of the vehicle as we --

Q: I have it upside down.

A: Oh. Sorry.

Q: There we go.

A: This photograph was taken on the inside of the vehicle, the passenger side, and this is when I opened the glove box. This is what was located on the inside of the glove box.

Q: That was State's Exhibit 30. State's Exhibit 31, what is that and why did you take that picture?

A: That was a photograph of what appears to be an obituary of Delonte Marquist Rouse. I took that photograph just to show that whoever had the vehicle had some type of connection with this individual and left that inside of the glove box.

Q: Okay. And that is a program for a funeral service?

A: Yes, sir. That's what it appears to be.

(WHEREUPON, the witness returned to the witness stand.)

BY MR. CLEMENTS:

Q: Inv. McDaniel --

A: Yes, sir.

Q: What other items did you collect at the scene?

A: At the scene at Byrd and Tanyard?

Q: At Tanyard, if anything.

A: No, sir. There were no other items I collected at Byrd and Tanyard other than the photographs, the spent shell casings, and the projectiles.

Q: All right. And when you took those spent shell casings and those projectiles, what did you do with them?

A: I took them to the office, logged them into evidence, and did the appropriate paperwork to send them off to SLED for to be analyzed.

Q: Okay. And did you have occasion to collect anything else from the autopsy?

A: Timmonsville Police Department went to the autopsy. I did collect the evidence that he obtained from the autopsy and took that and did the paperwork for SLED to do their analyzing of that evidence.

Q: Did that collection of items from the autopsy -- did it include anything ballistic?

A: Yes, sir. They did remove some projectiles from the victim as well.

Q: Okay. And you documented that as well?

A: Yes, sir.

Q: I'm going to show you what's been marked State's Exhibit 33. Can you identify these items for us?

A: Yes, sir.

Q: Do those look familiar?

A: Yes, sir. These would be the five spent shell casings,

the two projectiles collected from Byrd and Tanyard, and this would be the projectile recovered from the victim, Ms. Jackson.

Q: Okay. And those were all submitted to SLED?

A: Yes, sir.

Q: All right. Thank you.

MR. CLEMENTS: I beg the Court's indulgence for a moment.

Your Honor, that's all the questions I have for Inv. McDaniel right now.

Thank you for your cooperation. Please answer any questions these attorneys have.

THE WITNESS: Yes, sir.

THE COURT: Ms. Henderson?

MS. HENDERSON: Thank you, Judge.

CROSS-EXAMINATION

BY MS. HENDERSON:

Q: Inv. McDaniel, good to see you, sir.

A: Good to see you.

Q: You spoke with Mr. Clements about what you did during this investigation. So just so I'm clear for the jury, you first responded to McLeod Regional Medical Center; correct?

A: Yes.

Q: You responded to the victim's hospital room; correct?

A: Yes.

Q: Billy Brown was present, Chief Billy Brown at the time with the Timmonsville Police Department; correct?
A: Yes.
Q: From the hospital you then went -- did you go to the scene or did you go to the Timmonsville Police Department?
A: I did. I went to the Timmonsville Police Department.
Q: So you went to the Timmonsville Police Department first, and we didn't talk about this earlier; correct?
A: Correct.
Q: And at the Timmonsville Police Department you were actually responsible for processing Cedric Leven Young; correct?
A: Right.
Q: Also known as Boogie; correct?
A: Right.
Q: He was belligerent; correct?
A: Yeah.
Q: Unruly; correct?
A: Yes.
Q: You discussed your experience as a crime scene investigator. Obviously, part of that experience entails preserving evidence; correct?
A: Yes.
Q: Testing for evidence of scientific evidentiary value; correct?

A: Yes.
Q: Not necessarily testing, but looking --
A: Not testing, but --
Q: Let me rephrase that. Obtaining evidence that has potential scientific evidentiary value?
A: Yes.
Q: Yes. Because you want to obtain that evidence to then send it off to a department like SLED; correct?
A: Yeah. My position is just to collect it and send it.
Q: Yes, sir. Yes, sir. And while at the Timmonsville Police Department, you administered a gunshot residue test on Cedric Levern Young; correct?
A: Yes.
Q: And in your time of administering the gunshot residue test, his hands had not been bagged; correct?
A: I can't remember exactly if his hands were bagged or not.
Q: Generally speaking --
A: But I do have pictures. Pictures would show exactly how he was at the time. I just can't remember right now.
Q: Sure. And Mr. Clements didn't show the jury those pictures; correct?
A: No, he didn't show those pictures.
Q: But you took multiple photographs of Cedric Levern Young?

A: Yes.
Q: And the state of his condition at the Timmonsville Police Department?
A: Yes.
Q: While you administered a gunshot residue test?
A: Yes.
Q: That you then submitted to SLED; correct?
A: Yes.
Q: And in the course of your investigation, you've learned that the results of that was that he tested positive for one particle of gunshot residue; correct?
A: I can't remember if I got the results back or if it went directly to the investigator.
Q: Yes, sir. So from the Timmonsville Police Department you then go to the scene; correct?
A: Yes.
Q: And that was [redacted] East Byrd Street?
A: Yes.
Q: Where Ms. [redacted]s family was at?
A: Right.
Q: When you took the photographs that you and Mr. Clements were discussing earlier, a couple of hours had elapsed from the time of the shooting to your arrival; correct?
A: Yes. I'm not sure of the approximate time, but it was some time. That's usually, you know, how it goes.

Q: Yes, sir. And Mr. Clements and you discussed how the scene was relatively controlled at that time?
A: Yes.
Q: To your recollection, the 9-1-1 call came in regarding this incident shortly after 11:30 p.m. that night?
A: I'm not sure exactly what time it came in.
Q: Yes, sir. Okay. Is it fair to say that you probably got out to the police department sometime between -- excuse me -- got out to the -- arrived to the crime scene sometime between 1:30 a.m. and 2:30 a.m.?
A: Give me just a second.
Q: Yes, sir.
A: Yes. I actually signed on the radio and was dispatched to the area about 12:40.
Q: Okay. Do you have a time of arrival? And, Inv. McDaniel, it's fine if you don't.
A: Yeah.
Q: You just arrived to the scene?
A: After it was, you know, happened and everything.
Q: Yes, sir. So the photographs that you presented to the jury -- that Mr. Clements presented to the jury that y'all discussed were taken a couple of hours after; correct?
A: Right.
Q: The markings of the casings were applied a couple of hours after; correct?

A: Yes.

Q: During the course of your investigation, did you learn about a bullet at [redacted] East Byrd Street above the doorway of the home?

A: No.

Q: You're unaware of that today?

A: Yes.

Q: Okay. So you've never sent a bullet that was still -- was in the doorway of the home to SLED for testing?

A: No. Not that I -- not to my knowledge.

Q: Okay. [redacted] White Street. Were you familiar with that shooting that night?

A: No.

Q: Okay. You discussed the search warrant that you executed on the red Dodge Challenger; correct?

A: Yes.

Q: You didn't execute any other search warrants; correct?

A: No. I did not.

Q: All right. No search warrant on any vehicles?

A: Just the red Challenger.

Q: Just that -- other than red Dodge Challenger. I apologize.

A: Right.

Q: No search warrant on any homes?

A: I didn't.

Q: Yes, sir.
A: No.
Q: You didn't obtain any cell phone records, any search warrants for cell phone records?
A: That's not a part of my job to do that.
Q: Yes, sir.
A: That would be the investigator to do that.
Q: Sure. I apologize. Absolutely. During your search of the vehicle, in addition to the photographs that Mr. Clements presented to the jury of items recovered in the car, there were also numerous other items; correct?
A: Yes.
Q: There was a hairbrush?
A: Yes. A brown and black hairbrush.
Q: There were glasses?
A: Yes.
Q: There were beer bottles?
A: Yes.
Q: There were receipts for Hardee's, I believe?
A: Say that again?
Q: There were receipts for Hardee's, the restaurant or fast food, a fast food store receipt?
A: Yes.
Q: There was a receipt for a liquor store?
A: Yes.

Q: To your recollection, that receipt for the liquor store had the last four digits of a PIN number; correct?

A: I believe it did, yeah.

Q: Okay.

A: I would have to see that picture though to be sure.

Q: And you took photographs of that; correct?

A: Right.

Q: Yes, sir. You took swabs in the vehicle; correct?

A: Yes.

Q: And explain to the jury the purpose of taking swabs?

A: We usually takes swabs of the steering wheel and the gear shifter because those are the two locations that we know someone's going to have to touch whenever they get inside the vehicle, the steering wheel because they have to drive the vehicle and the gear shifter because they have to shift it into park, reverse or drive if they get inside the vehicle. So we usually swab that and send that off to SLED for touch DNA testing to see if we could get something back on it.

Q: And that was never sent to SLED; correct?

A: I'm not sure.

Q: Would you mind looking in your records to see? And, Mr. McDaniel, if I may?

A: Uh-huh.

Q: To my recollection and review of the case, I believe what was sent was the ballistics that were discussed with you

and Mr. Clements, the gunshot residue tests. I believe that's all that was sent for the Sheriff's Department from you.

A: Yes. I did collect it, but I don't think it was -- it was sent to SLED.

Q: So it wasn't sent?

A: No.

Q: Okay. And you have the submission paperwork in front of you; correct?

A: Uh-huh. Yes.

Q: And on your submission paperwork you list the suspect as Cedric Levern Young; correct?

A: Right. That's just -- SLED likes to know anything and everything about the case, anybody that we do something with. They just want you to put that on the paperwork.

Q: Sure. Okay. And towards the end of your conversation with Mr. Clements just now, you discussed the autopsy, and I think you said -- and I might misstate it. I don't want to misstate you. So I apologize. You said the projectiles were extracted from the victim; correct?

A: From what I understand, yeah. I didn't go to the autopsy.

Q: Sure.

A: Timmonsville Police Department went and brought the evidence back.

Q: But you're responsible for submitting it to SLED?

A: Right.

Q: It was one projectile; correct?

A: Right.

Q: Okay. And you received that projectile from Mark Strickland?

A: Yes.

MS. HENDERSON: Judge, I have no further questions for Inv. McDaniel.

THE COURT: All right. Cross-examination, Mr. Hoffmeyer?

MR. HOFFMEYER: Thank you, Judge.

CROSS-EXAMINATION

BY MR. HOFFMEYER:

Q: Inv. McDaniel, Jim Hoffmeyer. It's nice to meet you.

A: Hey.

Q: And good morning.

A: Good morning.

Q: I just have a few really simple questions, but just to make sure I understand how you do things, so to speak. Now, you were called out to the scene and, of course, one of the many things that you were involved with, Investigator, was taking photographs of the scene; is that right?

A: Right.

Q: Okay. And what type of camera are you using to do that?

A: At the -- at the time, I can't remember if we did an upgrade on our cameras or not, but at the time I believe it was a Nikon D-90. The new cameras that we got was a 500, but I can't remember when we made that switch, if it was before this case or after.

Q: Yes, sir. I understand. You're using a camera specifically designed to go out there and get photographs like any camera, photographs of a scene or whatever the case may be; correct?

A: Right.

Q: All right. And, Inv. McDaniel, when it comes to this particular camera, did you have the ability to focus the camera yourself or did it automatically focus?

A: It automatically focused.

Q: Okay. So you point it, it focuses, and then it takes a picture naturally?

A: Right.

Q: Okay. And as far as this focusing of the camera is concerned or maybe a better way to ask it is when you look through that camera, the eyepiece of the camera, you see things differently than you do with the human eye; is that fair to say?

A: Yes, sir.

Q: Okay. And cameras oftentimes are made such that they are able -- unlike the human eye, they are able to gather

light when they're taking a photograph; is that correct?

A: That's correct.

Q: Okay. And in addition, when it comes to the scene that evening, the information before this jury tells us that this terrible event happened 11 to 11:30. So it was nighttime and you would have gotten there a little bit later than that. Is that what you recall?

A: That's correct.

Q: Okay. And in order to take those photographs under those conditions, you would have used a flash?

A: That's correct.

MR. HOFFMEYER: If you'll excuse me one second?

BY MR. HOFFMEYER:

Q: One other quick question, Investigator, is you were asked about a swab that was never sent from the red Challenger. Were you or to your knowledge did anyone do any swabs for DNA in a blue Charger?

A: I have no -- I don't know anything about that.

Q: Okay. You didn't do it?

A: No.

Q: Okay.

MR. HOFFMEYER: If you'll excuse me one second, Investigator.

Thank you, Investigator.

THE COURT: Any redirect?

MR. CLEMENTS: Yes, Your Honor.

REDIRECT EXAMINATION

BY MR. CLEMENTS:

Q: I'm going to show you what has just been marked for identification as State's Exhibits 36, 37, and 38. Can you look at those pictures and tell me if you know what they are?

A: Yes, sir. This is the photographs of Mr. Cedric Young at the Timmonsville Police Department when I was administering a gunshot residue kit on his hands.

Q: Who took the pictures?

A: I took the pictures.

Q: All right. Let me hold them. Is this the way you met him at the Timmonsville PD, State's Exhibit 38?

A: Yes, sir.

Q: He was dressed like that?

A: Yes, sir.

Q: All right. His hands were behind his back; right?

A: Yes, sir.

Q: They were handcuffed?

A: Yes, sir.

Q: State's Exhibit 37, do you see any bags there or anything?

A: No, sir. No bags on his hands.

Q: How about State's Exhibit 36? It's a slightly different angle. Anything covering his hands or protecting his hands?

A: No, sir.
Q: What is the purpose of bagging someone's hands when you're going to do a GSR kit on them?
A: We try to preserve whatever evidence is on their hands if they have fired a weapon, because a lot of times if someone washes their hands or they have a lot of blood on their hands or something like that, we can't get the full GSR off of their hands whenever we're administering the test.
Q: How about if it's a real sweaty, hot night?
A: A sweaty, hot night can cause some issues, but we generally can get some off their hands.
Q: Even if they was running around?
A: Yes, sir.
Q: For a period of time?
A: Yes, sir.
Q: Now, are you familiar with a time frame? Is there a certain time frame and once you get past it the GSR test is mostly useless?
A: To my knowledge, I can't recall. I can't testify to that. I'm not sure.
Q: You've never heard of a four-hour window of opportunity?
A: I haven't.
Q: Okay. How fragile or how tough is gunshot residue?
A: It's some pretty tough stuff. I mean you gather it and --

MS. HENDERSON: Objection, Judge. I don't think Mr. McDaniel is qualified to testify to the scientifics of gunshot residue.

THE COURT: Objection sustained.

MR. CLEMENTS: All right. We'll move on from there.

BY MR. CLEMENTS:

Q: But as far as you could tell -- let me ask you this. What time was it when you took the GSR and the pictures of Boogie, Mr. Young?

A: It was probably 1:45-ish or something like that in the morning.

Q: After you finished everything else?

A: No. That was between the hospital and the crime scene.

Q: Okay. Ms. Henderson was asking you about the pictures being taken afterwards, after the event, an hour or so afterwards. Is that unusual?

A: No. That's very, you know, common that we respond to. Once we get called out, you respond to several different locations to process scenes, and it can be an hour or so in between those times that you respond.

Q: Even up to a few hours, couldn't it?

A: Yes, sir.

Q: So that's not unusual?

A: No, sir.

Q: Now, have you ever heard anything about a bullet above

the doorway?

A: Not that I can recall.

Q: And y'all thoroughly went over the outside of that trailer?

A: As best we could in the nighttime with flashlights and looking over everything. Yes, sir.

Q: You didn't see any bullets over the doorway?

A: Not that I can recall of.

Q: Nobody said anything about a bullet over the doorway?

A: Not on that night. Not that I can recall.

Q: Nobody said they were inside that room and a bullet hit the trailer?

A: In that -- from that particular angle, no, sir.

Q: Okay. How about from the back bedroom?

A: The back bedroom to the left is where we found the projectiles from.

Q: Yes, sir. All right. I believe Mr. -- Ms. Henderson asked you about what you submitted and collected. I want to show you something and ask you if you recognize it. What is it? It's State's Exhibit 39 for ID purposes.

A: This is the liquor store receipt, the cash payout lottery ticket, the Hardee's receipt in Timmonsville, the funeral home program, and the Enterprise car agreement paperwork.

Q: And you collected these?

A: Yes, sir.
Q: I have two of these items in this bag marked separately. I'm going to show you State's Exhibit 40. Tell me what that is and why you collected that?
A: This is a obituary of Mr. Delonte Marquist Rouse, and I collected this to show that this was an item that was inside the vehicle that would relate back to someone --
Q: Okay.
A: -- that knew this individual.
Q: Now, you took a picture as well, did you not?
A: Yes, sir.
Q: I'll show you State's Exhibit 41. Can you identify that?
A: This is the Enterprise rental car agreement that was inside the vehicle.
Q: And you took a picture of that as well?
A: Yes, sir.
Q: Okay. And who's -- who's the renter on that?
A: It comes back to a -- the renter is a Jimmy Hampton.
Q: Okay.
MR. CLEMENTS: Your Honor, at this time I would like to move items 41, 40, 39 into evidence.
THE COURT: What are they?
MR. CLEMENTS: The rental agreement, the program for the funeral for Mr. Rouse, and a bag with some receipts in it

that were all collected from the red Dodge Challenger.

THE COURT: Any objections, Ms. Henderson?

MS. HENDERSON: Judge, can I just look at them one moment?

THE COURT: Yes, ma'am.

What about the photographs?

MR. CLEMENTS: I'm getting ready to move those in in a minute. They're State's Exhibits 36, 37, and 38. We can move those into evidence at this time as well.

MS. HENDERSON: No objections from Mr. Barclay, Judge.

MR. HOFFMEYER: No objections from Mr. Hickson, Judge.

THE COURT: On any of them? 40 -- 39, 40, 41, 36, 37, and 38?

MS. HENDERSON: Not from Mr. Barclay.

MR. HOFFMEYER: No, sir. No objections.

THE COURT: All right. Without objection, so admitted.

(WHEREUPON, State's Exhibit No. 36, photograph, State's Exhibit No, 37, photograph, State's Exhibit No. 38, photograph, State's Exhibit No. 39, receipts, State's Exhibit No. 40, funeral program, and State's Exhibit No. 41, Enterprise car rental agreement, were all admitted into evidence.)

MR. CLEMENTS: Your Honor, we don't have any further questions.

THE COURT: Ms. Henderson?

MS. HENDERSON: Briefly, Judge.

RECROSS-EXAMINATION

BY MS. HENDERSON:

Q: Inv. McDaniel, you testified with Mr. Clements that you responded to Timmonsville Police Department and took those photographs of Cedric Levern Young at approximately 1:45 a.m.?

A: I believe so. Yes, ma'am.

Q: Yes, sir. So that means that after that you would have responded to the scene on Byrd Street?

A: Yes.

Q: So those pictures that you presented were taken some time after that. Let me rephrase that. I apologize. So the pictures that you took at Byrd Street were obviously taken some time after 1:45 a.m.?

A: I don't know a definite time, but it was definitely after the initial officers responded to the scene.

Q: Yes, sir. And I understand it's certainly not unusual for crime scene investigations to respond hours after an incident; correct?

A: That's correct.

Q: Is it unusual to respond to a scene that has been improperly crime scene taped off?

A: I don't understand your question.

Q: Is it improper -- is it unusual for you to respond to a

scene that has not been controlled?

A: By the time I get there, it's usually controlled.

Q: Okay. Is it unusual to respond to a scene where vehicles from the public have had the opportunity to drive on scene?

A: That is not unusual.

Q: It's not unusual?

A: That is not because --

Q: Okay.

A: -- when the 9-1-1 call comes in, before officers get there, cars are still coming by until we come and stop them and say we have an active crime scene.

Q: What about after crime scene tape is erected?

A: After crime scene tape is erected, then we'll use another path for them to go over something like that, just depending on the crime scene.

Q: But after crime scene tape is erected, vehicles from the public should not enter that scene?

A: Right.

Q: After crime scene tape is erected, individuals from the public should not enter that scene?

A: As best we can control.

Q: And if they enter the scene, they should be documented?

A: Yes.

Q: And when you crime scene tape up a scene, you do the

whole scene; correct?

A: As much as the information that we gather at the time of the incident occurs.

Q: Correct. And to your recollection, all that was taped off in this case was Tanyard Street; correct?

A: Yeah. The intersection of Byrd and Tanyard.

Q: The house itself was not taped off?

A: It was controlled by the officers when I arrived on scene as far as for them to stop --

Q: Yes, sir.

A: -- people from coming in and out.

Q: Was there tape up around the house?

A: Near Byrd and Tanyard, yeah, and there were officers there.

Q: The yard itself though, was it taped off where the little girl's body was found?

A: I wasn't there when the girl's body was found. I can't --

Q: Yes, sir. I understand.

MS. HENDERSON: No further questions, Mr. McDaniel. Thank you.

THE WITNESS: Yes, ma'am.

THE COURT: Mr. Hoffmeyer?

MR. HOFFMEYER: Nothing, Your Honor. Thank you.

THE COURT: Sir, you may step down. Thank you.

testimony you will give in this case will be the truth, the whole truth, and nothing but the truth, so help you God?

THE WITNESS: Yes, ma'am, I do.

THE CLERK: Please be seated on the witness stand and state your full name for the record.

THE WITNESS: Jimmy Lee Hampton, Jr.

MR. CLEMENTS: You can go ahead and take your mask off, if you want to.

JIMMY LEE HAMPTON, JR., being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. CLEMENTS:

Q: Mr. Hampton, how old are you?

A: Thirty-one.

Q: Where do you live?

A: Florence, South Carolina.

Q: Where were you born and raised?

A: Florence, South Carolina.

Q: All right. What connections do you have to Timmonsville?

A: That's where my family from.

Q: And your family, does that include Josh Hampton?

A: Yes, sir.

Q: JJ Hampton?

A: Yes, sir.

Q: KB Hickson?
A: Yes, sir.
Q: Mike Barclay?
A: Yes, sir.
Q: Do you know the Gee family?
A: Yes, sir.
Q: How long have you known them?
A: Some years.
Q: Do you remember where you were August the 25th, 2018?
A: Yes, sir.
Q: I'm going to show you a photograph. I'm going to show you State's Exhibit 38. Who is that?
A: Cedric Young.
Q: What's his nickname?
A: They call him Boogie.
Q: How well do you know him?
A: I know him well, not well enough, but I know him, you know, from Timmonsville.
Q: Would you say he's a relatively well-known person in Timmonsville?
A: Yes, sir.
Q: Were you at a party at -- first, let me ask you this. Have you ever had any convictions or problems with the law?
A: No, sir.
Q: You've never been in trouble at all?

A: No, sir.
Q: Did you go to a party at Cassandra Simon's house?
A: Yes, sir.
Q: There were a lot of people there?
A: Yes, sir.
Q: About how many if you had to guess?
A: Over a hundred maybe.
Q: Over a hundred?
A: Yes, sir.
Q: What part of Timmonsville does she live in?
A: Near the fire department. I can't tell what part, but near the fire department.
Q: Towards the airport? Close to the airport.
A: Timmonsville's got an airport?
Q: It's got a little grass strip.
A: I guess so.
Q: Well, I'll have to come after it from a different direction. Is it close to the creek that you cross coming into Timmons -- coming into Timmonsville on Highway 76?
A: Yes, sir.
Q: And her property is kind of halfway between Highway 76 and the Domino's?
A: Yes, sir.
Q: Okay. How was things -- how were things going at the party before any trouble started?

A: Everything was going pretty good. Everybody was just, you know, vibe-ing, partying, just chilling.
Q: Some disturbance happened. At about what time of night would you say that would have happened, if you know?
A: I don't remember what time it was.
Q: Do you remember somebody getting into a dispute?
A: Yes, sir.
Q: Who was it that was in the dispute?
A: It was my little cousin John, but they call him JJ, and Cedric. That's Boogie.
Q: Do you know what the cause of the fight was?
A: I have no clue.
Q: They just started fighting?
A: I seen them on the ground running around.
Q: All right. When you saw that, what did you do?
A: When everybody finished, I kind of jacked JJ up off the ground and walked him to his car and, you know, sent him home.
Q: You told him to go home?
A: Yeah.
Q: Did he stay home?
A: As far as I know of.
Q: Okay. What happened to Boogie?
A: I have no clue.
Q: Now, in a little bit something else happened to get your

attention. What was that?

A: They said somebody shot my aunt's --

MR. HOFFMEYER: Your Honor, I object to any hearsay.

MR. CLEMENTS: It is not offered for the truth of the matter asserted, Your Honor.

THE COURT: Can y'all approach a minute?

(WHEREUPON, a bench conference was held in the presence of the jury but out of the hearing of the jury as follows.)

THE COURT: Does he know or is he -- does he know?

MR. CLEMENTS: Does he know what?

THE COURT: Other than what somebody told him?

MR. CLEMENTS: Yeah. They went and checked it out, but the reason they went and checked it out is because somebody said it.

THE COURT: What's your objection?

MR. HOFFMEYER: Well, I object to what somebody told him. If he's going to testify based upon what I heard I went to my aunt's house to see what was going on, I don't object to that.

MR. CLEMENTS: That's where he's going.

MR. HOFFMEYER: But if he's going to say --

THE COURT: I'll allow him to testify to that.

MR. CLEMENTS: Yeah.

MR. HOFFMEYER: If he's going to say something talking

about --

MR. CLEMENTS: Proffer.

THE COURT: If it's not for the truth of the matter, it is not pointing to your client or Barclay.

MR. HOFFMEYER: I understand, Judge.

THE COURT: Okay.

(WHEREUPON, the bench conference ended, and the proceedings resumed as follows.)

THE COURT: Go ahead, Mr. Clements.

MR. CLEMENTS: Thank you, Your Honor.

BY MR. CLEMENTS:

Q: Let me just say you heard somebody shot up your aunt's house; right?

A: Yes, sir.

Q: What did you do?

A: We all immediately just left and went over there.

Q: When you say we, who all is we?

A: Who all was at the party that was kin to me. As far as, like, the people that was there with us.

Q: Who?

A: Me, Demonte, Michael was there, I had another cousin there, and I think that's it.

Q: You all went to your Aunt Dot's house?

A: Yes, sir.

Q: Where is that located?

A: Near the -- near the schoolhouse at the corner.

Q: What were you driving?

A: My blue car, a Charger.

Q: What was your cousin John driving?

A: Josh was driving his white car.

Q: White Dodge?

A: A white Dodge. Yes, sir.

Q: And what was Mike Mike driving?

A: He had a Challenger, a red one.

Q: I'm going to show you what's been marked State's Exhibit 25. Can you identify that and what that is?

A: That's my car.

Q: Which side of the car?

A: That's the driver's side.

Q: State's Exhibit 26, what is that?

A: That's my car, the back of it.

Q: State's Exhibit 27?

A: That's my car, the passenger side.

Q: State's Exhibit 28?

A: That's my car, the front of it.

MR. CLEMENTS: Your Honor, at this time we would move these into evidence, if they haven't already.

THE COURT: They've already been moved in. They've already been moved in.

MR. CLEMENTS: Okay.

THE COURT: 1 through 31 has already been moved in.

BY MR. CLEMENTS:

Q: Is this the car you were driving that night?

A: Yes, sir.

Q: Who was riding with you?

A: Demonte, KB.

Q: Do you see him here in this room?

A: Yes, sir.

Q: Can you please point him out to me?

A: (Indicating.)

Q: You said Mike Mike was driving the red Challenger?

A: (No verbal response.)

Q: How did he come to have the red Challenger?

A: He was coming down for a funeral. I think this guy who died named Lambo. He was coming down for his funeral and he asked to use a car, get him a rental car for a couple days and I was, like, okay, no problem. So I went up there and got a rental car.

Q: All right. Excuse me for moving slow. I just know that I'm going to knock these things over and they're going to go everywhere.

A: You're good.

Q: I'm going to show you what's been marked as State's Exhibit 39. If you could, tell me what that is a picture of?

A: Like, the receipt for Enterprise.

Q: Okay. And here is State's Exhibit 29. Is that a picture of State's Exhibit 41, a photograph?

A: Yes, sir.

Q: I'll hand you 41. Will you look at that and tell me who entered into that rental agreement?

A: Me.

Q: And who did you do that on behalf of?

A: Michael.

Q: Barclay?

A: Yes, sir.

Q: Do you know a guy that y'all referred to as Lambo? Did you know his real name?

A: Delonte.

Q: All right. I'm going to show you State's Exhibit 40. Is that a program from a funeral?

A: Yes, sir.

Q: For who?

A: Delonte, Lambo.

Q: And what -- what did this have to do in connection with Michael coming down from New York?

A: I think they was really close friends. I think he used to stay with him or I don't know. I know they were real close. It was another guy that died too that he used to stay with. I think his name was Kemell [*ph*], and I think he came down. He died, but they ain't had no funeral for him.

Q: Okay. So he came down for those reasons?

A: Yes. sir.

Q: All right. When was he scheduled to go back?

A: That -- that Sunday.

Q: The day after this shooting?

A: Yes, sir.

Q: And how did he -- how was he making his transportation?

A: I think it was bus.

Q: I'm going to show you State's Exhibit 22. I'm going to ask you to step down, if the Court will allow.

THE COURT: Yes.

THE WITNESS: You mean come down to you?

MR. CLEMENTS: Come down here by me. Come stand right here. Let me see if I can make this thing work.

(WHEREUPON, the witness complied.)

BY MR. CLEMENTS:

Q: What is State's Exhibit 22? What is that?

A: It's the Challenger, the car.

Q: Is that the one you rented?

A: Yes, sir.

Q: State's Exhibit 23?

A: The front of the car, same car.

Q: Same car? And you got that for Michael; right?

A: Yes, sir.

Q: Do you know -- during that week, did you ever see anyone

else driving that car?

A: No. No, sir.

(WHEREUPON, the witness returned to the stand.)

Q: The night on August 25th -- the night of August 25th --

A: Uh-huh.

Q: When y'all left the party to go to your Aunt Dot's, who was driving the red car?

A: All I know is Mike.

Q: And when you got up to your Aunt Dot's house to check to see what happened, who was driving that car?

A: All I know is him still.

Q: Okay. And then you all -- I'll get you to step down here.

A: Come back down?

Q: Yes.

(WHEREUPON, the witness complied.)

Q: I want you to stand where you were standing and face the jury so they can hear you and speak up loud so the court reporter can hear you.

What direction -- what area was Cassandra's party and her property? We've got Honda Way going this way and you've got Smith Street and Highway 76 is in this area right there. Whereabouts was her property, if you can tell?

A: Where Domino's at?

Q: Domino's is right in here, I believe.

A: I think it's right over here.
Q Yeah. Is that kind of an open area?
A: Yeah, I think so.
Q: When y'all got the message that someone had shot up your Aunt Dot's house, where did you have to go to? What was that address?
A: I don't know her address.
Q: [redacted] White?
A: I guess that's it.
Q: All right. So where is that? Where is White Street at?
A: That's Honda Way; right?
Q: Yeah. Coming back this way, is White Street right there?
A: Right there.
Q: That's her house, [redacted] White Street. What direction did y'all come from?
A: When we got to her house?
Q: To get to --
Q: From the party?
Q: To get to her house from the party. Yes, sir.
A: I think we came up here and came all the way down here and went straight.
Q: Okay. And when you found out she was all okay and everybody was okay, then where did you go next?
A: We went down this road right here.

Q: Warren Street?

A: Yes, sir. I think we kept straight. I think we came up on that road right there somehow. Anyhow, we went down here and then we turned by the -- by the post office.

Q: Yes.

A: And then turned up on --

Q: Tanyard?

A: Tanyard Street. Yes, sir.

Q: Okay. And you weren't in front, were you?

A: No, sir.

Q: Who was in front?

A: There was a couple cars in front of me. I think it was the red Challenger, there was a burgundy truck, and I think there was another car in front of me.

Q: Who drives a burgundy truck?

A: Doc Lee.

Q: Okay. And the red car was driven by Mike?

A: Yes, sir.

Q: All right. Hold on. We got another picture. Do you know what this is the intersection of? Wait a minute. Not that.

A: I think I know where it is.

Q: Where? Where is this the corner of?

A: I think that's the corner of the house. The church is over there. Yeah, that's right.

Q: The church is right here?

A: Yeah.

Q: Okay. How did the cars come in and stop, if you recall?

A: I think it was on this side of the street from this way.

Q: Okay. The red car, the white car, and the blue car?

A: It was a burgundy truck in front of the red car. There was a burgundy truck in front of it, and I think the red car was next and there was another car. This white car was behind me.

Q: Okay.

A: I think there was another car over here.

Q: But you were right in on the scene; right?

A: Yes, sir.

Q: In the blue car?

A: Yes, sir.

Q: When you pulled up and you stopped, what happened?

MR. HOFFMEYER: Your Honor, I object to the leading. He's not testified and I don't believe it's in evidence that he pulled up and stopped yet.

MS. HENDERSON: I join in Mr. Hoffmeyer's objection.

THE COURT: Rephrase your question.

BY MR. CLEMENTS:

Q: What happened when you pulled up?

A: When we pulled up, we just heard shots.

Q: Was anybody in the car with you?

A: Yes.
Q: Who?
A: Demonte.
Q: What did they do?
A: At first they didn't do nothing. Shots was going off and then, you know, I was trying to leave and he jumped out of the car.
Q: All right. I thought he tried to jump back in your car after he jumped out?
MR. HOFFMEYER: Objection to the leading, Judge.
MS. HENDERSON: I join in that objection.
THE COURT: I'll allow it. Go ahead.
BY MR. CLEMENTS:
A: I mean at both point in time, me and him, me getting there and leaving at the same time. You know, while I'm leaving, he tried to jump back in.
Q: Okay. Why would he try to jump out if you were leaving?
A: I don't know.
Q: Is that what you told me earlier?
A: What? When?
MR. HOFFMEYER: Your Honor, I object.
MR. HENDERSON: Objection. Improper questioning.
THE COURT: Mr. Clements?
MR. CLEMENTS: Yes, sir.
THE COURT: Go ahead.

BY MR. CLEMENTS:

Q: What did you tell me about what happened when you stopped the car, what KB did, what did you tell me?

MR. HOFFMEYER: Your Honor, I object --

MR. HENDERSON: Objection.

MR. HOFFMEYER: -- to the --

THE COURT: Hold on a minute. Y'all approach, please.

(WHEREUPON, a bench conference was held in the presence of the jury but out of the hearing of the jury as follows.)

THE COURT: What's your objection?

MR. HOFFMEYER: Your Honor --

THE COURT: If he told him something earlier in a different interview --

MS. HENDERSON: That's blurring the lines of him testifying himself.

MR. HOFFMEYER: Plus, Judge, we -- I think -- in my understanding of the rules of evidence, the law is clear the solicitor can't ask him about what he told him earlier like that. He has to just ask the questions because there's no way that we can then cross-examine the solicitor about that conversation.

THE COURT: That's true, Mr. Clements.

MS. HENDERSON: That's what I was saying about blurring the testimony himself.

MR. CLEMENTS: I asked him what he told me earlier. I didn't ask him did he tell me earlier. If I ask him didn't you say something earlier, they can't cross-examine me, but if I say what did you tell me, they can certainly cross-examine him because he's making a statement, not me. I'm just asking a question. It's not a leading question because it's what.

MS. HENDERSON: I disagree.

THE COURT: He's not putting testimony in the record as to what he told him earlier.

MR. HOFFMEYER: Well, he is circumventing.

MS. HENDERSON: He is making himself a witness.

MR. HOFFMEYER: He's circumventing that by saying what did you tell me earlier. I don't believe --

MR. CLEMENTS: How do you -- how do you ever get somebody to be called a hostile witness then?

MR. HOFFMEYER: Are you declaring him a hostile witness?

MR. CLEMENTS: That's what I'm having --

MR. HOFFMEYER: Are you seeking the Court to declare him that?

MR. CLEMENTS: That's where I'm headed to, it looks like.

MR. HOFFMEYER: Well --

MR. CLEMENTS: Based on him telling me something different.

THE COURT: What did he tell you differently?

MR. CLEMENTS: He told me he stopped, KB jumped out of the car, he heard gunshots, he tried to get out, he tried to turn around, and KB jumped into the backseat of his car as he pulled off, but he definitely said KB jumped out of his car before the shots and then he heard shots.

MR. HENDERSON: Can we talk about this outside the presence of the jury? I don't want them to hear that.

MR. CLEMENTS: What?

MR. HENDERSON: I don't want the jury to hear this.

MR. HOFFMEYER: We might need to take this up outside of the jury's presence.

(WHEREUPON, the bench conference ended, and the proceedings resumed as follows.)

THE COURT: All right. Ladies and gentlemen, I have to ask you to step to the jury room for just a minute. Do not discuss the case. I'll get you back out here as quickly as possible.

(WHEREUPON, the jury exited the courtroom at 11:31 a.m.)

THE WITNESS: You want me to sit down?

THE COURT: Hold on just a minute. Let them exit the courtroom, please.

Mr. Hampton, you can come back and sit down now, sir.

(WHEREUPON, the witness complied.)

THE COURT: Hold on just a minute. Hold on a just a

minute.

(WHEREUPON, there was a pause in the proceedings, after which the proceedings resumed as follows.)

THE COURT: All right. Mr. Clements, let me hear from you.

MR. CLEMENTS: Sir?

THE COURT: Well -- well, let me back up. Let me hear from you, Ms. Henderson. It's the defendants' objection.

MS. HENDERSON: Yes, sir. Defendant Barclay's position is that by Mr. Clements asking Mr. Hampton questions such as isn't this what you told me or what you told me earlier, is this different from what you told me earlier, that places Mr. -- Solicitor Clements now in the position of becoming a witness himself. Mr. Barclay will not have the opportunity to confront him and to cross-examine him.

THE COURT: Mr. Hoffmeyer?

MR. HOFFMEYER: Yes, sir. Your Honor, I agree with what she just shared with the Court. Also, it's leading, but more importantly, her point, and I -- I've been trying to find a case somehow some way through our phones that I feel confident, but I can't provide the Court with the case. So I --

MS. HENDERSON: And, Judge, I'm trying as well.

MR. HOFFMEYER: So I apologize for that, but I feel like it's clear that whether it's a civil case or a criminal case

that a lawyer can't say to a witness didn't you tell me something different. That creates a bind for the other party or in this case the defendant about those discussions that the solicitor or in any case that went on and the ability to have that person, the solicitor in this case, testify.

THE COURT: All Right. Thank you.

MR. HOFFMEYER: Yes, sir.

THE COURT: Yes, sir.

MR. CLEMENTS: Your Honor, I haven't put anything in the record of testimony. I've just asked him the question what -- what did you tell -- what are you telling me different. That's not -- the answer could be nothing. The answer could be something great or something small, but I'm asking a nonleading question and I'm not putting anything in the record that could possibly be construed as evidence or testimony. I'm just asking the question. How do you ever deal with a recalcitrant witness or a witness that's having difficulty squirming unless you're able to do that?

MS. HENDERSON: And, Judge, if I may, I have no issue with the question being is this different than what you told investigators, but for him himself, he can't get up there and question the witness as to the nature and crux of their personal conversations.

THE COURT: Mr. Clements?

MR. CLEMENTS: I can't testify. All I can do is ask the

question. What is this? How is this? What is this? Where is this different from what you've told me in the past and if they say nothing, I don't get a chance to testify or do anything other than ask the questions. He provides the information.

MR. HOFFMEYER: Your Honor, if I may, whenever -- if you don't mind me mentioning one other or another concern I have.

THE COURT: Yeah.

MR. HOFFMEYER: You know, whenever you have a prosecutor or any lawyer, particularly the solicitor prosecuting a case, and he comes to the witness about a discussion they had, are you telling me something different than you said in the past, it creates the inference that this witness in the past has told him something different, that it was helpful for the State.

It can confuse the jury, but in addition there's a certain power to that. You know, you're not telling me what you told me before when we were meeting to prosecute this case. So the jury immediately tends to think this witness has a different story that helps the State. I think it creates lots of problems.

Your Honor, if I may, we -- there's a case that I'm trying to look through right now that might be pertinent to the judge's decision. It's *State v. Angel Sierra*. This was filed on October 4th, 1999. This is the advance sheet

version; so I can't cite to the Court.

THE COURT: It's a '99 case?

MR. HOFFMEYER: Let's see, Judge. It was heard June 9th, 1999, filed October 4th, 1999. It's a Court of Appeals case, *State v. Angel*, A-n-g-e-l, *Sierra*, S-i-e-r-r-a.

(WHEREUPON, there was a pause the proceedings, after which the proceedings resumed as follows.)

THE COURT: All right. Looking at this case of *State v. Sierra*, which is actually cited as 337 S.C. 368, that case discusses the fact about -- let's see. Bear with me here.

The Court stated defendant's confrontation rights were violated when the prosecutor impeached defense witness during cross-examination with a prior inconsistent statement that witness allegedly made to prosecutor, even though witness denied making that statement, which leads the Court to believe that without going through the exact -- the -- all of the facts of the case would lead the Court to believe that the prosecutor laid out the facts in cross-examination of a prior inconsistent statement that the witness told the prosecutor earlier.

The *Sierra* Court held that that was improper. It was improper for cross-examiner to testify by making statements of fact which could result in some confrontational violation pursuant to the Sixth Amendment. So I'm not going to allow the State to ask that question in that manner because I think

it does potentially create some type of improper inference.

Furthermore, which was referenced up here at sidebar before I sent the jury out, it was brought up by defense counsel about this witness being -- the witness had not been declared hostile I think was the -- what was said up here, and Mr. Clements indicated that he -- that he may end up doing so.

In looking at *State v. Bendoly*, B-e-n-d-o-l-y, 273 S.C. 47, in that case and -- let's see -- as well as *State v. Hamlet*, 294 S.C. 77, in those two cases I mean it -- to declare a witness hostile, there must be a showing of actual surprise and harm.

Furthermore, in each of those two cases the witness in those cases had previously given sworn testimony -- had given sworn testimony and then testified differently than he was doing so during the course of this trial. We do not have any prior sworn testimony of Mr. Hampton and there's certainly --

MR. CLEMENTS: Judge, I can barely hear you.

THE COURT: Sir?

MR. CLEMENTS: I can barely hear you.

THE COURT: I'm sorry. I cut my mic on yesterday and it about blew us all out of here. So I kind of left it off after that.

Under *State v. Hamlet* and *State v. Bendoly*, each of those cases involved efforts where the actual declaring of a

witness as hostile, to declare a witness hostile, there must be a showing of actual surprise and harm, which that hasn't been shown here, but in each of those cases prior witnesses' statements were through some type of sworn testimony. His prior sworn testimony was inconsistent with the testimony that that individual or that witness was giving during the course of the trial. We do not have any prior sworn testimony of Mr. Hampton.

Regardless, I think that line of questioning would run afoul of *Sierra* as well. So I'm going to sustain the defendants' objection on that issue.

Anything else at this time before I step down for a few minutes?

MS. HENDERSON: No, sir.

MR. HOFFMEYER: No, sir. Thank you, Judge.

THE COURT: Mr. Hampton, I'm going to let you step down, but do not discuss your testimony at all with anyone. When I come back, I'll bring you back in here and we'll bring the jury in and we'll resume the trial. Okay?

THE WITNESS: Yes, sir.

THE COURT: Thank you.

(WHEREUPON, there was a break in the proceedings from 11:58 a.m. until 12:05 p.m., after which the proceedings resumed as follows.)

THE COURT: All right. Anything further from the State

before I bring the jury back out?

MR. CLEMENTS: Not right now, Judge.

THE COURT: Ms. Henderson?

MS. HENDERSON: No, sir, Judge.

THE COURT: Mr. Hoffmeyer?

MR. HOFFMEYER: No, sir, Judge. Thank you.

THE COURT: Bring me the jury, please, ma'am.

Hold on, Ms. Mary. I just recognized the defendants weren't in here. Hold on just a second.

(WHEREUPON, there was a pause in the proceedings, after which the proceedings resumed as follows.)

THE COURT: All right. You can bring them in now. Thank you.

(WHEREUPON, the jury entered the courtroom at 12:06 p.m.)

THE COURT: All right. We have all the jurors present.

Mr. Clements, you're recognized.

MR. CLEMENTS: Thank you, Your Honor.

BY MR. CLEMENTS:

Q: Mr. Hampton?

A: Yes, sir.

Q: Do you remember talking with Mr. McFadden and Mr. Patrick McLaughlin, your attorney?

A: Yes, sir.

Q: Do you remember giving a written statement?

A: Yes, sir.
Q: Okay. When you left your Aunt Dot's house, what were your intentions?
A: I thought the -- well, the intention was -- I thought they was -- you know what I'm saying? We was about to go down there I guess where somebody at, not the other thing.
Q: Not shooting?
A: Yeah.
Q: Who were y'all looking for?
A: Boogie.
Q: Boogie?
A: Yes, sir.
Q: And when you got there to Byrd and Tanyard, did you see any indication of Boogie there?
A: I ain't seen nothing.
Q: You didn't see nothing?
A: No, sir.
Q: You stopped the car and Demonte was in your car with you?
A: Yes, sir.
Q: What did you hear anybody say or anything?
A: I thought somebody said where's Boogie at?
Q: And what happened after that?
A: Next thing I heard the shot.
Q: They shot?

A: Yes. I just heard one shot at first.

Q: Okay. And what did -- where was Demonte?

A: He was in my car at the time.

Q: All right. At what point did he jump out the car?

MR. HOFFMEYER: Your Honor, I object to the leading.

THE COURT: Sustained.

MR. HOFFMEYER: It's not in the record.

THE COURT: Sustained. Rephrase your question, please.

BY MR. CLEMENTS:

Q: Did Demonte, KB, did he jump out of your car?

A: Yes, sir.

Q: At what point in time did he jump out of your car?

A: I was approximately trying to leave.

Q: All right. You knew he was getting out and you were leaving anyway?

A: I didn't know he was getting out. No, sir. But when he jumped out, yes, I was leaving anyway.

Q: When he jumped out, did you hear more shots?

A: Yes, sir.

Q: Pretty close?

A: Yes, sir.

Q: And you pulled off and left and what did he do to catch up with you?

A: He jumped in the backseat.

Q: He jumped in the backseat?

A: Yes, sir.

Q: All right. And y'all went in which direction?

A: We went back towards to my Aunt Dot's house. We went back towards my Aunt Dot's house.

Q: All right. And where did the other cars go?

A: I have no clue.

Q: Okay. But you never saw anybody driving or recognize anybody driving other than Mike Mike?

A: No, sir. No, sir.

Q: Nobody else?

A: No, sir.

Q: Now --

MR. CLEMENTS: I beg the Court's indulgence a moment.

BY MR. CLEMENTS:

Q: What did you do with KB?

A: Dropped him off back at my aunt's house.

Q: At your house?

A: My aunt's house.

Q: Aunt Dot?

A: Yes, sir.

Q: Okay. Where did the rest of the people go?

A: I don't know, but before I went home, I called Mikey and asked him -- you know what I'm saying? -- where he dropped the rental car off because we already had it scheduled to drop off anyway.

Q: Okay. So you called him, he didn't call you?
A: No. I called him.
Q: Okay. Which -- do you know what kind of phone he had?
A: No, sir.
Q: You don't know whether it was an iPhone or a Samsung or whatever?
A: I don't.
Q: After you talked with him on the phone, what did you do?
A: We met up at the Enterprise.
Q: All right. What was he doing when you came up?
A: He was getting out of the car. He was wiping the car down.
Q: He was wiping the car down?
A: Yes, sir.
Q: What did you say to him about that?
A: Nah. I asked him -- I was like, I hope you ain't got me in -- I hope you didn't do nothing that you ain't supposed to be doing. I hope you ain't got me in no trouble or nothing. He said, nah, you're good, we good. He said you're good.
Q: And what did you do?
A: Dropped him off at the hotel he was going to catch the bus from.
Q: All right. And that was supposed to be the next day?
A: Yes, sir.
Q: Okay. Hold on a second. Do you see KB in this

courtroom?

A: Yes, sir.

Q: Can you please point him out to me?

A: (Indicating.)

Q: Do you see Mike Mike in this courtroom?

A: Yes, sir.

Q: Can you point him out to me?

A: (Indicating.)

Q: What color shirt does he have on?

A: You talking about now?

Q: Yes.

A: Blue and gray, blue and white.

Q: Blue on --

A: Mike. And the white KB.

Q: Okay. Were you charged in this?

A: Was I charged?

Q: Yes.

A: Yes, sir.

Q: And when did you hear that someone had died in the shooting?

A: The next morning.

Q: What did you do?

A: We went -- we went straight to the police station.

Q: Who is we?

A: Me and the guys. We was all there.

Q: Which guys?

A: Me, Demonte, and Josh.

Q: Okay. Mike Mike -- he had already headed back to New York?

A: I think he was already gone. Yes, sir.

Q: Who took you up there to the jail?

A: My dad got all us together and we went up there.

Q: All right. And did you give statements at that time?

A: Yes, sir.

Q: Some of them on video?

A: Some of them on video?

Q: Yeah.

A: I don't -- I don't know about there at the -- at the police station was it on video, I don't know.

Q: Well, how about when you met with Inv. McFadden?

A: Yes, sir.

Q: With your lawyer?

A: Yes, sir.

Q: That was on video?

A: Yes, sir.

Q: Okay. What are you -- what exactly is the charge you're charged with today?

A: I got charged too. What I got charged with?

Q: Yeah. That's pending still today.

A: Murder. Yes, sir.

Q: Okay. Did you enter into any kind of agreement to testify truthfully?

A: No, sir.

Q: You have not?

A: No, sir.

Q: You've not been told you'd be charged with a different charge if you testify truthfully?

A: No, sir.

MR. CLEMENTS: I beg the Court's indulgence.

THE COURT: All right.

(WHEREUPON, a bench conference was held in the presence of the jury but out of the hearing of the jury as follows.)

MR. CLEMENTS: Now I really don't know what I'd do with that.

MS. HENDERSON: I'm sorry. I can't hear you.

MR. CLEMENTS: I really don't know what to do with that.

MS. HENDERSON: Do with what?

MR. CLEMENTS: He just said he was not offered anything or didn't enter into an agreement to get a lesser charge if he testified truthfully.

THE COURT: What have you offered him? I don't know.

MR. CLEMENTS: Do what?

THE COURT: What have you offered him?

MR. CLEMENTS: I offered him to go forward on accessory

after the fact if he testified truthfully, and he hasn't testified truthfully. So --

THE COURT: He hasn't?

MR. CLEMENTS: No. I just wanted to bring this to the Court's attention that he's up here telling something that's false, but I don't know what he's going to do.

MR. HOFFMEYER: I don't know if he understands that.

THE COURT: Well, I'll allow a leading question on that --

MR. HOFFMEYER: Yeah.

THE COURT: -- to clarify if you have to.

MR. CLEMENTS: Yeah. Okay.

MR. HOFFMEYER: Yeah.

THE COURT: Okay?

MR. HOFFMEYER: Yes, sir.

THE COURT: Because I think it would be improper for y'all to get up and cross-examine him on that issue when that's, in fact, not what he said here. Maybe he doesn't understand, you know.

MR. HOFFMEYER: I think that's the problem.

MR. CLEMENTS: He understands. He's smart.

(WHEREUPON, the bench conference ended, and the proceedings resumed as follows.)

BY MR. CLEMENTS:

Q: Weren't you -- weren't you offered that you could get a

lesser charge of accessory after the fact if you testified truthfully?

A: Say that again now?

Q: Weren't you offered to be able to plead to accessory after the fact, which is a lesser offense, if you testified truthfully?

A: Was I offered that?

Q: Yes.

A: From?

Q: From the prosecution.

A: I don't remember.

Q: All right.

MR. CLEMENTS: We don't have any further questions.

MS. HENDERSON: Judge, Mr. Barclay has no questions for Mr. Hampton at this time.

MR. HOFFMEYER: Thank you, Judge.

I just have a few follow-up questions for you, Mr. Hampton.

I might take this down, if nobody needs it right this minute. Excuse me.

CROSS-EXAMINATION

BY MR. HOFFMEYER:

Q: Now, Mr. Hampton, we might as well start with that last question just since the State questioned you about it. You understand accessory after the fact is a crime that is a much

lesser crime than murder? Do you understand that?

A: Yes, sir.

Q: Okay. And so if someone were charged with murder and allowed to -- instead of going to trial on murder or plead to murder were to enter a plea to accessory after the fact, that would be an advantage to them, wouldn't it?

A: Yes, sir.

Q: And murder carries 30 years to life. Are you aware of that?

A: Uh-huh.

Q: Is that a yes?

A: Yes, sir.

Q: Okay. Thank you. And of course, accessory after the fact carries zero to 15. Are you aware of that?

A: Yes, sir.

Q: Okay. And also accessory after the fact is parolable, whereas murder isn't. Are you aware of that?

A: Yes, sir.

Q: Okay. And so with regard to your testimony today, it's your hope -- and the solicitor was asking you about this -- that by testifying you would then enter into -- enter a plea to accessory after the fact as opposed to murder; isn't that fair to say?

A: Yes, sir.

Q: Okay. All right. So that would be obviously,

understandably, a huge benefit, wouldn't it?

A: Yes, sir.

Q: Okay. Thank you, sir. Now, as far as this particular evening, you told us about what occurred and you told us that then the very next day you and Mr. Hickson and, I believe, maybe two other individuals, y'all willingly went up to cooperate with the investigation in this case; is that right?

A: Yes, sir.

Q: Okay. And, Mr. Hampton, at that time you understood the significance of the statement that you were giving to law enforcement, I'm sure?

A: Yes, sir.

Q: Because it obviously is very serious.

A: (No verbal response.)

Q: Is that a yes?

A: Yes, sir.

Q: And I'm not fussing at you. This young lady has to take it all down. That's why I want to make sure we get verbal responses.

And so at that time you would have spoken to Inv. Strickland; is that correct?

A: I don't know his name, but I spoke to somebody. Yes, sir.

Q: Okay. And before writing a statement, you actually discussed the information you had with the investigator; is

that right?

A: Yes, sir.

Q: Okay. So not only did you have the opportunity to eventually write the statement, but you also went over what you were getting ready to write before you did so?

A: Went over with?

Q: I'm not asking a very good question. Before you were asked to put it in writing, you had the chance to go over what you were going to say in terms of discussing it, not go over with somebody, but you discussed what your statement would be before you wrote the statement?

A: Discussed it with who? No, sir. Discussed it with who?

Q: Okay. Let me -- let me try and do a much better job of explaining to you what I'm asking. When it comes to when you went to -- I guess it would be Timmonsville Police Department?

A: Yes, sir.

Q: All right. Now, there was an investigator that you met with?

A: Yes, sir.

Q: Now, when you initially got there, did he immediately ask you to write the statement or did he talk to you about the statement first?

A: I think they just immediately give us a pen and paper and sent us to a room and told us to write.

Q: Okay. And when you did so, of course, you were mirandized; correct?

A: I don't know what that mean.

Q: That's fine. I'll be glad to try and explain that. That's where someone says you understand you have the right to remain silent, if you want an attorney, you can get one, and stuff like that.

A: When I wrote the statement?

Q: Well, let me get -- let me show you the statement, just that particular portion, so maybe that'll help refresh your recollection as to -- this is just to refresh your recollection. I'm looking at page 2 of the statement. Let's start there. This looks like the statement that was given on August 26th, 2018, at 10:18 a.m.

A: Uh-huh.

Q: Is that a yes?

A: Yes, sir.

Q: Okay. And it looks like your name is right there; is that correct?

A: Yes, sir.

Q: Okay. And it looks like there's your signature right there?

A: Yes, sir.

Q: And these are the rights. I know you're not used to this, but these are the rights that the investigator went

over with you and you checked each -- each one of them?
A: Yes, sir.
Q: Okay. And so that talks about the right to remain silent and all those things. And you can feel free to look at it again.
A: I don't remember him talking about it, but I guess I remember this paper right here.
Q: Okay. That's fine. I'll just leave it there for now. All right. And so at this juncture you were given the opportunity after the very night before to write down what occurred; is that right?
A: Uh-huh.
Q: Mr. --
A: Yes, sir. Yes, sir.
Q: Okay. Thank you, sir.
A: Sorry.
Q: Now just to refresh your recollection about what the very next day you told law enforcement, I'm going to have you review that and take your time.
A: Okay.
Q: Okay. Thank you, sir. And I may ask that you again look at it and I'm going to ask you a few questions, if you need to.
A: Yes, sir.
Q: Okay. Thank you, Mr. Hampton. Now, when you gave the

initial statement, of course, you indicated that you previously discussed with us that Demonta and you, Mr. Hickson, were in the car?

A: Yes, sir.

Q: And you say that you see the Challenger leave and everybody left. So you were following the Challenger with Demonta in the car; is that right?

A: Yes, sir.

Q: Okay. And then you said or rather wrote we get there and the next thing I hear is gunshots; isn't that right?

A: Yes, sir.

Q: All right. And so when -- according to your statement, when you heard the gunshots, you and Demonta left; is that right?

A: Yes, sir.

Q: Okay. And then you indicated that you really did not know who was shooting; is that correct?

A: Yes, sir.

Q: I see. Okay. And so once -- according to your statement given the very next day after this occurrence, according to your statement you and Demonta pull up and you hear gunshots and then you leave and that's what you put and that's all you put?

A: Yes, sir.

Q: Okay.

MR. HOFFMEYER: If you'll excuse me one second. And if you'll excuse me one second, Judge and Mr. Hampton and jury?

THE COURT: Yes, sir.

MR. HOFFMEYER: Thank you, Mr. Hampton. I don't have anything further.

THE WITNESS: Yes, sir.

THE COURT: Mr. Clements, any redirect?

MR. CLEMENTS: A little bit.

REDIRECT EXAMINATION

BY MR. CLEMENTS:

Q: Mr. Hampton?

A: Yes, sir.

Q: Mr. Hoffmeyer said that's -- said what you wrote and said that's all you wrote. You hadn't been charged at this point, had you?

A: No, sir.

Q: Did you write all of it?

A: No, sir.

Q: You went later after you were charged with Inv. McFadden; is that correct?

A: Yes, sir.

Q: And gave a video statement?

A: Yes, sir.

Q: What did you say during that video statement about KB shooting?

A: That he jumped out my car.
Q: And?
A: And I heard shots once he jumped out.
Q: So he jumped out your car and you heard shots once he jumped out your car?
A: I mean there were shots already going off, but, you know, when he jumped out the car, there was more shots. You know, some of them sounded like it was closer, some sounded like they was away. I just heard a lot of shots going on.
Q: Did it sound like more than one gun?
A: Shooting, yes, sir.
Q: Okay. Do you remember in your written statement you wrote about the red vehicle, didn't you?
A: Yes, sir.

MS. HENDERSON: And, Judge, I would object to this. I believe this is beyond the scope of Mr. Hoffmeyer's cross-examination.

THE COURT: I'm going to allow it.

BY MR. CLEMENTS:

Q: This is your written statement --

MR. CLEMENTS: And I would like to ask that it be marked and moved into evidence at this time, Your Honor.

THE COURT: Any objection, Ms. Henderson?

MS. HENDERSON: One moment, please, Judge.

THE COURT: Mr. Hoffmeyer?

MS. HENDERSON: Judge, I would object again. I believe this is beyond the scope of cross-examination.

THE COURT: Let me see it. Can the lawyers come up here?

(WHEREUPON, a bench conference was held in the presence of the jury but out of the hearing of the jury off the record, after which the proceedings resumed as follows.)

THE COURT: All right. I'm going to sustain the objection as to the admissibility of the statement pursuant to Rule 613. However, I will allow you to question the witness concerning such over Defendant Henderson -- excuse me -- Defendant Barclay's objection.

(WHEREUPON, the statement was marked as Court's Exhibit Number 3.)

MR. CLEMENTS: Thank you, Judge.

THE COURT: All right.

BY MR. CLEMENTS:

Q: I'm going to show you. This is your handwriting, isn't it?

A: Yes, sir.

Q: And your signature?

A: Yes, sir. Yes, sir.

Q: Can you -- since this is not going into evidence --

A: It don't -- I mean it said don't. I was just looking at the answer.

Q: Well, I'll put that in there and let you explain that.
A: Yeah, right here. Don't. Yeah.
Q: The question I'd like is to begin right here. Read to the end of the statement. If you'll read that to the jury.
A: I got to read it how I put it in there? Because I didn't --
Q: Read it. Read it like what you wrote that day. You can say that that should have been do not where --
A: Right.
Q: -- it says do.
A: I really -- I really don't know who was shooting, but I seen someone get out the -- get back into the red Challenger. It could have been Mike, but I really don't know. The red Challenger is in my name. My cousin Mike came down from New York and I rented the car, the Challenger, for him to get around. He called me and asked -- he called me and asked me to get -- to let him go ahead and go. I can't read my own handwriting. He called and asked me to let go ahead -- to let go ahead and --
Q: Let's --
A: Oh, let's go ahead and drop the car off. I was, like, okay. When we get there, I seen him wiping the car down. I was, like, what happened. He was, like, he didn't tell me and I -- and I was saying -- and all I seen was drop -- all I did was drop him off at the bus -- I mean drop him off at the

bus -- I mean drop him off at the bus and go pick him up and drop him off at the store.

Q: Okay. Back -- back then during that time period, you had dreads, didn't you?

A: Yes, sir.

Q: And Mike didn't have dreads, did he?

A: No, sir.

Q: And KB had dreads, didn't he?

A: Yes, sir.

Q: Okay. And you said KB is sitting there in the gray -- white shirt?

A: Yes, sir.

Q: And Mike was in the blue shirt?

A: Yeah, he's got the blue shirt on. Yes, sir.

Q: Okay. All right.

Q: Do you remember giving a videotaped statement?

A: Yes, sir.

Q: To Inv. McFadden?

A: Yes, sir.

Q: Mr. McLaughlin was there?

A: Yes, sir.

Q: Do you recall the substance of what you were saying that day in that interview?

A: Yeah. I kind of remember a little bit of it. Yes, sir.

Q: Can you tell us what you said in regards to KB shooting

and the probability of it?

A: What I told you earlier?

Q: What you said on that video.

A: About him getting out of the car?

Q: No. About whether he shot or not.

A: Do I think he shot?

Q: Yeah.

A: I said I think he -- I think he shot.

MR. HOFFMEYER: I object to speculation.

THE WITNESS: I already said that earlier.

MR. CLEMENTS: Okay. I'll withdraw that.

MR. HOFFMEYER: Your Honor?

THE COURT: It's withdrawn.

MR. CLEMENTS: That's all I have.

THE COURT: Ms. Henderson, any -- anything?

MS. HENDERSON: Nothing from Mr. Barclay, Judge.

THE COURT: Mr. Hoffmeyer?

MR. HOFFMEYER: Just briefly.

RECROSS-EXAMINATION

BY MR. HOFFMEYER:

Q: You told Mr. Clements previously that you didn't know who was shooting; isn't that correct?

A: I read that, yeah. Yeah, at that point in time I read that, but he asked me earlier -- earlier about him getting out of the car and --

MS. HENDERSON: No, sir.

THE COURT: Mr. Hoffmeyer?

MR. HOFFMEYER: No, sir, Your Honor. Thank you.

THE COURT: Bring me the jury, please, ma'am.

(WHEREUPON, the jury entered the courtroom at 2:08 p.m.)

THE COURT: All right. We've got all the jurors present. I hope you all had a nice lunch and are ready to proceed this afternoon.

Mr. Clements, you're recognized. Call your next witness, please.

MR. CLEMENTS: Thank you, Your Honor. We'd call Dr. Angelina Phillips.

THE CLERK: Place your left hand on the Bible and raise your right hand. Do you swear or affirm that the testimony you give will be the truth, the whole truth, and nothing but the truth, so help you God?

THE WITNESS: I do.

THE CLERK: Thank you.

DR. ANGELINA PHILLIPS, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. CLEMENTS:

Q: Dr. Phillips, will you please spell your name for the court reporter?

A: Angelina Phillips, P-h-i-l-l-i-p-s.

Q: And where do you work?
A: I work at the Medical University of South Carolina.
Q: And in what capacity do you work?
A: I am a forensic pathologist.
Q: Excuse me. Can you please tell us what a forensic pathologist is and what you do on a daily basis?
A: A forensic pathologist is a doctor who is trained in the field of pathology and specifically the part of pathology that involves performing autopsies, and that is what I do on a daily basis. I do autopsies and I complete the associated paperwork.
Q: And what kind of training do you have to have to be a forensic pathologist?
A: There's a number of years of training involved, the same training any medical doctor goes through. So you get an undergraduate in premedical education, four years of that. Then four years of medical school before training in general pathology. That's another four years and then I came down here to South Carolina, where I did one additional year specifically in forensic pathology.
Q: Can you please give us information on where you did your undergrad and graduate work, what schools?
A: I completed an anthropology degree at New York University. I did a master's degree in human nutrition at Columbia University in New York. I completed my medical

education at the State University of New York in upstate New York, and that was about it.

Q: Okay. And as a forensic pathologist, do you have to keep up with trends or new information and new techniques that come down?

A: I do.

Q: What type of continuing medical education do you do?

A: So I go to a yearly conference from the American Association of Forensic Science. I can also attend conferences and presentations from the National Association of Medical Examiners. Those are both academies and conferences that I belong and am a member of. Additionally, there are publications and other classes and lectures that I can attend for credits to go towards my continuing education.

Q: Now, have you ever been qualified as an expert in any field in state or federal court as a witness?

A: Yes. I have been qualified in forensic pathology.

Q: Approximately how many times in state court?

A: Approximately 20 times.

Q: How about federal court or other states?

A: I have never been qualified in federal court or other states.

MR. CLEMENTS: Your Honor, we would submit Dr. Phillips as an expert in the field of forensic pathology.

THE COURT: Ms. Henderson?

MS. HENDERSON: No objection, Judge.

THE COURT: Mr. Hoffmeyer?

MR. HOFFMEYER: No objection, Judge.

THE COURT: Ladies and gentlemen of the jury, I previously gave you a charge as it relates to expert witnesses. That same charge remains in effect for this witness, who has been qualified as an expert in the area of forensic pathology to give opinion testimony in that area.

As I told you all previously, that does not mean that you must accept the opinion, but it is evidence for you to use in any way that you see fit and give it the weight and credibility that you deem appropriate.

Mr. Clements, you may continue, sir.

MR. CLEMENTS: Thank you, Your Honor.

BY MR. CLEMENTS:

Q: Dr. Phillips, did you have an occasion to do an autopsy on a child by the name of [redacted] in August of 2018?

A: Yes, sir.

Q: Can you tell us when you were -- you were tasked with that?

A: I performed the autopsy on the 27th of August, 2018, in the morning.

Q: Did you reach a conclusion on her manner of death?

A: Yes, sir.

Q: To a reasonable degree of medical certainty?

A: Yes.
Q: What was that conclusion?
A: Homicide.
Q: Did you reach a conclusion on the cause of death?
A: Yes.
Q: What was that conclusion to a reasonable degree of medical certainty?
A: That was a gunshot wound to the chest and there was a contributory gunshot wound to the left arm.
Q: So was that made by one -- one strike, perhaps one bullet?
A: It's possible. It could be one bullet striking the body and going through both areas. However, I couldn't be sure that it was one injury. It's possible it could also be two.
Q: And that's because the body is in motion and constantly moving?
A: That's correct.
Q: Let me approach. If, hypothetically, it was one bullet, can you demonstrate on me like where would have the hit have gone in?
A: So it would be on the left arm towards the back and it goes through the skin and muscle on the back of the arm and into the side of the chest.
Q: Did it -- did it exit the body?
A: It did not.

Q: And with that and the blood, where would the blood usually go in that type of wound?

A: So the projectile, once it enters the body, injures the right and left lungs, going in a somewhat upward trajectory, and we recovered the projectile from the intercostal muscles, which is the muscles that are between the ribs, and specifically it was in the right intercostal musculature, the upper portion of the chest.

Q: Would that tend to bleed more internally or externally?

A: That would be more of an internal bleeding with the disruption of the lungs. They're very vascular. They have a lot of blood vessels and a lot of blood flows to your lungs because that's where it gets all of the oxygen. So injuries to your lungs will fill the cavities around the lungs with blood.

Q: And if it was to have been two bullets, can you demonstrate on me how that would have been?

A: I wouldn't know specifically where those billets would've gone, but it would've gone through that left arm and that would have been one separate injury with a bullet that we did not recover, and then one going through the chest with the bullet we did recover.

Q: And you don't have an opinion to a reasonable degree of medical certainty whether it was one or two?

A: I suspect it's more likely one shot, but I could not say

for sure that it was not two.

Q: Thank you.

MR. CLEMENTS: Dr. Phillips, thank you so much, and please answer any questions these attorneys have.

THE COURT: Cross-examination.

CROSS-EXAMINATION

BY MS. HENDERSON:

Q: Dr. Phillips, there was no soot or stippling present; correct?

A: That's correct.

Q: And can you explain to the jury what soot or stippling is?

A: So soot or stippling refers to findings that we would see on the skin or the clothing that would give us a clue as to the range or how far away the gun was from the body. It's basically deposits from the end of the gun. When the projectile comes out, it comes out with burning gunpowder fragments. And soot is the black deposit you see on the skin. Stippling are little burns on the skin from that burning gunpowder coming out of the end of the gun.

If we see that on the skin, it can tell us that the gun is closer to the body. As it pulls farther away, we are less likely to see that, and I wouldn't be able to give you a specific range without having a finding on the body.

Q: And to clarify, no soot or stippling means it wasn't

shot close range?

A: Correct.

MS. HENDERSON: I think that's it, Dr. Phillips. Thank you.

THE COURT: Mr. Hoffmeyer?

MR. HOFFMEYER: Thank you, Judge. I don't have any questions for Dr. Phillips.

But thank you, ma'am.

THE COURT: Any redirect?

MR. CLEMENTS: No, Your Honor. We'd ask that Dr. Phillips be relieved from her subpoenas.

THE COURT: Doctor, you may step down. You are free --

Any objection, Ms. Henderson?

MS. HENDERSON: No, sir, Judge.

THE COURT: Mr. Hoffmeyer?

MR. HOFFMEYER: No, sir, Judge.

THE COURT: You're free to go. Have a nice day.

THE WITNESS: Thank you.

MR. CLEMENTS: Your Honor, we would call Mr. Fanando Jackson, Sr.

THE COURT: All right.

THE CLERK: Place your left hand on the Bible and raise your right hand. Do you swear or affirm that the testimony you will give in this case will be the truth, the whole truth, and nothing but the truth, so help you God?

THE WITNESS: Yes, ma'am.

THE COURT: Mr. Clements?

MR. CLEMENTS: Thank you, Your Honor. May it please the Court.

FANANDO JACKSON, SR., being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. CLEMENTS:

Q: Mr. Jackson?

A: Yes, sir.

Q: Will you please spell your name, first name, for the court reporter?

A: Fanando is spelled F-a-n-a-n-d-o. Jackson, J-a-c-k-s-o-n.

Q: And you're a Senior, aren't you?

A: Senior, yes, sir.

Q: If you want to, you can remove that mask if it's more comfortable. Can you -- I know it's going to be hard for you. I want to talk about August the 25th.

A: Okay.

Q: 2018. Can you tell what you were doing that evening earlier?

A: Yes, sir. We was out at a -- at a party at Cassandra Simon's house. It was me, George, and my wife.

Q: George who?

A: George Dunn.

Q: Okay.

A: We was all there, and a fight broke out with JJ and Boogie. So after they broke the fight up, we all left and went to my mother-in-law's house.

Q: Okay. And where is that house located at?

A: It's right on Byrd Street and Tanyard.

Q: And that's where Mr. and Mrs. Gee lived at?

A: Yes, sir.

Q: When y'all got there, what did you find and who was there?

A: There was some kids in the yard. My daughter -- she just got back from the fair. She was in the house at the time, but we pulled up there at the house. My wife -- she went inside, you know, to use the restroom and let my daughter know that, you know, we was outside ready to take her home.

So my wife came back to the car and my daughter. She came out and asked us could she go to her Uncle Trap's house, and we said, well, that would be fine. That would be fine. And then no sooner she left my side, two cars coming down -- coming down Tanyard and pulled up behind -- behind my car.

And so when they pulled up, they hollered out where Boogie at, where Boogie at, and nobody said nothing. So soon as George got out my car, out the backseat of my car, they

started shooting. George ran and ducked in front of my car, and then after that, that was when the shooting was over. That when they drove off.

Q: What were you doing when the shooting started? What did you do?

A: I -- I saw them coming down the road and as soon as they pulled up and started shooting, I turned back around and I straightened up and I told my wife. She dropped her phone on the floor. I think that they're shooting in the air. I said I don't think they're shooting, you know, in the crowd, but sure enough they were shooting in the crowd because as soon as they -- as soon as they stopped shooting and left, my mother-in-law -- she came out there and was hollering out, it's [redacted] [redacted] just got hit. So I rushed to the door where she was laying in the door tending to her until the paramedics done came.

Q: When you saw the cars drive up, could you tell anything about the type and color or anything?

A: Yes, sir. The first car was a red Dodge Challenger, the second car was a white Dodge Challenger, and the last car was a blue Dodge Charger.

Q: Are you familiar with any of those cars?

A: No, sir.

Q: You didn't know who any of them were?

A: Huh-uh.

Q: You couldn't see anybody and wasn't looking?
A: I wasn't looking. As soon as they pulled up behind me, I didn't -- and they started shooting, I didn't look back there. I didn't look back no more. I just looked straight ahead when the guns started going off.
Q: I wouldn't either. When you were there trying to help your daughter, were you able to do anything to render any type of aid to her?
A: Yes, sir. The paramedics got there, and I was helping them put her on the stretcher because they had a lack of manpower.
Q: Were they able to get her in the ambulance and get her to the hospital?
A: Yes, sir. We was able to get her on the stretcher and get her to the ambulance.
Q: And you and your wife -- did y'all go on to the hospital?
A: Yes, sir. We went behind the ambulance the whole entire way.
Q: So y'all weren't involved any around to observe any of the further investigation?
A: No, sir.
Q: Did law enforcement come to the hospital to check on you?
A: Who that?

Q: Did anybody in law enforcement come to check on you at the hospital?
A: Billy Brown. I know he was there. I don't know. Maybe Strickland. I don't know. I don't know anybody else.
Q: Okay. When they come up, you saw them come up and you said you saw them come down the road. What kind of rate of speed were they coming down?
A: They were coming at a high rate of speed. They were coming real fast because I thought they was going to pass us, but as soon -- soon as they got close to us they, like, did a sudden stop, like they seen something in the yard or whatever.
Q: They just put on the brakes?
A: Yeah.
Q: Could you hear them?
A: No, not really.
Q: Okay.
A: I just saw them, you know, came to a sudden stop.
Q: Did you -- did you see anybody get out of any cars?
A: No, sir.
Q: Were you looking in that direction that you could have seen somebody get out of a car?
A: Yeah, I could have, not -- except the red one. I could have seen the white one and the blue car, but I didn't look to who it was when they started shooting. Like I say, I

turned around and looked straight ahead.

Q: Yes, sir.

MR. CLEMENTS: I beg the Court's indulgence.

Mr. Jackson, we're so, so sorry --

THE WITNESS: Thank you.

MR. CLEMENTS: -- for your loss. Would you answer any questions these defense attorneys have?

THE WITNESS: All right.

THE COURT: Ms. Henderson?

MS. HENDERSON: Judge, I have no questions for Mr. Jackson.

THE COURT: Mr. Hoffmeyer?

MR. HOFFMEYER: Your Honor, I have no questions for Mr. Jackson either.

THE COURT: Mr. Jackson, sir, you may step down.

THE WITNESS: All right.

MR. CLEMENTS: The next witness we could call, Your Honor, would be Mrs. Jackson.

THE CLERK: Ms. Jackson, if you'll raise your right hand. Do you swear or affirm that the testimony you will give will be the truth, the whole truth, and nothing but the truth, so help you God?

THE WITNESS: Yes, ma'am.

MR. CLEMENTS: Ms. Jackson, you can take that off, if you want to.

VERNESSA JACKSON, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. CLEMENTS:

Q: Could you please state your name for the record and spell your first name for the court reporter, please, ma'am?

A: Vernessa Jackson, V-e-r-n-e-s-s-a.

Q: Ms. Jackson, did you have a daughter?

A: Sir?

Q: Did you have a daughter?

A: Yes, sir.

Q: What was her name?

A: F. J. [redacted].

Q: And take your time with this. I know this is tough. Can you tell us about the day that you lost your daughter? You take your time. Do you remember August 25th of 2018?

A: Yes, sir.

Q: Can you tell this jury what you were doing?

A: We was at a party at Cassandra's house, but we left. I got the phone call from Tasia. She said, ma, we're back from the fair. I said, okay, we're on the way. I pulled up in my mama's drive.

Q: Where did you pull up?

A: By the bedroom window. That's coming off of Tanyard.

Q: All right. Hold on a second. So you were driving?

A: I was driving.

Q: Who was riding with you?

A: My husband, Fanando, and my neighbor, George.

Q: George Dunn?

A: George Dunn.

Q: And your husband was sitting where?

A: Right there with that Carolina mess on.

Q: Where was he sitting in the car?

A: He was in the passenger side.

Q: And do you remember where George Dunn was?

A: George was in the -- uh-huh, right behind him in the backseat.

Q: What kind of car were y'all riding in?

A: A Chrysler 300.

Q: And then what? When y'all were sitting there, what were you doing?

A: I was on the phone.

Q: And were you on the phone talking to somebody or just on Facebook?

A: No. I was on Facebook.

Q: And what do you recall happening next?

A: I was talking to -- we was -- our daughter came to the passenger side and asked her dad could she go to my uncle -- her brother's house -- my brother's house, could she spend the night and we told her, yes, she can. So she was going

back to call him to come pick them up. The only thing I seen was the red car pull up.

Q: Red car?

A: I looked up. I looked up and saw a red Challenger.

Q: I'm going to show you two pictures and tell me if you can identify them. They are State's Exhibit 22 and State's Exhibit 23.

A: Uh-huh.

Q: If you will look at each one of those and see if you can identify that?

Q: Yes.

Q: What do they look like?

A: That -- that's the car.

Q: I'm going to show you just a couple of more pictures. State's Exhibit No. 4, do you recognize that?

A: Yes. My mom's home.

Q: All right. And can you point out to me -- or rather, if you don't mind standing a second so you can see, point to where y'all were parked?

A: We was parked right here. I turned in. It's a driveway over here also and I turned right there.

Q: And the front end -- is that the car?

A: That's the side.

Q: Okay. The front end of the car, that's what that is?

A: Yeah. Uh-huh.

Q: Ms. Jackson, we're holding State's Exhibit 32, I believe.
A: Uh-huh.
Q: Would you -- if you see on this diagram where your car would have been, can you tell us where that is?
A: That's my car right there on that.
Q: Right here?
A: No, sir.
Q: Right here?
A: Yeah. At the corner of the house.
Q: That's how y'all were parked?
A: That's how we was parked.
Q: Thank you. Now, you said you saw the red car pull up?
A: That's the only one.
Q: The only one you saw?
A: That's the only car I seen.
Q: Could you hear anything else?
A: Yeah. When the -- I could hear the cars coming, but I didn't look. But I was, like I said, on Facebook.
Q: Okay. And you heard more than one car pull up or not?
A: Yes.
Q: More than one?
A: More than one.
Q: What happened next after they pulled up?
A: I could hear somebody ask for Boogie. That's when I

looked up, but I still didn't turn and look.

Q: How did they ask for him? Loud? Soft?

A: Loud, like where's Boogie. They didn't give us a chance to say anything because they started shooting, and I dropped my phone and dropped my head.

Q: Where was [redacted] at that time?

A: She'd just walked away from my car.

Q: And she got hit?

A: I didn't know it at that moment.

Q: When did you find out she got hit?

A: When they stopped shooting and drove off and I was reaching for my phone and I could hear my mama saying [redacted], [redacted], and my husband jumped out and he was, like, what? What about [redacted]? And that when she said [redacted] got shot. And then I ran to the porch and saw my baby laying on the porch.

MR. CLEMENTS: Ms. Jackson, my heart's prayers go out to you. I don't have any further questions at this time.

THE COURT: Ms. Henderson, any questions?

MS. HENDERSON: No, sir, Judge.

THE COURT: Mr. Hoffmeyer?

MR. HOFFMEYER: No, sir, Your Honor.

THE COURT: Ma'am, you may step down.

MR. CLEMENTS: Your Honor, may we approach the bench?

THE COURT: Yes, sir.

that the testimony you will give will be the truth, the whole truth, and nothing but the truth, so help you God?

THE WITNESS: I do.

THOMAS MCFADDEN, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. CLEMENTS:

Q: Please state your name and spell your name for the record?

A: Thomas McFadden, T-h-o-m-a-s M-c-F-a-d-d-e-n.

Q: Are you employed in law enforcement in Florence County?

A: Yes, I am.

Q: In what capacity?

A: I'm currently the chief of police in Timmonsville. I was sworn in this past December.

Q: And before December, where did you work and for how long?

A: I was a criminal investigator with the Florence County Sheriff's Office. I started in '97, but I went to the Sheriff's Office -- I left the Sheriff's Office and came back in 2001, and in 2004 I was promoted to criminal investigation.

Q: Now, I'm going to say this one time.

A: Yeah.

Q: And that is please do what?

A: Slow down.

Q: Talk slow?

A: Yeah, slow down.

Q: All right. It is very important that we hear what you say. Now, can you tell me when you became involved in the investigation of the death of F. J.

A: It had to be, like, a few days, maybe a week after the incident.

Q: And how did you become involved, since it was in the Timmonsville city limits, was it not?

A: Yeah. Timmonsville was part of my area. I had part of Olanta, Lake City, Timmonsville, West Florence, and part of East Florence. So I usually handled those small towns, like, in that area.

Q: And y'all do that pretty much all over, being an assisting agency; is that correct?

A: Yeah. Throughout Florence County. If a small agency need help, they'll call us to take over the case if they need assistance.

Q: And this was that kind of case, was it not?

A: Correct.

Q: When did you get called in, if you remember?

A: Like I said, probably a week after. I knew about it the night it took place, but I wasn't on call. But I got called probably by my lieutenant probably a week later saying

Timmonsville felt like it was some conflicts for them and they asked us to take over.

Q: Okay. And who took over the investigation?

A: I did.

Q: Okay. Can you tell me when you took over what was the -- what was the state of the investigation? Were there things on top of things or things undone?

A: No.

Q: Things that should be done? What was the situation?

A: It was still undone, on top of things, a mess to be honest.

Q: Okay. And what did you do after you surveyed the situation?

A: Tried to -- I didn't want to even look at the case file they had. I asked for the case file that Timmonsville had, but I told them let me start from scratch. I did collect them and get everything they had, and then I started from scratch to go back and talk to the witnesses.

Q: And where did you start?

A: I'm pretty sure I think I started with the kids at the school, at the high school, because they said the yard was full of kids.

Q: And what did you do there?

A: I performed interviews, recorded interviews, at the high school with the kids, basically the kids that were in the

yard.

Q: About how many kids did you talk to?

A: I recorded -- I talked to ten or more, but some of them wasn't pertinent. So I only, like, recorded a few that I gave y'all.

Q: Now, after you received this information or gathered this information, where did you go next and what did you do next?

A: After I gathered the information from the kids, I went back out to the scene. I said I wanted to look at the scene myself. So I went back out to the scene to survey the scene.

Q: What were you looking for?

A: Just to see. Everybody -- everybody get a different vantage point. So they was talking about these cars. So I wanted to see where everybody possibly was standing. I think Sha'Tyra Gee met me out at the location for one of the -- one of the interviews.

Q: Okay. When you went out there, did you find things that made sense?

A: Yes, once they explained it to me.

Q: Let me back up a little bit. When you came on board, had the Timmonsville Police Department -- had they -- had they gathered warrants for anyone or had they arrested anyone?

A: Yes.

Q: Anyone a suspect or already charged?

A: Yes. Once I -- when I got the case, they already had -- had a warrant for Michael Barclay.

Q: And who else?

A: Nobody else at that time. Well, he charged Cedric.

Q: Boogie?

A: Yeah, Cedric. Cedric in the shooting on White Street.

Q: Okay. The shooting on White Street, that was Aunt Dot's house?

A: Correct. The night of the incident, I got a call, and this happens all the time because Timmonsville is a small town. Jimmy Lee Hampton, Sr., called saying there was an incident that took place at his sister's house with a shooting, and I told him he need to hang up. He need to call them back. He said Cedric, the boy they call Boogie, shot up his sister's house. And I said you need to hang up and tell them to call 9-1-1 and we'll deal with that. Timmonsville didn't have nobody working.

Q: Okay.

A: So that's what he did, but he called back 10 minutes later saying that his son --

Q: You can't tell us anything else.

A: Okay. But he called back later saying about another incident on Byrd Street.

Q: All right. And did you follow up when you came on board

a week or so later? Did you follow up on the phone calls?

A: Yes.

Q: So you talked to Jimmy Hampton, Sr.?

A: Yeah. I told him Timmonsville said they had a case. They didn't turn it over to us. That he needed to call them now to cooperate with Timmonsville Police Department.

Q: When you said all of them, his son?

A: Yeah. Everybody that was involved.

Q: Okay. Everybody who was involved?

A: Yeah. He need to take them down.

Q: To your knowledge, did that happen?

A: Yeah. He said he took everybody down except Mike Mike because he had already gone back.

Q: Okay. After you interviewed the children at the school and went to the scene to check the scene out, what did you do next?

A: I still did follow ups. Other names came up. I think you saw Marquez. They call him Law. I interviewed him. I talked to -- they had another individual. There was several names that was coming up. So I tried to follow up and interview everybody's name that came up to try to eliminate them. I even talked to Cedric.

Q: When did this investigation shut down or has it ever actually shut down?

A: No. Because there was so many loose ends, I couldn't

shut it down. I always say this is an ongoing investigation until it's solved in court, like today. So somebody could have said something from the stand and implicate somebody else. So I always say the case is going to be still open until it's resolved in court.

Q: So it's in trial, but it's still pending?

A: Still pending.

Q: So the last several weeks you've spent a good amount of time running down witnesses?

A: Yes. People kept bringing up other names. Did you check this or did you check that? I said I would still run them down to the end -- to the end of this trial.

Q: Okay. What did -- did you ever interview or talk to persons that were involved that had been brought in by Mr. Hampton, Sr., to the Timmonsville police? Did you ever follow up with those people on your own?

A: Yes.

Q: Tell me about that?

A: Once I told them, they gave statements to Timmonsville Police Department. I told them some of the stuff that they -- I guess Timmonsville said they said the statement didn't cooperate with what the kids were saying and what the witness say on scene. Everybody pointed -- at that point in time, everybody pointed at Mr. Barclay, saying the red Charger was the shooter, but once I talked to the kids, they said --

MS. HENDERSON: Objection, Judge. This is hearsay.

THE COURT: Objection sustained.

BY MR. CLEMENTS:

A: Once I spoke to the kids, I found out that he was not the only individual that was alleged -- is allegedly shooting. That there was a shooter in a blue -- blue Dodge.

MS. HENDERSON: Objection, hearsay still, Judge.

THE COURT: Can the lawyers approach, please?

(WHEREUPON, a bench conference was held in the presence of the jury but out of the hearing of the jury as follows.)

THE COURT: There's already testimony in the record about that and you've had a right to cross-examine either one of those witnesses. I mean it's already in the record there was a shooter in the blue car.

MS. HENDERSON: But there wasn't in the record all these witnesses said Michael Barclay.

THE COURT: He's testified that Michael Barclay's name kept coming up.

MR. CLEMENTS: And he said they blamed Michael Barclay, but he was -- because he was already gone.

THE COURT: All right.

(WHEREUPON, the bench conference ended, and the proceedings resumed as followed.)

BY MR. CLEMENTS:

Q: Chief McFadden, I'm going to ask you a question. If it calls for a hearsay answer --

A: Uh-huh.

Q: If I do that, don't answer that --

A: Okay.

Q: -- until we straighten that out.

A: All right.

Q: We just need to know what your investigation revealed, not what somebody said. So the more information you gathered, what direction did it move you into, into persons of interest?

A: That there -- there should have been other people charged besides Mr. Barclay once I finished the interviews and gathered all the information.

Q: All right. And after you gathered that information, you concluded that you would get arrest warrants on who?

A: Jimmy Lee Hampton, Jr., also Demonta Hickson.

Q: Why did you get a warrant on Demonta Hickson?

A: He was an alleged shooter.

Q: Why did you get a warrant on Jimmy Lee Hampton, Jr.?

A: Because he was transporting the shooter and he lied on his statement saying if -- he lied on the statement.

Q: What did he -- how did he lie?

A: He said --

MR. HOFFMEYER: Your Honor, whatever is in the record, I

don't object to, but I don't know that that was specifically in the record. So I would object to that.

MS. HENDERSON: And I join Mr. Hoffmeyer's objection.

(WHEREUPON, a bench conference was held in the presence of the jury but out of the hearing of the jury off the record, after which the proceedings resumed as follows.)

BY MR. CLEMENTS:

Q: Let me ask you this, and correct me yes or no. Part of why you got a warrant on Jimmy Lee Hampton, Jr., was because he was driving the car the shooter was in?

A: Correct. Correct.

Q: And part of the reason you got a warrant is it was your belief that Mr. Hampton told you something that wasn't true?

MR. HOFFMEYER: Your Honor, he's leading the witness. I object to it.

THE COURT: I'll allow it. Go ahead.

MS. HENDERSON: I join in the objection.

THE COURT: Overruled.

BY MR. CLEMENTS:

A: Correct.

Q: Okay. Now, after you got warrants on Mr. Hickson, who you know as KB; is that right?

A: Correct.

Q: And Mr. Hampton -- how did you serve those warrants on them or did they come in and turn themselves in? How did

that work out?

A: That same. I did it when I called them. I called them. They kind of came with an attorney. So I notified the attorneys, telling them I followed up probable cause from the witnesses and the information I received to obtain warrants for the charge of murder.

Q: And what happened? What -- what did y'all do then with that information? Were they turned in?

A: Correct. They turned themselves in and Mr. Hampton came with his attorney and wanted to cooperate and wanted to clear up his statement.

Q: All right. And did you allow that to happen or pursue that?

A: Yes, I did. They did -- did some video recorded statements at the Florence County Sheriff's Office.

Q: Okay. Was Mr. Barclay still a person of interest since Timmonsville had gotten a warrant on him?

A: Yes. The information I got did not clear him. He still was a person of interest in the case, but he was not cleared by my investigation.

Q: Okay. All right. What information -- did any of this -- now, let's move to the scene. Most of the witnesses out there at the corner of Tanyard and Byrd Street were school-aged children?

A: Correct.

Q: High school aged?

A: Yeah. High school aged kids.

Q: And you interviewed all of them?

A: Correct.

Q: And what did you say about they all had a different perspective? What do you mean by that? Explain that some more.

A: A vantage point. That's -- everybody -- when I say vantage point, you probably heard her dad testify. He can testify from what he could see from the angle he was sitting. They could tell me what they could see from the angles they were. So everybody -- some people didn't see the same thing. Everybody saw something different.

So it's a puzzle. So I have to put it together, and that's why I want to see where he was standing. So if you'd have told me you saw the red car and you saw what it -- some people said they didn't see it. They didn't note the red car. They were just adamant there was just this blue car. Then other people from their vantage point know I saw the red car. So it was several, and then somebody brought up the burgundy truck.

So my investigation, that's why you saw Doc Smith come in and Josh come in. Everybody came in. Some people lawyered up and some people didn't. They were afraid they were probably going to be charged because of what was going

on, but everybody came in and told their side and their vantage point of what they thought happened and what they was trying to do in that.

Q: Okay. Did you feel like you ever got the complete picture?

A: As best as I was going to get it. A lot of people -- you saw the testimony here. They're living in --

MR. HOFFMEYER: Your Honor, I object to his -- you know, his discussing how he viewed the testimony in this case.

MS. HENDERSON: I join in.

THE COURT: Objection sustained.

MS. HENDERSON: I join in Mr. Hoffmeyer's objection.

BY MR. CLEMENTS:

Q: Let me back up again.

A: Yes. Yes, as best as we was going to get it.

Q: Okay.

A: Yeah.

Q: Now, did you ever hear of any more information from Mr. Barclay?

A: Once he came -- once we got him back to Florence County.

MS. HENDERSON: Objection, Judge.

MR. CLEMENTS: Let me rephrase that question.

BY MR. CLEMENTS:

Q: When you next heard of Mr. Barclay, had arrangements been made for him to come back here?

A: Correct.

Q: Did he come back here?

A: Yes. I did a governor's warrant to bring him back to South Carolina.

Q: Okay.

MS. HENDERSON: Judge, I would object to that response.

THE COURT: Can y'all approach, please?

(WHEREUPON, a bench conference was held in the presence of the jury but out of the hearing of the jury as follows.)

THE COURT: There's already testimony in the record that he went back to New York. There's testimony that Hickson and Hampton turned themselves in. What's your objection?

MS. HENDERSON: My objection --

THE COURT: He didn't turn himself in. There's no evidence of flight.

MS. HENDERSON: I believe the State is trying to circumvent your flight ruling by --

MR. CLEMENTS: I'm very careful. I asked him --

MS. HENDERSON: By alluding to the governor's warrant.

THE COURT: There's no evidence of flight or he had a ticket back to New York. I'm not sure I understand --

MR. CLEMENTS: I can move on.

THE COURT: -- what your objection is.

MS. HENDERSON: My position is that --

THE COURT: He had to come back here.

MS. HENDERSON: -- that form of the question is I believe trying to circumvent your prohibition.

THE COURT: It's what?

MS. HENDERSON: He's trying to circumvent evidence of flight by asking about the governor's warrant. That's my position.

MR. CLEMENTS: I couldn't hear that part.

THE COURT: I couldn't hear you.

MS. HENDERSON: Sorry, y'all.

MR. HOFFMEYER: I think there's a concern he's trying to make it seem like --

MS. HENDERSON: He fled to New York.

MR. HOFFMEYER: -- he fled.

MS. HENDERSON: Right. And I don't want there to be any implication that he wasn't --

MR. HOFFMEYER: The mere fact that he was there is not evidence of anything.

THE COURT: Right.

MS. HENDERSON: Nor -- and nor is -- he has a right.

MS. CLEMENTS: I asked him if they made arrangements for him to come back, and he said, yeah, he got a governor's warrant.

MS. HENDERSON: And I believe that can lead the jury to an improper implication or an improper assumption as to --

THE COURT: Just stay away from that. Just they got him back here. He went home. Fair enough?

MS. HENDERSON: Yes.

(WHEREUPON, the bench conference ended, and the proceedings resumed as follows.)

BY MR. CLEMENTS:

Q: Y'all got Mr. Barclay back and served a warrant on him?

A: Yes.

Q: Okay. He's been here ever since?

A: Yeah, he's been here ever since.

Q: What, if anything, did you do in your investigation to determine what the actions of Cedric Young was -- were?

A: I did follow up and talk to the witnesses in the yard. I also spoke to him as well.

Q: Did you talk to people that observed the fight between JJ --

A: Correct.

Q: -- and Boogie?

A: Yes.

Q: Did you talk to either one of them?

A: Yes, I talked to several people. When they said cousins, a lot of them people in the neighborhood that everybody's family. Even some of them are mine. So the incident there, I knew about that incident as well. So I talked to several people at that location as well.

Q: And that was between JJ and Boogie?
A: Correct.
Q: Did you talk to either one of them?
A: Yes. Both.
Q: Okay. Did you follow-up on the alleged shooting by Boogie at the house that was the kin people of the Hamptons?
A: Correct. He -- once I started that investigation, I notified Timmonsville because they didn't ask for assistance on that case. I just told them a lot of witnesses in the case on Byrd Street was implicating him as bragging and boasting, saying what he did at that location. So I told them I had enough information on that that y'all -- with the information y'all asked for us to take over that case, we would, but he should be charged in that case as well.
Q: And did you charge him?
A: Correct. He -- I gave him my statements and presented it to a judge and got warrants for Cedric for that location.
Q: What did you find out as far as any of the drivers of the cars that came up that night? Who was driving that you determined?
A: Um --
MR. HOFFMEYER: Your Honor, I object. He's asking what this jury is going to have to decide from this witness.
MS. HENDERSON: And I join in Mr. Hoffmeyer's objection, Judge.

MR. CLEMENTS: Your Honor, the person I'm asking him about has already been here and testified in the trial.

THE COURT: Overruled. You may continue.

BY MR. CLEMENTS:

Q: You talked to one of the drivers?

A: I talked to several drivers. Doc Smith, the individual they say had the burgundy truck. We had people say they saw a burgundy truck come by. I spoke to Doc Smith.

Josh. He came in and testified as well. He drove the white --

Q: Which car was he driving?

A: The white Dodge Challenger. Also, you saw Jimmy Lee Hampton, Jr. He drove the blue Dodge Charger. I spoke with him as well with his attorney present.

Q: And did you determine there were any passengers that you could determine who they were in any of those cars?

A: The only passenger I could determine in that car that --

MR. HOFFMEYER: Same objection, Judge.

THE COURT: Overruled.

MS. HENDERSON: I join.

BY MR. CLEMENTS:

A: Demonta Hickson was at the time.

Q: KB?

A: KB. Correct.

Q: He was the passenger with who?

A: Jimmy Lee Hampton, Jr., the blue Charger.

MR. CLEMENTS: Chief McFadden, would you please answer any questions that Ms. Henderson or Mr. Hoffmeyer have?

THE WITNESS: Yeah.

THE COURT: Ms. Henderson?

MS. HENDERSON: Thank you, Judge.

CROSS-EXAMINATION

BY MS. HENDERSON:

Q: And, Chief McFadden, I think I've said this to other witnesses this week. I apologize if I jump around. I'm going to --

A: No. You're good.

Q: -- try to stay as organized as possible. Okay?

A: You're okay.

Q: You testified that you were assigned as the lead investigator of this case?

A: Correct.

Q: Can you see me okay?

A: Yes, ma'am.

MS. HENDERSON: Judge, is it all right if I just try to pull this out a little bit?

THE COURT: Yes, ma'am.

MS. HENDERSON: Thank you.

BY MS. HENDERSON:

Q: Okay. Can you see me okay?

A: Yes.
Q: Chief McFadden, you testified that you were assigned as lead investigator of this case?
A: Correct.
Q: Okay. Originally, the case was handled by the Timmonsville Police Department?
A: Correct.
Q: Mark Strickland was lead investigator?
A: Correct.
Q: However, the case ended up being transferred to you at the Sheriff's Office, as you've said?
A: Correct.
Q: We heard from Inv. Strickland -- I believe you were present in the courtroom yesterday -- that it was transferred because Chief Brown was related to members of the victim's family?
A: Correct.
Q: This would be deemed a conflict of interest?
A: That's what they usually call it.
Q: Correct. So cases that are transferred involve a conflict -- excuse me. So if there's a conflict of interest, cases are transferred; correct?
A: Correct. If they ask for assistance.
Q: Certainly. And a conflict of interest involves someone in the investigation is related or has a personal

relationship with someone involved in the case?

A: Correct. If they feel that they can't do it without bias.

Q: Yes, sir. You don't want to create the appearance of bias; correct?

A: Correct.

Q: You want the investigation to be reliable?

A: Correct.

Q: Trustworthy?

A: Correct.

Q: Yes, sir. And you testified earlier -- were you related to some individuals involved in this case?

A: Probably several of them in this case.

Q: And I understand. Timmonsville is a small town?

A: Yes.

Q: Yes, sir. Are there any other options for law enforcement when there are conflict of interests in a case?

A: You can -- if you wanted to, you could give it to somebody else, but --

Q: For example, maybe SLED?

A: Yeah. They can pass it on to SLED.

Q: And that happens fairly routinely; correct?

A: Correct.

Q: And SLED can take over the investigation?

A: Correct.

Q: SLED is South Carolina Law Enforcement Division?
A: Correct.
Q: They send the case to Columbia?
A: If the officer feel they can have bias to perform the case, but I've worked so many cases in Timmonsville. It wasn't the first relative that may have got locked up out there.
Q: I understand. Yes, sir. Switching gears a little bit, you're obviously well trained in law enforcement across the board?
A: I think.
Q: I think so too. You've been an investigator?
A: Correct.
Q: You're now police chief?
A: Correct.
Q: You understand what the job entails?
A: Correct.
Q: So let's talk first, just generally speaking, about being an investigator, what you do and how your job works. In 2018, again, you were an investigator with the Sheriff's Office?
A: Correct.
Q: As an investigator, that means you're basically responsible for handling the case?
A: Correct.

Q: The nuts and bolts of working on a case?

A: Yes.

Q: You worked the case?

A: Yes.

Q: Generally speaking, a crime occurs and it's your job to solve the crime?

A: Yes.

Q: You do this by obtaining evidence?

A: Yes.

Q: Interviewing witnesses?

A: Correct.

Q: Arresting a suspect?

A: If I got enough.

Q: Right. Moving the case through the court system?

A: Correct.

Q: And we'll go more into detail about these tasks shortly. I want to talk a little bit more about how your role has changed now that you're chief of police in Timmonsville. Now 2021, it's a little different. You still, of course, I'm sure work cases?

A: Yeah. I assist.

Q: Yes, sir. But you also have a supervisory role?

A: Correct.

Q: Meaning you oversee the police department?

A: Correct.

Q: You oversee the staff?
A: Correct.
Q: Both police officers and non-police officers?
A: Correct.
Q: You oversee cases?
A: No. I got people that oversee cases, but they always run it by me to make sure.
Q: You're ultimately responsible for the case?
A: Correct.
Q: Okay. You oversee the paperwork?
A: Not all the paperwork, but I got a captain pretty good at what he do. He's a former investigator too.
Q: Yes, sir.
A: So yeah.
Q: Oversee administrative functions?
A: Correct.
Q: You're basically responsible for the Timmonsville Police Department?
A: Correct.
Q: Yes, sir. So moving back again to what it means to be an investigator. You were present yesterday as an investigator. You heard me talk to Mr. Strickland about this. You obviously have to attend the Police Academy, the South Carolina Criminal Justice Academy?
A: Correct.

Q: You have to graduate from this academy to serve as a law enforcement officer?

A: Correct.

Q: This program teaches you everything you need to know to be a law enforcement officer?

A: No.

Q: Okay. Much like law school. I understand.

A: Yeah.

Q: But you're taught basic procedures and policies at the academy; correct?

A: Yeah. That's not what they call basic law.

Q: Basic. Yes, sir. And you're supposed to follow these basic procedures?

A: Correct.

Q: Yes, sir. Because ultimately, it's law enforcement's job to get it right; correct?

A: Correct.

Q: For victims?

A: Both defendants and victims.

Q: And suspects?

A: Yeah.

Q: For the community?

A: Correct.

Q: That's how this system is designed to work?

A: Correct.

Q: So let's walk through the general responsibilities and, again, this will be a brief summary because, as you said, you get the basics at the academy. How long did you attend the academy for?

A: Eight weeks when I started. I think it's twelve now, but eight when I started.

Q: Okay.

A: And then you had a two-week investigative course.

Q: Okay. Very good.

A: Yeah.

Q: So a considerable amount of time?

A: Correct.

Q: Yes, sir. Initial response, you want to secure the crime scene, you want to limit those present; correct?

A: Correct.

Q: Limit access to the scene?

A: Yes. That's why they come to a team so you hold before an investigator. Once I arrived on scene, hopefully, everybody has secured the scene and everything is in order before I get there.

Q: Yes, sir. And I'm just talking just general procedure.

A: Yes.

Q: Okay?

A: Yes.

Q: Block off the scene and prohibit entry?

A: Correct.
Q: You can do this by using crime scene tape?
A: You can try.
Q: Create a crime scene log?
A: Yes.
Q: Record the identity of everyone?
A: Correct.
Q: Time in, time out?
A: Correct.
Q: Nothing at the scene should be moved or touched unless necessary?
A: Correct.
Q: You want to take control of the scene?
A: Correct.
Q: Maintain the scene?
A: Yeah. Keep the integrity.
Q: Yes, sir. And this is important; correct?
A: Correct.
Q: Probably one of the most important functions; correct?
A: Correct.
Q: If not the most important function?
A: Correct.
Q: Because doing this ensures a trustworthy investigation?
A: Correct.
Q: And a trustworthy investigation ensures a trustworthy

case?
A: Correct.
Q: And trustworthy results. Yes, sir. As lead investigator of this case, as well as the chief of police of Timmonsville now, you had the opportunity to view Officer Strickland's body-worn camera footage?
A: Correct.
Q: Correct. And on this footage, you see that law enforcement fails to identify everyone present on the scene?
A: Correct.
Q: You see that law enforcement fails to obtain individuals' contact information?
A: Correct.
Q: You see that law enforcement fails to limit access?
A: Yeah. In some -- some portions of it.
Q: Yeah. You see that law enforcement fails to properly block the scene off?
A: Correct.
Q: You see that law enforcement fails to properly maintain a crime scene log?
A: Yes. A crime scene log, I saw that.
Q: You see that law enforcement fails to identify those entering or exiting the scene?
A: Correct.
Q: You see that law enforcement fails to identify reasons

for entry or exit?

A: Correct.

Q: All things that you're taught at the Criminal Justice Academy are integral in an investigation?

A: Correct.

Q: Yes, sir. You see that the scene is not preserved?

A: Correct.

Q: You see that the evidence is disturbed?

A: Yes. Correct.

Q: For example, you observe a non-law enforcement vehicle drive onto the scene?

A: Correct.

Q: When it's supposed to be secured?

A: Correct.

Q: Potentially disrupting evidence?

A: Correct.

Q: Yes, sir. You see that perimeters are not maintained? Do you see that the perimeters are not maintained?

A: Yeah. You said that.

Q: I'm sorry.

A: Yeah.

Q: You see bystanders, members of the public, going in and off the scene?

A: Yeah.

Q: An uncontrolled scene?

A: Correct.
Q: Unsupervised?
A: It was supervised, but it wasn't controlled.
Q: Okay. So just generally speaking going back, after securing a crime scene, law enforcement needs to identify witnesses; correct?
A: Correct.
Q: And gather their contact information?
A: Correct.
Q: Right. Keep witnesses separated from one another?
A: Correct.
Q: You don't want to do this piecemeal investigation, and what I mean by piecemeal is you pick and choose what works for you; correct?
A: Correct.
Q: Correct. Going back to witnesses. You separate witnesses to keep them from influencing one another's statements?
A: Correct.
Q: Correct. Because typically at this stage of the investigation so early on, you can't be certain of anyone's degree of involvement; correct?
A: Correct.
Q: Their knowledge of the crime you don't know?
A: Correct.

Q: That's why obtaining accurate information from everyone is important?
A: Correct.
Q: And this information must be objective?
A: Correct.
Q: Neutral?
A: Correct.
Q: Unbiased?
A: Correct.
Q: Thank you, Chief. And again, you do these things to make sure you have the most reliable statements possible; correct?
A: Correct.
Q: And again, this goes back to the reliability of the investigation itself?
A: Correct.
Q: Because we've got to be able to trust the case. We don't want witnesses' judgment to be clouded?
A: Correct.
Q: We don't want witnesses' stories to be influenced?
A: Correct.
Q: Ways witnesses' stories may be influenced by talking to others?
A: Correct.
Q: Talking to law enforcement?

A: Correct.
Q: Subtle nuances that can have an effect on the entire scope of a case?
A: Correct.
Q: Again, can impact an entire investigation?
A: Correct.
Q: Yes, sir. And so this is why these procedures need to be followed?
A: (No verbal response.)
Q: Can you say that?
A: Oh, yes. Correct.
Q: Yes, sir.
A: Yeah.
Q: And let me remind you again. I know you know everything has to be spoken aloud.
A: Yes, correct.
Q: So the court reporter can hear. We just want as clear a picture as possible as to what happened?
A: Correct.
Q: Yes, sir. And again, you've reviewed Officer Strickland's body-worn camera footage?
A: Correct.
Q: In your review of the scene, law enforcement fails to separate the witnesses?
A: Correct.

Q: Fails to obtain the contact information of the witnesses?
A: Yeah. Some of them they didn't.
Q: Yes, sir. Fails to obtain statements on all of the witnesses?
A: Yeah. Not on all the people on scene.
Q: Okay. Yes, sir. And when statements are obtained, fails to -- fails to obtain complete statements all the time?
A: Correct.
Q: Yes, sir. Talking about separating witnesses, you separate witnesses to keep them, as you just testified, from influencing one another's stories. You also want to keep them separated to influencing -- to keep them from influencing one another's description of any suspects; correct?
A: Correct.
Q: So let's talk about suspect identification. There are numerous policies and procedures in play that law enforcement must follow in the process of identifying suspects; correct?
A: I don't know about policies and procedures.
Q: Okay. There are --
A: Every investigator has got their own way of doing it. So ain't no set standard way.
Q: Okay. At the academy are you taught about various ways to go about identifying suspects?

A: Yeah. You --

Q: And -- sure.

THE COURT: Hold on.

MS. HENDERSON: I'm sorry, Judge.

BY MS. HENDERSON:

A: Everybody do it different. When I've got an investigation, I went to every investigator in the department to see how they did it, the good, the bad. I wanted to learn what to do and what not to do. So there's a certain -- there's not a set standard.

Q: Okay. So can you tell me what do you do in going about in identifying a suspect?

A: What I do?

Q: And I'm talking about the identification procedure as far as saying this is that person.

A: Me, if I've got an individual that knows them and they're a relative, it's going to be different than a stranger. I'd rather do a photo line-up if I've got a stranger, a complete stranger. I'll say do a photo line-up.

And if somebody already know and identify, for me I just go with direct identification. Like somebody may see or have some people identify people from a clip from a TV. They saw it on the Internet. I saw it on social media. So --

Q: Okay.

A: -- it's different ways depending on the circumstances we

identify suspects.

Q: Certainly.

A: Yeah. But if it's a total stranger and they don't have a clue, then we'll do a photo line-up.

Q: Okay.

A: Yeah.

Q: And in addition to photo line-up, there can be a show-up, an in-person show-up?

A: Yeah, they could, but we always did photo line-ups. People were afraid to see people individually; so we do a photo line-up. These are the point of the pictures instead of looking at a mirror and pointing at number one, number two, number three. I'd rather do it from the paper.

Q: Sure. Yes, sir. These procedures, again, are in place to ensure reliability in the investigation?

A: Correct.

Q: And they're supposed to be done as part of the investigation; correct?

A: Yeah. If that investigator chooses to do so.

Q: Okay. You're taught at the academy that in-court identification are unreliable in and of themselves; correct?

A: They help.

Q: They help with pretrial identification?

A: Yeah. But if they choose not to do one, if they -- if that's your relative, if you tell me that's your relative, I

am not doing a line-up.

Q: Yes, sir. And I understand absolutely, absolutely.

A: Yeah. If that's your classmate, I ain't going to do a line-up because you told me that's your classmate. You've known them all your life.

Q: Yes, sir.

A: I'm not doing that.

Q: Yes, sir. And, Chief McFadden, I did a poor job of discussing Officer Strickland, but discussing this with Officer Strickland yesterday -- and I apologize, but we touched upon the footage from his body-worn camera showing him the day after the shooting at the Timmonsville Police Department. Do you recall that?

A: Correct.

Q: Where he is seen obtaining statements from various individuals; correct?

A: Correct.

Q: And again, lead investigator, chief of police, you had the opportunity to review this footage; correct?

A: Correct.

Q: And during this footage, you can see Officer Strickland in the conference room?

A: Correct.

Q: And he's sitting around the table with multiple individuals; correct?

A: I didn't see him. I saw him have a bunch of them in there and then he would take them into his office and then he came back and gave them all forms and then he would come back and get one and bring them into the office. He was recording it with his body cam and then having them write the statement down.

Q: Right.

A: Yeah.

Q: And they were all sitting around that conference table together while waiting to give a statement; right?

A: Yeah. While waiting to give a statement.

Q: And the individuals sitting around that conference table were Jimmy Lee Hampton, Sr.?

A: Correct.

Q: Jimmy Lee Hampton, Jr.?

A: Correct.

Q: Demonta Kabora Hickson?

A: Correct.

Q: John Hampton?

A: Correct.

Q: Josh Hampton?

A: Correct

Q: Martaveous Hampton?

Q: Mr. Strickland was counseled by his superior supervisors not to do this; correct?

A: Yeah. He -- I think Billy was the chief at the time. He might have said something about it because he made a comment to him or something on that tape.

Q: Sure.

A: Yeah.

Q: But y'all know you don't put potential suspects all together in the same room?

A: Correct.

Q: While questioning them?

A: Correct.

Q: Yes, sir. You do this to keep them from influencing stories; correct?

A: Correct.

Q: And as we heard testimony earlier today, Mr. Barclay was not present during that meeting; correct?

A: He was not. He was gone.

Q: Okay. Let's talk more about documentation. On the scene, record time of arrival; correct?

A: Dispatch will give that to them.

Q: I'm sorry?

A: Dispatch --

Q: Okay.

A: -- will give that to them.

Q: My apologies.

A: Yeah.

Q: Okay. Let's just talk about recording in general.
A: Okay.
Q: You need to document your case; correct?
A: Correct.
Q: You need to document everything in your case; correct?
A: Correct.
Q: Accurately?
A: Yes.
Q: Completely?
A: Correct.
Q: Even if at the time you don't think it's relevant to the case?
A: Correct.
Q: Right. The work you do in your investigation needs to be recorded?
A: If it -- documented.
Q: Documented. I apologize.
A: Yeah. We try to document it in some way.
Q: Yes, sir.
A: But sometimes if you don't document it, there's no need to go back and beat that dead horse dead. You might as well deal with it.
Q: I'm sorry. Say that again, sir?
A: Say if you don't document something --
Q: right.

A: There's no need to go back and try to correct it, like you're trying to add something at the last minute. If he didn't document it, if he come in here and testify to the day of court, then that'll be fine. You know, there's no need to go back and say I'm going to immediately correct a wrong that I did, like some stuff he didn't do. He couldn't go back and correct it.

Q: Yes, sir.

A: He had to leave it put.

Q: And I understand that, but what I'm getting at is the purpose of documentation in law enforcement in your investigation process is so you know what happens in a case; correct?

A: Correct.

Q: Because God forbid something happens to you, you passed away, no one would be here to report on the case; correct?

A: Correct. Correct.

Q: And ultimately, it's that report that moves this case through the court system?

A: Yeah, the case file.

Q: Yes, sir. And so I heard you testify earlier that you interviewed numerous witnesses in this case?

A: Correct.

Q: How many would you estimate?

A: It was a couple people. Mostly I eliminated them. They

thought they were at the scene, but they weren't at the scene. Even after the fact when you showed me the video camera to identify people, I want to know whether they were present and everything after the fact. So . . .

Q: Okay. Yes, sir.

A: Yeah. So it wasn't relevant.

Q: I understand. We heard you today say that you interviewed JJ?

A: Yes.

Q: You interviewed Law we heard you today say?

A: Correct.

Q: We heard you today say you interviewed Boogie?

A: Correct.

Q: We heard you today say you interviewed Josh about being in the white Dodge?

A: Correct.

Q: We heard you today say you interviewed Doc Smith about driving the burgundy truck?

A: Correct.

Q: We heard you today say you interviewed numerous witnesses; correct?

A: Correct.

Q: And it's true that you only completed reports or written reports on -- I shouldn't even say written reports. The interviews that you documented and recorded --

A: Uh-huh.
Q: James Jackson at the high school?
A: Yeah. Recorded.
Q: Yes, sir. Jayquan Jackson at the high school?
A: Recorded.
Q: Timothy Washington at the high school?
A: Correct. Recorded.
Q: Fanando Jackson, Jr., at the high school?
A: Yes. Recorded.
Q: And Mr. and Mrs. Jackson recorded?
A: Correct. Yes, recorded.
Q: As well as your video recorded statement of Jimmy Lee Hampton, Jr.?
A: Correct.
Q: And those were the only recordings that you did of witnesses; correct?
A: Yes. Did I do Sha'Tyra? Did I get her? No.
Q: No, sir.
A: Yeah.
Q: I have that you completed -- you wrote out a case narrative that looks like three pages.
A: Uh-huh.
Q: But there's no identifying information in that narrative as to when you might have interviewed her?
A: Yes.

Q: Or the details of her statement?
A: Okay.
Q: And what I'm getting at, Chief McFadden, is you only recorded those witnesses' statements that fit your version of the case; correct?
A: No. I -- anyone that don't fit the version, I brought them in unless they were -- they were -- like, George. He fit the version, but I didn't record him either. He came to testify.
Q: Okay. How can we know what all these other witnesses said because we're entitled to know that; correct?
A: Correct.
Q: But we have no way of knowing that?
A: No. Some of them, they wasn't pertinent. They wasn't at the scene. Some people tried to put them at the scene. They say I wasn't at the scene. What can I testify to? I came up after the fact.
Q: Is it fair to say it might not be pertinent to the State, but it might be pertinent to the man charged?
A: Correct.
Q: Okay.
A: I just work for the State though.
Q: I understand. Officer Strickland should have prepared reports in this case, shouldn't he?
A: Yes.

Q: He should have documented his investigation, shouldn't he?

A: Yeah. He did on that body camera. I guess y'all got to see that.

Q: Right.

A: Yeah.

Q: And he should have turned that body camera over not in May, two years eight months after this tragic incident happened, shouldn't he?

A: Correct.

Q: Right.

A: I dealt with that.

Q: Right, you did. He should have returned -- he should have turned his reports over to the defense; correct?

A: Correct.

Q: And law enforcement officers know not to rely on their body-cam --

MR. CLEMENTS: I object, Your Honor.

MR. HENDERSON: I'll withdraw. I'll withdraw that question. I improperly stated that. My apologies.

THE COURT: Sustained. Objection sustained.

MS. HENDERSON: Yes, sir.

BY MS. HENDERSON:

Q: Law enforcement knows not to rely on their body-worn cameras solely alone; correct?

A: If that's what they do. Some of them do it. I don't.
Q: Okay. Because body-worn cameras essentially are supposed to aide in writing reports; correct?
A: Yeah. But some of them do it. They got a TV show called "Body Camera" now. So I mean they do it.
Q: Okay.
A: They record it. I'm just -- I'm an investigator. I prefer the report to have an interview from a recorder for interview.
Q: Okay. Talking about body-worn cameras, by law you're supposed to turn those over; correct?
A: Correct.
Q: Promptly?
A: Correct.
Q: Timely?
A: Correct.
Q: That's not what happened in this case?
A: No, it didn't.
Q: Right. Let's talk more about the evidence. Officers must safeguard the evidence; correct?
A: Correct.
Q: You do this by, if the scene is outdoors, protect it from the elements?
A: Correct. You try your best.
Q: If it's nighttime, set up lights to illuminate the

scene?

A: Yes.

Q: You don't want to disturb evidence?

A: Correct.

Q: You don't want to move anything?

A: No. You don't want to.

Q: You want to protect evidence from any people on scene?

A: Yes.

Q: Make sure the scene is not altered in any way?

A: Correct.

Q: Because any of these things could contaminate the evidence?

A: Correct.

Q: And a contaminated piece of evidence could potentially contaminate the entire case?

A: It could mess up portions but probably not the entire case.

Q: Sure. Now, in this case I know we heard yesterday from Ms. Eichenmiller from SLED of the evidence y'all sent to her for testing; correct?

A: Correct.

Q: And you've had the opportunity to review her reports; correct?

A: I reviewed briefly, yes.

Q: Okay. They list Cedric Young as the suspect; correct?

A: He was the only suspect at the time. So once you send something up to SLED, if you want them tested, they always say if you don't have anybody listed, they won't -- they won't test anything. So they want people listed, especially when it come to DNA.

So as procedure at Florence County, they would always -- if they had any suspect, they're going to put their name on that paperwork. So if I had warrants already for all individuals involved, they would have -- he would have put them on that paperwork too.

Q: He would have put -- their names would have been put on that paperwork?

A: As well, but they probably wouldn't even be relevant to the case at the time.

Q: Sure. Okay. So the projectile extracted from the victim that sat in your evidence or SLED's evidence locker for a certain number of years; correct?

A: The -- what about that one?

Q: It was submitted to SLED for testing again in 2021, earlier this year; correct?

A: Yeah. I think something was resubmitted after, yeah.

Q: And on that submission it lists Cedric Levern Young as the suspect; correct?

A: That's what he testified to, yes.

Q: Okay. So let's talk about what was sent to SLED in this

case. Mr. McDaniels -- Inv. McDaniels from crime scene investigations talked about this some this morning. There were a few pieces of evidence that were not sent that he seemed to place responsibility on y'all. So let's talk about those. We heard about the two bullets pulled from the home on [redacted] East Byrd Street; correct?

A: Correct.

Q: Those were on the Tanyard Street side of the trailer; correct?

A: Correct.

Q: The bedroom closest to the road?

A: Correct.

Q: We heard about the five cartridge cases sent to SLED from the street; correct?

A: Correct.

Q: We heard about the projectile extracted from [redacted] F. J. correct?

A: Correct.

Q: All submitted to SLED for testing; correct?

A: Correct.

Q: Because these items are submitted to SLED to determine if they have any sort of evidentiary value; correct?

A: Correct.

Q: Scientific evidentiary value specifically; correct?

A: Correct.

Q: And SLED can help scientifically test evidence; correct?
A: Correct.
Q: Because technology -- the technology is there and it is available and it can link, for example, projectiles to firearms?
A: Correct.
Q: It can link projectiles to other projectiles?
A: Correct.
Q: Evidence necessary to an investigation?
A: Correct.
Q: And when you know a piece of evidence exists, you should obtain it; correct?
A: Correct. If you can.
Q: If you can, you should preserve it; correct?
A: Correct.
Q: You should send it for testing if it has potential scientific evidentiary value; correct?
A: Correct.
Q: So [redacted] East Byrd Street, lead investigator, you're now chief of police Timmonsville, in the course of your investigation you learn that there is still a bullet in that home; correct?
A: No.
Q: You're unaware that there was a bullet in the doorway over that trailer?

A: I heard you mention that today and then I said to the forensics tech that night, they didn't say anything about a bullet that saw in that doorway.

Q: So earlier this year Ms. Belevena Gee, the homeowner, did not contact you about that bullet?

A: But not about that night. You know, there was another shooting that happened at that location since then.

Q: I see.

A: Yeah. So that night of the incident when they checked it, they didn't see that. You're telling -- you're talking about three years later.

Q: So you're saying there -- so there is a bullet still in the trailer?

A: No. I don't know if the bullet -- she said there's a hole right there, and I told her I would tell somebody from forensics to check that out and she said she don't even remember when it got there, but it wasn't there the night of the incident.

Q: Okay. And this bullet is right over the door frame?

A: You say a bullet?

Q: Yes, sir.

A: Did you see a bullet?

THE COURT: She gets to ask the questions now.

BY MS. HENDERSON:

A: No, I didn't see a bullet. I can't say there was a

bullet there.
Q: And I'm not asking did you see a bullet. What I'm asking you is if Ms. Belavena Gee is the homeowner?
A: Right.
Q: Did she reach out to you earlier this year about a bullet over the doorway where F. J. was found?
A: She said a hole.
Q: Okay. In relation to this case?
A: She said she didn't -- she said I see a hole. I don't know if this is related to this case or not.
Q: Okay. Okay. So nothing's been extracted from that home?
A: No.
Q: From that doorway I should say.
A: No, no. Nothing whatsoever.
Q: Nothing sent to SLED for testing?
A: No.
Q: Okay. Let's talk about White Street. This bullet was never sent to SLED for testing; correct?
A: That's a Timmonsville case. I didn't do that one.
Q: Okay. This was the same -- this was the shooting earlier in the evening; correct?
A: Correct. You remember I asked if they wanted to turn that one over, they could, but they didn't. They kept that case for theirself.

Q: Okay. So you can't speak to that case?
A: Not about the bullet at that scene.
Q: Okay. Not even in your capacity as Timmonsville Police Chief now?
A: No.
Q: Okay. Okay. So you don't know anything about that incident?
A: I know what was -- I didn't -- not about the evidence in it.
Q: Okay.
A: I just know that they said Cedric shot at that residence, which started this whole incident here.
Q: Okay. So you were present in the courtroom yesterday when Mr. Clements spoke with Mr. Strickland about it not being just one shot at [redacted] -- it just being one shot at [redacted] White Street, not a spraying of bullets; correct?
A: Okay. Yeah, I heard the testimony.
Q: Were you present?
A: Yeah, I was present for his testimony.
Q: I think Mr. Strickland might have said that and Mr. -- I don't want to misstate any testimony, but I believe there was a conversation --
A: Okay.
Q: -- that was brought up that the defense was characterizing this as a shooting --

A: Yeah.
Q: -- rather than just one shot.
A: One shot. Okay. Yeah. I think I heard that.
Q: Were you -- in the course of your investigation, did you learn that there were, in fact, multiple shots, one hitting Ms. Shirley McKnight's house next door?
A: No.
Q: Okay.
A: I didn't follow that case.
Q: Okay. Let's talk about proper handling of a suspect. When you obtain a suspect, there are basic procedures that need to be followed; correct?
A: Correct.
Q: Let's first talk about obtaining that suspect. To find a suspect, you need to interview witnesses?
A: Correct.
Q: Obtain evidence?
A: Correct.
Q: Analyze evidence?
A: Yeah. Correct.
Q: Yes, sir. Leads. Sometimes leads come up in cases; correct? Yes, sir?
A: Yes. Correct.
Q: And leads are information that are received from the public -- and I might be misstating this -- that could point

out potential suspects; correct?

A: Correct.

Q: You're supposed to document these leads; correct?

A: Correct.

Q: You're supposed to follow up on these leads; correct?

A: Correct.

Q: It's fair to say you don't want to pick a suspect and decide on that suspect without the evidence to back it up; correct?

A: Correct.

Q: You don't want to pick a suspect, decide on that suspect, and decide to make the evidence fit that suspect, do you?

A: No. You never do that.

Q: Right. And you don't want to work to make that evidence fit only that suspect; correct?

A: Correct. Yeah, you don't do that.

Q: Right. So talking about this case a little bit more -- excuse me. I should have asked this earlier. When we were discussing generally law enforcement's duties in documenting the case, law enforcement must turn over these documents; correct?

A: Correct.

Q: This is called the discovery process?

A: Correct.

Q: I know we talked about this regarding body-worn camera footage. I'm not sure if I talked about this, but everything prepared in the State's case should be -- in law enforcement's case should be turned over to the State; correct?
A: Correct.
Q: For the State to them turn that over to the defense; correct?
A: Correct.
Q: In a timely manner; correct?
A: Correct.
Q: Prompt; correct?
A: Correct.
Q: As required by law to ensure a fair investigation?
A: Correct.
Q: A trustworthy investigation?
A: Correct.
Q: To uphold an accused's constitutional rights; correct?
A: Correct.
Q: To ensure an innocent person isn't charged; correct?
A: Correct.
Q: And you're obviously now Officer Strickland's supervisor?
A: Correct.
Q: Officer Strickland prepared no reports in this case;

correct?

A: I don't think he -- I didn't look -- I didn't get his initial. I don't think he did an initial report. I think it was Miles or somebody.

Q: Okay.

MS. HENDERSON: May I beg the Court's indulgence?

THE COURT: Yes.

BY MS. HENDERSON:

Q: So Officer Strickland didn't prepare reports?

A: Let me see. That's an initial report?

Q: This is not. This is Inv. -- or Officer Miles' incident report; correct?

A: Okay. Yeah.

Q: You were present in the courtroom yesterday when Officer Strickland said he didn't write reports, he just relied on Officer Miles; correct?

A: I don't know if he said that, but if he didn't do a supplement, he didn't.

Q: Okay. I have a copy of Officer Miles' incident report in front of you. Have you had an opportunity to review that?

A: No. I can look at his.

Q: Yes, sir.

MS. HENDERSON: Judge, may I approach Chief McFadden?

THE COURT: Yes.

BY MS. HENDERSON:

A: Yeah. I don't see -- I don't see anything from Strickland on here.

Q: All right. So that's the extent of Officer Miles' report; correct?

A: Correct.

Q: And as Officer Strickland stated, he relied upon Officer Miles' report?

A: Okay.

Q: He didn't write any reports himself?

A: Correct.

Q: So he used that as the basis of his case?

A: Correct.

Q: And in that report -- in Miles' report -- and Miles is no -- Officer Miles is no longer with the Timmonsville Police Department; correct?

A: No. He's no longer with us.

Q: He was the first responding officer on scene?

A: Correct.

Q: And he had body-worn camera footage that night; correct?

A: Correct.

Q: But that was purged; correct?

A: Yes. The system kicked his out.

Q: Right. Meaning it was destroyed?

A: Purged out.

Q: Purged?

A: Yeah.

Q: So we don't have access to it?

A: Correct. No.

Q: Right.

A: Neither one.

Q: So talking about Officer Miles' written report, it's relatively short? Is it short, in your opinion?

A: He got -- no. He at least got a paragraph in there.

Q: Okay. And in it -- in it he says he responded and was flagged down by a large group of people; correct?

A: Correct.

Q: Made contact with the complainant, Ms. Sha'Tyra Gee?

A: Correct.

Q: Located the victim unresponsive in the front doorway?

A: Correct.

Q: EMS was notified?

A: Correct.

Q: Taken to the hospital?

A: Correct.

Q: Timmonsville investigator Strickland responded or just Timmonsville investigator, lead investigator?

A: Yeah.

Q: Which I assume --

A: Yeah. Timmonsville investigator responded.

Q: Yes, sir. And the Sheriff's Office came to assist;

correct?

A: Correct.

Q: And that's really all that report says; correct?

A: Correct.

Q: It doesn't give any identifying information as to the number of people in the large group of people?

A: Oh, no. No.

Q: Any of their names or information?

A: No.

Q: Talking more about Cedric Levern Young, in the course of your investigation -- and I know you said you spoke with him, but you didn't write any reports.

A: Uh-huh.

Q: In the course of your investigation, did you learn that he drove a silver car at the time of the shooting?

A: Correct.

Q: Right. Through the course of your investigation, you learned that that same vehicle may have been present at Byrd and Tanyard Street at the time of the shooting; correct?

A: Correct.

Q: You learned that Cedric Levern Young may have had others in the vehicle with him at the time of the shooting; correct?

A: I tried to get that. I was trying to gather information, but once he was arrested, he had an attorney in his case. So I never got to get as far as who he had,

whether they occupied, did he come with anybody else.

Q: Okay.

A: Yeah.

Q: But you prepared no reports on this; correct?

A: No. Correct.

Q: All right. You learned that the car was a Sentra?

A: No, I didn't. I didn't. They just said it was a smoker car. Somebody -- he sell drugs and it's somebody's car that he rented to by giving them drugs. So --

Q: Yes, sir. Okay. And in the course of your investigation, you learned that that car sat in a driveway on [redacted] Darlington Street in Timmonsville for a period of time; correct?

A: No, I didn't. I didn't ask. No.

Q: That car was never searched for potential evidence?

A: No.

Q: It was never impounded?

A: No. I never knew about that car.

Q: And you talked about Cedric Young obviously being charged in conjunction with this incident; correct?

A: Yeah. With White Street.

Q: Right. And that charge was actually dismissed pursuant to a plea agreement; correct?

A: Correct. I think he had some other pending drug charges.

Q: Okay. As lead investigator, talking more about that body-worn camera footage that we talked about, you heard Officer Strickland in court testify yesterday and you could hear over that body-worn camera footage that a call came in from [redacted] Green Drive over 9-1-1; correct?

A: Correct.

Q: And that call was from Cedric Levern Young's aunt, Deborah; correct?

A: Correct.

Q: Saying that she overheard Cedric say that he was jumped?

A: Correct.

Q: Shot at the gentleman that jumped him?

A: I don't know about that.

Q: Okay. Might have shot the little girl?

A: I heard -- yeah, but I -- he was -- it was two incidents with Cedric. He got -- the individual he was fighting with was JJ, but he also got attacked by some individuals, not immediate family, but after the [redacted] F.J. incident because they said he was the reason she was shot because he pulled in the yard. So that -- the second call was when he got assaulted by some other -- the other individuals from that -- from that family.

Q: Okay. And we have no reports on this?

A: No. Huh-uh. He didn't give a report.

Q: In the course of your investigation, you're aware that

that car that Cedric was driving that night was at [redacted] Green Drive when Mr. Strickland responded; correct?

A: I didn't know if it left or not because they was looking for him. I think if I watched the body camera, I could see people and the camera running. Now, after the assault they was talking about, I don't know if the car was still there. I couldn't say if the car was there or not.

Q: Okay.

A: At the scene.

Q: It would've been appropriate to obtain a search warrant on that car; correct?

A: Yeah. If he had -- if they located the car, it would have been.

Q: Right. And that car, to your recollection, on that second disk of the body-worn camera, Officer Strickland responds to [redacted] Green Drive; correct?

A: Correct.

Q: The car is present. He says, Cedric, whose car is that? Cedric says Mike Jones?

Q: I didn't see that part.

Q: Okay.

A: That part of that footage.

Q: But nonetheless, returned to the Timmonsville Police Department and that car is left behind at [redacted] Green Drive?

A: Yeah. If that what he did, yes. I didn't --

Q: Okay.
A: -- see that part.
Q: Let's talk about what else wasn't searched. No search warrant was obtained for Jimmy Lee Hampton, Jr.'s, car?
A: Correct. After I came in days later, it wasn't going to be.
Q: Right. And this is the car that eyewitnesses said an individual got out of shooting from?
A: Correct.
Q: Right. But what you did search was the red Dodge Challenger rented in Jimmy Lee Hampton, Jr.'s, name; correct?
A: They did all that before they -- before I got to the case. That was given to -- you know, did another search warrant just before I got that case.
Q: Okay. I don't want to misstate this, but didn't you interview Mr. Hampton, Jimmy Lee Hampton, Jr., on August 31st?
A: Yeah.
Q: Wasn't that search warrant executed later on in September?
A: I'd have to go back and look.
Q: Okay.
A: Yeah. I would have to go back and look.
Q: So you're not aware about what was obtained in the car from the search warrant?

A: Yeah. From the photos, from the inventory.
Q: Okay.
A: But I didn't -- I didn't go do it myself. I think that had to be maybe Chase.
Q: Okay.
A: I don't know whether --
Q: Yes, sir. Talking about Jimmy Lee Hampton, Jr.'s, Challenger, in your statement to him you said you were going to search it and -- excuse me. In his statement to you, you told him you were going to search it; correct?
A: I can't remember if I told him I was going to search it.
Q: Okay. And it wouldn't have been difficult to obtain a search warrant for his car?
A: Yeah, but days later I know they were going to have all kinds of rumors about I had to go search the car for weapons and trades for weapons. There were so many -- so much time passed. It was a waste.
Q: Okay. You didn't search John Hampton's white Challenger?
A: No.
Q: Okay.
A: It was days later. A waste.
Q: You didn't obtain any search warrants for any homes of any of the alleged individuals involved in this matter; correct?

A: No, I didn't.
Q: No search warrant for Jimmy Lee Hampton, Jr.?
A: No.
Q: No search warrant for KB Hickson's home?
A: No.
Q: No search warrant for John Hampton's home?
A: No.
Q: No search warrant for Brittany's home?
A: No.
Q: All to see if there could be a potential weapon involved; correct?
A: No, no. After so much time passed, it was too much time to say they had the weapons still there. Everybody talking about we'd never find no weapon, but I had eyewitnesses and I had them putting theirselves at the scene.
Q: Okay. You didn't obtain any cell phone records?
A: Didn't need it.
Q: Okay. You can subpoena cell phone records; correct?
A: I didn't need them. I didn't need them.
Q: And I'm just asking generally. You can subpoena cell phone records?
A: You can, but I didn't need them.
Q: Okay. And they can be pinged -- you can ping a phone to determine the location of where a phone was at at a certain time?

A: Correct.

Q: Right. You can subpoena cell phone records to obtain text messages?

A: You can.

Q: Records of calls coming in and out?

A: Correct.

Q: Yes, sir. In the report that you prepared, you wrote that Jimmy Lee Hampton, Sr., called you personally about the shooting on Byrd Street?

A: Correct.

Q: After that telephone call, he took these gentlemen to the police station the next day; correct?

A: No. He called. I told him to tell his sister to call 9-1-1.

Q: Okay.

A: That was when the first incident took place.

Q: And you know Jimmy Hampton personally; correct?

A: I know all of them personally.

Q: Right. Okay.

MS. HENDERSON: May I beg the Court's indulgence?

THE COURT: Yes.

MS. HENDERSON: Chief McFadden, I have no further questions.

THE WITNESS: Thank you.

MS. HENDERSON: Thank you, sir.

THE WITNESS: Thank you.

THE COURT: Mr. Hoffmeyer?

MR. HOFFMEYER: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. HOFFMEYER:

Q: Chief McFadden, good afternoon. Just a few follow-up questions for you.

A: Uh-huh.

Q: Now, Chief, you spoke to us a little while ago now when Solicitor Clements was discussing this case with you and you talked about some information you gathered and then you got warrants for certain individuals?

A: Correct.

Q: All right. And of course, you were in court earlier when I'm sure you heard the Court talking to the jury and saying an indictment is not evidence in a case?

A: Correct.

Q: Right.

A: Right. Correct.

Q: And a warrant is not evidence in a case either?

A: No.

Q: Is it?

A: It only needs probable cause.

Q: All right. Probable cause, a much lower lesser standard?

A: Correct.
Q: Now, as far as the -- the photo ID versus an identification of an individual the person doing the identifying, so to speak, knows, I believe you told us previously that when someone says that they believe this is the person that did something, if they have informed you that they know that person, then you don't do a photographic line-up?
A: Not if they know them personally, not if that's my relative or my cousin, my brother, no, I don't.
Q: All right. Well, how about if it's not a relative or a cousin or a brother, if they just say they know them?
A: No. Yeah, I would do an ID.
Q: Okay.
A: If I don't have nothing else to corroborate it, but in this case I had too much else to corroborate who the individuals was there. I just wanted to know what they were doing.
Q: Well --
A: I know who was present.
Q: Well, I'm sure you would agree with me whether it's law enforcement experience or personal experience, sometimes people could misidentify somebody that they know very well?
A: Yeah. But they identified themselves. They put themselves at the scene. They just didn't tell what they

were doing.
Q: Well, I don't mind you explaining your answer, but would you answer me first, please?
A: Go.
Q: Okay. In your personal experience and in your investigative experience, there are times when people identify someone that they know that because they know them previously, they think that was them, but they were wrong, wasn't they?
A: I didn't have a case like that.
Q: You've never -- have you ever misidentified somebody you know and said didn't I see you -- I was you at the supermarket last week, and they weren't there?
A: I do it all the time now.
Q: Happens to me too. That's why I got these. All right. Now, one thing -- and you very honestly and frankly told us when you initially took the stand that when you got this investigation -- and when did you get on board again, Chief?
A: With the investigation?
Q: Yeah. When did you have it?
A: It had to happen a few days later, like the following couple days later, I think.
Q: Okay.
A: Everybody said it was conflicted out.
Q: All right. And of course, there was important and

pertinent information that naturally was available before you got involved?

A: Yes.

Q: All right. And when you got involved, this investigation and that time frame where important pertinent information could be gathered was unfortunately in a mess?

A: Correct.

Q: As you described it?

A: Correct.

MR. HOFFMEYER: Thank you very much, Chief.

THE COURT: Mr. Clements?

MR. SCRUGGS: May we approach?

THE COURT: Sir?

MR. SCRUGGS: May we approach?

THE COURT: Yes.

(WHEREUPON, a bench conference was in the presence of the jury but out of the hearing of the jury as follows.)

THE COURT: Here he is.

MR. SCRUGGS: Okay. I just didn't know if he would, but I didn't know if he had any redirect and I didn't think that I could do it since I didn't -- I didn't do direct.

THE COURT: Any redirect?

MR. CLEMENTS: Yes, sir.

THE COURT: All right. Very well.

(WHEREUPON, the bench conference ended, and the

proceedings resumed as follows.)

THE COURT: All right. Any redirect?

MR. CLEMENTS: Yes, Your Honor.

REDIRECT EXAMINATION

BY MR. CLEMENTS:

Q: Chief McFadden, how much of what Ms. Henderson asked you about the Timmonsville investigation was before you had the lead in it and before you were the chief?

A: The majority of it, all of it before I was the chief. Before I had the case, all that took place before I even got involved. That's why they called us.

Q: She asked you about the shooting at [redacted] White Street, and you said you didn't have that one, that Timmonsville didn't pass that one on to you?

A: They didn't. I said that they -- I told them that if y'all need us to get that one, we'll take that one as well.

Q: And did I understand her correctly she asked you about it was just one shot?

A: Correct.

Q: Are you aware of Capt. Strickland taking statements in this case?

A: Correct.

Q: And did he testify yesterday about there being one shot on White Street or do you remember?

A: I'd have to go back into that. I would have to listen

to him.
Q: Yeah.
A: On White Street.
Q: Would it be safe to say or not that there were some holes in the State's -- in the investigation?
A: Correct. As always.
Q: And what Ms. Henderson provided to us was a tremendous and detailed overview of how to handle investigations. Is that the ideal or is that commonplace what she described there?
A: Not commonplace. You would hope to get the perfect investigation.
Q: But -- but right now it's not commonplace?
A: No. Every investigation is different.
Q: And that was a textbook?
A: Yeah, what she said.
Q: Okay. Now, how much of your ability to perform an investigation along the lines that she described is impacted by resources and manpower?
A: A lot.
Q: What does the resources and manpower or the lack of resources and manpower mean to you in your abilities to complete an investigation thoroughly and perfectly?
A: It's tough. At the time I was part of -- well, we was part of a homicide team as well, but because I had other

cases -- I know people say this is kind of cold, but I'm not out there also working F. J. s murder, but I'm dealing with somebody else's break-in or a robbery. So they really get them and then I have to leave one victim alone. I had a dead child, but you're worrying about a -- and I forget. You're worrying about a lawnmower, but I'm trying to tell you I need to take care of the case with a dead child. So you're extended everywhere.

Q: Let me ask you this. All the faults being considered, in your review of what Mr. Strickland did in his investigation, did it reflect his best attempt from you knowing him or do you not think so?

A: Oh, knowing him, yeah, that was his best attempt. I think that's why -- that's what we would call that.

Q: It was the best for what he got?

A: What he had.

Q: Do people have different abilities?

A: Correct.

Q: Strengths?

A: Correct.

Q: Now, in Timmonsville that night, do you know how many people they had on shift during that time period when they had the manpower that they did on that night?

A: One.

Q: One person?

A: Yeah.
Q: And one person can respond to a scene like that and they are expected to do all this stuff that Ms. Henderson said?
A: It was chaos. Chaos.
Q: Now, ultimately, other -- other agencies came to the rescue with extra manpower, didn't they?
A: Correct.
Q: But it takes a while for that to happen, doesn't it?
A: Correct. Highway Patrol came, the County came.
Q: Capt. Strickland wasn't on shift, but he came out, didn't he?
Q: They came -- he came back out.
Q: And Chief Brown was out on an injury, but he came to be able to provide advice as needed?
A: Yes. Once he found out -- you know, once he found out it was a 12-year-old middle-school kid, he said he had to come back, come out.
Q: So is it your opinion -- well, from your knowledge and experience, do you think any of y'all got a good law enforcement situation there as far as everybody trying to work together and doing the best they could?
A: Correct.
MR. CLEMENTS: Thank you. No further questions.
THE COURT: Any recross?
MS. HENDERSON: Not from Mr. Barclay, Judge.

MR. CLEMENTS: No, Your Honor, not until in the morning.
THE COURT: Ms. Henderson?
MS. HENDERSON: No, sir, Judge.
THE COURT: Mr. Hoffmeyer?
MR. HOFFMEYER: No, sir, Judge.
THE COURT: All right. If you all will be back at nine o'clock in the morning.
MR. HOFFMEYER: Thank you, Judge.
MR. CLEMENTS: Thank you, Your Honor.
(WHEREUPON, there was a pause in the proceedings, after which the proceedings resumed as follows.)
MR. CLEMENTS: In the morning, Your Honor.
THE COURT: Can y'all approach, please?
(WHEREUPON, a bench conference was held off the record, after which there was a pause in the proceedings and then the proceedings resumed as follows.)
THE COURT: Mr. Clements?
MR. CLEMENTS: Your Honor, we have a resolution, I believe, with one of the defendants here today.
THE COURT: And who might that be?
MR. CLEMENTS: That would be Mr. -- I keep calling him KB, but I forget his real name, Mr. Demonta Hickson, and it's Indictment Number 2019-GS-21-579.
THE COURT: All right.
MR. CLEMENTS: We're preparing the plea, Your Honor.

THE COURT: What about Mr. -- let me ask you before I -- let me stop you real quick. What about Mr. Barclay? Is he still going forward? Which is fine, but he doesn't need to be in here while this takes place if we're --

MS. HENDERSON: Mr. Clements and I spoke. If it's okay for him to stay, we might. We're waiting to hear back from Mr. Clements.

MR. CLEMENTS: Well, I haven't had a chance to talk to my people. I would prefer that he not be in here.

THE COURT: Yeah. He doesn't need to be in here --

MS. HENDERSON: Sure.

THE COURT: -- while this takes place.

(WHEREUPON, Defendant Barclay exited the courtroom.)

MR. HOFFMEYER: Judge, do you want us to come around?

THE COURT: He can stand there. I can see him from where he is. That's fine.

MR. HOFFMEYER: Your Honor, his mom and dad would probably like to say something at some point. Do you want them to stay there?

THE COURT: I mean they can come up to this microphone here --

MR. HOFFMEYER: Yeah.

THE COURT: -- at the appropriate time, but they don't need to come forward in court. Okay?

My court reporter does want to see the defendant. He

can come around and stand.

All right. Yes, sir?

GUILTY PLEA

MR. CLEMENTS: Your Honor, this is Indictment Number 2019-GS-21-579, State versus Demonta Hickson and Michael Barclay and Jimmy Hampton, Jr. -- Jimmy Lee Hampton, Jr.

Your Honor, Mr. Hickson is entering a guilty plea. Before we discuss the facts, which you are well aware of because we've been in here in court hearing those facts, first we would like to tell you, Your Honor, that Mr. Hickson has no criminal record and no criminal history that we know of as a juvenile or an adult. I'm afraid he has just jumped off in the deep end of the pool, to be sure.

At the appropriate time, Your Honor, I would like for you to hear from Mr. and Mrs. [redacted] and also the chief of police.

THE COURT: All right.

MR. CLEMENTS: Mr. McFadden.

THE COURT: All right. Have you got a sentencing sheet?

MR. CLEMENTS: Your Honor, the clerk has it, I believe.

THE CLERK: I just handed it up.

THE COURT: Oh, she handed it up. I'm sorry.

MR. CLEMENTS: He's pleading guilty to voluntary manslaughter, Your Honor, a most serious, violent offense, an 85 percent no-parole offense. He's pleading to a 15-year

cap.

THE COURT: Okay.

MR. CLEMENTS: And based on the heinousness of this crime and the just pure unadulterated recklessness and criminal negligence, we would ask for the 15-year sentence to be imposed. Your Honor, this is -- today was three days -- I mean three years to the day that this happened, and there's still a completely open wound in the hearts of the families and the friends in the city -- in the town of Timmonsville.

Your Honor, I'd like to defer to Chief McFadden for anything he'd like to say.

THE COURT: Well, I'm going to -- we're not getting -- we're not that far yet. Okay? I'm going to question the defendant first.

MR. CLEMENTS: Yes, sir.

THE COURT: Okay. Sir, if you would raise your right hand, please. Do you swear to tell the truth, the whole truth, and nothing but the truth, so help you God?

THE DEFENDANT HICKSON: Yes, sir.

THE COURT: All right. You can put your hand down. You're Demonta Kabora Hickson?

THE DEFENDANT HICKSON: Yes, sir.

THE COURT: Have you ever been treated for alcohol abuse, drug abuse, or mental illness?

THE DEFENDANT HICKSON: No, sir.

THE COURT: Within the last 24 hours, have you taken any medication, drugs, or alcohol?

THE DEFENDANT HICKSON: No, sir.

THE COURT: Are you aware of any physical, emotional or nervous problem that would prevent you or keep you from understanding what's going on here today?

THE DEFENDANT HICKSON: No, sir.

THE COURT: The State indicates you wish to enter a plea to voluntary manslaughter. Is that correct?

THE DEFENDANT HICKSON: Yes, sir.

THE COURT: Do you understand it carries up to 30 years?

THE DEFENDANT HICKSON: Yes, sir.

THE COURT: The State is recommending a cap of 15 years in this case. Is that your understanding?

THE DEFENDANT HICKSON: Yes, sir.

THE COURT: Do you understand I don't have to go along with that?

THE DEFENDANT HICKSON: Yes, sir.

THE COURT: Do you still want to enter this plea here today?

THE DEFENDANT HICKSON: Yes, sir.

THE COURT: Now, in addition, you understand that the offense of voluntary manslaughter is considered under South Carolina law to be a violent offense. Do you understand that?

THE DEFENDANT HICKSON: Yes, sir.

THE COURT: Do you understand that it's a no-parole offense?

THE DEFENDANT HICKSON: Yes, sir.

THE COURT: In other words, you -- under -- by law you will have to do at least 85 percent of whatever sentence is imposed upon you before you will be even eligible for parole. Do you understand that?

THE DEFENDANT HICKSON: Yes, sir.

THE COURT: Do you still want to plead guilty here today?

THE DEFENDANT HICKSON: Yes, sir.

THE COURT: Now, in addition, under South Carolina law voluntary manslaughter is considered to be a most serious offense. Do you understand that?

THE DEFENDANT HICKSON: Yes, sir.

THE COURT: Which falls under the two-strike rule. Do you understand that?

THE DEFENDANT HICKSON: Yes, sir.

THE COURT: Mr. Hoffmeyer, have you discussed that with him?

MR. HOFFMEYER: Your Honor, may I just quickly?

THE COURT: Okay.

(WHEREUPON, there was a pause in the proceedings, after which the proceedings resumed as follows.)

MR. HOFFMEYER: Your Honor, I have explained it to him. I think we had probably discussed that earlier on in the case.

THE COURT: Are you satisfied he understands the consequences?

MR. HOFFMEYER: Yes, sir, Judge.

THE COURT: Mr. Hickson, you've heard your attorney tell me that he's talked to you about the consequences of pleading to a most serious offense. Have you had enough time to talk to your lawyer about that?

THE DEFENDANT HICKSON: Yes, sir.

THE COURT: And again, you understand it falls under the two-strike rule?

THE DEFENDANT HICKSON: Yes, sir.

THE COURT: In other words, if you are convicted by plea or trial of another most serious offense, which would be a second offense, and the State has properly noticed you of their intent to seek life, the Court would have no alternative but to give you life. Do you understand that?

THE DEFENDANT HICKSON: Yes, sir.

THE COURT: All right. Understanding the consequences of pleading to a violent as well as a most serious offense and understanding that this particular charge carries up to 30 years, how do you wish to plead here today? Guilty or not guilty?

THE DEFENDANT HICKSON: Guilty.

THE COURT: All right. Mr. Hickson, you understand when you plead guilty you give up certain important constitutional rights. You have a right to a jury trial. In fact, for the last two days we've heard testimony in this case. Do you understand that?

THE DEFENDANT HICKSON: Yes, sir.

THE COURT: However, when you plead guilty, you give up that right. Do you understand that?

THE DEFENDANT HICKSON: Yes, sir.

THE COURT: Now, during the course of your trial over the last two days, your lawyer has had a right and has done a very good job in cross-examining every one of these witnesses. At the appropriate time or when the State rests, you would have an opportunity to remain silent. In other words, you would not have to put up a defense. And if you chose not to testify, if you chose not to put up a defense, I would tell the jury that they could not -- they could not hold against you the fact that you chose not to testify.

In addition, as I told you a minute ago, you're not required to, but you'd have an opportunity to present a defense. We've kind of -- if you made any incriminating statements, which none have been -- no such statements or no incriminating statements have been before this Court, nor have there been any challenges as to the admissibility of any

kind of statements, but if there were, your lawyer certainly could have and I know he would have challenged the admissibility of those statements. Do you understand those rights?

THE DEFENDANT HICKSON: Yes, sir.

THE COURT: Now, you understand that by pleading guilty here today that you're admitting your guilt and a jury is not going to be a deciding whether you're guilty or not. Do you understand that?

THE DEFENDANT HICKSON: Yes, sir.

THE COURT: And you want to forego your rights to a jury trial and proceed here today and plead guilty to this charge? You want to give up your rights --

THE DEFENDANT HICKSON: Yes, sir.

THE COURT: -- to a jury trial and go ahead and plead guilty?

THE DEFENDANT: Yes, sir.

THE COURT: All right. Now, you're represented by Mr. Hoffmeyer. Are you satisfied with his representation?

THE DEFENDANT HICKSON: Yes, sir.

THE COURT: Have you talked to him enough?

THE DEFENDANT HICKSON: Yes, sir.

THE COURT: Have you understood your talks with him?

THE DEFENDANT HICKSON: Yes, sir.

THE COURT: Do you need any more time to talk to him?

THE DEFENDANT HICKSON: No, sir.
THE COURT: Do you have any complaints about him?
THE DEFENDANT HICKSON: No, sir.
THE COURT: Has anyone promised you anything or held out any hope of reward to get you to plead guilty here today?
THE DEFENDANT HICKSON: No, sir.
THE COURT: Has anyone used any threats, force, pressure or intimidation to get you to plead?
THE DEFENDANT HICKSON: No, sir.
THE COURT: Has anyone mistreated you in any way, whether it be law enforcement or Solicitor's Office?
THE DEFENDANT HICKSON: No, sir.
THE COURT: Have you had enough time to make up your mind as to whether or not you want to plead guilty or go to trial on this charge or continue with your trial?
THE DEFENDANT HICKSON: Yes, sir.
THE COURT: You've had enough time?
THE DEFENDANT HICKSON: Yes, sir.
THE COURT: And what do you wish to do, sir?
THE DEFENDANT HICKSON: Plead guilty.
THE COURT: Are you pleading guilty --
THE DEFENDANT HICKSON: Pleading guilty. I'm sorry.
THE COURT: Are you pleading guilty to this charge of your own free will?
THE DEFENDANT HICKSON: Yes, sir.

THE COURT: Have you understood my questions?

THE DEFENDANT HICKSON: Yes, sir.

THE COURT: Have you understood my questions?

THE DEFENDANT HICKSON: Yes, sir.

THE COURT: Okay. Is there anything else you need me to explain to you, Mr. Hickson? I see you shaking your head no.

THE DEFENDANT HICKSON: No, sir.

THE COURT: Sir?

THE DEFENDANT HICKSON: No, sir.

THE COURT: Okay. And how do you plead to this charge here today? Guilty or not guilty?

THE DEFENDANT HICKSON: Guilty.

THE COURT: All right. For purposes of the plea, while I've heard evidence and testimony in the record, give me some facts just -- there's plenty of facts in the record at this point, but I want to hear just enough to satisfy the plea for purposes of this plea.

MR. CLEMENTS: Yes, sir. Your Honor, the State's theory of this case is it arose out of a fight and then went to a drive-by shooting by another individual of family members of Mr. Hickson, and they checked that out and then they went looking for a guy named Boogie, and they stopped at [redacted] Byrd and Tanyard Street and they jumped out of the car. He was riding with Jimmy Lee Hampton, Jr.

They jumped out of the car and shot. We're not sure if

he was shooting in the air or where he was shooting, but the other car that had a shooter in it that we know of we believe was Mr. Barclay, who shot towards the trailer, and we believe he had a 9 millimeter and his shot killed F.J. . And Mr. Hickson had a .380. He shot and Mr. Hampton tried to leave, and he jumped in the backseat of the car and that was the end of it.

THE COURT: All right. Mr. Hickson, you heard those facts as stated by the prosecutor. Do you agree with those facts?

THE DEFENDANT HICKSON: Yes, sir.

THE COURT: Are you guilty of this charge?

THE DEFENDANT HICKSON: Yes, sir.

THE COURT: And how do you plead, sir? Guilty or not guilty?

THE DEFENDANT HICKSON: Guilty.

THE COURT: All right. I find that there is substantial factual basis for this plea. I also find defendant's decision to plead has been entered into freely, voluntarily, knowingly, and intelligently. That he's had the advice and counsel of an attorney with whom he's indicated he's completely satisfied. I'll accept his plea.

Before I hear from you, Mr. Hoffmeyer, I'm going to hear from any of the State's witnesses that may want to speak.

MR. CLEMENTS: Your Honor, we would submit to you that

the shooting of the house at White Street, [redacted] White, was giving significant provocation that was legal and in the heat of passion they responded at Byrd and Tanyard.

THE COURT: All right. Very well. All right.

MR. HOFFMEYER: Are you ready? I'm sorry.

THE COURT: I think Chief McFadden wanted to speak and maybe the --

MR. CLEMENTS: Parents.

THE COURT: -- parents --

MR. CLEMENTS: Yes, sir.

THE COURT: -- of the victim.

CHIEF MCFADDEN: I'll speak on their behalf.

THE COURT: Okay.

CHIEF MCFADDEN: Your Honor, they don't want to say anything, but they just want you to know they thank you, Your Honor, for this time and this week.

This was devastating to the community of Timmonsville. So ever since this happened, this shook the community, even with it being Demonta. Everybody is shook. They want him to know that they do forgive him, but they know he has to have consequences for what he did.

This is the third year and every year her class has been looking at an empty desk and empty chair where she should be. So that devastated this family, but they are a praying family and so they do forgive him, but they say he has to answer for

the consequences. They ask for the 15 years for the consequences, but they didn't want to speak.

THE COURT: All right.

MR. HOFFMEYER: Thank you.

THE COURT: Hold on.

MR. HOFFMEYER: Oh, I'm sorry.

THE COURT: I was pointing to Vicky back there.

THE VICTIM'S ADVOCATE: Your Honor, Vicky Singletary on behalf of the Solicitor's Office.

As you saw earlier today, there was a great deal of family members here. It's a very large family, cousins, aunts. They all wanted to be here, of course, to support what's going on.

The family is requesting the 15 years. I've spoken to the grandmother and the aunt and the mother and father. This is just extremely emotional for them, but they do ask for the 15 years and they hope that the community heals. Thank you, sir.

THE COURT: All right. All right. Anything else from the State?

MR. CLEMENTS: Your Honor, that's all.

CHIEF MCFADDEN: And he do -- I know he's going to let his mom and dad speak, but they are here and they are part of the community too. How small it is, everybody know everybody.

THE COURT: Yeah.

CHIEF MCFADDEN: So it was bad on both sides. Like I said, I told them all before this came up it would be no winners.

THE COURT: They what?

CHIEF MCFADDEN: There will be no winners in a case like this. This will be devastating for the community, but overall with all the shooting going on in America and in this community, they've got to ask for it. That's the only way this will slow down people and stop. Thank you.

THE COURT: Okay. Thank you.

All right. Mr. Hoffmeyer?

MR. HOFFMEYER: Thank you, Your Honor, and we -- I know Mr. Hickson, as well as I, greatly appreciate the gracious attitude of these wonderful people.

When it comes to Demonta, I think everybody -- and in speaking to Chief McFadden, I believe he feels this way. It's such a shock that he ended up here, as Mr. Clements mentioned to the Court, kind of jumping in the deep end.

I think when we think about how this evolved, it evolved because of something that Cedric Young, Boogie, did. And I'm not offering any excuses for Mr. Hickson or the other people involved, but -- and I know this Court is well aware of these facts, but when he went and shot at that home, Boogie did, on White Street, that is Mr. Hickson's grandmother's home.

So these young man -- he would have been, I believe, 24 at that time. He, along with his cousins, a tight, very tightknit family -- I think Your Honor could see that throughout this trial how they kind of hung together -- make this terrible, reckless, careless choice to go seek Boogie.

I don't think -- in fact, I believe I know in any way, shape or form did Mr. Hickson think for one second that this tragedy would have occurred. It wasn't right to go seek Boogie and try and shoot him, but as far as any intent, there was none. Recklessness, carelessness, being a hotheaded young man with other hotheaded young men and make a -- making a life-altering tragic mistake is what occurred.

Judge, I do believe there's evidence and I think at times the State has even to a certain extent agreed there's witness testimony to this fact and evidence to this fact. Well, two things. One is that Mr. Hickson got out and shot in the air. He did not shoot toward the crowd. I think there's evidence of that.

And in addition to that, Judge, the tragedy with this child came from a 9 millimeter, and Mr. Hickson, where he was, as the State has indicated to the Court, were .380 rounds. That doesn't excuse his involvement, and that's why he is pleading guilty before Your Honor to this voluntary manslaughter. I think he, in speaking to him, feels a sense of guilt and remorse and wishes he could turn back the hands

of time somehow, some way.

He's done positive things in his life in terms of employment and working at Honda, McCall Farms, and loving his parents and they loving him. He doesn't have any children. Hopefully, he'll have a life left after this.

We certainly understand their position on things. We would just ask the Court to consider, given his lack of any criminal record and the other things that this Court is aware of related to what occurred, as well as his particular situation, not doing certain things that perhaps another did, that you consider a lesser sentence than the 15 years.

That's all I have at this time. I know that he would like to address the Court, with the Court's permission.

THE COURT: Yes, sir? Mr. Hickson, happy to hear from you, sir.

THE DEFENDANT HICKSON: Yes, sir. Thank you, Judge.

Yeah, for the family, like he said it's a small town and the heat of passion. Yeah, my condolences go to the family, the whole time it was and the whole day, to find it in their heart, you know, give -- you know, give peace to my -- to me and my family. Everybody, like, send plenty of condolences, plenty of condolences. I'm sorry, very sorry.

THE COURT: All right. Mr. Hoffmeyer, you indicated maybe his family wanted to speak.

MR. HOFFMEYER: Yes, sir, Your Honor.

Your Honor, as Chief McFadden very aptly pointed out, it's so emotional. They can't speak.

THE COURT: How much time did he do in jail?

MR. HOFFMEYER: Your Honor, I think four months, but I don't have the exact calculation.

THE COURT: Mr. Clements, do you have any idea?

MR. CLEMENTS: I beg your indulgence, Your Honor. Your Honor, it looks like he was arrested on 8/31/18.

THE COURT: Yes, sir.

MR. CLEMENTS: And Judge Nettles gave him a bond on 12/18/18.

THE COURT: All right.

MR. HOFFMEYER: Your Honor?

THE COURT: Yes, sir.

MR. HOFFMEYER: I've been given some help on that by Ms. Henderson. It looks like it's 106 days and two more, I guess, during this trial.

THE COURT: All right.

(WHEREUPON, there was a pause in the proceedings, after which the proceedings resumed as follows.)

THE COURT: I know that Jimmy Lee Hampton testified in this case, and the testimony that came out is he was offered accessory after the fact, in essence, for cooperation.

MR. CLEMENTS: If he cooperated fully.

THE COURT: Truthfully and fully?

MR. CLEMENTS: Yes, sir.

THE COURT: And that was what came out during the course of the trial. Is there any cooperation agreement by this defendant as it relates to --

MR. CLEMENTS: This plea?

THE COURT: -- the ongoing trial?

MR. CLEMENTS: No, Your Honor. Unless he would possibly be needed and be interested in testifying on reply. There is that possibility. We're not asking -- we're not demanding that he do so or make that a condition of his plea, but if the occasion arises, we may be interested in him on reply. It depends on how things go and how he feels about it.

THE COURT: All right. Anything further from the State?

MR. CLEMENTS: No, Your Honor.

THE COURT: Defense counsel?

MR. HOFFMEYER: No, sir, Your Honor.

THE COURT: You know, Mr. Hickson, you were in front of me last week pursuant to a letter that you sent to Mr. Hoffmeyer asking that he be relieved as your lawyer, and I told you then that I thought it would be a grave mistake for you to do that. I believed it then and I believe it now that if you had done that, it would have been a grave mistake.

Mr. Hoffmeyer, as he always does, has done a profound job on your behalf. You know, he didn't -- he didn't make the facts in the case. No defense lawyer does, but they have

to deal with them.

And I told you last week also that as a judge one of the hardest things for me is seeing young people make terrible decisions that have tremendous consequences. Do I think you're a mean person? Do I think you're a terrible person? Absolutely not. Absolutely not.

I look at your mom and dad out there, and I can't imagine what they're dealing with. I certainly cannot imagine what the Jackson -- what you all are dealing with. I can't imagine. I pray that I never have to be in either one of y'all's shoes, either one of ya's.

I commend you all in saying that you forgive this young man. That takes a lot. That speaks volumes to you all because so many wouldn't even try to.

I've taught my kids and still one bad decision can change tremendously the course of your life, and it pains me to see that you made this decision. I think you're doing the right thing here today by pleading guilty, but, you know, pleading guilty to this is -- it's not end of the world for you. When you're released from the Department of Corrections, you're still going to be a young man, which means that you will have plenty of time, plenty of time to do what's right and to put this behind you.

You know, it bothers me to some extent that while you're pleading guilty -- and you have a right to -- but not give

the whole side of the story. I know that Timmonsville is a small community. I grew up in a small community not much bigger than Timmonsville.

SENTENCE

THE COURT: On Indictment 2018 -- excuse me -- 2019-GS-21-00579, State versus Mr. Demonta Kabora Hickson, he's hereby sentenced to the State Department of Corrections for a period of 15 years, given credit for 112 days.

Good luck to you, Mr. Hickson.

MR. CLEMENTS: Nine o'clock? Anything further?

THE COURT: The lawyers be back at nine o'clock, please.

(WHEREUPON, the proceedings adjourned for the day at 5:34 p.m.)

AUGUST 26, 2021

(WHEREUPON, the proceedings resumed at 9:30 a.m.)

THE COURT: Real quick, I'm still waiting on a couple of jurors. I think one had a flat tire.

I've been looking at the law as it relates to voluntary manslaughter as a lesser-included. I don't think -- I don't think based upon the evidence and testimony that's in the record right now that there will be a lesser-included on manslaughter. It'll be straight up murder. It'll be straight up murder. Okay?

MS. HENDERSON: Thank you, Judge.

THE COURT: All right.

Hickson is no longer in court here. Okay? You'll notice he's no longer in court here. He is no longer on trial.

What I will tell you, ladies and gentlemen, is that there are to be absolutely no adverse inferences or conclusions drawn by you due to the fact that Mr. Barclay is the only remaining defendant on trial in this case. Okay?

You, ladies and gentlemen, as I've told you from the outset, will be required to determine -- to determine based upon the evidence and testimony presented in this courtroom whether the State has proven the guilt of Mr. Barclay beyond a reasonable doubt. Okay? So there are to be absolutely no adverse inferences or conclusions as to Mr. Barclay due to the fact that Mr. Hickson is no longer in here. Okay?

All right. At this time, I'll recognize the State. Mr. Clements?

MR. CLEMENTS: Thank you, Your Honor. At this point, the State would rest.

THE COURT: All right.

All right. Ladies and gentlemen, the State has rested its case. All right?

At this stage of the trial, due to the fact that the State has rested its case, I hate to do it, but we're required to at this point. I'm going to have to send you back to the jury room so that we can take up some matters of law. Okay? Some matters of law, and I will get you back in

here as quick as I can. Okay?

Please step back to the jury room. Do not discuss the case at all.

(WHEREUPON, the jury exited the courtroom at 10:00 a.m.)

THE COURT: All right. Ms. Henderson, any motions or anything?

MS. HENDERSON: Yes, Your Honor. I renew my previous motions. I also would make a motion for a directed verdict. I believe that evidence has not been presented to substantiate a murder charge. I believe at best we have a suspicion of Mr. Barclay's guilt.

Specifically, I would point this Court to *State v. Schrock*. That is Supreme Court Case Number -- South Carolina Supreme Court Case 283 S.C. 129 from 1984. It sets forth that a mere suspicion of guilt is insufficient to send the charge to the jury.

Your Honor, as you well know, when a case is circumstantial, as is I believe the case here, the evidence must be to the point -- must point conclusively, that is to a moral certainty to the guilt of the accused. That that must be wholly and in every particular to be perfectly consistent with each other.

Judge, I believe that's the case here. I believe the evidence that we have heard is entirely circumstantial and at best it raises a mere suspicion as to Michael Barclay's

guilt.

THE COURT: All right. Thank you, ma'am.

Mr. Clements, anything in response?

MR. CLEMENTS: Your Honor, I think we've presented evidence sufficient to take this matter to the jury.

THE COURT: All right. As you all well know, the law requires that if there's any direct or substantial circumstantial evidence reasonably tending to prove the guilt of the accused, the Court is required by law to submit the case to the jury.

Based upon the testimony that's been presented during the course of this trial, I believe that Jimmy Lee Hampton, Jr., testified yesterday that he was asked by Mike -- Mike Mike, who is also known as -- or Mr. Michael Barclay, to rent him a red car, which Mr. Hampton testified that he, in fact, did rent such car from Enterprise Rent-A-Car.

That on the night of August 25, 2018, that Defendant Barclay was the one driving the car, that he did not see anyone else driving the car. All he knew was that Defendant Barclay was driving the car. Furthermore, which was also evidence of this defendant being in possession of the car was Exhibit 24, which was a photo inside the car indicating an individual by the name of Michael iPhone had been connected to that car.

Furthermore, there was testimony of George Dunn, who

testified that when the red car came up that there was an individual asking about Boogie, and he started shooting. He further testified that the individual talking sounded like he was from up north. There's evidence in the record that Defendant Barclay is and lived in New York at the time.

There was further testimony that there were two different firearms believed to be shooting at the time, which was substantiated by Michelle Eichenmiller -- I think that's her name -- with SLED as to her evaluations of the projectiles that were found at the scene. There was testimony that there was shell casings from a .380 and there was testimony from Ms. Eichenmiller that there were projectiles of 9 millimeter and I believe a .380 as well that were located and gathered from the home subject to this shooting.

In addition, there was testimony from Mr. Hampton that after the shooting occurred -- I can't remember whether the testimony was that Defendant Barclay called him or he called Defendant Barclay. It really doesn't matter as to who called who, but the testimony from that was that the red Challenger that was rented for Defendant Michael Barclay was taken back to Enterprise Rent-A-Car. That when Mr. Hampton arrived, Mr. Barclay was in possession of the car. That he was outside of the car wiping the car down prior to leaving the car at Enterprise Rent-A-Car.

Based upon all of those facts, I do believe that there is sufficient substantial circumstantial evidence reasonably tending to prove this defendant's guilt for which a jury could convict him of the offense charged and, therefore, the Court is respectfully -- respectfully denying defendant's motion for a directed verdict.

MS. HENDERSON: Thank you, Your Honor.

THE COURT: So noted for the record. All right.

All right. Bear with me just -- I'm looking at the jury -- some stuff on the jury charge. Bear with me just a minute here.

MR. FLOYD: Yes, sir.

(WHEREUPON, there was a pause in the proceedings, after which the proceedings resumed as follows.)

THE COURT: And we did talk in chambers briefly concerning the charge. I do believe that the doctrine of transferred intent would be appropriate here. I believe that was brought up in chambers.

All right. It was also brought up in chambers about the spoliation charge, spoliation of evidence. Pursuant to *State v. Cheeseboro*, C-h-e-e-s-e-b-o-r-o, which is a State Supreme Court case, 346 S.C. 526, 552 S.E.2d 300. *State v. Cheeseboro* held in citing *Arizona v. Youngblood*, which is 488 U.S. 51, it says the State does not have an absolute duty to preserve potentially useful evidence that might exonerate a

defendant.

Can y'all hear me okay?

MS. HENDERSON: Yes, sir, we can.

THE COURT: Okay. It says to establish a due process violation, the defendant must demonstrate, one, that the State destroyed the evidence in bad faith, which there's been no such evidence in this case, or, two, that the evidence possessed an exculpatory value apparent before the evidence was destroyed and the defendant cannot obtain other evidence of comparable value by other means.

There's no evidence that such evidence, being the body-worn camera of Mr. McDaniel -- I think that was the issue. Is that right, Ms. Henderson?

MS. HENDERSON: Yes, sir, Judge.

THE COURT: That such possessed any exculpatory value apparent -- that was apparent before the evidence was destroyed. So I don't think that either one of those prongs in this case -- I don't think that either one of those prongs in this case have been met which would warrant a spoliation charge.

MS. HENDERSON: Okay.

THE COURT: Okay?

MS. HENDERSON: Yes, sir.

THE COURT: But your objection, so to speak, is so noted for the record.

The next issue relates to a lesser-included charge of voluntary manslaughter. Bear with me just a second here.

(WHEREUPON, there was a pause in the proceedings, after which the proceedings resumed as follows.)

THE COURT: What says the State with regards to voluntary manslaughter?

MR. CLEMENTS: Judge, we're not opposed to it. I'm kind of ambivalent about asking for the charge. We're back and forth on that, but we're not -- we wouldn't think it would be anything objectionable --

THE COURT: Ms. Henderson?

MR. CLEMENTS: -- to charge it.

THE COURT: I'm sorry. I'm sorry, Mr. Clements. Are you finished?

MR. CLEMENTS: Yes, sir. I've said enough.

THE COURT: Okay. Ms. Henderson?

MS. HENDERSON: Judge, I'm going to leave it in your discretion.

THE COURT: Okay.

MR. CLEMENTS: Your Honor, if I might add one other thing?

THE COURT: Yes, sir.

MR. CLEMENTS: We see where argument could be made for voluntary manslaughter, but what we're concerned with is where it relates to transferred intent, and the law is

unsettled in the state. I would not want to get as far as we've gotten and make a mistake on something that's unnecessary.

THE COURT: Do what now? I'm sorry.

MR. CLEMENTS: As far along as we are now at this point in the trial, I would hate to say I want a voluntary manslaughter charge when the law is unsettled on the facts such as we have here. So that's why I'm not asking for it. I'll leave it to your discretion as well.

(WHEREUPON, there was a pause in the proceedings, after which the proceedings resumed as follows.)

THE COURT: All right. Based upon in looking at the voluntary manslaughter charge, the law states to prove voluntary manslaughter, the State must demonstrate beyond a reasonable doubt the defendant unlawfully killed another without malice in sudden heat of passion based on sufficient legal provocation.

In jumping to sufficient legal provocation, it says the provocation must come from some act of or related to the victim, which is not the case here. It goes on to say the provocation of the deceased must be such as naturally and instantly produces in the mind of a person ordinarily constituting the highest degree of exasperation, rage, anger, sudden resentment, of terror, rendering the mind incapable of cool reflection. It goes on in the charge as it talks about

heat of passion in considering all of the surrounding circumstances and conditions that should be taken into consideration, including previous relations, of which there's none here.

In further looking at whether or not there's sudden heat of passion, it says the killing must occur during the heat of passion aroused by adequate provocation and before the passion has cooled or has had time to cool. Even if sufficient legal provocation has aroused the defendant's passion, if at the time of the killing those passions had cooled or a sufficiently reasonable time had elapsed so that the passions of the ordinary reasonable person would have cooled, the killing is not voluntary manslaughter.

In this case, the facts as presented during the course of the trial was that there was a shooting at a residence located on White Street, and at some point in time thereafter the shooting occurred on Byrd Street resulting in the death of this child.

Having said all of that, I do not believe that voluntary manslaughter would be appropriate lesser-included charge in this case and, therefore, I am not going to charge it. So what will go to the jury is the charge of murder, of which carries 30 to life, and I will add in there the doctrine of transferred intent, which I think is appropriate under the circumstances of this case.

I did tell the lawyers back in chambers I did a cursory review of the charge, and I do believe that a portion of the charge should include prior inconsistent statements. So what I'm going to do is add in, as I said, transferred intent, prior inconsistent statements.

One thing I did that's in here as well -- let's see -- is the issue pertaining to identification. The State has the burden of proof of the identification of the defendant as the person who committed the crime.

Prior record of witnesses.

Expert witnesses.

Defendant's choice not to testify.

Hand of one/hand of all.

MS. HENDERSON: Judge, I would object to that charge. I don't believe that the evidence that we've heard this week would allow that charge. If I might be heard?

THE COURT: Go ahead.

MS. HENDERSON: Yes, sir. It is my understanding -- and I would direct this Court to the *State v. Martin* case, 340 S.C. 597. The State must provide substantial circumstantial evidence that places the defendant at the scene and shows his participation in killing the victim. The State should charge a defendant with conspiracy and murder if the identity of the trigger man is in question in order to be able to make the argument of the hand of one is the hand of all.