

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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Jan 16 2024

Certiorari to Spartanburg County

S.C. SUPREME COURT

Honorable Frank R. Addy, Circuit Court Judge

JODY THOMPSON,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2023-001217

APPENDIX

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STATE OF SOUTH CAROLINA

-----x

STATE,

Plaintiff,

Case No.

-against-

2017-GS-42-00261

JODY RAY THOMPSON

00263, 5, 6

Defendant.

-----x

June 25, 2018

Spartanburg, S.C.

B E F O R E:

HONORABLE J. DERHAM COLE

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

JESSE WILLIAMS,

Attorney for the State

Michael Brown,

Attorney for the Defendant

Aileen Butler

Official Court Reporter

1 MR. WILLIAMS: May it please the Court.

2 This is State versus Jody Ray Thompson.

3 Indictment number 17-GS-42-261 to 266, Your

4 Honor.

5 He is charged with four attempted

6 murders, unlawful carrying of possession of

7 weapon during a violent crime, Your Honor. He

8 is represented by Mr. Mike Brown.

9 Your Honor, this case occurred back on

10 June 26, 2016. Scott Robinson initially had

11 him for a long period of time but could not

12 continue because of his illness. Mr. Brown

13 picked up the case. We actually had a hearing

14 in front of Judge Knie back in April of this

15 year. She set it for a date certain for this

16 week, Your Honor, which we are scheduled

17 number two on trial docket.

18 Mr. Brown indicated that Miss Jennifer

19 Wells is actually the attorney. I am standing

20 in for her. That he has a conflict. I

21 believe he has represented one of the victims

22 in this case before and has made a motion to

23 get off the case from that standpoint, Your

24 Honor. The thing is, Your Honor, if it is

25 continued we'd like to have at least 90 to

1 reset it. Plus he'll have to get a new
2 attorney. On top of that, Your Honor, we made
3 a plea offer. We offered him to plea to one
4 attempted murder and a possession with a --
5 one count possession during commission of a
6 violent crime, Your Honor. He has turned that
7 offer down. So that offer will be withdrawn,
8 Your Honor. We had talked to Judge Knie about
9 doing it last week and the way I understood,
10 he went in front of Judge Knie and said he did
11 not want to plea to that offer.

12 THE COURT: All right. Mr. Brown.

13 MR. BROWN: Your Honor, the solicitor is
14 correct. I was contacted -- hired initially
15 in April. We went before the Court requesting
16 presently at that time for a motion for bond.
17 He hadn't had a bond up until that point for
18 almost two years. With that, Your Honor,
19 Judge Knie did set this for a date certain.
20 In regards to potentially having a bond it has
21 been relaid to you. After I received
22 discovery I noticed there was a young lady
23 named in discovery that I have had previous
24 representation of.

25 In discussing things with my client at

1 that point based upon what potentially would
2 come out in trial, based upon some character
3 references as well as the fact that I know her
4 and of course I know Mr. Thompson, just
5 provided a conflict for me to deal in my
6 representation.

7 I tried to discuss that with Mr. Thompson
8 and his family is here in support of him. I
9 discussed the reality and what that means if
10 we go to trial. He independently went before
11 Judge Knie and relaid to her that he was not
12 accepting any offers in regards to his pending
13 charges.

14 Your Honor, for that reason we are before
15 the Court with this motion. I know he still
16 wants a bond, Your Honor. I told him that
17 would still be up to the Court if this case
18 does not proceed.

19 THE COURT: My understanding is that you
20 discovered that you knew one of the victims in
21 the case after you were retained?

22 MR. BROWN: That's correct, Your Honor,
23 and I think it's the principle victim and the
24 principal witness in the prosecution's case.

25 THE COURT: How long have you been in the

1 case?

2 MR. BROWN: Since April of this year.

3 THE COURT: Okay. And you don't feel
4 like you can go forward in representing Mr.
5 Thompson based upon your connection with the
6 victim?

7 MR. BROWN: No, I can't, Your Honor. I
8 understand what would come up during trial.
9 No, sir.

10 MR. WILLIAMS: And Your Honor, we would
11 object to any bond because obviously we were
12 ready to go forward this week and prepared to
13 go forward and it's for the fair to the State
14 because he doesn't have an attorney.

15 THE COURT: Well, we can here the issue of
16 bond. I can hear that on Friday if we need to
17 get anybody here.

18 MR. WILLIAMS: Yes, sir. Ms. Irby, is
19 the person that Mr. Brown is talking about has
20 appeared for all the bond hearings.

21 THE COURT: That's what I'm saying. I
22 wouldn't want to hear it today without them
23 having an opportunity to appear unless they
24 waive this presence. Are you waiving their
25 presence?

1 MR. WILLIAMS: I have not spoken to her
2 about that Your Honor, so I can't say.

3 THE COURT: Okay. All right.

4 Mr. Thompson, do you understand what the
5 situation is here.

6 THE DEFENDANT: I do, Your Honor, but I was
7 mislead because Miss Wells is representing the
8 solicitor's office and she told me in front of
9 Judge Knie and in front of my lawyer two
10 months ago that Miss Wells is going to issue
11 me a fifty thousand dollar unsecured bond.

12 THE COURT: Who told you that?

13 THE DEFENDANT: Miss Jennifer Wells.

14 THE COURT: Jennifer Well told you she was
15 willing to issue a fifty thousand unsecured
16 bond?

17 THE DEFENDANT: Right. Yes, sir.

18 THE COURT: Well, I am quite confident that
19 -- who told you that?

20 THE DEFENDANT: All of them was aware.
21 Because he was my attorney that day.

22 THE COURT: No, I said who told you that?

23 THE DEFENDANT: Miss Jennifer Wells.

24 THE COURT: Where did she tell you that?

25 THE DEFENDANT: In Court. In Judge Knie's

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courtroom.

THE COURT: She told Judge Knie --

THE DEFENDANT: Right.

THE COURT: -- that she was going to agree to a fifty thousand dollar unsecured bond?

THE DEFENDANT: Yes, sir.

THE COURT: Well, why aren't you out?

THE DEFENDANT: Because she said that if Miss -- if Judge Knie wouldn't give it to me she said within two months she would give it to me because they weren't ready to proceed with the trial and it's under oath.

THE COURT: They weren't ready to proceed with trial in April?

THE COURT: Right. Yes, sir. When I went up. Right. She said a fifty thousand dollars secured bond would be issued to me.

THE COURT: Miss Wells said that or Judge Knie said that?

THE DEFENDANT: Miss Jennifer Wells said it.

THE COURT: Okay. Well, you understand that she doesn't issue bonds. The judge does that.

THE DEFENDANT: Right. But she said it in

1 front of Judge Knie and agreed to it.

2 THE COURT: Okay. Well, we'll need to get
3 the transcript of that. But nevertheless,
4 what you're here right now for -- if you all
5 excuse me, I'm trying to have Court over here.

6 What we're here for today is Mr. Brown says
7 you hired Mr. Brown but he says he has since
8 learned that one of the persons who is alleged
9 to be a victim in your case is someone who is
10 a personal acquaintance of his.

11 THE DEFENDANT: Right.

12 THE COURT: He knows him or he has
13 represented him or some connection. He has a
14 personal connection and based upon that
15 connection he has a conflict in the the case
16 with representing you.

17 THE DEFENDANT: Right.

18 THE COURT: And so he's asking to be
19 excused from representing you any further
20 because of that conflict which could be a
21 problem for him and for you for that matter.
22 So the issue today is to address is whether or
23 not he should be relieved.

24 THE DEFENDANT: Yes, sir, I understand.

25 THE COURT: Now, do you agree with his

1 request?

2 THE DEFENDANT: No, I do not.

3 THE COURT: You do not agree?

4 THE DEFENDANT: No, sir.

5 THE COURT: Well, I don't know, you know,
6 necessarily any of the details of the
7 conflict.

8 THE DEFENDANT: Right.

9 THE COURT: But Mr. Brown is a lawyer
10 licensed to practice and he understands what
11 his obligations are so far as representation
12 goes and whether or not he can represent
13 somebody when he has a connection with an
14 alleged victim and it might cause some issues
15 if the victim testifies and he has information
16 because of a prior representation or
17 connection that otherwise he might not know.

18 THE DEFENDANT: Right.

19 THE COURT: And it creates issues and
20 problems and professional issues for him
21 because he might get in trouble with
22 representing somebody with a conflict and so
23 that's why I understand he is requesting to be
24 relieved.

25 THE DEFENDANT: And once he addressed that

1 to me I told him that she's not no issue in
2 this case because the bullet that came out of
3 her that does not match the gun that I'm
4 alleged to be accused of. So she is not no
5 victim. Also she already admitted she don't
6 know who shot her. I don't know how she even
7 allowed to even say that I shot her when it's
8 scientifically proven that I did not shoot
9 this girl.

10 THE COURT: Well, I don't know about that,
11 but that doesn't have anything to do with Mr.
12 Brown's connection with there. She is going
13 to testify as a victim in this case.

14 THE DEFENDANT: Right.

15 THE COURT: Or in your case. So whether
16 you believe she's telling the truth or not
17 doesn't matter. The question is you're still
18 going to trial and Mr. Brown says he has an
19 issue --

20 THE DEFENDANT: Right.

21 THE COURT: -- in going to trial so, I mean
22 I have to accept his representation as to
23 that.

24 THE DEFENDANT: Well, I don't understand
25 how -- we hired this man January the 29th. He

1 didn't put in. He never came to see me for
2 one. Never came to see me and now April the
3 twenty -- some time in April I'm just now
4 getting my motion or just now he's just now
5 learning these things.

6 THE COURT: That's something -- I can't
7 answer that question.

8 THE DEFENDANT: I mean, that ain't fair.
9 They have been playing me the whole time
10 between the solicitor's office and between
11 these lawyers everybody keep playing with with
12 me the whole time.

13 MR. WILLIAMS: Your Honor, I will make this
14 perfectly clear. We're not going to be
15 playing with anybody. We haven't played with
16 nobody. We're withdrawing any offer we're
17 making. We're ready to try this case.

18 THE COURT: Okay. Well, we're not ready to
19 try it today.

20 THE DEFENDANT: I mean, I've been sitting
21 here two whole years without a bond. They
22 keep having this girl come. Scott Robinson
23 already cleared that up that she isn't even an
24 issue in this case but every time that, you
25 know, it's time for me to go back she keeps

1 appearing and I got in my motion here where
2 she said that she don't object to me having no
3 bond but it's like she's being coerced or
4 whatever. She said she don't even object to
5 me having a bond.

6 THE COURT: What will you do about a lawyer
7 after Mr. Brown?

8 THE DEFENDANT: My family, we're out of
9 money. I hired two lawyers. We're out of
10 money. I mean, I'm sitting up in jail. I
11 can't even get out to work to even provide for
12 myself. I can't even fight for myself.

13 THE COURT: Well, are you going to need a
14 public defender to be appointed.

15 THE DEFENDANT: I don't -- can I pick what
16 public defender I can get?

17 THE COURT: I doubt it.

18 THE DEFENDANT: I mean maybe like somebody
19 that I've done seen.

20 THE COURT: Have you got a list?

21 THE DEFENDANT: I like Paul Neely.

22 THE COURT: You like Paul Neely?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: This is Clay Allen. He is the
25 public defender so he can address that issue.

1 MR. ALLEN: I don't know if we can honor
2 that request. I've been given a list of names
3 of the victims, alleged victims, and potential
4 witnesses. I got this list this morning.

5 THE COURT: All right.

6 MR. ALLEN: I did see on line the news
7 article that named one of the victims and I
8 believe Mr. Neely may have represented that
9 victim at some point in the the past. I am
10 not sure, but we will run this list after the
11 hearing today and we'll figure out who we can
12 assign.

13 THE COURT: All right. Let me ask you
14 this, if Mr. Neely does not have a conflict
15 would it be reasonably likely that he could be
16 appointed to represent Mr. Thompson or is that
17 something you can't say today?

18 MR. ALLEN: Quite frankly, I was thinking about
19 assigning myself to the case if I had no
20 conflict.

21 THE COURT: Okay. Would you take Mr.
22 Allen?

23 THE DEFENDANT: I have never met him or
24 even heard of him.

25 THE COURT: Well, he's the public defender.

1 He's the one that assigns cases to lawyers.
2 He's a lawyer himself but he's also in charge.

3 THE DEFENDANT: Right. Either that or is
4 there any way you could give me somebody out
5 in Spartanburg district, a pro bono.

6 THE COURT: I don't have one of those
7 lifts. If somebody wants to volunteer I'm
8 happy to put them on, but I can't make
9 somebody do it.

10 THE DEFENDANT: I just don't want to be
11 railroaded any more, man. I'm sorry, I
12 just -- you know, I want to fight for my life.
13 You know, I'm being -- I'm being taken
14 advantage of I don't know law. Just like this
15 situation, you know, I wasn't aware that he's
16 going to go off my case until the last minute.
17 My family ain't got -- you know, it's really
18 more about the money than it is about the
19 conflict of interest.

20 THE COURT: Well, back to my original
21 question. Are you going to need a public
22 defender?

23 THE DEFENDANT: Yes, sir. I mean I can't
24 really ask my family because I'm not allowed
25 to talk to them.

1 THE COURT: About what?

2 THE DEFENDANT: If they can come up with
3 the money to get.

4 THE COURT: Why can't you talk to them?
5 (WHEREUPON, someone stands up.)

6 THE COURT: Who is that back here?

7 MR. BALLINGER: I'm his dad.

8 THE COURT: All right, dad, come on up
9 here.

10 All right, tell me what your name is
11 please, sir.

12 MR. BALLINGER: Horace Lee Ballinger, Jr.

13 THE COURT: Horace Lee Ballinger Jr., and
14 your Mr. Thompson's son father.

15 MR. BALLINGER: Yes.

16 THE COURT: All right, and his question to
17 you is are you going to be able to provide the
18 funds to hire him a lawyer when Mr. Brown is
19 relieved?

20 MR. BALLINGER: Well, it's like he said. I
21 haven't been told everything. I'm out
22 probably \$15,000 just all because people --

23 THE COURT: I understand, but I'm not
24 dealing with that today. I'm just trying to
25 find out if Mr. Thompson needs to talk with a

1 public defender or if his family is going to
2 be able to hire somebody else.

3 MR. BALLINER: Can I ask a Mr. Brown a
4 question?

5 THE COURT: You can talk to him. You can
6 talk to him after this if you want to. I just
7 got you up here right now to find out if you
8 are going to be able to fund a lawyer for your
9 son.

10 MR. BALLINGER: Yes, it's a possibility
11 because that's my son.

12 THE COURT: Well, what's the possibility
13 because he has got a case coming up and the
14 lawyer has got to get prepared and the longer
15 it takes to get prepared the longer it will be
16 before his case will get back to trial. So do
17 you think you will be able to do that right
18 away, or no?

19 MR. BALLINGER: Yes. Yes, I will be able.

20 THE COURT: Do you think you will know
21 something by Friday this week?

22 MR. BALLINGER: Yes, sir and can I mention
23 one more thing?

24 THE COURT: Sure.

25 MR. BALLINGER: I'm a sole business owner

1 myself and my son helps me with my business
2 and I've been losing money ever since he come
3 in here from day one. He have two kids. Stay
4 up to date with child support. I mean, he's
5 just a good son.

6 THE COURT: Are you talking about the bond?

7 MR. BALLINGER: Yes, sir.

8 THE COURT: I can't address that today.
9 I'm just addressing the lawyer situation right
10 now. The next lawyer can assist you in
11 addressing the bond situation.

12 Do you think you will be able to get
13 somebody hired by Friday of this week?

14 MR. BALLINGER: Yes, sir, if I have some
15 help s far as a lawyer, but the money I -- not
16 any amount of money.

17 THE COURT: I understand. Mr. Allen, do
18 you have a card?

19 MR. ALLEN: Do I have a card, yes, I
20 believe so.

21 THE COURT: Would you mind giving him a
22 card.

23 What I want you to do is on Friday if
24 you've made arrangements to get another lawyer
25 then that lawyer will contact us and let us

1 know. If you haven't been able to do that I
2 want you to call Mr. Allen to let him know
3 that you haven't been able to get a lawyer and
4 that you want them and your son wants them to
5 take over his case.

6 MR. BALLINGER: Okay.

7 THE COURT: Because we need to get him a
8 lawyer quick. As quick as we can.

9 MR. BALLINGER: Yes.

10 THE COURT: And so, if you can make
11 arrangements this week to do that that's
12 great.

13 MR. BALLINGER: All right.

14 THE COURT: If you can't and you're not
15 going to be able to and you think the public
16 defender needs to help him then you will let
17 Mr. Allen know.

18 MR. BALLINGER: Okay.

19 THE COURT: And then he'll let me know.
20 Okay.

21 MR. BALLINGER: Yes, sir.

22 THE COURT: Can you all do that.

23 THE DEFENDANT: I was just telling him
24 about the lawyer.

25 THE COURT: You're able to talk to your

1 father on the phone, right?

2 THE DEFENDANT: Sometimes. Like I was
3 saying. We don't have a lot of money, man,
4 and I don't even be able to have monies for
5 the phone some times.

6 THE COURT: All right. Well, let's do it
7 this way. Mr. Brown you will help him make
8 some arrangements as best you can or assist
9 him in making arrangements for another lawyer.

10 MR. BROWN: Yes, sir.

11 THE COURT: And then let us know if that
12 can't be done. Mr. Brown can talk to you in
13 jail if he needs to. He can talk to you in
14 jail whereas your father might not be able to.
15 I'm just talking about to help you.

16 THE DEFENDANT: I don't never see this man
17 over here before.

18 THE COURT: Okay. Well, in any event, I'm
19 just trying to get your lawyer on board. So
20 that's what we need to address. So you
21 decides who you think you want your father to
22 contact, but you let me know by Friday through
23 Mr. Allen if you can or can not make those
24 arrangements and then Mr. Allen or somebody
25 from the public defender's office can come in

1 and help you. Okay. Mr. Brown is going to
2 assist you if you need assistance in that
3 arrangement.

4 THE DEFENDANT: All right.

5 THE COURT: Okay.

6 THE DEFENDANT: Thank you.

7 MR. WILLIAMS: And Your Honor, for the
8 record, I just want to make sure it's clear
9 there has been no -- nothing between us.
10 Personally Scott Robinson phoned me. So the
11 problem I've got is he keeps asking for
12 attorneys or doing different things. We'll
13 try the case. That's not a problem. I know
14 Miss Wells will try the case. That last
15 hearing none of that was discussed what he
16 just mentioned so, just for the record make
17 sure it's clear.

18 THE COURT: Well, Mr. Thompson, the thing
19 is the fact that the case doesn't get to court
20 it's not always because the prosecutor is at
21 fault. There might be delays for a variety of
22 reasons. Not the least of which is Mr.
23 Robinson has had some health issues which
24 might have prevented him from being able to
25 get ready and Mr. Brown came on board and then

1 he found out he's got a conflict with one of
2 the witnesses and victim in the case so those
3 are unfortunate circumstances. But that
4 doesn't mean there's some conspiracy against
5 you. It just means there are issues that
6 arise. That is the thing.

7 When you talk to a lawyer, whether it be
8 the public defender or somebody else you need
9 to have your information with you so they all
10 know who is involved in the case. So they'll
11 know if they have an issue.

12 THE DEFENDANT: But he had --like once Mr.
13 Robinson went off the case he had all of that.
14 Like my father had said that, he can do this
15 and do that. We had a lawyer and were ready to
16 proceed, you know, but now here we are the
17 same still from the beginning.

18 THE COURT: Let me ask you this, you've
19 talked to Mr. Robinson, you've talked to Mr.
20 Brown about the plea offer the State's made?

21 THE DEFENDANT: See, I wasn't aware if it
22 was violent or non-violent.

23 THE COURT: I'm just asking, did they make
24 you aware of an offer the State had made to
25 you?

1 THE DEFENDANT: No, Mr. Robinson never did.

2 THE COURT: So you're not aware of any
3 offer?

4 THE DEFENDANT: No, I wasn't.

5 THE COURT: What was the offer?

6 MR. WILLIAMS: Your Honor, he was allowed
7 to plea to one count of attempted murder. We
8 would dismiss the other three counts. Unlawful
9 carry to be dismissed and he would plead
10 guilty to the possession of weapon during a
11 violent crime.

12 THE COURT: All right. Did you understand
13 that?

14 THE DEFENDANT: Right. So it would be one
15 weapon charge and one attempted murder charge?

16 THE COURT: That's what I understood.

17 THE DEFENDANT: And what's the number? How
18 much time?

19 MR. WILLIAMS: There's no number. It would
20 be straight up.

21 THE COURT: They don't get to decide that.
22 The judge gets to decides that.

23 THE DEFENDANT: When I did hear before I
24 heard zero to five with a cap.

25 THE COURT: I don't know anything about

1 that.

2 MR. BROWN: Your Honor, what we discussed
3 which I guess now he is saying he was aware
4 there was an offer made. One weapon's charge,
5 one count of attempted murder. There was a
6 suggestion that we were going to make to the
7 Court for a range. And I don't know if the
8 prosecution at that point would have objected
9 to the suggestion but it would have been the
10 five years as well as some balance of
11 probation. It wasn't a guarantee. It wasn't
12 a negotiation. But we simply expressed that
13 to him in light of our discussion with the
14 prosecution.

15 THE COURT: Well what the state has
16 offered -- are you still offering?

17 MR. WILLIAMS: If it was accepted this
18 week. Well, what we did, Your Honor, we went
19 and talked to Judge Knie about a straight up
20 plea and the defense was going to make a
21 suggestion. We weren't going to make a
22 recommendation. It was going to be a straight
23 up plea.

24 THE COURT: I understand. As I understand
25 it, they agreed to let you plead guilty to one

1 count of attempted murder and one count of
2 possession of firearm during the commission of
3 a violent crime and they will dismiss the
4 other charges. Is that true?

5 MR. WILLIAMS: That's correct.

6 THE COURT: The sentence would be up to
7 whatever judge heard your case if you wanted
8 to plead guilty, to that under the
9 circumstance. So that's the offer they made.

10 Did you understand that offer?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: All right. Do you wish to
13 accept that offer or reject that offer?

14 THE DEFENDANT: Reject that offer.

15 THE COURT: Okay. All right. Well, have
16 your father talk to anybody that you would
17 like to have as your lawyer to make those
18 arrangements and then I will address the issue
19 of bond and/or scheduling a trial. That will
20 have to be done at another hearing. Perhaps
21 that can be done on Friday. I don't know
22 right now.

23 THE DEFENDANT: Yes, sir.

24 THE COURT: All right, Mr. Brown is
25 relieved. New counsel will be retained or

1 appointed. You or your father will let you
2 know something by Friday by letting Mr. Allen
3 know and if Mr. Allen needs to assume
4 representation he will. Thank you.

5 THE DEFENDANT: Thank you.

6 (End of transcript)
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C E R T I F I C A T E

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I, the undersigned Aileen Butler, Official Court Reporter for the 16TH Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings in the captioned case, in the Circuit Court for Spartanburg County, South Carolina, on the 25th day of June, 2018.

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

April 17, 2018

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STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

)
) IN THE COURT OF GENERAL SESSIONS

The State,
-vs-
Jody Ray Thompson,
Defendant.

)
) TRANSCRIPT OF RECORD
) 2017-GS-42-261-263;265;266
)
) February 11 - 14, 2019
) Spartanburg, South Carolina

B E F O R E :

HONORABLE J. DERHAM COLE; and a jury

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

SPENSER HOLLORAN SMITH, ESQUIRE
JENNIFER A.J. JORDAN, ESQUIRE
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CLAY T. ALLEN, ESQUIRE
Attorney for the Defendant

Linda D. Moffitt
Circuit Court Reporter

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1 (Proceedings February 11, 2019)

2 (State's exhibits were premarked by the Mr. Smith.)

3 THE COURT: All right. First motion is to determine
4 the admissibility of statements attributable to the
5 defendant provided to law enforcement. So, just for the
6 record, identify what the statement is and who it was made
7 to, and then we'll proceed with the testimony.

8 MR. ALLEN: Yes, Your Honor.

9 Essentially, I'm asking for a hearing on the
10 statements that were given or answered that my client
11 responded to the officers on the scene of the event, which
12 was 105-B Little Mountain Road in Lyman, specifically when
13 he was seen in the wood line right behind that
14 establishment and spoke to officers.

15 I believe he was in custody. He was not given that --
16 excuse me -- his Miranda rights. Also, statements that he
17 made to law enforcement officers who interviewed him at the
18 hospital that same early morning hours.

19 Again, it's my belief he was in custody and was,
20 again, not advised of his rights under Miranda. And those
21 are specifically the statements that I would be objecting
22 to.

23 I understand he gave another statement at the law
24 enforcement office where he was advised of his Miranda
25 rights. I'm not requesting a hearing on that. On the

Jonathan Fowler
Direct examination by Mr. Smith

1 others, I am.

2 THE COURT: All right. Mr. Smith, which one are you
3 going to proceed with first?

4 MR. SMITH: Officers Gipson and Fowler received the
5 first one, Your Honor, and so I think we'll start there.

6 Your Honor, if we -- if we -- if you want to see the
7 body cam, would you like for us to get the recording
8 equipment where you could watch it in here or on your
9 laptop?

10 THE COURT: I can look at it on my laptop if you have
11 it.

12 MR. SMITH: I can get them to introduce it, but I
13 think it's relevant as well.

14 THE COURT: Okay.

15 MR. SMITH: The state calls Officer Fowler.

16 JONATHAN FOWLER, having been
17 first duly sworn, testified as follows:

18 DIRECT EXAMINATION BY MR. SMITH

19 Q Will you please state your name and current rank?

20 A Name is Jonathan Fowler, police officer.

21 Q Where are you employed?

22 A Inman Police Department.

23 Q Where were you in employed June 26th of 2016?

24 A Duncan Police Department as a patrol officer.

25 Q So you responded to calls?

Jonathan Fowler
Direct examination by Mr. Smith

1 A Yes, sir.

2 Q Did you receive a call in the early morning hours of
3 June 26th of 2016?

4 A Yes, sir.

5 Q What was the nature of that call?

6 A Initially, the call came out as a shooting where it
7 was advised that a person had been shot in the head.

8 Q Okay. Did you know if you had more than one victim or
9 anything like that?

10 A While en route, yes, sir. It -- it developed into me
11 being notified, as well as the other officers, that four
12 victims had been hit.

13 Q All right. And you responded as soon as you got this
14 call?

15 A Absolutely, yes, sir, with my lights and siren, rapid
16 response.

17 Q And when did you arrive there?

18 A I arrived there -- I can give you the exact time.
19 Let's see here. I arrived at 0331 hours a.m.

20 Q All right. And what did you see when you arrived?

21 A When I first arrived -- there's a gas station with a
22 night club that I was familiar with.

23 To the left of the gas station called Playoffs I saw a
24 lot of people, a lot of cars, a lot of chaos utterly, saw
25 people running around, people screaming, lots of blood on

Jonathan Fowler
Direct examination by Mr. Smith

1 the ground. Namely, there was a lot of blood going to the
2 right of the building.

3 Q Okay. Did you see any victims in that front parking
4 lot of the business?

5 A Yes, sir. I saw --

6 Q I don't want the names. Anybody that was shot?

7 A Yes, sir. I did. I saw a female actually lying on
8 the ground. She was holding her head. I did see a lot of
9 blood on her ear. And then I could hear people yelling
10 that there's more people. And they were pointing towards
11 the back.

12 Q Were there other law enforcement present when you
13 arrived?

14 A Officer Gipson at the time and I both arrived roughly
15 at the same time. I believe there might have been
16 another -- there was an Officer Thompson from Lyman for
17 sure. There might have been another officer there on the
18 other side. It was very chaotic.

19 Q And so you believe that everybody was still reacting
20 to the event.

21 A Absolutely, yes, sir.

22 Q Did you have any information about a potential suspect
23 or anything in that nature at this time?

24 A No, sir.

25 Q So you -- number of shooters, description, anything

Jonathan Fowler
Direct examination by Mr. Smith

1 like that, you had no idea?

2 A No, sir.

3 Q Okay. And what did you do next?

4 A Next Officer Gipson and I did a brief safety sweep of
5 the front of the building, basically visually looking to
6 see if we could see any -- any active assailants. we did
7 not.

8 So I started looking at the blood trails. I did see a
9 large, a very large, amount of blood on the ground going to
10 the right of the building, which would be if you're
11 standing in the road looking at the building, it's to the
12 right. And that's when Officer Gipson and I followed the
13 blood trail around to, you know, hopefully lead us to -- to
14 someone either of interest or victim.

15 Q Okay. Did you draw your weapon at that time?

16 A Yes, sir. Absolutely.

17 Q what was the reason for doing that?

18 A Because we did not know the whereabouts or the amount
19 of shooters that were still possibly present, so we needed
20 to be ready.

21 Q Okay. And what did y'all do?

22 A Officer Gipson and I walked around the right side of
23 the building and followed the trail of blood. It's a very
24 distinct heavy trail of blood. we followed it to the right
25 side of the building and went behind the building.

Jonathan Fowler
Direct examination by Mr. Smith

1 There was a, probably a, 50-to-100-yard parking area
2 behind it in a tree line. We followed the blood to the
3 tree line. And we were scanning with our flashlights. It
4 was dark, of course. Scanning with our flashlights
5 looking, having to be very careful due to the nature of if
6 there was a potential shooter in the woods. We had to use
7 extreme caution.

8 We did hear a noise from the wood line. When we heard
9 the noise we gave -- we gave loud, clear commands of let me
10 see your hands. You know, at this point we don't know who
11 is who.

12 We did see a figure laying in the grass. The grass
13 was approximately 2 to 3 feet tall, like tall grass. We
14 did advance towards the subject carefully, and we did see
15 that the person had blood on their leg. They had been
16 shot. It appeared they had been shot in their leg.

17 Officer Gipson and I did try to give the person aid.
18 Officer Gipson has some medical training. So we were
19 trying to attend to that person.

20 Q Do you recall anything else? Was it just one person
21 in the woods, or do you recall?

22 A Well, there was -- there was one gentleman that
23 come -- that came walking out of the woods to my left, and
24 he did not appear like as if he had blood on him. He came
25 out and was placed into investigative detention with no

Jonathan Fowler
Direct examination by Mr. Smith

1 incident. Then as far as I know there was just the other
2 gentleman that was lying on the ground that had been shot.

3 Q And is that Jody Thompson? Is that the person that
4 was laying on the ground?

5 A Yes, sir, yes, sir.

6 Q The one that was injured?

7 A Yes, sir. That's correct.

8 Q All right. What did you do once you found him?

9 A Well, at first I asked him, you know, are you okay.
10 He said I've been shot. You know, we're trying to keep him
11 calm, trying to let, you know, let him know that E.M.S. was
12 on the way, because at this point all I see is a shot
13 person. You know, I don't -- I don't know anything about
14 any specifics at this time. So we're just trying to keep
15 him calm to keep him -- keep him okay.

16 Q Did you ask him if he had any weapons around him?

17 A I believe so, and I believe -- yes, sir. And he -- he
18 told me he did not have a weapon.

19 Q Okay. Do you remember asking him anything else at
20 that time?

21 A Let's see. I do. The only thing I remember is asking
22 him if he had a weapon and that, you know, if he was --
23 where he had been shot. And he said my leg. And I did see
24 a wound on his leg.

25 Q But once he told you that he didn't have a gun, you

Jonathan Fowler
Direct examination by Mr. Smith

1 didn't have any followup about did you fire a gun or
2 anything like that?

3 A Not at that time, no, sir, no, sir.

4 Q Okay. And what did you do once -- once you figure out
5 who he is and find out he don't -- doesn't have a gun?
6 What was the rest of your involvement there?

7 A The rest of my involvement was -- was just, obviously,
8 being aware, looking around, waiting on E.M.S. to arrive.
9 Once E.M.S. arrived Officer Gipson and I were still --
10 still in the care mode of trying to make sure he's okay.
11 Once -- once the gentleman was removed by E.M.S., I did
12 notice a gun on the ground.

13 Q Okay. Did you immediately notice it or did you leave
14 and go talk to other people?

15 A I was still in that area. I did look away briefly,
16 but as soon as they picked him up I looked over and saw the
17 weapon on the ground where he had been laying. It appeared
18 as if it perhaps had been under where he was laying.

19 Q Did you or Officer Gipson handcuff Mr. Thompson while
20 he was laying there?

21 A No, sir.

22 Q Did you or Officer Gipson or any other officers get
23 into the E.M.S. vehicle with him?

24 A I -- I did not, and I'm not sure if another officer
25 did.

Jonathan Fowler
Cross-examination by Mr. Allen

1 Q Did you place him under arrest before he got into the
2 E.M.S.?

3 A No, sir.

4 Q Did you have any idea what his role in this was when
5 he departed in the E.M.S.?

6 A No, sir.

7 Q So he -- by the time you found the gun your
8 involvement with the defendant is over?

9 A Yes, sir.

10 Q Please answer any questions Mr. Allen has.

11 A Yes, sir.

12 CROSS-EXAMINATION

13 BY MR. ALLEN

14 Q Officer Fowler, when you arrived while you were out in
15 front of the business -- let's say the parking lot -- is
16 that a fair statement --

17 A Yes, sir.

18 Q -- I think you made the announcement and everybody
19 started talking who did it, right?

20 A Yes, sir.

21 Q Of course you didn't advise anybody of their rights or
22 anything like that, correct?

23 A Correct, yes, sir.

24 Q You followed the blood trail, and you say you went to
25 the right of the building.

Jonathan Fowler
Cross-examination by Mr. Allen

- 1 A Yes, sir.
- 2 Q Just so I'm clear, that's as you're looking at the
3 building with Little Mountain Road to your back. Did you
4 go to the right or the left of the building?
- 5 A I -- when I was referencing to the right, sir, that
6 would be with Highway 292 to my back. And Little Mountain
7 runs to the right of the store. So I guess you could say,
8 that would be fair to say, it would be to the right either
9 way.
- 10 Q Either way is to the right of either 292, or to the
11 right?
- 12 A Yes, sir, yes, sir.
- 13 Q With either 292 or Little Mountain Road to your back.
- 14 A Correct, because it's on the corner. Yes, sir.
- 15 Q All right. Now, you first made contact or you first
16 saw the person that was not shot, correct? Okay. I'm in
17 the back of the store.
- 18 A Correct, in the wood line, yes, sir.
- 19 Q In the wood line.
- 20 A Yes, sir.
- 21 Q Do you recall that person's name?
- 22 A No, sir.
- 23 Q He was a black male?
- 24 A Yes, sir.
- 25 Q Somewhat heavyset?

Jonathan Fowler
Cross-examination by Mr. Allen

- 1 A Somewhat. Muscular to heavysset, yes, sir.
- 2 Q Muscular or heavysset.
- 3 A Yes, sir.
- 4 Q Wearing no shirt?
- 5 A I believe so.
- 6 Q You believe he was wearing a shirt or wearing no
7 shirt?
- 8 A I believe he didn't have a shirt.
- 9 Q Okay. You was the first one to come out, correct?
- 10 A Yes, sir.
- 11 Q And he was placed in investigative detention --
- 12 A Yes, sir.
- 13 Q -- as you call it. Now, one of you -- either you or
14 Thompson handcuffed that man, right?
- 15 A I don't recall handcuffing him and I -- I don't
16 remember if it was Officer Thompson that handcuffed him.
- 17 Q Okay. He was required to still remain laying on the
18 ground or on the pavement, if you will.
- 19 A Uh-huh.
- 20 Q You don't recall if he was handcuffed or not.
- 21 A He -- he was, but I don't -- I did not -- yes, sir.
- 22 Q Someone handcuffed him.
- 23 A Yes, sir. I don't -- yes, sir.
- 24 Q He was not free to leave, was he?
- 25 A No, sir.

Jonathan Fowler
Cross-examination by Mr. Allen

1 Q Now, and of course when you saw Mr. Thompson, the
2 defendant, you did not place him in handcuffs, correct?

3 A That's correct.

4 Q You were concerned about the injury to his leg,
5 correct?

6 A Yes, sir.

7 Q And did not want him moved, is that correct?

8 A Correct.

9 Q Because of the injury to his leg.

10 A Yes, sir.

11 Q He was still a suspect. Or you didn't know what his
12 role was.

13 A I did not know his role, no, sir.

14 Q You were trying to find out, correct?

15 A At that time, sir, I was just providing assistance to
16 the Lyman Police Department. I was -- my main focus at
17 that time was his safety for his leg.

18 Q Okay. And you also tried to find the person that did
19 the shooting you had heard reported, correct?

20 A Ultimately, yes, sir.

21 Q Now, in fact, everyone that you saw on the scene who
22 were not law enforcement or medical personnel were not
23 really free to leave until information was obtained,
24 correct?

25 A Potentially. I'm not sure exactly how the officers

Jonathan Fowler
Cross-examination by Mr. Allen

- 1 out front handled that. But typically, no, sir, typically.
- 2 Q And then you a little bit later found a gun in the
3 wood line, correct?
- 4 A Yes, sir.
- 5 Q And I believe you described it as being somewhere near
6 where these two fellows were laying.
- 7 A Yes, sir. It was -- it was in the very sport where
8 that gentleman was laying.
- 9 Q Did you ask him any questions about the gun?
- 10 A I did not ask him specific questions about that
11 particular gun, but I did ask him if he had a gun.
- 12 Q Now, prior to asking those questions you did not
13 advise him of his right to remain silent, correct?
- 14 A Correct.
- 15 Q Right to an attorney, correct?
- 16 A Correct.
- 17 Q Right to refuse or right not to answer questions?
- 18 A Correct.
- 19 Q Basically, his Miranda rights. You did not advise him
20 of his Miranda rights.
- 21 A Correct.
- 22 Q Is it fair to say that in the situation out there you
23 did not really believe -- okay. Let me ask you this.
24 Prior to going back to the wood line you asked if anybody
25 knew anything.

Daniel Gipson
Direct examination by Mr. Smith

- 1 A Yes, sir.
- 2 Q And no one knew anything, correct?
- 3 A Not that I was aware of. I wasn't told.
- 4 Q In fact, you made some comments, I believe, that night
5 about no one knows anything but you find that hard to
6 believe, or words to that effect, correct?
- 7 A I don't remember specifically, sir. I could have.
- 8 MR. SMITH: One second, please, Your Honor.
- 9 (Pause.)
- 10 MR. ALLEN: Thank you, Your Honor.
- 11 MR. SMITH: I don't have any follow-up questions.
- 12 THE COURT: Step down.
- 13 MR. SMITH: At this time the state calls officer
14 Daniel Gipson.
- 15 DANIEL GIPSON, having been
16 first duly sworn, testified as follows:
- 17 DIRECT EXAMINATION BY MR. SMITH
- 18 Q State your name and where you are employed.
- 19 A Daniel Gipson. Work for Wellford Police Department.
- 20 Q Were you working there June 26th of 2016?
- 21 A Yes, sir. I was.
- 22 Q What was your role at that time with the department?
- 23 A Patrol officer.
- 24 Q Do you remember responding to a call at 105 Little
25 Mountain Road in the early morning hours of June 26th of

Daniel Gipson
Direct examination by Mr. Smith

- 1 2016?
- 2 A Yes, sir.
- 3 Q What was the nature of that call?
- 4 A I heard Lyman officers receive a call for a shooting
5 at Playoffs Night Club. That was connected to another
6 business there at that location, sir.
- 7 Q Okay. Did you have any information about potential
8 suspects when you arrived there?
- 9 A No, sir.
- 10 Q Number of shooters?
- 11 A No, sir.
- 12 Q Description of shooters?
- 13 A No, sir.
- 14 Q Number of victims?
- 15 A The best I can recall, three or four.
- 16 Q Did you know anything further about they were men or
17 women or anything like that?
- 18 A As memory serves, I believe that I recall hearing a
19 radio transmission that one female was shot in the head and
20 lying on the ground.
- 21 Q Is it fair to say you didn't know a whole lot when you
22 arrived there other than there had been a shooting?
- 23 A Very little information at that time, sir.
- 24 Q Okay. What did you see when you arrived at the scene?
- 25 A A lot of folks in the parking lot, a lot of cars

Daniel Gipson
Direct examination by Mr. Smith

1 parked around, a very chaotic scene.

2 Q Were there any other law enforcement present when you
3 arrived?

4 A Yes, sir. I believe Officer Thompson from Lyman
5 arrived shortly before I did, and Officer Fowler and I
6 arrived approximately about the same time.

7 Q Okay. Did you have a body-worn camera on that night?

8 A Yes, sir.

9 Q Did you have it recording?

10 A Yes, sir. I did.

11 Q Okay. And what did you end up doing when you got
12 there?

13 A I initially got in my car, you know, looking for --
14 for possible threats to us or the public, trying to secure
15 the scene, trying to assist.

16 As I'm approaching, what I remember, I hear a lady
17 come close to me. A female informed me that someone else
18 must be shot, something to that effect, there's blood going
19 around the building.

20 I remember looking over around the pay phone on the
21 front of the store, seeing blood over in that area and did
22 see a blood trail or what appeared to be a blood trail
23 going around the right side of the building.

24 I was able to see Officer Fowler. I was not going
25 to -- due to the nature of the situation, I was not going

Daniel Gipson
Direct examination by Mr. Smith

1 to go back there by myself of safety aspect. I asked
2 Officer Fowler if he'd walk back there with me, see what's
3 going on here with especially this other party's statement
4 that someone went around the building. And then we
5 proceeded around the building.

6 Q So you're basically just following blood and seeing
7 where it leads?

8 A That's correct. At that point a blood trail, what
9 appeared to be a blood trail, leads to a victim. You know,
10 a lot of safety is paramount at that point.

11 Q Okay. Was it enough blood that you would have been
12 concerned about it?

13 A I would consider it a copious amount of blood, sir.

14 Q Okay. And did y'all end up following the trail?

15 A Yes, sir. As we went around the right corner of the
16 building, the right front corner, went straight back
17 towards the wood line.

18 Approximately, I'm assuming, 50 or 60 yards behind the
19 building, as we neared the wood line giving out verbal
20 commands a gentleman spoke and stepped out of the wood
21 line. I do not recall that gentleman's name.

22 Then once he stepped out I was able to visualize
23 another man laying under the edge of some small pine trees
24 in a thick grassy area.

25 Q Do you remember if the first person was injured?

Daniel Gipson
Direct examination by Mr. Smith

- 1 A I don't. I don't recall seeing any blood on him, and
2 I don't believe he told us that he was injured.
- 3 Q And the second one you said had blood on him?
- 4 A Yes, sir. As we got closer I was able to see blood on
5 him.
- 6 Q Did you ask him anything?
- 7 A I don't recall. I'm sure I asked if there was -- if
8 he -- if he was armed with a weapon of some type. Due to
9 the nature of the situation, my safety is paramount as
10 well.
- 11 Q Okay. Because in this situation y'all are approaching
12 a wood line and you're out in the open.
- 13 A That's correct, sir.
- 14 Q All right.
- 15 MR. SMITH: Your Honor, we have an exhibit list that
16 we were planning on introducing this in. Would you like us
17 to have it potentially marked as a state's or court's
18 exhibit for purposes of --
- 19 THE COURT: Court's for this.
- 20 (DVD marked Court's Exhibit No. 1.)
- 21 Q I'm going to hand you what's been marked as Court's
22 Exhibit 1 and ask if you can identify what that is.
- 23 A It's a body-worn camera from June of 2016.
- 24 Q You believe its yours from this incident?
- 25 A Yes, sir.

Daniel Gipson
Direct examination by Mr. Smith

1 Q All right. And it fairly and accurately represents
2 what you witnessed that night?

3 A Yes, sir.

4 MR. SMITH: Your Honor, at this time we would like to
5 move State's Exhibit or Court's Exhibit 1 in and play it.

6 THE COURT: Okay.

7 MR. SMITH: To you and the officer.

8 MR. ALLEN: May I see that particular exhibit and
9 match it up with the numbers I've got over here?

10 MR. SMITH: On my list?

11 MS. JORDAN: We will bring a clean laptop down for
12 court -- for the jury. I apologize.

13 THE COURT: That's not on the body-worn camera?

14 MS. JORDAN: No, sir.

15 MR. ALLEN: Your Honor, if it please the Court.

16 I'm not -- I mean, I'm sure I've got it somewhere, I
17 hope, but this exhibit, I'm not quite sure how he is able
18 to identify because it's got the general case number for
19 the whole case file. But I don't know which track they're
20 getting ready to play so I can match it up with my notes.
21 And I've got notes as to what track they're going to play.
22 So maybe I should have objected to this. I don't think
23 it's been properly authenticated. I know we're not before
24 a jury now though.

25 THE COURT: Well, we're getting ready to authenticate

Daniel Gipson
Direct examination by Mr. Smith

1 it.

2 MR. SMITH: This is from Officer Gipson, and there's
3 about a 2-minute followup, but that's well after the
4 defendant's gone. I wasn't planning on playing it.

5 THE COURT: Well, when you provided Mr. Allen with the
6 same information did you provide it just as you had it?

7 MR. SMITH: Yes. It's a copy of this disc.

8 THE COURT: All right. So he's got a disc just like
9 that?

10 MR. SMITH: I believe so.

11 MR. ALLEN: I've got a video with several videos on
12 it. I'm talking about which specific video you --

13 THE COURT: That's what I'm asking. I mean, did you
14 give him that same video you have in your hand there? Did
15 you give him a copy of that video?

16 MR. SMITH: Yes, Your Honor. This -- Daniel Gipson's
17 has two videos on it. One is about 25 minutes long and one
18 is about two minutes long. We're planning to play portions
19 of the 25-minute which is his interaction with the
20 defendant.

21 THE COURT: All right. But both of those are Mr.
22 Gipson's body-worn-camera video?

23 MR. SMITH: Yes.

24 MR. ALLEN: For the Court's information, I've got one
25 that's entitled Jody Thompson, Fowler body cam.

Daniel Gipson
Direct examination by Mr. Smith

1 THE COURT: That's Mr. Gipson. He's from Wellford.

2 MR. ALLEN: And another one entitled Jody Thompson,
3 Wellford body cam.

4 THE COURT: That's Mr. Gipson. He's from Wellford.

5 MR. ALLEN: Okay.

6 MR. SMITH: Do you want us to put that one in?

7 MR. ALLEN: I just want to know which --

8 THE COURT: Show whatever you want to, but Mr. Allen
9 wants to be sure he has the same thing. Have you looked at
10 that one?

11 MR. ALLEN: I looked at these, yes, sir.

12 THE COURT: All right. Well, you're going to get
13 ready -- you'll recognize it, I'm guessing. If you don't,
14 you let me know.

15 MR. ALLEN: Yes, sir.

16 MR. SMITH: This is a situation where Fowler who you
17 just heard whose testimony is pretty similar so far,
18 they're standing next to each other. But this is Gipson,
19 police officer Gipson.

20 THE COURT: Mr. Gipson, why don't you come down so you
21 won't have your back to the court reporter? Do you see
22 that white microphone hanging from the ceiling up here?

23 THE WITNESS: Yes, sir.

24 THE COURT: If you'll stand facing that screen just
25 behind that microphone and project your voice upwards, it

Daniel Gipson
Direct examination by Mr. Smith

1 should pick it up for the benefit of everybody.

2 THE WITNESS: Yes, sir.

3 (Whereupon, the witness left the stand.)

4 (Whereupon, the video was played for the court.)

5 MR. SMITH: Your Honor, at this point I'm just going
6 to stop it. I know the audio wasn't the best. I'm not
7 sure what happened. But if you have anything else you want
8 to see -- he's already given the admission that we were
9 looking to get in --

10 THE COURT: Okay.

11 MR. SMITH: -- about eight minutes before that.

12 Q When you approached Mr. Thompson you had your
13 flashlight and gun out, is that right?

14 A Yes. That's correct.

15 Q Did you end up putting the gun away?

16 A Yes, sir.

17 Q And what -- what prompted you to do that?

18 A I believe I heard where Officer Fowler said that since
19 I had some medical knowledge, tend to him, and he would
20 actually provide cover and safety for us.

21 So at that point I was not viewing Mr. Thompson as a
22 threat. It was more of a protection role to go into and
23 see what I could do to just assist him.

24 Q And it appears that you were reassuring him he was
25 going to be okay and other things like that?

Daniel Gipson
Direct examination by Mr. Smith

- 1 A Yes, sir.
- 2 Q Even at one point told him this isn't about charges,
3 just want honesty in order to help E.M.S. help you?
- 4 A That's correct. Past -- past history from working for
5 E.M.S., I knew that that's one thing that could affect what
6 they were able to do for him, any, you know, drugs, medical
7 drugs, they may give him on the way to the hospital, had
8 something I asked so I could relay that to them when they
9 arrived.
- 10 Q What was the purpose of asking him if he had any
11 weapons?
- 12 A Because we had responded to a location of a shooting.
13 Whether he was a suspect or the victim at that point --
14 even good people carry guns legally. So us being on the
15 scene of a shooting for my safety and the other officers, I
16 want to make sure if he does have a weapon I don't -- I
17 don't want it on him, whether he's legally carrying it or
18 not at that point.
- 19 Q And appears that you took him at his word.
- 20 A Yes, sir.
- 21 Q Did you arrest Mr. Thompson at the scene?
- 22 A No, sir.
- 23 Q Did you put him in handcuffs?
- 24 A No, sir.
- 25 Q Tell him he wasn't free to leave? I know you told him

Daniel Gipson
Cross-examination by Mr. Allen

1 not to move. But what was the purpose of that?

2 A Out of concern for what may be wrong with his leg.

3 Q Was the bleeding somewhat controlled or something at
4 that point?

5 A Not really. It was still bleeding out onto the ground
6 around out his leg where he was lying.

7 Q Okay. And when he got into the E.M.S. -- I know we
8 cut the video short. Did you go with him?

9 A No, sir.

10 Q Do you know if any other officers went with him?

11 A I'm unaware. I stayed on scene there.

12 Q Just answer any questions Mr. Allen has.

13 CROSS-EXAMINATION

14 BY MR. ALLEN

15 Q Of course at no point did you advise him of his
16 Miranda rights, correct?

17 A No, sir. I did not.

18 Q Now, the other person who we saw first -- the man who
19 came out without a shirt -- he was placed in handcuffs?

20 A I don't recall. I didn't do it. If he was
21 handcuffed, I did not put handcuffs on him, sir.

22 Q But he was -- he remained right there nearby that wood
23 line while you were there tending to Mr. Thompson, correct?

24 A I'm assuming he did, sir. My focus was on
25 Mr. Thompson.

Daniel Gipson
Cross-examination by Mr. Allen

- 1 Q Okay. Essentially, while the officers were out there
2 they wanted everyone to stay while the investigator asked
3 questions, correct?
- 4 A I can't answer that, sir. I wasn't around there where
5 everyone else was at.
- 6 Q All right. And the other fellow, the one, the first
7 one who came out of the wood line first, he was within a
8 few feet of you?
- 9 A I'm sorry, sir?
- 10 Q He was within a few feet of you, right?
- 11 A Approximately. I don't remember distances.
- 12 Q Okay. And when you talked to him -- now, you asked
13 him about was he taking any drugs that night, right?
- 14 A That's correct.
- 15 Q And you said this ain't no police question.
- 16 A Yes, sir.
- 17 Q Ain't going to be no charges.
- 18 A Correct.
- 19 Q That's pretty much what you said.
- 20 A Yes, sir.
- 21 Q So you asked him that primarily for medical purposes?
- 22 A Yes. That's correct.
- 23 Q Okay. You used to be an E.M.T.?
- 24 A That correct.
- 25 Q You were not employed as one that night?

Daniel Gipson
Cross-examination by Mr. Allen

- 1 A No, sir.
- 2 Q And you're trying to assist with getting him medical
3 care.
- 4 A That's correct, sir.
- 5 Q Correct?
- 6 A Sir?
- 7 Q At that point, is that correct?
- 8 A Yes, sir. That's correct.
- 9 Q Still you didn't advise him of any Miranda rights --
- 10 A No, sir.
- 11 Q -- at that point.
- 12 A No, sir.
- 13 Q Or ever.
- 14 A No, sir.
- 15 Q You were there when the -- when a gun was found --
- 16 A Yes, sir. That's correct.
- 17 Q -- in the wood line?
- 18 A Yes, sir.
- 19 Q Do you remember if anybody asked Mr. Thompson about
20 the gun?
- 21 A I don't believe so. He was -- from my memory, he was
22 gone from our location where we found the weapon at that
23 point.
- 24 MR. ALLEN: Nothing further, Your Honor.
- 25 MR. SMITH: I don't have any followup, Your Honor.

1 THE COURT: Step down.

2 MR. SMITH: Your Honor, those would be the two state's
3 witnesses that received that initial statement when
4 Mr. Thompson was found.

5 THE COURT: All right. Mr. Allen.

6 MR. ALLEN: We don't have any witnesses or other
7 evidence to put up for the purpose of this hearing.

8 THE COURT: Okay. Do you object to the admission of
9 the statement?

10 MR. ALLEN: Yes, Your Honor, I do.

11 I think that it's clear from what the officers were
12 doing is that Mr. Thompson was in custody as for the other
13 man that was in the wood line.

14 I mean, I guess what you didn't see though, but what I
15 can assert to the Court, is that there's another video of
16 the other fellow being handcuffed, although Mr. Thompson
17 was never handcuffed. I acknowledge that.

18 But I believe that the officers were keeping everybody
19 there and essentially their freedom to move about had been
20 curtailed until they figured this thing out. Therefore, I
21 believe Mr. Thompson -- as well as the others, but I'm
22 concerned with Mr. Thompson -- was in custody. They're
23 asking him questions and without having advisement of his
24 rights. I think it's a custodial interrogation.

25 The comments or the questions that they made about or

1 asked about his drug use I think is even more
2 objectionable, and he was being asked those questions,
3 assured it was not a police question, and certainly don't
4 want that played before the jury, because it goes into
5 character evidence about whether or not he was using drugs
6 that night. And they pretty much assured him that is not,
7 is the way I'm looking at it as a result of his answering
8 the question. Just asking it for what they considered
9 medical purposes.

10 And therefore I would object to that evidence as well
11 as being improper character evidence or evidence of other
12 bad acts that are going to do nothing but get the jury to
13 think that he's a bad person or a bad actor or/and...

14 THE COURT: Did he respond yes? I thought he
15 responded no.

16 MR. ALLEN: The way I heard it --

17 MR. SMITH: To which question?

18 MR. ALLEN: -- he --

19 THE COURT: To whether or not he had any drugs on him.

20 MR. ALLEN: And he took some caine and he also said
21 ain't going -- no charges, no need to know what and tell
22 medics.

23 THE COURT: This defendant said I took some caine?
24 Okay.

25 MR. ALLEN: Yes, sir.

1 MR. SMITH: Your Honor, I -- I agree we're not --

2 THE COURT: I understand.

3 MR. SMITH: -- trying to get that cocaine part of
4 it -- that.

5 THE COURT: I didn't hear that portion of it
6 apparently. So, anyway, they're in agreement to exclude
7 that.

8 MR. ALLEN: Okay. Thank you.

9 MR. SMITH: Your Honor, it is a shooting call.

10 They asked him a preliminary question as they were
11 approaching him in the woods. He's not handcuffed.
12 Obviously, he can't move. He's got a gunshot wound fully
13 through his leg, but their initial question is for safety
14 purposes. Just like any traffic stop, you would ask a
15 person if they have a weapon or anything like that just to
16 protect the officer and the individual. He answers no to
17 that.

18 They put their guns away and they began asking him all
19 questions that are intended to determine who shot him.
20 They asked him about did you see a vehicle, did you see who
21 did it, the number of people, what happened. But they're
22 all questions really determined to try to find out who shot
23 him, treating him like a victim.

24 You hear Officer Fowler say we've got a gunshot victim
25 back here. Doesn't say defendant. They don't arrest him

1 prior to placing him into an E.M.S. No testimony that an
2 officer went with him. Obviously, that's after he's given
3 the statement anyway.

4 Mr. Thompson even thanks God for Mr. Gipson's presence
5 there that night and talking to him through this towards
6 the end there, and the action is anything but a coercive or
7 interrogation. It's simply them attempting to render aid
8 to him and figure out what happened with the shooting.
9 That's the state's position on it.

10 THE COURT: Okay. Anything else?

11 MR. ALLEN: No, Your Honor.

12 THE COURT: All right. I agree with the state's
13 position.

14 I think all of the questions were appropriate for the
15 circumstances. They were trying to determine the safety of
16 all of those around the location, trying to determine if
17 anyone was a danger.

18 They located the defendant in this case who they
19 determined had been injured by a gunshot wound. And, as
20 they say, they treated him as if he were a victim as
21 opposed to if he had committed some crime.

22 Under the circumstances as -- that existed based upon
23 the testimony presented, it does not appear to me that any
24 reasonable person would have thought -- any reasonable
25 person in the defendant's position would have thought --

1 that he was in custody and not free to leave.

2 He was apparently not free to leave because he was
3 unable to perhaps to even walk, and they waited for E.M.S.
4 And basically no incriminating questions were even asked of
5 the defendant other than the question about the use of
6 drugs. But that was clearly for a purpose not related to
7 criminal activity but for medical treatment.

8 So because I don't think any reasonable person --
9 because he was not in actual custody, and I don't think any
10 reasonable person would have believed that they were in
11 custody in the defendant's position, no -- no Miranda
12 warnings were required. And the statement provided was
13 freely and voluntarily made, and therefore is admissible.

14 All right. What's next?

15 MR. SMITH: Your Honor, can Officer Fowler be excused?
16 He's got some classes to teach back at school.

17 THE COURT: He may.

18 (Whereupon, the witness was excused.)

19 MR. SMITH: And Officer Gipson as well.

20 THE COURT: Okay.

21 (Whereupon, the witness was excused.)

22 THE COURT: All right. We've got another statement at
23 the hospital?

24 MR. SMITH: Yes, Your Honor.

25 THE COURT: How long will that take? We spent an hour

Jury qualification

1 on the first one.

2 MR. SMITH: It should take less, but we can go ahead
3 and pick if you'd like to.

4 THE COURT: Yeah. Let's do that. Let's go ahead and
5 pick the jury.

6 (The following takes place in the presence of the jury
7 venire.)

8 THE COURT: Good afternoon, ladies and gentlemen of
9 the jury panel.

10 We are ready to begin with jury selection in the first
11 case that will require some of your participation. The
12 title of that case is the State vs. Jody Ray Thompson.

13 Mr. Thompson has been accused by the prosecutor by way
14 of these indictments. Indictments are simply documents
15 that serve as charging papers. They're like an arrest
16 warrant. It serves to bring a person charged with a crime
17 where the jurisdiction is in this Court -- it brings them
18 into this Court. And it also serves to put them on notice
19 as to what the state claims they have done by way of the
20 commission of a criminal offense.

21 But in this case I have five separate indictments,
22 which make six separate charges against Jody Ray Thompson.

23 Indictment 2017-0261 charges Mr. Thompson with the
24 crime of attempted murder.

25 The state alleges that he did here in Spartanburg

Jury qualification

1 County on or about June the 26th of 2016 with intent to
2 kill, did attempt to kill Corey Rafeal Glenn with malice
3 aforethought, either expressed or implied, by shooting at
4 Corey Rafeal Glenn with a firearm.

5 Indictment 2017-0262 also charges Jody Ray Thompson
6 with the crime of attempted murder, the state alleging
7 again on June the 26th of 2016 Mr. Thompson did here in
8 Spartanburg County with intent to kill, did attempt to kill
9 Raymond Maurice Smith with malice aforethought, expressed
10 or implied, by shooting at Raymond Maurice Smith in
11 violation of the law.

12 Indictment 2017-0263 charges Jody Ray Thompson with
13 the crime of attempted murder in count one, alleging that
14 on June the 26th of 2016 Mr. Thompson did with the intent
15 to kill attempt to kill Cassandra Lee Rice with malice
16 aforethought, expressed or implied.

17 And in count two of that indictment they allege that
18 he did visibly display or possess a firearm or what
19 appeared to be a firearm during the commission of that
20 violent crime, that violent crime being the attempted
21 murder in count one of that indictment.

22 Indictment 2017-0265 charges Jody Ray Thompson with
23 the crime of unlawful possession or carrying of a pistol,
24 alleging that he did unlawfully possess a pistol on
25 June the 26th of 2016, he not being authorized by law to

Jury qualification

1 possess a firearm at that time and under those
2 circumstances.

3 And the remaining indictment charges -- excuse me --
4 the remaining indictment, 2017-0266, charges Jody Ray
5 Thompson with the crime of attempted murder, the state
6 alleging on June the 26th of 2016 that Mr. Thompson did
7 with the intent to kill attempt to kill Renata Shantrice
8 Irby with malice aforethought, either expressed or implied,
9 by shooting at Renata Shantrice Irby in violation of the
10 law.

11 Now, as to those allegations and as to each of the
12 charges contained in each of those separate indictments the
13 defendant, Jody Ray Thompson, has entered a plea of not
14 guilty.

15 A plea of not guilty places upon the state, the
16 prosecutor, the burden of proving the allegations that he
17 has made by way of these indictments, the burden of proving
18 each of the essential elements that constitute the crimes
19 that he claims the defendant has committed, and therefore
20 the burden is upon the state to establish the defendant's
21 guilt to the satisfaction of 12 jurors beyond a reasonable
22 doubt before any verdict of guilty could be returned as to
23 any of the separate charges contained in those separate
24 indictments.

25 And therefore we're going to be selecting 12 primary

Jury qualification

1 jurors and two alternate jurors to participate in the trial
2 of this case. And by way of your participation you'll be
3 called upon to listen to testimony that comes from the
4 witness stand, to consider other evidence introduced during
5 the trial of the case.

6 At the trial's conclusion you'll be instructed by me
7 as to the law that's applicable to each of these charges.
8 The jury will then be asked to go back and begin
9 deliberations. And through that process you're going to be
10 asked to consider all of the evidence. From that evidence
11 you'll determine the facts where you can as they relate to
12 the allegations made against the defendant.

13 Upon deciding the facts you will apply the law that I
14 will provide you, and the jury will determine whether or
15 not the defendant's guilt as to a particular charge has
16 been proven beyond a reasonable doubt. And if it has, then
17 the verdict would be guilty. And if it has not, then the
18 verdict would be not guilty.

19 Now, before we begin with jury selection in the case
20 I've got some folks to introduce to you. That would
21 include the defendant, Mr. Thompson; that would include
22 each of the persons who are alleged to be victims in each
23 of the separate indictments; that would include the lawyers
24 involved in the trial of the case; that will include each
25 of the witnesses that might be called during the trial of

Jury qualification

1 the case; and that would also include whether or not you
2 know any other person employed in the offices where these
3 lawyers work. It will also include whether or not you have
4 any connection with any type of law enforcement officer or
5 whether you yourself have ever been employed as any type of
6 law enforcement officer.

7 Then I'll ask some other questions. The purpose of
8 the questions is to find out if there's any reason
9 whatsoever why you, if selected, could not participate in
10 the trial of the case and be fair and impartial and render
11 a fair and impartial decision based solely upon the
12 evidence presented and the law that's applicable as I will
13 have provided it to you.

14 Now, first of all, I'm going to tell you just a little
15 bit about the facts that relate to the allegations so that
16 you'll understand what the case is about and where the
17 event occurred that resulted in the charges.

18 The reason I'm going to give you those basic facts is
19 because I need to find out if any member of the jury panel
20 has ever heard anything about this case -- have you heard
21 it from anybody talking about it, have you read about it
22 from the newspaper, have you seen anything on television,
23 have you heard anything on the radio, have you heard
24 anybody else discussing this particular case while at work,
25 church, home, school or anywhere else.

Jury qualification

1 Simply put, I need to find out if you have been
2 exposed to any type of information that relates to this
3 particular case or its allegations.

4 So, as I've stated, the indictment alleges that the
5 event occurred on June the 26th of 2016. And the event is
6 alleged to have occurred at the Playoffs Lounge, which is
7 located at Little Mountain Road in Lyman, in the Lyman
8 community of Spartanburg County. Playoffs is a nightclub
9 attached to a gas station located off of 290?

10 MR. ALLEN: 292.

11 THE COURT: 292. But it's actually Little Mountain
12 Road in Lyman.

13 So does anybody think you might have heard, seen, read
14 or been exposed to any type of information that relates to
15 this case? Have you been exposed to any type of
16 information from any source whatsoever? If so, please
17 stand.

18 (No response.)

19 THE COURT: All right. Now, I'm going to introduce
20 some folks to you. That's the lawyers, the defendant,
21 potential witnesses and the persons alleged to be the
22 victim.

23 The purpose of those introductions is because I need
24 to find out if you have any connection with any of the
25 people involved in this case. In other words, are you

Jury qualification

1 related by blood or marriage to any person that's going to
2 be introduced; do you go to school with them; do you attend
3 church with them; do you work at the same place they work;
4 or do you happen to know any members of their respective
5 families and by that way you might know them; or do you
6 have any social connection, professional connection or any
7 connection whatsoever to any of these potential witnesses?

8 So I'm going to introduce some, and I'll recite the
9 list of others. If you know anybody who's introduced or
10 you think you know somebody by the same name but you can't
11 see them here in the courtroom, just let me know that you
12 know somebody or have a connection with somebody with that
13 same name. Then I'll try to narrow down that
14 identification so that we'll be certain to know whether or
15 not you have a connection with that particular person that
16 might be involved in the trial of this case.

17 Now, first of all, as I told you, the defendant, the
18 person who is accused of having committed each of these
19 offenses, is Jody Ray Thompson.

20 Mr. Thompson, if you will, please stand and face the
21 jury panel so that they may see who you are.

22 (Whereupon, the defendant stood.)

23 THE COURT: Seated with Mr. Thompson at the defense
24 table is Clay Allen. Mr. Allen is the public defender for
25 the Seventh Judicial Circuit, and he will be assisting

Jury qualification

1 Mr. Thompson during the course of this trial.

2 (Whereupon, Mr. Allen stood.)

3 THE COURT: Presenting the case on behalf of the state
4 are Spenser Smith and Jennifer Jordan. They are each
5 assistant circuit solicitors for the Seventh Judicial
6 Circuit. Barry Barnette is the circuit solicitor in the
7 Seventh Judicial Circuit.

8 (Whereupon, Mr. Smith and Ms. Jordan stood.)

9 THE COURT: So as you think about whether you know
10 anybody or not, I'm -- I've introduced Mr. Allen to you and
11 I've introduced two of the assistant solicitors, and I've
12 told you Mr. Barnette is the solicitor. But I need to find
13 out not just those in the courtroom, but I need to find out
14 if you have any connection whatsoever with anybody else who
15 is employed in either the Seventh Judicial Circuit
16 solicitor's Office or the Seventh Circuit Public Defender's
17 Office.

18 So if you do know anybody else, I would ask that you
19 please stand and provide us with that information.

20 All right. I have one juror standing.

21 Your name and number, please, ma'am.

22 JUROR NO. 75: Seventy-five, Ann Gwinn. My son-in-law
23 works for the solicitor's office.

24 THE COURT: Your son-in-law works in the solicitor's
25 office?

Jury qualification

1 JUROR NO. 75: Uh-huh.

2 THE COURT: And would that have any bearing in your
3 decision if you were selected to serve in the case?

4 JUROR NO. 75: No.

5 THE COURT: Would it have any influence in your
6 judgment?

7 JUROR NO. 75: No, sir.

8 THE COURT: Okay. Thank you, ma'am. You can be
9 seated.

10 Potential witnesses that may be called during the
11 trial -- I'm going to recite an exhaustive list. All of
12 these persons have some knowledge about this case, but that
13 doesn't necessarily mean every one of them will be called
14 to testify, but they might be. So I've got to list or
15 recite the entire list to find out if you happen to know
16 any of these persons or have any connection with any
17 members of their family.

18 The first 19 persons I'm going to introduce are all
19 employed by the Spartanburg County Sheriff's Department.
20 They are all employed by the Spartanburg County Sheriff's
21 Department.

22 And they include Sammy Rivera, Mark Newell, K. Shehan
23 -- Shehan, Trevor Shue, T. McGowan, Brian Cox, S. Powell,
24 Mark Gaddy, N. Cole, Jacob Gwinn, Jonathan Lawson, Thomas
25 Clark, William Ballew, Lathier Graham, Sara Kruger, Thomas

Jury qualification

1 Heyde, Robert Talanges, Brandon Letterman and Richie
2 Foster.

3 All right. The next group of folks are residents of
4 Spartanburg County. They're not connected with law
5 enforcement.

6 They include Renata Irby, Ramone Smith, Corey Glenn,
7 Cassandra Rice, Johnny Evans, Alex Young, Sandy Patel,
8 Stephone Anderson.

9 We also have Jonathan Fowler who's employed with the
10 Inman Police Department. He was formerly with the Duncan
11 Police Department. We have Gene Thompson employed with the
12 Lyman Police Department. We have Brian Teal employed with
13 the Lyman Police Department. We have Daniel Gipson
14 employed with the Wellford Police Department. We have
15 James Armstrong employed at the Greenville County Crime
16 Laboratory, Jennifer Nates who is employed with the state
17 law enforcement division.

18 We have Cassandra Smith who is employed with the Greer
19 Memorial Hospital and we have Richard Moretz who's a
20 physician at the Greer Memorial Hospital.

21 Also, have Horace Lamar Thompson, Robert Rosenberg
22 with the sheriff's department and Rodney Gilliam who is a
23 resident of Greer, South Carolina.

24 Are there any other potential witnesses to be called
25 on behalf of the state?

Jury qualification

1 MR. SMITH: Your Honor, Jonathan Lawson and Sara
2 Kruger now work at the coroner's office is the only thing.
3 They were listed in the sheriff's office. They both
4 recently left.

5 THE COURT: Okay. Jonathan Lawson and Sara Kruger
6 were at the sheriff's department, now at the coroner's
7 office.

8 All right. Any juror know anybody who's been
9 introduced or any other persons in those offices?

10 All right. Tell me your name and number please,
11 ma'am.

12 JUROR NO. 83: Patricia Hawkins, 83.

13 THE COURT: All right. How does that question relate
14 to you?

15 JUROR NO. 83: My husband is a sheriff's deputy for
16 Spartanburg County.

17 THE COURT: All right. And would that have any
18 bearing in your decision in this case?

19 JUROR NO. 83: No, sir.

20 THE COURT: All right. Thank you. You may be seated.
21 Yes, sir.

22 JUROR NO. 123: 123. I know of Officer Teal with the
23 Lyman Police Department. He sold me my house.

24 THE COURT: All right. Would that have any bearing in
25 your decision?

Jury qualification

1 JUROR NO. 123: Absolutely not.

2 THE COURT: Sir?

3 JUROR NO. 123: Absolutely not, sir.

4 THE COURT: Okay. Thank you. Be seated.

5 Yes, ma'am.

6 JUROR NO. 17: I have a cousin that works for the
7 sheriff's department -- Elizabeth Pennington.

8 THE COURT: All right. And your name and number?

9 JUROR NO. 17: Seventeen, Karen Branham.

10 THE COURT: All right. Would that have any bearing in
11 your decision?

12 JUROR NO. 17: No, sir.

13 THE COURT: Thank you. Be seated.

14 Yes, ma'am.

15 UNIDENTIFIED JUROR: My brother works with the
16 sheriff's department. Larry Powers.

17 THE COURT: All right. Would that have any bearing in
18 your decision?

19 UNIDENTIFIED JUROR: No, no, sir.

20 THE COURT: All right. Thank you. Be seated.

21 Anybody else?

22 (No response.)

23 THE COURT: All right. Has any member of the jury
24 panel or any members of your immediate family -- and let me
25 define an immediate family member as a parent or a spouse

Jury qualification

1 or a child or a sibling -- a parent, a spouse, a child or a
2 sibling.

3 I need to find out if you or any members of your
4 immediate family as I just defined it have ever been the
5 victim of or ever been accused of having committed any type
6 of crime which might be considered a violent crime under
7 the law. So have you or they been a victim or have you or
8 they been accused of the commission of any type of violent
9 crime?

10 And those types of crimes would include murder,
11 attempted murder, armed robbery, burglary, criminal sexual
12 conduct, domestic violence of a high and aggravated nature,
13 assault and battery of a high and aggravated nature,
14 assault and battery in the first degree or any other
15 similar type of an offense. Have you or a family member as
16 I defined it ever been the victim of such or ever been
17 accused of having committed such? If so, please stand.

18 All right. I'm going to start on my right. I'll work
19 to my left. I'll start on the front row, work my way to
20 the back row.

21 So if you'll give me your name and your number,
22 please, ma'am, and then tell me how that question relates
23 to you.

24 JUROR NO. 143: Antasia Palmer. My spouse has a
25 C.D.V. charge.

Jury qualification

1 THE COURT: What's your number?

2 JUROR NO. 143: 143.

3 THE COURT: All right. You have a charge? You were
4 accused of something?

5 JUROR NO. 143: No, no, sir.

6 THE COURT: What was your -- what did you tell me?

7 JUROR NO. 143: My spouse.

8 THE COURT: Excuse me. Your spouse is accused of
9 having committed C.D.V., domestic violence?

10 JUROR NO. 143: Yes, sir.

11 THE COURT: Is there anything about that fact that
12 would interfere with your ability to be fair in this case?

13 JUROR NO. 143: No, sir.

14 THE COURT: Thank you. Be seated.

15 Yes, ma'am.

16 JUROR NO. 200: 200, Angela Meadows. My son, domestic
17 violence.

18 THE COURT: He was accused or a victim?

19 JUROR NO. 200: Accused.

20 THE COURT: All right. Would that fact in any way
21 impair your ability to be fair and impartial?

22 JUROR NO. 200: No.

23 THE COURT: All right. Thank you. Be seated.

24 Yes, ma'am.

25 JUROR NO. 17: Seventeen, Karen Branham. I was robbed

Jury qualification

1 when I was a teller at wachovia.

2 THE COURT: And would that experience have any bearing
3 in your decision in this case?

4 JUROR NO. 17: No, sir.

5 THE COURT: Thank you. Be seated.

6 Yes, ma'am.

7 JUROR NO. 40: Lisa Corkren, No. 40. I was a victim
8 of an armed robbery.

9 THE COURT: And would that have any bearing in your
10 decision in this case?

11 JUROR NO. 40: No.

12 THE COURT: Okay. Thank you. Be seated.

13 Next row.

14 JUROR NO. 161: 161. Domestic violence.

15 THE COURT: Victim or accused?

16 JUROR NO. 161: Accused.

17 THE COURT: would that have any bearing in your
18 decision?

19 JUROR NO. 161: Yeah.

20 THE COURT: Okay. we'll excuse you from serving in
21 the trial of this case. But don't leave yet.

22 Harley Davidson?

23 JUROR NO. 129: 129, Stephon Miller. Two of my
24 brothers have been murdered within the last two years, so
25 yeah.

Jury qualification

1 THE COURT: That would affect your judgment in this
2 case?

3 JUROR NO. 129: Yes, sir.

4 THE COURT: All right. We'll excuse Juror 129. But
5 don't leave yet.

6 Yes, ma'am.

7 JUROR NO. 150: Lindsay Pearson, 150. My brother was
8 accused of criminal domestic violence.

9 THE COURT: Would that have any bearing in your
10 decision in this case?

11 JUROR NO. 150: No, sir.

12 THE COURT: Thank you. Be seated.

13 Yes, sir.

14 JUROR NO. 131: 131, Michael Mitchell. My daughter
15 was assaulted in school.

16 THE COURT: All right. And would that have any
17 bearing in your decision in this case?

18 JUROR NO. 131: No, sir.

19 THE COURT: Thank you. Be seated.

20 Yes, sir.

21 JUROR NO. 84: 84, Matthew Hawley. My biological
22 father murdered my mother.

23 THE COURT: And would that have any bearing in your
24 decision in this case?

25 JUROR NO. 84: No.

Jury qualification

1 THE COURT: Thank you. Be seated.

2 Has any juror or any members of your immediate family
3 as I've already defined it ever been employed as any type
4 of law enforcement officer? You or that family member ever
5 been employed as any type of law enforcement officer? If
6 so, please stand.

7 All right.

8 JUROR NO. 29: I have a half brother.

9 THE COURT: Let me get everybody standing that needs
10 to respond to the question. Excuse me. Is everybody
11 standing that needs to respond?

12 All right. I'll begin with you, sir.

13 JUROR NO. 29: I have a half brother. He is an
14 investigator for the state.

15 THE COURT: All right. And your number is what?

16 JUROR NO. 29: I'm sorry?

17 THE COURT: Your juror number?

18 JUROR NO. 29: Twenty-nine.

19 THE COURT: Twenty-nine. All right. Would that have
20 any bearing in your decision?

21 JUROR NO. 29: No, sir.

22 THE COURT: Thank you. Be seated.

23 Yes, sir.

24 JUROR NO. 19: Juror 19. My father was a Michigan
25 state trooper.

Jury qualification

1 THE COURT: would that have any bearing in your
2 decision?

3 JUROR NO. 19: No.

4 THE COURT: Thank you. Be seated.

5 Yes, ma'am.

6 JUROR NO. 83: My husband works for Spartanburg
7 County.

8 THE COURT: And what was your number again?

9 JUROR NO. 83: Patricia Hawkins, 83.

10 THE COURT: Eighty-three. Would that have any
11 bearing?

12 JUROR NO. 83: No, sir.

13 THE COURT: All right.

14 JUROR NO. 123: James McNamara, 123. For a few months
15 I was employed by the Department of Corrections --

16 THE COURT: would that have --

17 JUROR NO. 123: -- about 20 years ago.

18 THE COURT: would that have any bearing in your
19 decision?

20 JUROR NO. 123: No, sir.

21 THE COURT: All right.

22 JUROR NO. 17: Seventeen, Karen Branham. My husband
23 used to work for the Inman --

24 THE COURT: would that have any bearing in your
25 decision?

Jury qualification

- 1 JUROR NO. 17: No, sir.
- 2 THE COURT: Thank you. Be seated.
- 3 Yes, ma'am.
- 4 JUROR NO. 75: Seventy-five. My brother works for the
- 5 sheriff's department.
- 6 THE COURT: Would that have any bearing in your
- 7 decision?
- 8 JUROR NO. 75: No, sir.
- 9 THE COURT: Thank you. Be seated.
- 10 Yes, sir.
- 11 JUROR NO. 131: 131, Michael Mitchell. I have a
- 12 sister-in-law that works for Spartanburg County and a
- 13 brother that works for Greenville County.
- 14 THE COURT: All right. Would either of those
- 15 connections have any bearing in your decision?
- 16 JUROR NO. 131: No, sir.
- 17 THE COURT: Thank you. Be seated.
- 18 Yes, sir.
- 19 JUROR NO. 37: Thirty-seven, Carl Collins. I was
- 20 employed also with the South Carolina Department of
- 21 Corrections.
- 22 THE COURT: And would that have any bearing in your
- 23 decision?
- 24 JUROR NO. 37: No, sir.
- 25 THE COURT: All right. Thank you. Be seated.

Jury qualification

1 Has anybody ever been to the Playoffs Lounge and know
2 where it is, have any connection with it at all? Playoffs
3 Lounge over in Lyman.

4 Got one. What's your name and number, please, sir?

5 JUROR NO. 149: 149, Jermaine Pearson.

6 THE COURT: And what's your connection with it?

7 JUROR NO. 149: I used to live probably about a mile
8 from it.

9 THE COURT: You just know where it is?

10 JUROR NO. 149: Yeah. I know where it is.

11 THE COURT: Have you ever been?

12 JUROR NO. 149: No.

13 THE COURT: Okay. Thank you. Be seated.

14 Is there any member of the jury panel who is a member
15 of or do you contribute time or money to any type of
16 organization that might be characterized or described as a
17 law enforcement support type of organization or a victim's
18 advocacy group.

19 Some of those types of organizations might include
20 Mothers Against Drunk Drivers, Citizens Against Violent
21 Crime, the honorary sheriffs' association, the troopers'
22 association, rape crisis, children's advocacy, fraternal
23 order of police, police benevolence society. Any type of
24 organization that might be characterized as law enforcement
25 support or victims support or victims advocacy groups.

Jury qualification

1 If you belong to any or you contribute time or money
2 to any, if so, please stand.

3 All right. Your name and number, please.

4 JUROR NO. 126: Amanda Miller, 126. Safe Homes.

5 THE COURT: All right. Would that have any bearing in
6 your decision?

7 JUROR NO. 126: No, sir.

8 THE COURT: Thank you. Be seated.

9 Yes, ma'am.

10 JUROR NO. 146: 146, Lindsay Patrick. I used to be on
11 the board of the Children's Advocacy Center.

12 THE COURT: All right. Would that have any bearing in
13 your decision?

14 JUROR NO. 146: No.

15 THE COURT: Thank you. Be seated.

16 Has any member of the jury panel ever been called to
17 testify as a witness in a criminal case, whether you were
18 called by the state or the prosecution or whether you were
19 called by defense counsel? Has any juror ever been called
20 to testify as a witness in a criminal case? If so, please
21 stand.

22 (No response.)

23 THE COURT: All right. I told you basically what the
24 case is about and where the event is alleged to have
25 occurred. I told you who the lawyers are and who the

Jury qualification

1 participants are and who the potential witnesses are.

2 Based upon anything you have heard today or based upon
3 any other consideration has any juror already formed an
4 opinion as to what you think the ultimate outcome in this
5 case ought to be? If so, please stand.

6 (No response.)

7 THE COURT: Does any juror know of any reason
8 whatsoever why you think you could not be fair and
9 impartial if you were called upon to serve as a juror in
10 this particular case? If so, please stand.

11 (No response.)

12 THE COURT: All right. None responding.

13 Any other questions requested by the state?

14 MR. SMITH: No, Your Honor.

15 THE COURT: By the defendant?

16 MR. ALLEN: No, Your Honor.

17 THE COURT: All right. We're going to select a jury.

18 Now, the way that's done, the computer selects your
19 names randomly from the whole group.

20 As your name is called you'll be asked to come
21 forward. You'll come towards me. The bailiff's going to
22 be standing out there in the middle of the room there.
23 You'll just come and stand by the bailiff.

24 Each side has an opportunity to have you excused from
25 serving in the case, or both may agree to have you accepted

Jury qualification

1 for serving in the case.

2 If either side asks that you be excused from serving,
3 just go back and have a seat where you are now. If both
4 agree to have you accepted for service in the case, you'll
5 be having a seat in that jury box to your right and to my
6 left.

7 So please come forward as your name is called, and
8 you'll be instructed if you're to be excused from serving
9 or seated for service in the case.

10 THE CLERK: Juror No. 149, Jermaine Pearson.
11 what say the state?

12 MR. SMITH: Please excuse this juror.

13 THE CLERK: Juror No. 176, Peggy Thomas.
14 what say the state?

15 MR. SMITH: Please present the juror.

16 THE CLERK: what say the defense?

17 MR. ALLEN: Please seat the juror.

18 THE CLERK: Juror No. 1, Eboni Allen.
19 what say the state?

20 MR. SMITH: Please present the juror.

21 THE CLERK: what say the defense?

22 MR. ALLEN: Please seat the juror.

23 THE CLERK: Juror No. 85, Karen Heatherly.
24 what say the state?

25 MR. SMITH: Please present the juror.

Jury qualification

1 THE CLERK: What say the defense?
2 MR. ALLEN: Please excuse the juror in this case.
3 THE CLERK: Juror No. 171, Carmen Stepp.
4 What say the state?
5 MR. SMITH: Please present the juror.
6 THE CLERK: What say the defense?
7 MR. ALLEN: Please seat the juror.
8 THE CLERK: Juror No. 8, Heath Bain.
9 What say the state?
10 MR. SMITH: Please excuse this juror.
11 THE CLERK: Juror No. 23, William Burgess.
12 What say the state?
13 MR. SMITH: Please present the juror.
14 THE CLERK: What say the defense?
15 MR. ALLEN: Please seat the juror.
16 THE CLERK: Juror No. 108, George Klucsarits.
17 What say the state?
18 MR. SMITH: Please present the juror.
19 THE CLERK: What say the defense?
20 MR. ALLEN: Please seat the juror.
21 THE CLERK: Juror No. 84, Matthew Hawley.
22 What say the state?
23 MR. SMITH: Please present the juror.
24 THE CLERK: What say the defense?
25 MR. ALLEN: Please excuse this juror.

Jury qualification

1 THE CLERK: Juror No. 196, Michael Woods.
2 What say the state?
3 MR. SMITH: Please present the juror.
4 THE CLERK: What say the defense?
5 MR. ALLEN: Please seat the juror.
6 THE CLERK: Juror No. 56, Leteia Ellis.
7 What say the state?
8 MR. SMITH: Please excuse this juror.
9 THE CLERK: Juror No. 199, William York.
10 What say the state?
11 MR. SMITH: Please present the juror.
12 THE CLERK: What say the defense?
13 MR. ALLEN: Please seat the juror.
14 THE CLERK: Juror No. 201, Richard Ward.
15 What say the state?
16 MR. SMITH: Please present the juror.
17 THE CLERK: What say the defense?
18 MR. ALLEN: Please seat the juror.
19 THE CLERK: Juror No. 146, Lindsay Patrick.
20 What say the state?
21 MR. SMITH: Please present the juror.
22 THE CLERK: What say the defense?
23 MR. ALLEN: Please excuse the juror.
24 THE CLERK: Juror No. 6, Taylor Atkins.
25 What say the state?

Jury qualification

1 MR. SMITH: Please present the juror.
2 THE CLERK: What say the defense?
3 MR. ALLEN: Please seat the juror.
4 THE CLERK: Juror No. 131, Michael Mitchell.
5 What say the state?
6 MR. SMITH: Please present the juror.
7 THE CLERK: What say the defense?
8 MR. ALLEN: Please excuse the juror.
9 THE CLERK: Juror No. 48, Francisco Delgado.
10 What say the state?
11 MR. SMITH: Please present the juror.
12 THE CLERK: What say the defense?
13 MR. ALLEN: Please seat the juror.
14 THE CLERK: Juror No. 113, Timothy Linder.
15 What say the state?
16 MR. SMITH: Please present the juror.
17 THE CLERK: What say the defense?
18 MR. ALLEN: Please seat the juror.
19 THE CLERK: Juror No. 16, Christopher Bradey.
20 What say the state?
21 MR. SMITH: Please present the juror.
22 THE CLERK: What say the defense?
23 MR. ALLEN: Please seat the juror.
24 THE COURT: All right. This will be for the first
25 alternate.

Jury qualification

1 THE CLERK: Juror No. 166, Devendra Shantha.
2 What say the state?
3 MR. SMITH: Please present the juror.
4 THE CLERK: What say the defense?
5 MR. ALLEN: Please excuse the juror.
6 THE CLERK: Juror No. 152, Zachary Powers.
7 What say the state?
8 MR. SMITH: Please present the juror.
9 THE CLERK: What say the defense?
10 MR. ALLEN: Please seat the juror.
11 THE COURT: This will be for the second alternate.
12 THE CLERK: Juror No. 157, Labree Rice.
13 What say the state?
14 MR. SMITH: Please present the juror.
15 THE CLERK: What say the defense?
16 MR. ALLEN: Please seat the juror.
17 THE COURT: All right. Those who have been -- sir?
18 JUROR NO. 201: May I stay?
19 THE COURT: Well, I'll talk to you privately, but let
20 me ask the jurors who have been selected to please go to
21 your jury room. But do not discuss the case in any
22 fashion. I'll bring you back shortly.
23 (The following takes place outside the presence of the
24 jury.)
25 THE COURT: Let me see y'all just a minute.

Jury qualification

- 1 (Bench conference held off the record.)
- 2 THE COURT: Bring Mr. Ward back.
- 3 (Whereupon, Juror No. 201 returned to the courtroom.)
- 4 (Bench conference held off the record with Juror 201.)
- 5 THE COURT: Bring the jury back.
- 6 (The following takes place in the presence of the
- 7 jury.)
- 8 THE COURT: Mr. Powers, you're going to be the
- 9 twelfth juror in this case. One was removed, so you're the
- 10 twelfth now.
- 11 Ms. Rice, you're still an alternate.
- 12 We're going to select another alternate juror.
- 13 THE CLERK: Juror No. 111, Dexter Leak.
- 14 What say the state?
- 15 MR. SMITH: Please present the juror.
- 16 THE CLERK: What say the defense?
- 17 MR. ALLEN: Please seat the juror.
- 18 THE COURT: All right. Now, if you will, please,
- 19 again retire to your jury room. I'll bring you back in
- 20 just a few minutes.
- 21 (The following takes place outside the presence of the
- 22 jury.)
- 23 THE COURT: Are there any matters that need to be
- 24 addressed regarding jury selection by the state?
- 25 MR. SMITH: No, Your Honor.

Jury qualification

1 THE COURT: By the defendant?

2 MR. ALLEN: No, Your Honor.

3 (Whereupon, the remaining members of the jury venire
4 were excused.)

5 THE COURT: Let's have the record reflect that there
6 was an off-the-bench conference with one of the jurors who
7 had just been selected.

8 But before he was excused he asked to speak with the
9 Court, and his statement was that based upon the serious
10 nature of the charges he would find it difficult to
11 consider the case in the light that he must and under the
12 instructions that the Court would give him because his view
13 of it was, based upon the nature of the allegations, that
14 in his mind it would require the defendant to prove that he
15 was innocent as opposed to the state proving that he was
16 guilty.

17 Obviously, that's a violation of his oath as a juror
18 and the obligation that he must assume as a juror in the
19 case.

20 So I have excused that juror, and we've substituted
21 him with the first person drawn as an alternate.

22 Is there any exception to my decision in that regard?

23 MR. SMITH: No, Your Honor.

24 MR. ALLEN: No, Your Honor.

25 THE COURT: Okay. All right. Bring the jury back,

1 please.

2 (The following takes place in the presence of the
3 jury.)

4 THE COURT: All right. Ladies and gentlemen, we're
5 not going to be able to start the trial of the case this
6 afternoon. So we will begin however in the morning at
7 9:30.

8 So you are going to be excused for the balance of
9 today. You will be asked to report to the jury assembly
10 room in the morning by 9:30.

11 In the meantime, understand under your oath as a juror
12 you have to make your decision based upon what you see and
13 hear during the trial of this case.

14 You cannot be influenced by any outside or extraneous
15 information, and therefore you can't discuss this case in
16 any fashion whatsoever with any person whatsoever.

17 That includes your fellow jurors. You can't discuss
18 it with your fellow jurors until you are instructed to
19 begin deliberations at the trial's conclusion.

20 So no discussions about this case in any fashion
21 whatsoever with any person whatsoever until deliberations.

22 Also, as I say, you've got to base your decision upon
23 what comes in during the trial. That's the evidence.

24 You can't supplement your wealth of knowledge by
25 conducting any outside research or doing your own

1 investigation into any issue.

2 And therefore you are not to conduct any internet
3 research; you're not to try to find -- you're not to try to
4 find out anything about the case or anything that relates
5 to it.

6 The reason you're limited in that and you're required
7 to base your decision upon what comes in during the trial
8 is because what often happens is when somebody is reporting
9 something that's not in court and not during the trial,
10 they get it wrong. It's inaccurate. And if that
11 influences your judgment, that's improper. It's unfair.
12 And you are obligated to render a fair and impartial
13 decision based solely upon what you see and hear during the
14 trial of the case.

15 So no discusses with anybody; no internet search or no
16 independent investigation or research of any kind.

17 Also, don't permit yourselves to be exposed to any
18 type of media coverage that might relate to the case.
19 Don't know if there'll be any or not, but avoid any
20 television coverage, avoid any radio commentary, avoid any
21 newspaper articles that might relate to the case.

22 With that, do have a good evening. As I say, please
23 report to your -- to the jury assembly room at 9:30,
24 9:30 in the morning. Have a good afternoon.

25 (The following takes place outside the presence of the

Mark Gaddy
Direct examination by Mr. Smith

1 jury.)

2 THE COURT: All right. We're going to the statement
3 provided by the defendant at the hospital?

4 MR. SMITH: Yes, Your Honor.

5 THE COURT: Okay.

6 MR. SMITH: The state calls Investigator Mark Gaddy.

7 MARK GADDY, having been first
8 duly sworn, testified as follows:

9 DIRECT EXAMINATION BY MR. SMITH

10 Q Will you state your name and where you work for the
11 judge?

12 A My name is Mark Gaddy. I work for the Spartanburg
13 County Sheriff's Office.

14 Q And are you an investigator with the sheriff's office?

15 A I am.

16 Q All right. Were you working for the sheriff's office
17 on June 26th of 2014 [sic]?

18 A Yes, sir.

19 Q What was your role that night?

20 A At about 4:00 o'clock in the morning I received a call
21 from Sergeant Letterman alerting me that there had been a
22 shooting at the night club Playoffs on Highway 292 and that
23 I needed to go to the hospital because we had injured
24 parties there.

25 Q So the purpose of your visit was to interview the

Mark Gaddy
Direct examination by Mr. Smith

1 injured people at the hospital? All right. And I believe
2 you talked with Renata Irby first, is that correct?

3 A I did.

4 Q And then you ultimately spoke to Jody Thompson.

5 A I did.

6 Q What was your understanding of Mr. Thompson's position
7 at that point? What was your understanding of --

8 A At that point I knew I had two injured people and we
9 needed to figure out what was going on. Nobody really knew
10 it.

11 The previous officers talked about a chaotic scene,
12 and that's pretty much a good description of it.

13 Q Is it true that there was other victims that were
14 transported to --

15 A Different. I think those were the only two where I
16 was and that there was two other victims transported to
17 another hospital.

18 Q Okay. So when you met with Jody Thompson at the
19 hospital would you have considered him to be a victim of
20 this case?

21 A At that point I -- at that point I didn't know. I
22 didn't know anything other than I had two injured people.

23 Q All right. And you were able to make contact with
24 Jody. Was he alert where he was able to speak with you?

25 A Yes.

Mark Gaddy
Direct examination by Mr. Smith

- 1 Q Did you notice if he was handcuffed or anything like
2 that?
- 3 A The only thing I noticed was the bags on his hands.
- 4 Q Okay. But nothing restraining him other than that?
- 5 A No. Not that I recall.
- 6 Q Do you remember, is this just a normal type of
7 hospital room that you met him in?
- 8 A Yes. I think one of them was in room 51 and one of
9 them was in room 54, both standard emergency rooms.
- 10 Q Okay. Just for comparisons. I know at the last
11 hearing we talked about how the other person treated. Did
12 you speak with Ms. Irby about what had happened, the first
13 person you spoke with?
- 14 A Yeah. I just asked her basically can you tell me what
15 happened.
- 16 Q Okay. Did you Mirandize her prior to that
17 conversation?
- 18 A No, no.
- 19 Q And then you made contact with Jody -- Mr. Thompson.
20 Did you Mirandize him?
- 21 A No, because I asked him can you tell me what happened.
- 22 Q And what did he tell you?
- 23 A At that point he told me that he had been at the club
24 and that -- and I'm reading from my writeup -- "Thompson
25 stated that he'd been at the club and heard some guys

Mark Gaddy
Direct examination by Mr. Smith

1 popping off inside and the argument spilled outside the
2 club. He then tried to act as peacemaker to defuse the
3 situation."

4 He said that he did not know the people who were
5 arguing. He did say that he had only four mixed drinks at
6 the club. He said that he -- stated that he started
7 hearing a lot of gunshots and fled to the right side of the
8 store as you look at it from the road.

9 "Thompson said that he did not -- that he did know the
10 guy that he was found with in the grass or that he was
11 found in the grass with."

12 Thompson said that he was on -- he was the -- he --
13 wait a minute.

14 "Thompson said he was the one they were trying to
15 fight with."

16 He told me that he did not realize he was hit until he
17 was in the wood line behind the store. And then he
18 mentioned \$800. And -- and at that point I'm not -- I
19 don't know anything about money or anything. I'm still
20 trying to -- to find out exactly what's going on.

21 He said after E.M.S. transported him that his money
22 was missing. I told him perhaps that they had taken
23 possession of it by the hospital when he came in, and since
24 he had been taken to the trauma bay first. Because he was
25 under medical treatment at this time of the interview, no

Mark Gaddy
Direct examination by Mr. Smith

- 1 further statement was taken at this time.
- 2 Q Did he speak freely with you about this?
- 3 A Yeah.
- 4 Q And you just asked what happened, and that was the
5 response.
- 6 A That was it.
- 7 Q And what did you did after you got done talking with
8 Mr. Thompson?
- 9 A After that I went and called Sergeant Letterman.
10 It was at that point that Sergeant Letterman advised
11 me that he was a potential suspect. I advised our I.D.
12 people who are the evidence processing people to process
13 him and then to have him taken to the -- after he received
14 his medical attention to bring him to the C.I.D. at the
15 sheriff's office.
- 16 Q Was the purpose of you contacting Letterman to let him
17 know what you had found --
- 18 A That's right.
- 19 Q -- doing the mission you were sent on?
- 20 A That's right.
- 21 Q Did you threaten him or coerce him or anything in
22 order to get this statement out of him?
- 23 A No, sir.
- 24 Q In fact, the statement that you got out of him would
25 make him a victim of a crime essentially.

Mark Gaddy
Cross-examination by Mr. Allen

1 A Yes, sir. I mean, no, sir, to the coercion, but the
2 statement he gave was yes.

3 Q would have made him not guilty of anything.

4 A Right.

5 Q Did he tell you if he had a weapon, or did you even
6 ask if he had a weapon?

7 A I just asked him to tell me what happened, and that's
8 what he said.

9 MR. SMITH: I don't have any further questions.

10 CROSS-EXAMINATION

11 BY MR. ALLEN

12 Q You had a radio with you?

13 A No.

14 Q When Spartanburg Communications speak, did you have
15 like an abbreviation like C-52, C-12, C-04?

16 A My call sign was I-13 if that's what you're talking
17 about. I received the telephone call that put me en route
18 to the hospital, and that's where I went. I never even got
19 on the radio. I went and did the -- I went to the hospital
20 just like I was advised to do.

21 Q You arrived at the hospital at what time?

22 A Sometime after 4:00 is all I can tell you, because
23 that's when I received the call.

24 Q would it have been as late as 5:16 in the morning?

25 A Possible. I mean, I had to get ready and go, so

Mark Gaddy
Cross-examination by Mr. Allen

- 1 that's possible.
- 2 Q Are you aware there had been calls made about the
3 defendant or that Mr. Thompson was a possible suspect?
- 4 A Not to me.
- 5 Q Was -- has treatment at the hospital been finished by
6 the time that you got there to talk to him?
- 7 A No. Not that I recall.
- 8 Q They were still treating him?
- 9 A Listen. When -- whenever I am there I am always
10 trying to work around. If there's a nurse comes in or
11 something like that, because of the primary care of the
12 injured is the primary concern at the hospital, so when I'm
13 there I'm -- again, I get up at 4:00, go straight there as
14 soon as I get ready.
- 15 In the interim I'm just trying to figure out what's
16 going on, because, like I say, I receive one phone call
17 that tells me, basically gives me a nutshell of what's
18 going on. And then I get to the hospital and have to talk
19 to injured people.
- 20 Q Had he been bandaged up by the time you arrived?
- 21 A I don't recall but I -- I don't recall.
- 22 Q To your knowledge in the case did anybody call the
23 hospital or any officer contacted the hospital and asked
24 them not to release Mr. Thompson?
- 25 A I don't know.

Mark Gaddy
Cross-examination by Mr. Allen

1 Q Had you been told prior to arriving at the hospital
2 before you talked with Mr. Thompson? Had you been told how
3 he was found?

4 A No, sir. I -- I was told by Sergeant Letterman that
5 we had two injured people at Spartanburg Regional and I
6 needed to go down there and talk to them, and that's what I
7 did.

8 Q Were you told anything about a gun being found near
9 where he had been laying?

10 A No, sir. I was not.

11 Q Did he in any way indicate he did not want to talk to
12 you, wanted to leave?

13 A No.

14 MR. ALLEN: One second, please, Your Honor.

15 (Pause.)

16 Q While you talked with Mr. Thompson could you tell if
17 he had been drinking or was intoxicated?

18 A He didn't seem to be that intoxicated that he didn't
19 know what was going on, but he told me that he had four
20 drinks at the club.

21 Q Did he tell you anything else about anything that he
22 had ingested?

23 A No, sir. I didn't -- I didn't write it down. It
24 didn't -- it didn't make -- it didn't make serious enough
25 for me to write it down, is all I can tell you.

Mark Gaddy
Redirect examination by Mr. Smith

1 MR. ALLEN: One second.

2 (Pause.)

3 MR. ALLEN: Nothing further.

4 MR. SMITH: Just briefly.

5 REDIRECT EXAMINATION

6 BY MR. SMITH

7 Q When you talked with Renata Irby did she state to you
8 that Jody Thompson had been one of the shooters in this
9 case?

10 A Not that I recall, and I did not write it in my
11 writeup that she had indicated so.

12 Q Did she give any indication that she knew who had shot
13 her?

14 A Not that I recall, because from what I recall from
15 talking to her she said it got where it was escalating.
16 And then she went to get in her car, and she was actually
17 in her car before she heard shots going off. So I don't
18 know that she ever mentioned that, but I certainly -- I did
19 not put it in my writeup.

20 Q Did you find that to be noteworthy if she'd said Jody
21 Ray Thompson shot me?

22 A Yes.

23 Q Would that have made him a suspect in the case if she
24 had said such when you talked to her?

25 A Yes.

1 Q But you did not Mirandize him after you had just spoke
2 with Renata Irby before --

3 A No.

4 Q -- you spoke to Mr. Thompson.

5 MR. SMITH: All right. I don't have any further
6 questions.

7 THE COURT: Okay. You can step down.
8 Anything else from the state?

9 MR. SMITH: No, Your Honor.

10 THE COURT: The defendant?

11 MR. ALLEN: No, Your Honor.

12 THE COURT: All right.

13 MR. ALLEN: No arguments.

14 THE COURT: Do you object to the admission of the
15 statement?

16 MR. ALLEN: Well, the evidence did not come out
17 like -- as I expected it to based on what I had read. But
18 I don't have any argument. It appears that this officer
19 was not treating him as if he was under arrest or in
20 custody. So I withdraw my --

21 THE COURT: It would appear to me -- it would appear
22 to me in applying any Dickard standard that Investigator
23 Gaddy went to the hospital to find out what happened at
24 Playoffs that night, and actually Mr. Thompson was being
25 treated more of a victim than he was as a defendant.

1 No investigation had focused on him. He was not the
2 target. He was not a suspect at that time. Mr. Gaddy
3 simply went to find out what happened, if he knew who shot
4 him:

5 And so he clearly was not in the custody of law
6 enforcement, and no reasonable person would believe that
7 they were in custody of law enforcement when Mr. Gaddy was
8 questioning him about what happened.

9 There's nothing that would indicate that the statement
10 made by Mr. Thompson was anything but freely and
11 voluntarily made, and therefore any motion to exclude it
12 would be denied.

13 All right. What else?

14 MR. SMITH: I believe Mr. Allen said he didn't have a
15 problem with the statement, the subsequent statement, that
16 Jody Thompson gave to Investigator Gaddy. But I do -- that
17 the state does plan on introducing that, so if there are
18 any challenges. That's where the state --

19 THE COURT: All right. That was the third statement?

20 MR. SMITH: Yes, Your Honor. They actually do a
21 followup with him.

22 THE COURT: That was at the sheriff's department.

23 MR. SMITH: Yes.

24 THE COURT: As I understood it, that was not objected
25 to.

1 MR. ALLEN: That is correct.

2 THE COURT: Okay. All right. Court is in recess
3 until 9:30 in the morning unless y'all have something else.

4 MR. ALLEN: Actually I'll get with the solicitor and
5 we'll discuss what portions of it -- it's very insidious --
6 he intends to play. We will discuss that tomorrow morning
7 if we do.

8 THE COURT: All right.

9 END OF PROCEEDINGS FEBRUARY 11, 2019

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1 (Proceedings February 12, 2019)

2 (The following takes place outside the presence of the
3 jury.)

4 THE COURT: Any matters to address before the jury is
5 brought in?

6 MR. SMITH: Your Honor, we'd like to put the plea
7 offer on the record that was made in this case.

8 THE COURT: Okay.

9 MR. SMITH: Your Honor, the state this morning offered
10 Mr. Thompson to plead guilty to three attempted murders,
11 possession a weapon during a violent crime and unlawful
12 carrying of a pistol with an active 10-year sentence on
13 those. Obviously, five, and one on the charges that don't
14 carry ten. But all of those charges to run concurrent and
15 then consecutive ten years suspended to five years
16 probation on the assault and battery first. And he's
17 rejected that offer.

18 THE COURT: All right. Mr. Allen, did Mr. Smith state
19 the plea offer as you understood it?

20 MR. ALLEN: Yes, sir, Your Honor, substantially
21 correct. Obviously, possession of an unlawful weapon only
22 carries one year, but be that as it may --

23 THE COURT: He said concurrent. One is five and one
24 is one. That would be concurrent with the ten.

25 MR. ALLEN: Yes, sir. He stated it substantially

1 correct.

2 THE COURT: And you shared that with Mr. Thompson?

3 MR. ALLEN: I did, Your Honor.

4 Of course I also went into the consequence of a plea,
5 reminded him.

6 We additionally talked about serious, most serious and
7 the significance of those types of offenses and also
8 parole -- I call it 85 percent as opposed to no parole. I
9 had previously talked to him about the no-parole, the
10 provisions of the no-parole statute and the fact that
11 attempted murder is 85 percent and how that works and
12 community supervision and the fact that the other offense
13 that was suggested, the one that carried the consecutive
14 sentence, would not have been a no-parole sentence and how
15 it would more or less be calculated. Also discussed the
16 violent and nonviolent, which ones were violent and
17 nonviolent. I've gone over all of that, and I believe he
18 understands all of that.

19 THE COURT: All right. Mr. Thompson, you've heard
20 what Mr. Allen just told me.

21 THE DEFENDANT: Yes, sir. I hear what he said and...

22 THE COURT: Do you understand what the offer was or is
23 that has been made by the prosecutor?

24 THE DEFENDANT: Well, I understand a little bit of it,
25 but the part I don't understand is the part that was it on

1 paper like in the beginning when I was someone said about
2 five and...

3 THE COURT: Say what, now?

4 THE DEFENDANT: Someone said about five years.

5 THE COURT: Who? Who said five years?

6 THE DEFENDANT: In the beginning what I was told.

7 THE COURT: Oh.

8 THE DEFENDANT: The only reason I never took it was
9 because I never seen it on paperwork. I never seen. I
10 would have had to take people at their word and I -- with
11 this whole case, I mean, I just been getting done any kind
12 of way with this whole case. So I don't know who or what
13 to trust, if I could even trust anybody's word.

14 THE COURT: Well, let me ask you this.

15 You're telling me that somebody told you the solicitor
16 was offering five years?

17 THE DEFENDANT: Correct.

18 THE COURT: All right. Mr. Smith, did you ever offer
19 anybody five years in this case?

20 MR. SMITH: I have not, Your Honor, but I have not had
21 this case the entire time.

22 THE COURT: Who had it before you?

23 MR. SMITH: Jennifer Wells had it.

24 THE COURT: All right. Have you discussed with Ms.
25 wells her handling of the case before you took it?

1 MR. SMITH: Somewhat, Your Honor.

2 THE COURT: And did she tell you that she had made
3 Mr. Thompson an offer of five years if he would plead
4 guilty?

5 MR. SMITH: I don't believe there was ever a firm
6 negotiated 5-year offer.

7 THE COURT: Okay. But, in any event, has anyone ever
8 told you that Mr. Thompson wanted to plead guilty to five
9 years?

10 MR. SMITH: No.

11 THE COURT: Okay. And have you ever made an offer of
12 five years?

13 MR. SMITH: I have not, Your Honor.

14 Today -- I somewhat hinted at this offer yesterday
15 afternoon with Mr. Allen, but today would have been the
16 first time we made it.

17 I understand. I believe there was plea negotiations
18 with prior defense attorneys and prior solicitors, but
19 those were all rejected, whatever they were.

20 THE COURT: All right. So this is the first offer you
21 have made in the case?

22 MR. SMITH: Yes, Your Honor.

23 THE COURT: And it is as you have stated it?

24 MR. SMITH: Yes, Your Honor.

25 THE COURT: Okay. Mr. Allen.

1 MR. ALLEN: Your Honor, I can probably shed some light
2 on this.

3 AS the Court knows, I did not get involved in this
4 case until I believe it was either late May of this past
5 year or early June when the Court relieved his second
6 private attorney, Michael Brown.

7 And it was mentioned to me by -- I think it was Mr.
8 Barnette at that time that there had been some discussions
9 between the solicitor -- I don't know if it was Mr. Brown
10 or Ms. Wells but between the solicitor handling the case
11 and Mr. Brown about pleading the case.

12 If I understand, there was an in-chambers conference
13 between the solicitor handling the case, Mr. Brown and
14 another judge who indicated that she may under the
15 circumstances give a sentence of five years. I think
16 that's where the five years came into being.

17 I was not a party to that conversation, nor Mr. Brown.
18 So I do -- I'm sure he shared that information with
19 Mr. Thompson.

20 I know I discussed it with him recently. There was an
21 in-chambers conference between Your Honor and Mr. Smith and
22 I late last week about the case and that same subject came
23 up. So I was briefing him on the chambers conference and
24 again mentioned the thing about the five years. But as I
25 understand it, there was no offer of five years, just an

1 indication that he would receive five years if he pled at a
2 certain time before a different judge.

3 THE COURT: All right. Well, Mr. Thompson, here is
4 the situation.

5 A plea offer made by the prosecutor is simply a
6 decision that he or she gets to make. They can agree to
7 make an offer if they want to. They never have to. If
8 they want to, they can. And you can always accept it or
9 you can reject it. That's up to you.

10 THE DEFENDANT: Right.

11 THE COURT: But a plea offer means absolutely nothing
12 unless the judge, the Court, who is taking the guilty plea
13 agrees to accept it.

14 In other words, when somebody pleads guilty even if
15 the prosecutor begs the judge to give the defendant a
16 particular sentence, the judge doesn't have to do it
17 because that's always the judge's decision as to what the
18 sentence is going to be.

19 The prosecutor gets to decide what the defendant is
20 going to be charged with, the prosecutor gets to decide
21 what he's going to allow the defendant to plead guilty to,
22 and I don't have any choice about that because I'm not the
23 prosecutor. He gets to decide what the charge is going to
24 be; he gets to decide if he's going to pursue it or not.
25 He can make you go to trial on it or he can dismiss it or

1 allow you to plead guilty to something else. So that's his
2 decision.

3 THE DEFENDANT: Right.

4 THE COURT: And he can recommend or ask me to impose a
5 particular sentence, but that's something I decide. I
6 don't have to go along with his recommendation on the
7 sentence just like he doesn't have to -- he doesn't have to
8 go along with anything I might recommend as to the charges,
9 because that's not my job.

10 THE DEFENDANT: Right.

11 THE COURT: And that's not his job.

12 So here's the situation today. Mr. Smith has made you
13 an offer. He has stated it in court. Mr. Allen has said
14 that what he has stated is correct, and Mr. Allen says that
15 he has shared that offer with you.

16 And so the issue is whether or not you wish to accept
17 his offer today, or reject it. That's your choice.

18 But here is the situation. Once this jury is sworn
19 and we go forward with the trial, nobody's going to be
20 making any recommendations to me.

21 THE DEFENDANT: Right.

22 THE COURT: Because when the case goes to trial I'll
23 know everything about the case.

24 THE DEFENDANT: Right.

25 THE COURT: When we get to the end, I'm going to do

1 the sentencing if the jury finds you guilty.

2 Of course if the jury finds you not guilty that's the
3 end of the case. There won't be any sentence. But if the
4 jury were to find you guilty, then the sentencing is up to
5 me.

6 And, you know, anybody in the courtroom can make a
7 recommendation if they want to, but I'm not -- I'm not
8 considering those recommendations unless I just happen to
9 agree with it. Because now is the time if you want to work
10 something out and you want to come to a plea agreement that
11 you want me to consider or to accept, now is the time to do
12 that.

13 We've had a long time to do it. And doesn't matter.
14 It doesn't matter about that, but I'm just saying that
15 you've had, I guess, three lawyers now, and they've talked
16 to you about the case. And you've had plenty of time to
17 think about what you want to do, whether you want to go to
18 trial or you want to plead guilty.

19 THE DEFENDANT: Right.

20 THE COURT: And I understand that your decision to
21 plead guilty is based largely upon what they might agree to
22 recommend or do for you. I understand that.

23 But the point is today they've made an offer. You've
24 got to say you want to take it or you want to reject it.
25 And if you reject it, then we're going to swear this jury.

1 And once that jury is sworn, we're going to trial. And
2 even in the middle of the trial you can change your mind
3 and plead guilty, but all of these offers are going to be
4 gone. I'm not listening to any offers or plea agreements.
5 Okay?

6 THE DEFENDANT: Okay.

7 THE COURT: All right. Now, do you need to talk to
8 Mr. Allen about whether you want to go along with the
9 state's offer or not?

10 THE DEFENDANT: Yes, please.

11 THE COURT: Okay. You do that.

12 (Whereupon, a recess was taken.)

13 MR. ALLEN: Your Honor, if it please the Court.

14 THE COURT: Sir.

15 MR. ALLEN: Mr. Thompson would like to address the
16 Court with some concerns he has.

17 THE COURT: All right. Okay. Mr. Thompson.

18 THE DEFENDANT: Yeah. I really -- I ain't really too
19 happy about with my representation because for one -- once
20 Mr. Brown got off my case, I wasn't aware that it was
21 conflict of interest between him and someone else.

22 And this particular day that he did get off I was
23 supposed to come for a bond hearing, and it wound up being
24 him getting off of my case and -- and that day you had let
25 my father come up here, stand beside me to ask what were we

1 going to do about another attorney.

2 And so we had plans to go get another attorney, a paid
3 attorney. And so Mr. Allen happened to have been sitting
4 right here in the Court, and we heard you say, you know,
5 well, Mr. Allen is the head of the public defender, he will
6 represent you.

7 So we took you at your word and him at his word or
8 whatever. But I'm not happy with my -- I'm not happy with
9 my representation because, I mean, this is my life on the
10 line, and I am willing to go through with it, but my life
11 is on the line and I -- it ain't nothing in my favor.

12 Everything that I said, submit -- everything that I
13 said, submit, any and everything that I said I -- I thought
14 that he worked for me, but, obviously, you know, he do what
15 he want to do as well as, you know, not doing what I asked
16 him to do as far as I asked for a case file from an
17 attorney, subpoena list from attorney, several things the
18 whole time that I've been asking for.

19 And I never did get to see the videos. And there's a
20 lot of things that's coming out that I wasn't even aware
21 of, like, and I done had three different motions, and my
22 motions, each one of my motions, got different stuff in
23 them and stuff been taken out and put in and all kind of
24 sorts of things that it's, like, I feel like I'm being set
25 up.

1 I ain't going to tell you no lie. I feel like this
2 whole thing is a setup. And I -- I love myself, me, more
3 than that, to just sit here and watch my life get took from
4 me.

5 THE COURT: What are you asking me to do?

6 THE DEFENDANT: I -- I would like to have more time to
7 get an actual attorney so that I can fight --

8 THE COURT: Well, it's too late for that. It's too
9 late for that. We've already selected a jury in the case.

10 THE DEFENDANT: Right. But we haven't started the
11 trial.

12 THE COURT: Well, I understand, but I'm telling you
13 it's too late for that. That's my decision.

14 THE DEFENDANT: Right. So, I mean, you couldn't give
15 us a week or, I mean, because a lot of this time that I've
16 been sitting back there in the county for two and a half
17 years ready to go to trial when I had attorneys but the
18 prosecution wasn't ready, why wasn't it too late then for
19 them?

20 I mean, I never got no -- it's like -- see, it's like
21 everything is against me. I mean, like when the
22 prosecution ain't ready, ain't nothing said, but when I
23 ain't, you know, when I actually ain't ready, I mean, we
24 just -- now it's too late.

25 THE COURT: Well, I'm not understanding what you mean

1 by that.

2 THE DEFENDANT: What I'm saying is I -- I kept Scott
3 Robinson --

4 THE COURT: Right.

5 THE DEFENDANT: -- on my case for 21 months while I
6 stayed in the county. Got rid of Mr. Scott. Mr. Scott
7 been ready to go to trial for 15 to 18 months and the
8 prosecution wasn't ready. And just, like, I don't feel
9 comfortable going with them with who I got. I mean,
10 whenever the prosecution got the extra time because they
11 wasn't ready, I feel like why I can't get a little more
12 time to get me counsel, somebody that I feel comfortable
13 getting.

14 THE COURT: Well, because I think you've already had
15 that time.

16 THE DEFENDANT: The time, I mean, I sat in the county.
17 I only been out for a couple of months. I mean, it ain't
18 like I can just say come over here and visit me in this
19 county.

20 THE COURT: Lawyers go to the county all of the time.

21 THE DEFENDANT: Right. But we wasn't allowed to just
22 approach any lawyer and just say and start talking to him.
23 It don't work like that in the county. It does not work
24 like that in the county jail.

25 THE COURT: I'm not understanding what you mean.

1 THE DEFENDANT: What I'm saying is I -- I -- I didn't
2 really have the time to really just seek the kind of
3 counsel that I want because I -- when I got out I was
4 thinking that, you know, that basically trial wasn't even
5 going to come up just like it's been being.

6 Every time I think that we're going to trial it's
7 always something, you know, like, and basically what I'm
8 just saying is I just don't feel comfortable and I feel
9 like, you know, and I'm asking you to give me a chance to
10 get some -- somebody that I really feel comfortable.

11 THE COURT: Okay. Well, I feel like you've had plenty
12 of an opportunity to do that. So we're going forward
13 today.

14 So the question then becomes whether you want to
15 accept the state's offer or you want to reject it and go to
16 trial.

17 THE DEFENDANT: Go ahead on through.

18 ERNESTINE GRAYSON: Can I speak, Judge?

19 THE COURT: Who are you, ma'am?

20 ERNESTINE GRAYSON: I'm the grandmother.

21 THE COURT: What would you like to tell me? If you
22 will, stand up and tell me what your name is.

23 ERNESTINE GRAYSON: Oh, don't stand up?

24 THE COURT: No. You can stand up.

25 ERNESTINE GRAYSON: Okay. Thank you, sir.

1 THE COURT: Tell me what your name is.

2 ERNESTINE GRAYSON: I talked to my grandson --

3 THE COURT: Tell me what your name is.

4 ERNESTINE GRAYSON: My name is Ms. Ernestine Grayson.

5 THE COURT: Ernestine Grayson?

6 ERNESTINE GRAYSON: Yes, sir.

7 THE COURT: Okay. What would you like to tell me?

8 ERNESTINE GRAYSON: I spoke to my grandson the night
9 that this incident happened, and he explained to me. I
10 know this is hearsay. And I think there's a lot of
11 evidence that need to be brought out.

12 THE COURT: Well, that's why we're here.

13 ERNESTINE GRAYSON: Yeah. But we don't feel that this
14 lawyer is representing him to the fullest like what the
15 evidence that we have, and if he's not fully -- whether
16 he's court appointed or whoever, if he's not fully for my
17 grandson, we don't feel comfortable with him.

18 I mean, we want someone who has got his interest at
19 heart, whether he's guilty or not guilty. And if he don't
20 have his interest at heart, how can we rely on him to do
21 this?

22 He has an attitude. He has a don't-care attitude.
23 And, I mean, even speaking to my grandson, he didn't speak
24 to him in a manner that he cared, that he represented him.
25 If he's not going to represent him, why would we -- why

1 would he even accept the case? He seem -- his attitude is
2 that he's working for the state, for the prosecutor.

3 I mean, we want someone who's going to represent him
4 whether he's guilty or not guilty.

5 THE COURT: Well, Ms. Grayson let me say this.

6 I've known Mr. Allen a long time. He's been a public
7 defender for a while. And I've never known him to work for
8 the state. I've never known him to help the prosecutor.
9 It's never occurred here in my experience. I've been here
10 a long time.

11 ERNESTINE GRAYSON: Yes, sir.

12 THE COURT: So I know sometimes people get advice from
13 their lawyers --

14 ERNESTINE GRAYSON: Yes, sir.

15 THE COURT: -- and it's like getting advice from other
16 people. If you don't -- if you don't like what you hear --

17 ERNESTINE GRAYSON: It is not that --

18 THE COURT: -- then -- then you reject it and you
19 claim that these people are not looking out for your
20 interest. And that's just not so usually, because a lawyer
21 has an obligation to provide reasonable advice to a client.
22 And whether the client likes it or not, that's -- that's
23 immaterial. The point is a lawyer has an obligation.

24 ERNESTINE GRAYSON: When I spoke --

25 THE COURT: -- to let the client know what he thinks

1 about the case.

2 ERNESTINE GRAYSON: Yes, sir.

3 THE COURT: But it's always the client's decision as
4 to whether he or she wants to go to trial or not. A lawyer
5 can't make that decision. But the lawyer can make
6 recommendations if they want to, and that's what they're
7 hired for or that's what they're appointed for.

8 ERNESTINE GRAYSON: Yes, sir. Well, I did call the
9 Bar Association, and he said we should be able to do that,
10 because if we're not happy with this lawyer that we should
11 not have to keep him because that's -- like he said, his
12 life is dependent on how this lawyer is going to represent
13 him. And the Bar said we should have a chance to present
14 this to you, that he have not shown his attitude for the
15 little time that I -- I heard him talking to my grandson.
16 And he doesn't show that.

17 THE COURT: All right. Who told you this?

18 ERNESTINE GRAYSON: Excuse me?

19 THE COURT: Who told you that you had right not to go
20 forward?

21 ERNESTINE GRAYSON: I called the state Bar
22 Association.

23 THE COURT: I know. And who did you talk to?

24 ERNESTINE GRAYSON: I don't know what his name was.

25 THE COURT: Oh.

1 ERNESTINE GRAYSON: I didn't get his name. I just
2 asked some questions.

3 THE COURT: Well, sometimes people have to know what
4 all the information and facts are before they give you good
5 advice.

6 ERNESTINE GRAYSON: Yes, sir.

7 THE COURT: Because I don't know who that was at the
8 Bar Association, but they don't know anything about this
9 case, I'm sure.

10 ERNESTINE GRAYSON: They don't. That's what he told
11 us to present to you.

12 THE COURT: Right.

13 ERNESTINE GRAYSON: That we needed a chance to get a
14 lawyer who's going to represent him and -- and into the
15 fullest. This lawyer does not have that. And I don't know
16 if you're going to give us a chance to get a lawyer.
17 That's why we're here. We're here to see --

18 THE COURT: Well, Ms. Grayson, I thought we'd had
19 plenty of opportunity for Mr. Thompson to get a lawyer. I
20 mean, it's been since June of 2016.

21 ERNESTINE GRAYSON: Yes, sir. But we had a lawyer.

22 THE COURT: Right. I know that.

23 ERNESTINE GRAYSON: Thank you, Judge.

24 THE COURT: Thank you, ma'am.

25 ERNESTINE GRAYSON: You're welcome.

1 THE COURT: Mr. Thompson.

2 THE DEFENDANT: Yes. The lawyer that we did have --
3 Michael Brown -- we were satisfied with him. But we never
4 knew that he had because had we knew this we wouldn't even
5 wasted our money even hiring Michael Brown, if we knew that
6 he had represented one of the victims in this case.

7 I mean, we kept him for four or five months. He never
8 even told me that nothing about one of the victims that he
9 represented. And then to just all of a sudden one day, I'm
10 thinking I'm going to bond court. And he come out and say
11 I -- you know, I got to get off this case.

12 I mean, you know, so that's a lot of time that either
13 got wasted that ain't even our fault, because had we knew
14 that from the beginning we wouldn't have wasted our money
15 or time getting him.

16 THE COURT: Well, I'm not suggesting that it was your
17 fault. I didn't mean to say that. I mean, if you thought
18 that's what I meant, that's not what I meant.

19 I'm just saying there's been plenty of time. In other
20 words, the case is old enough it's got to be presented in
21 court.

22 THE DEFENDANT: Right.

23 THE COURT: It's old.

24 THE DEFENDANT: Right.

25 THE COURT: And I'm just saying I think we've had

1 plenty of time to have the lawyer issue settled, and I
2 thought we had. As you say, you thought you had too.

3 Mr. Brown got off the case for whatever reason. He
4 had a conflict. I've got no control over that, that he has
5 to decide if he has a conflict or not. But he's off the
6 case, and apparently y'all didn't hire another lawyer.

7 You asked for the public defender to be appointed, and
8 that's what happened. And that's why Mr. Allen is here.
9 He is the public defender.

10 THE DEFENDANT: Right. But we asked for -- my father
11 had spoke, I also asked, for a specific defender. And I
12 also asked him before.

13 I said, "Mr. Allen, how long has it been since you've
14 been in trial? How long has it been?" He said he -- well,
15 to be honest with you, it's been years, years since he's
16 been to trial hisself, right or wrong?

17 THE COURT: Well, I know that's wrong because I've had
18 him in trial in the last few months.

19 MR. ALLEN: I think the conversation was -- and of
20 course we're talking about jury trials. He asked me when
21 was the last case I tried.

22 THE DEFENDANT: Right.

23 MR. ALLEN: Because he told me I hadn't tried in five
24 years, and I told him I did not remember the last case that
25 I tried. I mean, I guess I could look in the database and

1 look it up, but I didn't think that was germane. I've had
2 a lot of cases.

3 THE COURT: Oh, I understand.

4 THE DEFENDANT: Right.

5 THE COURT: Well, anyway, my point is here is the
6 thing, Mr. Thompson, as you probably already know.

7 You can -- you can hire any lawyer you want to that'll
8 take the case, but when you get an appointed lawyer the
9 Court appoints the lawyer.

10 You don't get as many choices as you get when you hire
11 them yourself. As I say, when you hire them yourself you
12 can get anybody you want so as long as they're able to
13 practice in South Carolina.

14 But when you get an appointed lawyer, the Court
15 appoints the lawyer, and that's Mr. Allen. He is the
16 public defender. I mean, he's the one that is in charge of
17 the public defender's office for this circuit. And so he's
18 taken your case, I mean, himself.

19 THE DEFENDANT: Right.

20 THE COURT: And so that's where we are.

21 So, as I say, the situation is simply this. You've
22 got to decide if you want to take advantage of the offer
23 made to you by the prosecutor or you wish to reject it and
24 go forward with the trial.

25 THE DEFENDANT: I mean, if, being as it may if, the

1 prosetute -- prosecution can come up, do a little better,
2 than I might would be willing to accept. But, like I say,
3 my whole concern is I know this ain't having anything to do
4 with you or him but, I mean, had I knew that five, you
5 know, and I'm speaking on that because I would have
6 proceeded with that.

7 THE COURT: Well, I understand. I don't know anything
8 about that any more than what y'all told me here, but, like
9 I say --

10 THE DEFENDANT: Right.

11 THE COURT: -- the five doesn't make a bit of
12 difference really because no judge -- a plea offer is never
13 accepted until the Court accepts it. So even if y'all
14 agree on something --

15 THE DEFENDANT: Right.

16 THE COURT: -- and you come up here, I can still say
17 no.

18 THE DEFENDANT: Right. But, see, the way they said
19 that it was worked out with him, and not, but I did not see
20 it on paper. And I was not going to just take anybody at
21 their word.

22 THE COURT: Well, I don't know what --

23 THE DEFENDANT: I'm not the type of person. Paper
24 don't lie.

25 THE COURT: Well, you understand you never were going

1 to see that on paper, because even if there was some
2 conversation about it, all that has to be done here in the
3 courtroom. It has to be done on the record. The judge has
4 to hear everything and the judge has to make a decision on
5 the sentence. That's never done in an office somewhere,
6 never put on a piece of paper.

7 THE DEFENDANT: So we tolerate. We tolerate a lot of
8 this stuff in a court of law like dishonesty, like where
9 people just tell you one thing and basically even sometime
10 under oath, you know, and just get -- get away with it?

11 THE COURT: Not that I know of.

12 THE DEFENDANT: Right. I mean, because I just want to
13 address one more situation to you that I don't think that
14 you -- that I'll just refresh your memory as well.

15 One time when I came in here that same day with
16 Michael Brown and -- and he was still going to try to get
17 me a bond that day and I had told -- it was in front of him
18 and everyone and all, and I had said that Judge Knie had
19 said that. And so did Jennifer Wells who was on the case
20 at that time that if indeed, if I did not a bond at that
21 time she was going to issue me a \$50,000 unsured [sic]
22 bond.

23 And you had said, basically, like, like I'm a liar or
24 like you just didn't believe that, whenever I was like,
25 okay, well, I'm pretty sure everything is on record and in

1 court. But then nobody even -- you know, didn't nobody
2 even believe me when it was as simple as to just go back
3 and revisit that bond hearing that day instead of just
4 belittling me, making me like I -- like my word -- like
5 I'm -- like I'm just a liar or whatever, you know.

6 THE COURT: You -- well, I'm not understanding what
7 you're saying.

8 You're telling me that Judge Knie -- you're saying
9 Judge Knie promised to issue you an unsecured \$50,000 bond?

10 THE DEFENDANT: No. Jennifer Wells was allowed to say
11 that in Court, what she was going to do. Under oath she
12 said that she was going to issue -- and this -- she said
13 this day, okay, now, if you don't issue him a bond today,
14 don't worry in a month or two, I'm going to issue him a
15 \$50,000 unsecured bond, you know, and then so --

16 THE COURT: Who said that?

17 THE DEFENDANT: Jennifer Wells in Judge Knie's
18 courtroom.

19 THE COURT: Oh, well -- well, Jennifer Wells can't
20 issue bonds. She's not a judge.

21 THE DEFENDANT: well, I mean, but my point exactly. I
22 mean, how is people allowed to say these things under oath
23 and just get away with it?

24 THE COURT: well, I don't know if she was under oath
25 or not, but, I mean, she just -- I mean, she can -- she can

1 ask for that.

2 But, as I say, everybody has different roles here.
3 And a judge's role is to set bonds. A prosecutor can --
4 just like a plea agreement, a prosecutor can make a
5 recommendation, but it's still up to the judge. The
6 prosecutor doesn't get to issue any bonds.

7 THE DEFENDANT: Right.

8 THE COURT: That's just -- that's not their role.

9 THE DEFENDANT: All right. One more so about the
10 bond. It's just about the -- about the -- the people just
11 able to say anything while they under oath and nothing --
12 you know, nothing be done about that.

13 THE COURT: Well, something will be done about it if
14 somebody lies under oath so long as you can establish that
15 they lied under oath.

16 THE DEFENDANT: Right. Okay. Well, with that being
17 said --

18 THE COURT: We have criminal charges for that too.

19 THE DEFENDANT: Right, well, yeah, because I sure
20 wanted to bring that up, because like yesterday, I mean,
21 what we sat here and talked about yesterday about the --
22 about the -- the officers sit here and swore and -- and
23 right here and in my notes, in my actual motion, it says
24 that they -- that they tried to play a picture that I was
25 not no suspect at the time.

1 But right here it says that they called Officer
2 Thompson from the beginning. The first arriving officer
3 that was on the scene had already informed those other
4 officers that indeed, that I supposedly supposed to have
5 had what they call a weapon, is what it was saying. But
6 they sit here under oath and swear their hand on the Bible
7 and basically just told a whole different story.

8 And I got it right here if you want to see it. I got
9 it right here where it was already -- it was already in the
10 paperwork. But they acted like they did not know that. Do
11 you understand what I'm saying?

12 THE COURT: I understand what you're saying, but, you
13 know, that's why we're having these trials.

14 You see, people take the witness stand and they
15 testify. Sometimes they testify incorrectly. I don't
16 know. But that's why we have the jury. They decide what
17 the truth is the best that they can.

18 THE DEFENDANT: Right. But if -- if nobody going to
19 point out these lies, then, I mean, if ain't nobody going
20 to point out the lies, like, even I'm not an attorney and I
21 see that lie myself and I'm bringing it to your attention,
22 then, durn, I might as well represent myself then, because
23 if I can see that for myself and I only got 12 years of
24 education -- I'm not no attorney -- and if my attorney
25 can't see these things and address the court like attorney

1 is supposed to, then that defeat the purpose of me even...

2 THE COURT: Well, as you said, Mr. Thompson, you don't
3 have a law degree. You don't have a legal education.
4 There are some things that can be done in court and some
5 things that can't be.

6 You have to comply with the rules, and not only in
7 court, but the rules of evidence too. And that's what
8 lawyers are trained in. And sometimes, you know, people
9 involved in a trial think, well, it's not fair, I ought to
10 be able to say something. But if the rules don't allow it,
11 then the rules don't allow it.

12 The lawyers know that. The lawyers can't violate the
13 rules intentionally. That gets themselves in trouble, you
14 see.

15 So, but you -- you're certainly in a position to be
16 able to tell your lawyer whatever you want to. Then the
17 lawyer has to make those decisions.

18 So, anyway, we're back to my original question, and
19 that is do you wish to take advantage of the state's offer
20 that they've made --

21 THE DEFENDANT: No.

22 THE COURT: -- or do you wish to reject it.

23 THE DEFENDANT: No offer.

24 THE COURT: Okay. You're going to reject it.

25 All right. Are we ready for the jury?

1 THE DEFENDANT: Yes, sir.

2 MR. SMITH: The state is ready, Your Honor.

3 THE COURT: All right. Bring them in.

4 Ask Mr. Woods to take the foreperson's seat.

5 Mr. Woods.

6 (The following takes place in the presence of the
7 jury.)

8 THE COURT: Good morning, ladies and gentlemen.

9 I apologize for the delay, but I had some matters this
10 morning I had to address. It took longer than I had
11 anticipated, but, nevertheless, I had to resolve those
12 before I could get back to the trial of this case. But we
13 are now ready to begin with the trial of the case for which
14 each of you have been selected.

15 Mr. Woods, I'm going to ask you to serve as the
16 foreperson of this jury. And as the foreperson you're
17 going to have three specific duties that none of the other
18 jurors will have.

19 First of all, you'll be asked to serve as the
20 spokesperson for the jury, and that just means that if
21 during the trial something needs to be brought to my
22 attention -- you or one of your fellow jurors has some
23 difficulty or problem or question -- you'll be the person
24 who will let me know of that fact. You'll do it directly
25 if you're in the courtroom. You'll do it through the

1 bailiff if you're outside the courtroom.

2 Secondly, you're going to be called upon to preside
3 over jury deliberations when the time comes at the trial's
4 conclusion after the evidence has been received and after I
5 have instructed you on the law that's applicable in the
6 case.

7 When the jury goes back to begin deliberations you
8 will preside over that process in the jury room simply to
9 ensure that those deliberations are carried out in some
10 orderly fashion.

11 And, thirdly, you'll actually write the decisions of
12 the jury. You'll do that on verdict forms that I'll
13 provide you at the trial's conclusion on which you will
14 indicate the jury's unanimous decision as it relates to
15 each of the separate charges.

16 Now, the foreperson has those specific duties that
17 I've just indicated. That does not however mean that he is
18 any more important than any of you other jurors, and that's
19 because the decision of a jury is the unanimous and
20 consensus opinion of all 12 jurors, and so all of you and
21 each of you will have an equal say and an equal vote in
22 what the ultimate decisions will be in this case.

23 Someone simply has to be delegated those
24 responsibilities that I've just indicated, and I have
25 delegated those to Mr. Woods in appointing him as the

1 foreperson. But all of you jurors are equally important so
2 far as the ultimate decisions are concerned, because, as
3 I've stated, the verdicts have to be unanimous. All of you
4 must be in agreement.

5 Now, Ms. Rice and Mr. Leak, each of you have been
6 selected as alternate jurors, and the function of an
7 alternate juror is to take the place of one of the original
8 12 if during the trial one of these 12 cannot continue to
9 serve for some reason.

10 In other words, if an unforeseen circumstance or an
11 illness or an emergency would prevent one from continuing
12 to serve as a juror, then one of you, or both of you
13 perhaps, would be called upon to take that juror or those
14 jurors' places. In that event you would become the twelfth
15 juror in the case and you would participate throughout the
16 trial including jury deliberations at the trial's
17 conclusion.

18 If however when the time does come for jury
19 deliberations, if the original 12 are able to participate
20 in that function, then your service ends as alternates and
21 you don't participate any further, and that's because the
22 decision of a jury is that of 12, but no more than 12 are
23 permitted to engage in that deliberation process.

24 But it is important that each of you pay just as
25 careful attention as we ask of all of the jurors in the

Jury sworn

1 case, because it does occur from time to time for one
2 reason or another one or two of these jurors may be unable
3 to continue. In that event one or both of you would be
4 called upon to become the twelfth.

5 So we do appreciate your participation as alternate
6 jurors, just as we appreciate the participation of each of
7 you jurors who have been selected for the purpose of
8 deciding the verdicts in this particular case.

9 You may swear the panel.

10 (Whereupon, the jury was duly sworn.)

11 THE COURT: All right. Ladies and gentlemen, as you
12 know, you have been selected to decide the verdicts in the
13 case of the State vs. Jody Ray Thompson.

14 As you also know, Mr. Thompson has been accused by the
15 prosecutor of having committed six separate and distinct
16 criminal offenses, although they are all and each alleged
17 to have arisen out of one particular event or a course of
18 events which the state alleges occurred back on June the
19 26th of 2016.

20 But each of the charges are separate. You will
21 determine the decision as to each of those separate charges
22 based upon the evidence as it relates to the allegations
23 relating to that particular charge and then your
24 application of the law to the facts as you determine them
25 to be as it relates to that particular charge.

1 so while there are six separate charges, your
2 decisions or your verdicts may be the same as to all or
3 they may be different. That of course will depend upon
4 your determination of fact as it relates to the allegations
5 relating to that particular charge and then your
6 application of the law to the facts.

7 But as you are aware, Mr. Thompson has been accused by
8 the prosecutor by way of these indictments with having
9 committed the crimes of attempted murder in four separate
10 instances. Those separate instances all are alleged to
11 have occurred on June the 26th of 2016.

12 But they are alleged to have been committed against
13 four separate individuals, those individuals being Corey
14 Rafeal Glenn, Raymond Maurice Smith, Cassandra Lee Rice and
15 Renata Shantrice Irby.

16 Mr. Thompson is also accused of having possessed a
17 firearm during the commission of a violent crime, that
18 violent crime alleged to be the crime of attempted murder.

19 And Mr. Thompson is also charged separately with the
20 unlawful possession or carrying of a pistol.

21 Now, as I told you earlier, as to each of those
22 indictments and each of the charges contained in those
23 indictments Mr. Thompson has entered a plea of not guilty.
24 A plea of not guilty places upon the state of the burden of
25 proving the allegations that they have made by way of each

1 of these indictments, the burden of proving each of the
2 essential elements of the crimes that have been alleged --
3 in this case attempted murder, possession of a firearm
4 during the commission of that crime and unlawful possession
5 of a pistol -- and therefore the burden is upon the state
6 to establish the defendant's guilt to the satisfaction of
7 you 12 jurors beyond a reasonable doubt before any verdict
8 of guilty could be returned as to any of the separate
9 charges contained in the indictments.

10 Every person accused of a crime -- it does not matter
11 how serious the offenses might be for which that person
12 stands charged -- every person accused of a crime is always
13 presumed innocent of the charge.

14 That presumption of innocence remains with every
15 defendant, as it does with this defendant, from the time
16 that he is placed under arrest and throughout the course of
17 the criminal process and even throughout the course of the
18 actual trial in the case.

19 That presumption of innocence will be with
20 Mr. Thompson even as you go back into your jury room to
21 begin with your deliberations at this trial's conclusion.

22 That presumption of innocence will be with him in that
23 jury room, and it'll be with him forever unless you 12
24 jurors determine that he's no longer entitled to the
25 presumption of innocence.

1 In other words, after you have carefully considered
2 all of the evidence in the case, and from that evidence
3 you've been able to determine the facts as they relate to
4 the allegations made in the indictments, and after
5 determining those facts you apply the law as it relates to
6 the charge that I will provide you at the trial's
7 conclusion, if you 12 jurors unanimously determine that his
8 guilt as to a particular charge has been proven beyond a
9 reasonable doubt, then he would no longer be entitled to
10 the presumption of innocence as it relates to that charge.
11 But it is only if, unless and until you are satisfied of
12 his guilt beyond a reasonable doubt that the presumption of
13 innocence would no longer be applicable.

14 Now, the way the trial will proceed is that in a
15 moment the lawyers are going to address you in what are
16 called opening statements.

17 There are two occasions in the trial of a case where
18 lawyers are permitted to address the jury directly, and
19 that is at the beginning of the trial before any evidence
20 has been introduced, then again at the conclusion of the
21 trial after all of the evidence has been received.

22 But keep in mind, as I've just indicated, the
23 statements provided by the lawyers occur before and after
24 the evidence is received.

25 And so what they tell you in their statements is not

1 to be considered by you as any evidence upon which you will
2 base your decision, and that's because the lawyers don't
3 know anything about this case of their own personal
4 knowledge or experience like witnesses will be testifying
5 to when witnesses take the witness stand and testify before
6 you.

7 The lawyers aren't going to take the witness stand.
8 They're not going to be placed under oath like witnesses
9 will be. And they're not going to be subjected to direct
10 and cross-examination like each of the witnesses will be
11 that testify during the course of the trial.

12 So what the lawyers tell you is not to be considered
13 as evidence upon which you will decide the facts and base
14 your decision. But you should listen to what the lawyers
15 have to say because those statements do serve a purpose.

16 The opening statements serve to provide you with a
17 basic understanding as to what this case is about from both
18 the perspective of the state, as well as the defense, so
19 that you'll have some context in which to place the
20 evidence that we will be receiving shortly thereafter.

21 The closing statements -- the closing statements occur
22 after all of the evidence has been received. And, again,
23 while those statements are not evidence, it does afford the
24 lawyers an opportunity to discuss with you the evidence
25 that you have seen and heard during the course of the

1 trial.

2 Each lawyer will have an opportunity to try to
3 persuade you or to convince you that the evidence in the
4 case does or does not support a particular decision.

5 It's in between those opening and closing statements
6 that we actually receive the evidence upon which you will
7 decide the facts and determine your decision.

8 The state has the burden of proof. They brought the
9 charge. They've got to establish it to your satisfaction
10 beyond a reasonable doubt. So they will go forward first
11 in their presentation of evidence.

12 After the state has concluded with its presentation of
13 evidence any defendant in a criminal case has an
14 opportunity to take the witness stand and testify or to
15 call some other witness or to introduce some other
16 evidence, but a defendant is never under any obligation to
17 testify or to call a witness or to introduce evidence,
18 because the burden is not upon a person accused of a crime
19 to prove that they are not guilty or to prove that they are
20 innocent because in some cases that might not be possible.

21 The burden is always upon the state to prove a
22 defendant's guilt beyond a reasonable doubt, but there is
23 no corresponding burden upon a defendant to prove anything,
24 because in some cases, as I say, that might not be
25 possible.

1 And so if during a criminal trial a defendant does not
2 take the witness stand or testify or call a witness or
3 introduce other evidence, that's not a fact or circumstance
4 that may be considered by the jury in any way whatsoever in
5 your deliberations or in your determination as to whether
6 or not his guilt has been proven beyond a reasonable doubt.
7 And you could not allow such a fact to weigh in the
8 slightest degree against the defendant. However, every
9 defendant or person accused of a crime is always afforded
10 an opportunity to testify or to call witnesses in the event
11 he or she wishes to do so.

12 So after all of the evidence has been received and you
13 hear the final summations of the lawyers, I'll then
14 instruct you on the law fully as it relates to the criminal
15 law generally and as it relates to these particular charges
16 specifically.

17 And then you'll be asked to go back and begin with
18 your deliberations. And through that process and through
19 the application of good judgment and common sense
20 conscientiously applied to the evidence in the case you're
21 simply going to be called upon to determine the facts where
22 you can as it relates to the allegations made in the
23 indictments.

24 Once you decide the facts, you apply the law as it
25 relates to that particular charge, and you determine

1 whether or not the defendant has been proven guilty beyond
2 a reasonable doubt. If he has, then the verdict is guilty
3 as to that particular charge. And if he has not, then the
4 verdict would be not guilty as to that particular charge.

5 so all that we're going to ask for you to do is to pay
6 careful attention throughout the course of the trial.

7 There are a number of witnesses that apparently are
8 going to be called during the trial of this case.

9 Sometimes a witness' testimony relates to material facts
10 that have to be decided in order for a decision to be
11 rendered, and sometimes the testimony is informative but
12 it's not necessarily material to the outcome.

13 But, in any event, you have to listen carefully as
14 each of the witnesses testify because one of your
15 prerogatives is to evaluate the credibility and the
16 believability of witness testimony.

17 And so where you have witnesses that testify in
18 contrast to one another or contrarily one to the other, in
19 other words, there's a material difference in the testimony
20 and it has to be decided before a verdict can be rendered,
21 you're the persons who decide the facts, and therefore
22 you're the persons who decide the credibility of the
23 witnesses' testimony. And because you have the prerogative
24 of deciding those facts, you can accept everything that a
25 witness testified to. You may reject it in its entirety.

1 You may believe one portion of a witness' testimony
2 and reject some other portion of that same witness'
3 testimony.

4 You can believe one witness as opposed to more, or
5 more as opposed to one. But in order for you to be in a
6 proper position to evaluate the credibility of a witness'
7 testimony, you've got to listen to them while they testify
8 so that when you do go back to begin deliberations you'll
9 be in a proper position to be able to fairly evaluate each
10 witness' testimony in light of not just that witness'
11 testimony but in light of all of the testimony and all of
12 the evidence received during the course of the trial.

13 It's also important that you keep an open mind
14 throughout the course of the trial, and that just means
15 that you are not to begin making up your minds or
16 formulating your opinions as to what you think the ultimate
17 decisions in this case ought to be until all of the
18 evidence has been received, until I have instructed you on
19 the law that's applicable in the case and until you've been
20 asked to go back and to begin with your deliberations at
21 the trial's conclusion.

22 That is the process that has been designed over the
23 last 240 odd years to ensure that you can arrive at a fair
24 and just decision solely based upon the evidence presented
25 and the law that's applicable.

Opening statements

1 So I do want to thank you in advance for your
2 participation, as well as for your careful attention. I
3 would ask that you please give the lawyers your attention
4 now as they give you their opening statements.

5 Mr. Smith.

6 MR. SMITH: Thank you, Your Honor.

7 Good morning. There was a shooting at club Playoffs
8 on June 26th of 2016 that occurred a little bit after
9 3:00 o'clock in the morning. It's on Little Mountain Road
10 in Spartanburg County. It's in the Lyman jurisdiction, but
11 it's close to Wellford and it's close to Duncan and it's
12 awful close to the county. And all of those law
13 enforcement agencies had involvement in what happened that
14 night.

15 I'm not going to sugarcoat it. It was a chaotic scene
16 at the beginning. Lots of people, some people that were
17 intoxicated, some people that -- we still don't know to
18 today who was there present. And you're going to hear from
19 the people that got shot in this incident and the people
20 that were involved. But it was a very chaotic scene.

21 When law enforcement arrived they know they've got
22 multiple victims. They're trying to locate people to
23 figure out what happened.

24 And one of the people that was still remaining at the
25 scene that night was Jody Thompson. He had been shot in

Opening statements

1 the leg, and he had left a blood trail that goes all the
2 way around the business. It's a nightclub or lounge and a
3 gas station. They're connected to each other.

4 He runs around the right side of that business that
5 you're facing from the front of the business. Around the
6 right side and goes off into a wood line.

7 Officers followed that blood trail thinking that it's
8 probably a gunshot victim and they need to be found. It's
9 a serious amount of blood. And they found Mr. Thompson.
10 They asked him if he had a weapon, and he said, no, there's
11 no weapon around me.

12 At that point the officers holstered their weapons and
13 they began treating him like a victim because that's what
14 they thought he was at that time. He had a severe injury
15 to his leg, bleeding profusely. They waited by him until
16 E.M.S. got there.

17 Once Mr. Thompson is transported they go back into the
18 woods and they find a gun right around where Mr. Thompson
19 was taken from. Obviously, he said he didn't have one, but
20 they found a weapon, and that was collected into evidence.

21 The picture became more clear once they got
22 surveillance video of what happened. And Mr. Patel, the
23 owner of the -- and operator of the gas station is going to
24 be able to talk about the video surveillance systems he had
25 that were able to capture what happened that night. And

Opening statements

1 the great thing about video is it doesn't rely on memory.
2 Its memory doesn't fade. It doesn't get scared of
3 gunshots. It doesn't run and duck for cover. It doesn't
4 do anything that a person would do in a situation like
5 this. It doesn't have bias, doesn't have anything other
6 than the recording.

7 And the recording is crystal clear that Jody Thompson
8 was no victim that night, although he did get shot. And he
9 actually got shot at more times than he shot at people.
10 I'll admit that.

11 But he started the shooting. It's on video, and
12 you'll hear people admit and testify that he is the person
13 that started the shooting and he is the person that struck
14 Corey Glenn, Cassandra Rice and Renata Irby with shots that
15 night -- Ms. Rice in her ear right next to her head and Ms.
16 Irby in her leg and Mr. Glenn, a graze on his arm and a
17 bullet into his foot.

18 There was Ramone Smith was there as well. He -- you
19 will hear about him as well. He was a concealed weapons
20 carrier. He was there that night. And once Mr. Thompson
21 started shooting, he shot back at him. He's the one that
22 hit Mr. Thompson in the leg that ended this shooting
23 essentially.

24 Mr. Thompson was confronted again by law enforcement
25 once they watched the video, and he changed his tune. He

Opening statements

1 admitted that he had a weapon back there and that it was
2 the gun that they had found in the woods, but he said that
3 he had just fired after somebody had shot at him and he was
4 running away. And the video doesn't support that.

5 Mr. Thompson had a weapon out a full two minutes
6 before the shooting incident starts, pacing in the parking
7 lot like a mad man with murderous intent working up the
8 courage, stupidity and recklessness --

9 MR. ALLEN: Objection, Your Honor. He's going beyond
10 opening statement and getting argumentative.

11 THE COURT: Overruled.

12 Go ahead.

13 MR. SMITH: Working up the intent to do what he
14 ultimately did, which is fire indiscriminately into a crowd
15 striking two women and another man. And thank God no one
16 died. That's why he's charged with attempted murder,
17 because what he was planning didn't work. But it's not
18 because of anything that he did that night.

19 Once you see the video, the eye witness testimony, the
20 ballistics evidence and other evidence that we'll present,
21 will make it very clear what happened.

22 He was the initial aggressor and while he -- you know,
23 he was shot, yes, and he was chased away from the scene,
24 yes. But that was because he had started an altercation.
25 He had a weapon out before anybody and he fired that weapon

Opening statements

1 before anybody.

2 And at the end of this case after you see all of the
3 evidence I know you'll agree with me, and I ask that you
4 return a verdict of guilty on all of the charges.

5 THE COURT: Mr. Allen.

6 MR. ALLEN: Thank you, Your Honor.

7 On the night of June 25th, 2016, Jody Thompson, my
8 client, went over to the Playoffs Club, Playoffs Lounge,
9 and he was there for a while doing what people do at those
10 type of places. He had some drinks, as did others.

11 And then at some point after midnight -- well, might
12 be the 26th of January -- there was some sort of commotion.
13 You'll hear testimony that different people have different
14 views of what the commotion was about. But what you will
15 see when you see the videos is that several people walking
16 about. You will see a video where a portion of it shows
17 Mr. Thompson walking with a pistol down by his side. You
18 will see, and the video shows, this gun was pointed at the
19 ground for a while.

20 what you need to understand and what the evidence will
21 indicate is that Playoffs Lounge is actually in a building
22 that has more than one business in it. Playoffs Lounge is
23 at the corner of Highway 292 and Little Mountain Road up in
24 the Lyman community.

25 what you will see and what you will be told is that

Opening statements

1 the video that you will see did not come from Playoffs
2 Lounge but came from a business next to it designed
3 apparently to look at what's going on at the -- well, I
4 believe it's a gas station, convenience store next door.

5 You will also -- you will not see a video that
6 encompasses the whole front of the strip mall or the two
7 businesses. And you would not see on the video what's
8 going on toward the left side.

9 But you'll hear testimony that when the officers
10 arrived they found some cartridge casings, not only the
11 cartridge casings near where Mr. Smith was -- there were 13
12 there. Not only some cartridge casings near where Mr.
13 Thompson was but that there are three cartridge casings off
14 to the left side of the Playoffs Lounge.

15 You will hear testimony, you will hear evidence that
16 Mr. Thompson heard shot before he shot, and you will hear
17 testimony that he felt in danger. You will hear testimony
18 or evidence that he returned fire.

19 Ladies and gentlemen, I'm not here to prove
20 Mr. Thompson's innocence. I don't need to. We start from
21 that presumption. I'm going to ask you to, as you're
22 required by law to, start -- and the judge already told
23 you -- to start from that.

24 No one whom the state elects to bring charges against
25 must prove his innocence. The state is required to prove

Sandy Patel
Direct examination by Mr. Smith

1 his guilt and not just to prove it but prove it beyond all
2 reasonable doubt.

3 Sometimes proving innocence is impossible. It's a
4 burden the state bears, and they must prove guilt beyond a
5 reasonable doubt.

6 And I am going to ask you to listen to this evidence.
7 Keep asking yourself is this enough, is this enough. And
8 at the conclusion of this case I will, once again, address
9 you. I will talk about the evidence that has been
10 presented, and I feel satisfied and comfortable that you
11 will agree with me to return verdicts of not guilty on the
12 assault charges, possession of a weapon during the
13 commission of a violent crime. Thank you.

14 THE COURT: Mr. Smith.

15 MR. SMITH: Your Honor, the state calls Sandy Patel.

16 SANDY PATEL, having been first
17 duly sworn, testified as follows:

18 DIRECT EXAMINATION BY MR. SMITH

19 Q Will you please state your name?

20 A I'm Sandy Patel, owner of the site in Wellford where
21 the incident happened.

22 THE COURT: You're going to need to use that black
23 microphone. You can adjust it if you need to, but pull up
24 to it so we can hear you.

25 THE WITNESS: Yes.

Sandy Patel
Direct examination by Mr. Smith

1 A Sandy Patel. Owner of the site in Wellford where the
2 incident happened.

3 Q Okay. You own a gas station that's connected to
4 Playoffs Lounge?

5 A We actually own all of the site.

6 Q Okay. So you own the whole building.

7 A Yep.

8 Q Do you have surveillance videos that you maintain that
9 monitor that building?

10 A Yeah. We have 16 cameras there.

11 Q Okay. And do your cameras -- what do your cameras
12 look at?

13 A We have six of them inside and a few of them outside.
14 They might point at the gas pumps because that's what we --
15 we look at.

16 Q So do you have any that are specifically focusing on
17 the front of Playoffs Lounge or are they --

18 A Not exactly at them, but we have the walkway, the two
19 pumps and the diesel side.

20 Q Are the -- are they -- essentially are the videos
21 targeted towards the gas station and convenience store side
22 of the business?

23 A Yeah. Outside of the business.

24 Q All right. Is it routine or have you ever in the past
25 provided surveillance videos to law enforcement?

Sandy Patel
Direct examination by Mr. Smith

1 A Yes. Lyman police actually has D.V.R. access. They
2 can access it from anywhere. They have the password. So
3 from previous incidents if we're not there or if I'm out of
4 town, they can access my D.V.R. and get the information.

5 Q Okay. And on this instance did you have the pleasure
6 of being woken up in the middle of the night?

7 A It wasn't a pleasure, but I was woken up. And I just
8 opened the office for them, and they got what they needed.

9 Q Okay. And have you reviewed what I have marked as
10 State's Exhibit 57?

11 A Yes.

12 Q Show it to you.

13 A Okay. Yeah.

14 Q Can you tell me what that is?

15 A That's the recording for that night, and that is the
16 footage from the store.

17 Q How do you know that?

18 A I viewed it, and, obviously, you showed it to me
19 again. And the police showed it to me that night as well.
20 So that's correct.

21 MR. SMITH: Your Honor, at this time we move State's
22 Exhibit 57 into evidence.

23 MR. ALLEN: If we may approach, Your Honor.

24 THE COURT: Okay.

25 (Bench conference held off the record in the presence

Sandy Patel
Cross-examination by Mr. Allen

1 of the jury but out of the hearing of the jury.)

2 MR. ALLEN: No objection, Your Honor.

3 THE COURT: It's admitted.

4 (Surveillance video from gas station marked State's
5 Exhibit No. 57.)

6 Q I don't have any more questions for Mr. Patel.

7 THE COURT: Okay.

8 MR. SMITH:

9 CROSS-EXAMINATION

10 BY MR. ALLEN

11 Q Just a few questions, sir.

12 You indicated that the cameras on the outside were
13 mainly on your business, the pumps?

14 A . Yeah. We had it -- it covers the front, the front of
15 the building, and the side of the building and the back of
16 the building.

17 Q Doesn't cover that. As you're facing the building,
18 Playoffs is on the what side?

19 A Left-hand side.

20 Q Huh?

21 A Left-hand side.

22 Q Left-hand side as you're facing the building. of
23 course there's a street behind you, correct?

24 A No. The main road beyond this.

25 Q Behind you.

Sandy Patel
Cross-examination by Mr. Allen

- 1 A Because it's on the corner.
- 2 Q Facing the building.
- 3 A Yeah.
- 4 Q The front door of Playoffs is on the left and your
5 building -- and your --
- 6 A We're on the right-hand side.
- 7 Q On the right-hand side.
- 8 You don't have any cameras, do you, specifically
9 covering that left side where Playoffs is?
- 10 A No.
- 11 Q Okay.
- 12 MR. ALLEN: One second, please.
- 13 (Pause.)
- 14 MR. ALLEN: Thank you, Your Honor.
- 15 THE COURT: You may step down.
- 16 MR. SMITH: Your Honor, may he be excused?
- 17 THE COURT: He may be.
- 18 (Whereupon, the witness was excused.)
- 19 MR. SMITH: Your Honor, the state's going to call
20 Investigator Graham.
- 21 Can we approach the court reporter?
- 22 (Pause.)
- 23
- 24
- 25

Lathier Graham
Direct examination by Mr. Smith

1 LATHIER GRAHAM, having been
2 first duly sworn, testified as follows:

3 DIRECT EXAMINATION BY MR. SMITH

4 Q Will you please state your name and where you're
5 employed to the jury?

6 A Investigator Lathier Graham, Spartanburg County
7 Sheriff's Office Crime Scene Unit.

8 Q Were you with the crime scene unit on June 26th of
9 2016?

10 A Yes, sir.

11 Q What were -- were you on call that night, or what was
12 your role?

13 A No, sir. I was working shift that night.

14 Q All right. Did you get a call for you to respond to
15 Club Playoffs for a shooting?

16 A Yes, sir.

17 Q Did you respond?

18 A Yes, sir, I did.

19 Q What was your role that night as far as the
20 investigation of the case?

21 A When the call came out over the radio of a shooting I
22 responded along with other units. First priority was to be
23 sure there was no -- nobody hurt.

24 My second priority was if there's any evidence on
25 scene, secure it, secure the scene before we started the

Lathier Graham
Direct examination by Mr. Smith

1 collection process.

2 Q So you're not involved with taking witness statements
3 and things like that. You're involved with collecting
4 physical evidence at the scene.

5 A No, sir. Just collecting physical evidence.

6 Q How long have you been doing that for the sheriff's
7 office?

8 A Ten years.

9 Q Do you have any special training in addition to what
10 you would have had to become a police officer to do the
11 I.D. officer that you are?

12 A Yes, sir.

13 Q What are you -- what type of classes have you gone to
14 for training?

15 A Fingerprint classes, advanced photography classes,
16 homicide classes, death investigations and crime scene
17 investigation classes.

18 Q And you've worked shootings in the past, I imagine.

19 A Yes, sir.

20 Q All right. When you arrive at the Playoffs, do you
21 know what time you arrived there?

22 A I can't remember off the top of my head. It was, I
23 want to say, after midnight.

24 Q Do you have a copy of your report?

25 A Yes.

Lathier Graham
Direct examination by Mr. Smith

1 MR. SMITH: Your Honor, can he have a copy of the
2 sheet?

3 THE COURT: Yes.

4 THE WITNESS: The black portfolio on the chair.

5 (Pause.)

6 Q When did -- do you know when you arrived at the scene?

7 A 0325 hours.

8 Q 3:25 in the morning on the 26th?

9 A Yes.

10 Q Is this location inside of Spartanburg County?

11 A Yes, sir. It is.

12 Q All right. And what did you see when you arrived?

13 A When I arrived there was already a few units ahead of
14 me. I saw several people in the parking lot to the left
15 side of the building.

16 I came up not Little Mountain Road but the road
17 adjacent to it across from the red light that crosses over
18 Highway 292.

19 I saw several people to the left side of the building.
20 Some officers were already going ahead and securing the
21 crime scene with evidence -- crime scene tape.

22 I pulled up. I pulled in. At that point I got
23 with -- I can't remember who the supervisor was at the time
24 on the scene. Got with them and asked them what they had.
25 They explained to me that several victims had already left

Lathier Graham
Direct examination by Mr. Smith

1 in vehicles going to the hospital.

2 I began immediately to start looking for shell
3 casings, blood evidence and anything else that that -- that
4 would be potential evidence in this case.

5 Q All right. Was it a fairly chaotic scene?

6 A Yes, sir.

7 Q And were there people from multiple law enforcement
8 agencies there?

9 A Yes, sir. There was.

10 Q And so what does your primary concern become with a
11 scene like this?

12 A At that point anybody that was not involved in the
13 active scene, to get all victims, witnesses secured out of
14 the area and keep law enforcement contained to a certain
15 spot. That way nobody disturbs the evidence.

16 Q Okay. And did you make sure that that was done?

17 A Yes, sir. I did.

18 Q All right. And then what did you do?

19 A I began my investigation as far as dropping numbered
20 placards down beside each evidence that was located. After
21 I did a quick sweep of the parking lot, as evidence was
22 found I dropped numbers down by each evidence item.

23 Then I retrieved my camera from my vehicle, began to
24 take overall photos of the crime scene. And at that time
25 they were still locating evidence as I was continuing on.

Lathier Graham
Direct examination by Mr. Smith

1 Q Okay. So, and when you talk about placards, do you
2 pick, like, a part of the scene to go through and then move
3 through and number as you find them or --

4 A Yes, sir. I do. I try to keep it in numerical order.

5 Q But it's not any sort of indication of the order that
6 things may have happened in. It's just as you progress
7 through the scene?

8 A Yes, no. There's no particular order as far as how
9 things happen. It's just the numbers are placed as
10 evidence is located. That's how I...

11 Q And is it basically if -- as you walk through the
12 scene each new thing you find is going to be in a new or in
13 numerical order?

14 A Yes, sir.

15 Q You said other officers, I guess, were finding
16 evidence and attempting to mark those and make you aware.

17 A Yes, sir. They were.

18 Q And I believe you said you take overall photos. You
19 start out large and move in, I imagine.

20 A Yes, sir.

21 Q Okay. I'm going to hand you what's been marked
22 State's Exhibits 9 and 32 and ask if you can identify what
23 those are.

24 (Pause.)

25 Q This is State's 9 and 32. Ask if you can you tell me

Lathier Graham
Direct examination by Mr. Smith

1 what those are.

2 A No. 9 and 32 are an overall picture standing on the
3 left to the business.

4 Q All right. Is that the front of the elevated angle, I
5 guess, to show some perspective of the lines?

6 A Yes, sir.

7 MR. SMITH: Your Honor, we'd move...

8 Q Those are what you saw that night. It's got your
9 evidence placards in place, I believe.

10 A Yes, sir. Most of the crime scene extended from this
11 end of the building all the way across the parking lot.

12 MR. SMITH: Your Honor, at this time we'd move State's
13 Exhibits 9 and 32 into evidence.

14 MR. ALLEN: No objection.

15 THE COURT: They're admitted.

16 (Photograph marked State's Exhibit No. 9; photograph
17 marked State's Exhibit No. 32.)

18 MR. SMITH: Permission to publish to the jury.

19 THE COURT: You may.

20 (Whereupon, the video was played for the jury.)

21 Q This is State's Exhibit 9, so this -- the left side --
22 is it -- that's Club Playoffs. You can see that, right,
23 the writing there?

24 A Yes, sir.

25 Q All right. So this would be the left side of the

Lathier Graham
Direct examination by Mr. Smith

- 1 building if you're facing the front of the building.
- 2 A Yes, sir.
- 3 Q All right. And I know we can't see the specific
4 numbers of this, but they're not one. So did you start
5 numbering on the opposite end of this crime scene?
- 6 A Yes, sir. I did.
- 7 Q And ended up here.
- 8 A Yes, sir.
- 9 Q All right. So this other business on the right side
10 would be the -- the gas station, is that right?
- 11 A Yes, sir.
- 12 Q All right. State's Exhibit 32, slightly different.
13 At this point it appears that you've placed all of the
14 placards in the front of the parking lot.
- 15 A Yes, sir. I did.
- 16 Q All right. I'm going to try to go chronologically
17 like you did with the crime scene. I've got State's
18 Exhibits 34, 35, 36, 55, 61, 62, 63 and 64 and ask if you
19 can identify what these are.
- 20 A Those are the -- those are the photos that I started
21 taking and the placards I put down from my starting point.
- 22 Q And they show placards one through four, it appears,
23 in various spots.
- 24 A Yes, sir.
- 25 Q And this is what you saw that night and took pictures

Lathier Graham
Direct examination by Mr. Smith

1 of?

2 A Yes, sir.

3 MR. SMITH: At this time, Your Honor, we move State's
4 34, 35, 36, 55, 61, 62, 63 and 64 into evidence.

5 MR. ALLEN: No objection.

6 MR. SMITH: And permission to publish.

7 THE COURT: Yeah. Let me be sure I've got those.
8 You've got 34, five, six and seven, and you've got 55?

9 MR. SMITH: No 37, Your Honor. Four, five and six and
10 then --

11 THE COURT: 34, 35 and 36.

12 MR. SMITH: Yes, sir, and 55.

13 THE COURT: 55.

14 MR. SMITH: 61, 62, 63 and 64.

15 (Photographs marked State's Exhibits Nos. 34 through
16 36, 55 and 61 through 64.)

17 Q It's difficult to see, but is there an evidence
18 placard on that vehicle there, it appears?

19 A Yes, sir. It is.

20 Q This is State's Exhibit 34. Tell me what that is.

21 A That is the Cadillac that was sitting in the far right
22 side of the parking lot where I pulled in at.

23 Q State's Exhibit 35. What is this?

24 A It is a closeup shot of the numbered placard and a
25 bullet hole through the front windshield of that Cadillac.

Lathier Graham
Direct examination by Mr. Smith

- 1 Q Okay. And it's the bullet hole that you're attempting
2 to indicate with a placard?
- 3 A Yes, sir. It is.
- 4 Q And you see this marked here. I'm showing you State's
5 Exhibit 36. That's -- can you identify what that is?
- 6 A That is also a [sic] entry hole into the door of the
7 Cadillac.
- 8 Q State's Exhibit 55.
- 9 A Side shot of the Cadillac with the numbered placard on
10 the hood showing the damage to the driver's door and the
11 numbered placard and the vehicle in the back. That's my
12 crime-scene vehicle.
- 13 Q All right. State's Exhibit 61.
- 14 A Placard numbers two and three along with other
15 placards in the far background and the right side of the
16 building, which would be the gas station part of it.
- 17 Q Get it to aim, I can show it. This is evidence two.
18 Is this one three?
- 19 A Three.
- 20 Q And that -- it's hard to see, but underneath that 99
21 is that an evidence placard that's turned sideways, it
22 appears?
- 23 A Yes. That's placard No. 4. I couldn't face it the
24 same way with Item Nos. 2 and 3.
- 25 Q And what -- what were items two, three and four? Did

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- 1 you ultimately collect those?
- 2 A Fired cartridge casings, shell casings.
- 3 Q Can you explain what that is to the jury maybe if they
4 don't use a weapon?
- 5 A It's -- it's the casing from the bullet that ejects
6 outside the -- the gunport when it's fired.
- 7 Q Here's State's Exhibit 62, just a closer-up, State's
8 Exhibit 63, State's Exhibit 64. Is that the one that we
9 were looking at that's kind of hard to see earlier?
- 10 A Yes, sir.
- 11 Q And you -- ultimately, the purpose of the placard is
12 to mark it and then later collect it and make that a
13 number, I guess, for the piece of evidence?
- 14 A Yes.
- 15 Q I believe you said you collected items two, three and
16 four, is that correct?
- 17 A Yes, sir. I did.
- 18 Q I'm going to show you State's Exhibits 2, 3 and 4 and
19 ask if you can identify what these are.
- 20 A Be fired cartridge cases that was marked by my
21 numbered placards.
- 22 Q And is it indicated on the -- the evidence envelope
23 where you collected it and which item it is?
- 24 A Yes, sir.
- 25 MR. SMITH: Your Honor, at this time we'd move State's

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1 Exhibits 2, 3 and 4 into evidence.

2 MR. ALLEN: No objection.

3 THE COURT: They're admitted.

4 (Federal .40 S & W Casing marked State's Exhibit No. 2;

5 Federal .40 S & W Casing marked State's Exhibit No. 3;

6 Federal .40 S & W Casing marked State's Exhibit No. 4.)

7 Q I'm going to show you 65 through 73 -- State's
8 Exhibits 65 through 73 and ask if you can identify what
9 these are.

10 (Pause.)

11 A Photos of the crime scene and the evidence markers
12 five through seven.

13 MR. SMITH: Your Honor, at this time we'd move State's
14 Exhibits 65 through 73 into evidence.

15 MR. ALLEN: I have an objection to a few of them if I
16 may take that up at the bench, Your Honor.

17 THE COURT: Okay.

18 (Bench conference held off the record in the presence
19 of the jury but out of the hearing of the jury.)

20 THE COURT: Any objections?

21 MR. ALLEN: Your Honor, other than stated at the bench
22 about multiplicity of the certain ones.

23 THE COURT: Do you think they are duplicitous?

24 MR. ALLEN: Yes, sir.

25 THE COURT: All right. Overrule that objection.

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1 (Photographs marked State's Exhibits Nos. 65 through
2 73.)

3 Q The pictures that we've seen, you began working at the
4 right side of the -- which is the gas station moving
5 towards Club Playoffs, is that right?

6 A Yes, sir.

7 Q This is State's Exhibit 65. You said it shows five,
8 six and seven. That's what I'm getting at, but there's
9 obviously other placards in this, is that right?

10 A Yes, sir.

11 Q And this is State's Exhibit 5.

12 A Yes.

13 Q This is six.

14 A Yes, sir.

15 Q To the right. And then that's seven.

16 A Yes, sir.

17 Q What were five, six and seven ultimately?

18 A Fired cartridge casings.

19 Q And this is State's Exhibit 66.

20 A That's No. 5, fired cartridge casing.

21 Q State's Exhibit 67 and State's Exhibit 68, State's
22 Exhibit 69. What does this show, or where are you standing
23 from this when you take this picture?

24 A I am standing. I can't remember what type of car,
25 vehicle, that is. But I'm standing to the right side with

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1 my back towards Playoffs to photograph No. 6, No. 7, and
2 No. 5 off in a distance.

3 Q That one.

4 A Yes.

5 Q Seven and six.

6 state's Exhibits 70, 71, 72 and 73. Did you collect
7 items five, six and seven?

8 A Yes, sir. I did.

9 Q I'm going to show you what's been marked State's 5, 6
10 and 7 and ask if you can identify these.

11 A These would be the fired cartridge casings that I
12 collected on the scene.

13 MR. SMITH: Your Honor, at this time we'd move State's
14 5, 6 and 7 into evidence.

15 MR. ALLEN: No objection to 5, 6 and 7.

16 THE COURT: They're admitted.

17 (B.H.A. .40 S & W Casing marked State's Exhibit No. 5;
18 B.H.A. .40 S & W Casing marked State's Exhibit No. 6; B.H.A.
19 .40 S & W Casing marked State's Exhibit No. 7.)

20 Q I am going to hand you State's Exhibits 74 through 83
21 and ask if you can identify what these are.

22 A These are items eight through twelve.

23 Q Eight through twelve. Are these items towards
24 Playoffs from where the previous three shell casings --

25 A Correct.

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1 Q Moving further towards the left.

2 State's Exhibit 74. Can you tell the jury what these
3 items are, the items that you collected here? Looks like
4 eight, nine, ten, eleven and twelve.

5 A Items eight, ten, eleven and twelve are fired
6 cartridge casings. Item No. 9 is a white t-shirt.

7 MR. SMITH: Your Honor, at this time we'd like to move
8 State's Exhibits 74 through 83 into evidence.

9 MR. ALLEN: No objection.

10 THE COURT: They're admitted.

11 (Photographs marked State's Exhibits Nos. 74 through
12 83.)

13 Q State's Exhibits 75, 76, State's Exhibit 77. Can you
14 explain the orientation of this picture to the jury,
15 please?

16 A It's just another view as I'm going around and
17 photograph the evidence on the scene.

18 Q It's looking back towards where you started, is that
19 right?

20 A Yes.

21 Q Okay.

22 A I'm sorry.

23 Q State's Exhibits 78, 79, No. 80, 81, 82 and 83. You
24 collected all of those items.

25 A Yes, sir. I did.

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1 Q I hand you State's Exhibits 8, 10, 11 and 12 and ask
2 if you can identify what they are.

3 A Evidence 8, 10, 11 and 12 are fired cartridge casings
4 that I collected on scene.

5 Q And you collected those and submitted them into
6 evidence?

7 A Yes, sir. I did.

8 MR. SMITH: Your Honor, at this time we move State's
9 Exhibits 8, 10, 11 and 12 into evidence.

10 MR. ALLEN: No objection, Your Honor.

11 THE COURT: They're admitted.

12 (B.H.A. .40 S & W Casing marked State's Exhibit No. 8;
13 B.H.A. .40 S & W Casing marked State's Exhibit No. 10;
14 B.H.A. .40 S & W Casing marked State's Exhibit No. 11;
15 B.H.A. .40 S & W Casing marked State's Exhibit No. 12.)

16 Q I'm going to hand you State's Exhibits 85 through 86
17 and ask if you can identify what these are.

18 A Those would be -- Item 13 would be the -- one of the
19 victim's vehicles -- I can't remember which one --
20 depicting a bullet hole in the right front passenger door.

21 Q Okay. And what does placard No. 13 indicate?

22 A That the car has damage and it's -- possibly has
23 potential.

24 Q Did you collect an Item 13?

25 A Yes. And it has potential evidence inside the vehicle

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1 that needed to be collected.

2 Q What was Item 13?

3 A Item 13 was a pink-handled, silver-plated Taurus
4 PT-22, .22 caliber long rifle pistol with a serial No.
5 231022 with magazine.

6 Q So -- is the 13 indicative of Item 13 that was
7 recovered from that vehicle?

8 A Yes, sir.

9 MR. SMITH: Your Honor, at this time we'd move State's
10 Exhibits 84 through 86 into evidence.

11 MR. ALLEN: No objection.

12 THE COURT: They're admitted.

13 (Photographs marked State's Exhibits Nos. 84 and 86.)

14 Q State's Exhibit 84. I believe that -- is that the
15 bullet hole you're referring to?

16 A Yes, sir.

17 Q State's Exhibit 85. Can you explain what this process
18 is when you put the tape on the vehicle?

19 A Scale tape is used to show in photographs the actual
20 diameter of the entry, of the bullet hole itself.

21 Q State's Exhibit 86. Just a closeup of the bullet
22 hole?

23 A Yes, sir.

24 Q All right. I'm going to hand you State's Exhibit 138
25 and then 140 through 146 -- 138 and 140 through 146 -- and

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1 ask if you can identify what these are.

2 A Would be the -- I can explain it better once it's up,
3 but it would be the pictures, closeups of the bullet hole
4 with the dowel rod and the scale tape included, and also
5 the trajectory of the bullet entering the right front
6 passenger door of the vehicle, the way it traveled into the
7 vehicle, along with Item No. 13, the weapon itself.

8 MR. SMITH: Your Honor, at this time we'd move State's
9 Exhibit 138 and 140 through 146 into evidence with
10 permission to publish.

11 MR. ALLEN: No objection.

12 THE COURT: They're admitted.

13 (Photographs marked State's Exhibits Nos. 138 and 140
14 through 146.)

15 Q This is state's 138. Can you explain what -- I think
16 you just called it a dowel rod.

17 A A dowel rod.

18 Q What does that do? What are you trying to do with
19 this?

20 A Showing the trajectory of the bullet, the path of the
21 bullet.

22 Q So you just basically stick that thing through until
23 it goes through?

24 A If it goes all the way through it shows the -- that
25 the path of it. But if it goes all the way through it can

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1 show the actual direction once it enters and exits a
2 certain surface.

3 Q And you had access to this vehicle. It appears that
4 you were able to --

5 A Yes, sir.

6 Q This is State's Exhibit 140. Will you explain what
7 this is?

8 A That is the interior of the right front passenger
9 doors depicting the exit hole into the vehicle. The dowel
10 rod wouldn't go all the way through the metal. It's not --
11 it's not -- it's sturdy. It's not bendable. So it
12 wouldn't go all the way through, but this is depicting the
13 exit hole into the vehicle itself.

14 Q State's Exhibit 141.

15 A That would be a hole in the gearstick showing where
16 the bullet grazed as it went through.

17 Q State's Exhibit 142.

18 A A piece of mail between the driver's seat and the
19 gearstick showing the trajectory of the path of the bullet.

20 Q You believe the bullet passed through.

21 A Yes. I believe it went through, yes.

22 Q State's Exhibit 143. Do you know what that is?

23 A Small. It's a small amount that I believe to be blood
24 from the victim that was sitting in the vehicle.

25 Q Do you know what seat this is?

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- 1 A Driver's seat.
- 2 Q Were you able to find where that bullet ended up?
- 3 A No, sir.
- 4 Q You didn't find an exit through the driver's or any
5 sort of marking through the driver's-side door --
- 6 A No, sir. I did not.
- 7 Q -- to see the bullet had passed through?
- 8 A No.
- 9 Q And you said that you recovered a .22 pistol from this
10 vehicle.
- 11 A Yes, sir.
- 12 Q Did you know that you were to look for that or were
13 you informed that --
- 14 A I was informed by one of the officers on the scene
15 that it was inside the vehicle.
- 16 Q All right. This is State's Exhibit 144. Is that
17 item -- that's Item No. 13?
- 18 A Yes, sir. That's evidence Item No. 13, the .22 pistol
19 sitting on the driver's seat.
- 20 Q State's Exhibit 145.
- 21 A That's a closeup of the scene.
- 22 Q State's Exhibit 146.
- 23 A And that is right before I packaged it and turned it
24 into evidence showing the number of bullets that was inside
25 the magazine that was still inside the pistol when I

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- 1 recovered it.
- 2 Q Did you find any shell casings from -- any .22 shell
3 casing on the scene?
- 4 A No, sir. I did not.
- 5 Q Did you search the vehicle to look for such?
- 6 A Yes, sir. I did.
- 7 Q Do you know that if that amount of bullets is the max
8 that that magazine can hold?
- 9 A I don't believe so, sir.
- 10 Q Okay. But you didn't find any shell casings
11 indicating that this gun or a .22, any sort of .22, had
12 been fired at the scene.
- 13 A No, sir. I did not.
- 14 Q And this is the type of weapon that if fired -- would
15 it expel a shell casing? Is it a revolver?
- 16 A No, it's not a revolver. It's an automatic.
- 17 Q Right. You would expect this to --
- 18 A To expend the shell casing out, yes, sir.
- 19 Q I hand you State's Exhibits 87 through 103 and ask if
20 you can identify what these are.
- 21 (Pause.)
- 22 A Evidence depicting items 14 through 25.
- 23 Q And you collected these items and photographed them?
- 24 A Yes, sir. I did.
- 25 MR. SMITH: Your Honor, at this time we move State's

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1 Exhibits 87 through 103 into evidence.

2 MR. ALLEN: No objection.

3 THE COURT: They're admitted.

4 (Photographs marked State's Exhibits Nos. 87 through
5 103.)

6 Q This is State's Exhibit 87. Is this the vehicle that
7 we were just speaking about?

8 A Yes, sir. Item No. 13.

9 Q And what is Item 14?

10 A Item 14 is a fired cartridge casing.

11 Q And 15?

12 A The same.

13 Q Sixteen.

14 A Fired cartridge casing.

15 Q Seventeen.

16 A Fired cartridge casing.

17 Q Eighteen.

18 A Fired cartridge casing.

19 Q State's Exhibit 91. We've got 19 and 20 added. What
20 are -- what are they?

21 A Nineteen and twenty are also fired cartridge casings.

22 Q And, again, that's still the vehicle that we were just
23 talking about there.

24 A Yes, sir.

25 Q And the gas-station business is behind this?

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- 1 A Yes, sir.
- 2 Q State's Exhibit 95 shows a couple of more items. We
3 left off on 18 and 19. What's Item 20?
- 4 A Item 20 is a fired cartridge casing.
- 5 Q What about 22?
- 6 A Twenty-two is a fired cartridge casing.
- 7 Q Twenty-five.
- 8 A Fired cartridge casing.
- 9 Q Twenty-three.
- 10 A Fired cartridge casing.
- 11 Q Everything in this group here is a fired cartridge
12 casing?
- 13 A Yes, sir.
- 14 Q What about State's -- what about your Item No. 21?
- 15 A Item No. 21 would be a fired projectile bullet
16 fragment.
- 17 Q Okay. Did you collect that?
- 18 A Yes, sir. I did.
- 19 Q What about Item 22?
- 20 A Twenty-two is a fired cartridge casing.
- 21 Q Twenty-three.
- 22 A Fired cartridge casing.
- 23 Q This one has -- it's more perspective. This is 24, I
24 believe. What is Item No. 24?
- 25 A A fired projectile or a bullet fragment.

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- 1 Q All right. State's 25.
2 A Fired cartridge case.
3 Q And did you collect all of those items?
4 A Yes, sir. I did.
5 Q Showing you State's 14 -- 14, 15 and 16 -- 14 through
6 25 and ask if you can identify what these are.
7 A Evidence I collected on the scene.
8 Q All right. Is it the evidence that we were just
9 looking at?
10 A Yes, sir. It is.
11 MR. SMITH: Your Honor, at this time we'd move State's
12 Exhibits 14 through 25 into evidence.
13 MR. ALLEN: No objection.
14 THE COURT: They're admitted.
15 (Winchester .40 S & W Casing marked State's Exhibit No.
16 14; winchester .40 S & W Casing marked State's Exhibit No.
17 15; winchester .40 S & W Casing marked State's Exhibit No.
18 16; winchester .40 S & W Casing marked State's Exhibit No.
19 17; Federal .40 S & W Casing marked State's Exhibit No. 18;
20 Federal .40 S & W Casing marked State's Exhibit No. 19;
21 Federal .40 S & W Casing marked State's Exhibit No. 20;
22 bullet fragment marked State's Exhibit No. 21; Federal .40 S
23 & W Casing marked State's Exhibit No. 22; Federal .40 S & W
24 Casing marked State's Exhibit No. 23; bullet fragment marked
25 State's Exhibit No. 24; Federal .40 S & W Casing marked

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1 State's Exhibit No. 25.)

2 Q Show you State's Exhibits 104, 105, 106 -- 104 through
3 108 and State's Exhibit 26 and ask if you can identify what
4 they are.

5 A The photos are of a silver B.M.W. parked to the left
6 side of Playoffs next to the hill depicting Item No. 26,
7 which is a bullet fragment. And this would be the bullet
8 fragment pulled from item -- from the B.M.W., Item No. 26.

9 MR. SMITH: Your Honor, at this time we'd move...

10 Q Did you collect that?

11 A Yes, sir. I did.

12 MR. SMITH: Your Honor, at this time we'd move State's
13 Exhibit 26 and State's Exhibits 104 through 108 into
14 evidence.

15 MR. ALLEN: No objection.

16 THE COURT: They are admitted.

17 (Bullet fragment from B.M.W. marked State's Exhibit No.
18 26; photographs marked State's Exhibits Nos. 104 through
19 108.)

20 Q To put this in perspective, this is State's
21 Exhibit 32, which is where we started at the top of the
22 hill. Is this the B.M.W. you're referring to?

23 A Yes, sir. It is.

24 Q State's Exhibit 104, 105, 106, let's see, 107. Is
25 that the bullet fragment?

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1 A Yes.

2 Q Did you have to remove that from the B.M.W. or was
3 it -- had it rested on the ground there?

4 A No. It rested on the ground. It hit the fender, the
5 right front fender, of the B.M.W. and went through and fell
6 right there in front of the right front wheel.

7 Q So there was no exit out of the other side, or you
8 don't know -- the bullet did not travel through the
9 vehicle.

10 A No, sir. It didn't. There was no other damage to the
11 vehicle at all.

12 Q Did you collect an Item No. 27 in this case?

13 A Yes.

14 Q What was that?

15 A Bullet fragment.

16 Q It's difficult to see. This projector is not
17 cooperating today, but can you see where Item No. 27 is in
18 that picture? I know we have to point it out to the jury.
19 I know they probably couldn't read it off the projector.

20 A Can't -- can't really tell. It's kinda sitting here
21 in the center of the -- between the black Ford F-150 and
22 the -- I think it's a Pontiac, silver Pontiac.

23 MR. SMITH: Publish this here.

24 Q Is that what you were just referring to?

25 A Yes, sir.

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1 Q And did you collect this item?

2 A Yes, sir. I did.

3 THE COURT: Excuse me. But when you refer to this
4 item, refer to the exhibit number.

5 MR. SMITH: Yes, sir, Your Honor.

6 THE COURT: What was that exhibit number?

7 MR. SMITH: 109.

8 THE COURT: Talking about the one that you just said
9 did you collect this item. But you didn't refer to the
10 number.

11 MR. SMITH: The evidence number is 27; the picture is
12 109. The item that was collected is Item No. 27; the
13 picture that shows that is Exhibit 109.

14 THE COURT: All right. Well, those haven't been
15 admitted yet, have they?

16 MR. SMITH: No, Your Honor. This one has. This is
17 95. This was previously.

18 THE COURT: Is that the one that you asked him if he
19 collected that item?

20 MR. SMITH: No, Your Honor.

21 THE COURT: Okay. Proceed.

22 MR. SMITH: Your Honor at this time we'd move -- well,
23 this is State's Exhibit 27.

24 Q Can you identify what that is?

25 A Bullet fragment I collected on scene.

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1 MR. SMITH: Your Honor, at this time we'd move State's
2 Exhibits 27 and 109 into evidence.

3 MR. ALLEN: 27 and 109?

4 THE COURT: 109. That's the picture of 27.

5 MR. ALLEN: No objection.

6 THE COURT: They're admitted.

7 (Bullet fragment marked State's Exhibit No. 27;
8 photograph marked State's Exhibit No. 109.)

9 Q Show you State's Exhibits 110 through 114 and State's
10 Exhibits 28 through 30 and ask if you can identify what
11 these are.

12 A These will be the pictures depicting --

13 Q Don't show them.

14 A I'm sorry. These would be the pictures depicting
15 Items 28 through 30, and this is actual evidence of Items
16 28 through 30, fired cartridge cases.

17 MR. SMITH: Your Honor, at this time we'd move State's
18 Exhibits 28 through 38 and State's Exhibits 110 through 114
19 into evidence.

20 MR. ALLEN: No objection.

21 THE COURT: They're admitted.

22 (Federal .40 S & W Casing marked State's Exhibit No.
23 28; RP .40 S & W Cartridge Casing marked State's Exhibit No.
24 29; Federal NT .40 S & W Casing marked State's Exhibit No.
25 30; black Taurus PT 640 marked State's Exhibit No. 31;

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1 photograph previously marked State's Exhibit No. 32; bullet
2 fragment marked State's Exhibit No. 33; photograph
3 previously marked State's Exhibit No. 34; photograph
4 previously marked State's Exhibit No. 35; photograph
5 previously marked State's Exhibit No. 36; photograph marked
6 State's Exhibit No. 37; G.S.R. kit marked State's Exhibit
7 No. 38; photographs marked State's Exhibits Nos. 110 through
8 114.)

9 Q Are these from the left side of the business?

10 A Yes, this is the left side of the business on the far
11 corner right up next to the building.

12 Q Did you ultimately end up discovering that there was a
13 blood trail that led away from the scene of this crime?

14 A Yes. When I was on scene and I started my
15 investigation I noticed the blood in the front parking lot.
16 Officers followed that blood parking lot -- that blood
17 trail and advised me that they were going all the way
18 around the building. At that point I grabbed my camera or
19 evidence markers and began marking and photographing along
20 the trail.

21 Q And was there anything found at the end of the blood
22 trail or near where the blood trail ended? Any evidence of
23 evidentiary value?

24 A Evidence Item No. 31, which would be a pistol.

25 Q Let me show you State's Exhibits 126 through 135 and

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1 ask if you can identify what those are.

2 A Photos of the blood trail at evidence marker No. 37 as
3 I began.

4 Q Do they appear to be in the order as you took them,
5 the way I handed them to you?

6 A Yes.

7 MR. SMITH: Your Honor, at this time we'd move State's
8 Exhibits 126 through 135 into evidence.

9 MR. ALLEN: No objection.

10 THE COURT: They're admitted.

11 (Photographs marked State's Exhibits Nos. 126 through
12 135.)

13 Q This is State's 126, 27 [sic], 128, 129, 130. This
14 coat -- and on the opposite side of this is Item No. 4, is
15 that right?

16 A Correct.

17 Q So this would be the right side of the business.

18 A The far right side of the business, yes.

19 Q State's 131, 132, 133, 134 and 135. Do you know where
20 you took this picture, 135, or what that is in the
21 background?

22 A This is the rear of the business. You can see a pump
23 in the far top right corner. I believe that would be the
24 kerosene pump. Not quite sure.

25 Q Okay. And so is it woods after that pump? Does that

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1 go into the woods?

2 A Yes.

3 (Pause.)

4 Q I hand you 115 through 119 and ask if you can identify
5 what these show.

6 A It shows the evidence that was found at the end of the
7 blood trail.

8 MR. SMITH: Your Honor, at this time we'd move State's
9 Exhibits 115 through 119 into evidence.

10 MR. ALLEN: No objection.

11 THE COURT: They're admitted.

12 (Photographs marked State's Exhibits Nos. 115 through
13 119.)

14 Q State's 115. Can you explain the perspective from
15 where you took this picture maybe in relation to where we
16 just were?

17 A I was at -- standing at the end of the pavement right
18 before the grass starts probably maybe 25 or 30 feet from
19 there to where the grass gets taller back into the trees.

20 Q All right. And this picture shows evidence 32.

21 A Yes.

22 Q And what about this placard in the back?

23 A That placard in the back is Item No. 31.

24 Q That's the weapon you recovered?

25 A Yes.

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- 1 Q State's Exhibit 32. What is that?
- 2 A A blue cigarette lighter and, I believe, a cigarette.
- 3 Q State's Exhibit 116.
- 4 A It's a photo of Item 31 as I'm walking into the high
5 grass going into the trees.
- 6 Q Can you describe -- this is State's 117 -- what the
7 conditions are like in here? Is it easily accessible or --
- 8 A No.
- 9 Q -- thick?
- 10 A It's thick. It's tall grass, and then the trees are
11 low hanging, and you just can't walk up in there.
- 12 Q And State's Exhibit 118.
- 13 A The closeup of Item No. 31.
- 14 Q All right. And is it -- I know that the camera seems
15 to be focusing on this limb. But is it this black object
16 here?
- 17 A Yes.
- 18 Q Did you notice anything about the weapon, the position
19 that it was in?
- 20 A It was laying on, if you want to call it, the left
21 side pointing back towards your right.
- 22 Q What about if it was -- I don't know the term --
23 locked out or if it was --
- 24 A The slide was locked in the back.
- 25 Q And just -- I know that the picture's not the

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1 greatest, but this would be the -- the barrel side of the
2 gun?

3 A Yes, sir.

4 Q And this is what you referred to as the slide here?

5 A That would be the handle, the actual handle, of the
6 weapon. The slide is back towards the top a little bit.

7 Q Okay. And would the magazine be, I guess, behind 31?

8 A The magazine would be down -- down here towards the
9 bottom of the No. 1. The barrel is here; the slide is
10 going back this way; and the handle is right here; and the
11 magazine would be right here.

12 Q Okay. You sure it's not turned the other way? Here.
13 I'll hand you the picture.

14 A Can't really tell. It looks the way I explained it.

15 Q Okay. You can see the trigger on this almost, can't
16 you?

17 MR. ALLEN: Objection. He's leading.

18 THE COURT: Rephrase it.

19 Q Can you make out how the gun is laying, or can you
20 not?

21 A No, sir. I cannot.

22 Q Okay. But you know the slide is back.

23 A Yes.

24 Q And you collected this item. You collected this gun?

25 A Yes, sir. I did.

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1 Q I hand you state's 31 and ask if you can identify what
2 that is.

3 A It'd be the Taurus .40 caliber depicted in the
4 picture.

5 MR. SMITH: Your Honor, at this time we'd move State's
6 Exhibit 31 with permission to publish to the jury.

7 THE COURT: May I see it?

8 MR. ALLEN: No objection.

9 (Bench conference held off the record in the presence
10 of the jury but out of the hearing of the jury.)

11 (State's Exhibit No. 31 previously introduced.)

12 THE COURT: Okay.

13 MR. SMITH: Your Honor, may I publish it to the jury?

14 THE COURT: You may.

15 Q Was there a magazine in the gun?

16 A Yes.

17 Q Did you recover any unspent shell casings out of that
18 or of fired bullets out of the magazine?

19 A No, sir. I did not.

20 Q So whatever, what was in it, it would have been let go
21 if there was anything in it?

22 A If there were anything in it, yes.

23 Q Did you end up recovering an item you labeled as
24 No. 33?

25 A Yes, sir. I did.

Lathier Graham
Direct examination by Mr. Smith

1 Q What was that item?

2 A A bullet fragment.

3 Q I am going to hand you State's Exhibit No. 120 and
4 State's Exhibit 33 and ask if you can identify what those
5 are.

6 A Picture of evidence No. 33, and the actual evidence is
7 No. 33, which is bullet fragment.

8 MR. SMITH: Your Honor, at this time we'd move State's
9 Exhibits 33 and 120 into evidence.

10 MR. ALLEN: No objection.

11 THE COURT: They're admitted.

12 (State's Exhibit No. 33 previously introduced;
13 photograph marked State's Exhibit No. 120.)

14 Q We discussed the .22 caliber, Item No. 13, that you
15 recovered. Did you do a separate item for the bullets that
16 were recovered out of that weapon?

17 A Yes, sir. I did.

18 Q I hand you Item 41 and ask if you can identify it.

19 A Yes, sir. It's the evidence I collected from Item
20 No. 13.

21 MR. SMITH: Your Honor, at this time we'd move State's
22 Exhibit 41 into evidence.

23 MR. ALLEN: No objection.

24 THE COURT: It's admitted.

25 (Eight .22 LR unfired bullets marked State's Exhibit

Lathier Graham
Direct examination by Mr. Smith

1 No. 41.)

2 Q Earlier we looked at pictures of you dowel rodding the
3 first car that Item 13 was recovered from. Did you do that
4 on the other vehicle as well?

5 A Yes.

6 Q Hand you State's Exhibits 136, 137 and 139 and ask if
7 you can identify what they are.

8 A Photos depicting the dowel rods and scale tape on the
9 entry wounds -- the entry holes of the Cadillac and the
10 silver B.M.W.

11 MR. SMITH: Your Honor, at this time we would move
12 State's Exhibits 136 and 137 and 138 and 139 into evidence.

13 MR. ALLEN: No objection.

14 THE COURT: They're admitted.

15 (Photographs marked State's Exhibits Nos. 136, 137 and
16 139. State's Exhibit No. 138 previously introduced.)

17 Q 136. What vehicle is this of?

18 A That is the windshield of the gold Cadillac on the far
19 right side.

20 Q 137.

21 A The driver's door of the Cadillac.

22 Q And 139.

23 A And that's the right front fender well of the silver
24 B.M.W. on the far left side.

25 Q I know you've marked Item No. 1. Were you able to

Lathier Graham
Direct examination by Mr. Smith

1 recover anything from Item No. 1?

2 A No, sir. It was locked when we were there.

3 Q So, ultimately, everything you collected started two
4 on?

5 A Yes.

6 Q Hand you 121 through 125 and ask if you can identify
7 what these are.

8 A Evidence Items 34 through 36.

9 MR. SMITH: Your Honor, at this time I'd move State's
10 Exhibits 121 through 125 into evidence.

11 MR. ALLEN: Objections as to 120 -- Exhibits --
12 State's Exhibits 123 and 124.

13 THE COURT: Bring them up.

14 MR. ALLEN: Relevance of those items.

15 THE COURT: Mr. Smith, bring them up.

16 (Bench conference held off the record in the presence
17 of the jury but out of the hearing of the jury.)

18 THE COURT: All right. 123 and 124 will be marked for
19 identification; 121, 122 and 125 are admitted without
20 objection.

21 (Photographs marked State's Exhibits Nos. 123 and 124
22 for Identification; photographs marked State's Exhibits Nos.
23 121, 122 and 125.)

24 Q What was evidence No. 34?

25 A A blue t-shirt.

Lathier Graham
Direct examination by Mr. Smith

- 1 Q Thirty-five?
- 2 A A silver hoop style earring with some hearts on it.
- 3 Q Is this the vehicle that you recovered the pink .22
4 out of?
- 5 A Yes, sir. It is.
- 6 Q State's Exhibit 122, closeup, and 125. What was that
7 collection?
- 8 A That was -- 36 was a blood swab from that vicinity of
9 that vehicle.
- 10 THE COURT: Is this a good time to break?
- 11 MR. SMITH: I'm done. I have one question.
- 12 THE COURT: Okay.
- 13 Q You have no idea what person fired any of the items or
14 owned any of the items when you were collecting them?
- 15 A No. I do not.
- 16 Q Your sole role is to collect as much evidence as
17 possible?
- 18 A Yes. Collect and preserve evidence on the scene, yes.
- 19 Q And you do that to the best of your ability?
- 20 A Yes, sir. I do.
- 21 MR. SMITH: I don't have any more questions.
- 22 THE COURT: All right. Step down for a moment.
23 we're going to break for lunch.
- 24 Let me caution the jury as I have before. No
25 discussions, no research, no investigation of any kind.

Lathier Graham
Direct examination by Mr. Smith

1 Do have a good lunch.

2 No media exposure.

3 Do have a good lunch. Please report to your jury room
4 this afternoon at 2:30, 2:30 this afternoon.

5 (The following takes place outside the presence of the
6 jury.)

7 THE COURT: Mr. Graham, you're still on the witness
8 stand, so you can't discuss your testimony during the
9 break.

10 Court is in recess until 2:30.

11 (Whereupon, a recess was taken.)

12 THE COURT: All right. Are we ready for the jury?

13 MR. SMITH: Yes, Your Honor.

14 MR. ALLEN: Yes, Your Honor.

15 THE COURT: All right. Bring them in.

16 (The following takes place in the presence of the
17 jury.)

18 THE COURT: Good afternoon, ladies and gentlemen.

19 As you know, when we recessed Mr. Graham was on the
20 witnesses stand. He had completed direct examination.

21 So we'll continue with the cross-examination this
22 afternoon.

23 Mr. Graham, if you will, come back and resume your
24 seat on the witness stand. You have previously been placed
25 under oath and so you still are for the purpose of these

Lathier Graham
Cross-examination by Mr. Allen

1 questions.

2 Mr. Allen.

3 MR. ALLEN: Thank you, Your Honor.

4 CROSS-EXAMINATION

5 BY MR. ALLEN

6 Q By the time you arrived other officers had already
7 been on the scene, correct?

8 A Yes, sir.

9 Q And your primary responsibility was basically
10 documenting placement of items, where items were and then
11 collecting those items.

12 A Yes, sir.

13 Q The numbering system, the way you numbered them, that
14 has no special significance, does it?

15 A No, sir. It doesn't.

16 Q I mean, like one is not necessarily more important
17 than two, and on down the line.

18 A No, sir.

19 Q You just had to start somewhere, and wherever you
20 started was number one, correct?

21 A Yes, sir.

22 Q Now, when you identified something with a placard, for
23 example, I'm holding up State's Exhibit 114 which shows
24 what appears to be a cartridge casing and the placard 30,
25 correct?

Lathier Graham
Cross-examination by Mr. Allen

- 1 A Yes, sir.
- 2 Q Okay. Essentially that corresponds, as I think you
3 said, with State's Exhibit -- I believe it's 30, is that
4 correct?
- 5 A Yes, sir.
- 6 Q But in order to tell what the placard goes to or the
7 actual item goes to, we don't look at the state's exhibit
8 number. We look at the inventory number, is that correct?
- 9 A Yes, sir.
- 10 Q Because, obviously, the state's exhibit number did
11 not -- was not on this envelope. And I'm showing you
12 State's Exhibit 30. The state's exhibit tab was not on
13 this envelope when you sealed it up and put it into
14 property and evidence, correct?
- 15 A No. It's not.
- 16 Q Okay. And you -- when you made your photographs --
17 the cars that I see in these photographs, they were already
18 there when you arrived, correct?
- 19 A Yes. They were.
- 20 Q Looking for State's Exhibit 95.
21 Well, things are a little bit out of order here, but
22 let's talk about State's Exhibit 9. This is a photo of the
23 left side of the building as you're looking at the building,
24 correct?
- 25 A Yes, sir.

Lathier Graham
Cross-examination by Mr. Allen

- 1 Q And let's see. There we go. If I need to show this
2 photograph up to you a little more closely so you can
3 testify, I know you're straining from right there --
4 there's a silver-gray car in front of the building,
5 correct?
- 6 A Yes, sir.
- 7 Q With the front end pointed out, correct?
- 8 A Yes, sir.
- 9 Q That was there when you arrived.
- 10 A Yes, sir.
- 11 Q And of course y'all didn't touch it or move it.
- 12 A No, sir. We didn't.
- 13 Q Now, those yellow placards in front of that or around
14 that car, those are placards that correspond with other
15 bullet casings?
- 16 A Other evidence. Some of them -- some of them should
17 be fired cartridge casings.
- 18 Q Okay. I think you've got some closeups of those,
19 correct?
- 20 A Yes, sir.
- 21 Q Are you familiar with automatic weapons or automatic
22 pistols? Pistols that eject a cartridge, in other words.
- 23 A Yes, sir.
- 24 Q Pistols that eject a cartridge, they typically eject
25 towards the right as the gun is pointed -- the weapon?

Lathier Graham
Cross-examination by Mr. Allen

- 1 A Yes, sir.
- 2 Q And of course different makes of weapons eject
3 slightly different distances, correct?
- 4 A I assume so, sir.
- 5 Q Okay. Now, in State's Exhibit 9 that I've got up
6 there, is it correct that the placards we see in the
7 foreground are 28 and 29 and 30? And if you can't tell
8 from there, just let me know, and I'll let you look at this
9 a little more closely.
- 10 A You're talking about the -- talking about the three
11 here in the first set of three?
- 12 Q The three here in the dark part and the closest to the
13 camera.
- 14 A Yes, sir.
- 15 Q Okay. It's 28, 29 and 30, correct?
- 16 A Yes, sir. I can't see the number of placards, but
17 yes, sir.
- 18 Q Let me show you this and see if you can tell from the
19 actual photograph. Maybe that'll be a little bit better
20 for you. I don't know if this is on or not.
- 21 A Yes, sir. That will be correct.
- 22 Q That's correct?
- 23 A Yes, sir.
- 24 Q Thank you.
- 25 And of course those correspond with shell casings,

Lathier Graham
Cross-examination by Mr. Allen

- 1 correct?
- 2 A Yes, sir.
- 3 Q And they correspond with what's been marked as State's
4 Exhibits 28, 29 and 30.
- 5 A Yes, sir.
- 6 Q Which also correspond with your inventory number, 28,
7 29 and 30.
- 8 A Yes, sir.
- 9 Q Okay. When you inventoried everything and you put
10 them in these evidence packages -- for example, I'm holding
11 up State's Exhibit 30. The numbers we see on the
12 photograph correspond with the inventory number throughout
13 the whole case, correct?
- 14 A It should, sir, yes.
- 15 Q It should. Okay. With respect to the photographs and
16 the placards that you put up concerning blood, did you take
17 any swabs from that blood?
- 18 A Yes, sir. I did.
- 19 Q Substance?
- 20 A Yes, sir. I did.
- 21 Q Okay. And the purpose of that was to do what?
- 22 A Evidence collection.
- 23 Q Evidence collection. Possible analysis later on?
- 24 A Yes, sir.
- 25 Q To determine type or possibly even D.N.A.?

Lathier Graham
Cross-examination by Mr. Allen

- 1 A Yes, sir.
- 2 Q State's Exhibit 141, which is the photograph of the
3 gearshift, do you recall that photograph?
- 4 A Yes, sir. I do.
- 5 Q You made mention that it had a nick or something on it
6 that, I think you said, was made by a bullet?
- 7 A Appeared to be made by a bullet, yes, sir.
- 8 Q Appeared to be. There was no testing of that
9 gearshift knob or anything of that, correct?
- 10 A No, sir. There wasn't.
- 11 Q There's not really a test for that, correct?
- 12 A I'm not sure, sir.
- 13 Q I mean, there's no way to test for gunpowder or
14 anything like that on a gearshift knob where you believe a
15 bullet passed through, correct?
- 16 A No, sir. There is not. D.N.A. swabs but...
- 17 Q I notice that you put some dowels in various areas of
18 these photographs, correct?
- 19 A Yes, sir.
- 20 Q Did you get a trajectory?
- 21 A Yes, sir.
- 22 Q You didn't extend the dowel or string or anything like
23 that all the way to that gearshift knob, did you?
- 24 A No, sir. I didn't. It wouldn't go through the door
25 and the gearstick is hard plastic. The dowel rod wouldn't

Lathier Graham
Cross-examination by Mr. Allen

1 fit through it.

2 Q I'm sorry?

3 A The gearstick was made out of a hard plastic, and the
4 dowel rod would not go all the way through it.

5 Q Okay. And haven't at time in the past officers used
6 string to show trajectories and bullets?

7 A Yes, sir. If it's available to them.

8 Q If it's available. You didn't use it in this case.

9 A I didn't have any available to me at the time.

10 Q Okay. The silver car -- excuse me. I want to go back
11 to the silver car that was in the parking lot. Do you
12 recall the silver car that I showed you on Exhibit 9? Do
13 you recall if that was a Pontiac?

14 A I believe so.

15 Q Okay.

16 MR. ALLEN: Nothing further, Your Honor. Thank you.

17 MR. SMITH: I don't have any further questions.

18 THE COURT: You may step down.

19 MR. SMITH: Your Honor, may he be excused?

20 THE COURT: He may be.

21 (Whereupon, the witness was excused.)

22 MR. SMITH: State calls Cassandra Rice.

23

24

25

Cassandra Rice
Direct examination by Mr. Smith

- 1 A Myself.
- 2 Q Do you remember when you got there?
- 3 A Honestly, sir, no, I don't.
- 4 Q Okay. Did consume alcohol while you were there?
- 5 A Yes, sir. I did.
- 6 Q Did you have any idea how long you were there before
7 this happened, briefly or long?
- 8 A Probably about, like, an hour and 30 minutes before
9 anything happened.
- 10 Q Okay. Did you have any interaction with Mr. Thompson
11 inside of --
- 12 A We spoke.
- 13 Q Okay. What did y'all say?
- 14 A You know, you see somebody you know, hey.
- 15 Q So just pleasantries, things like that?
- 16 A Uh-huh.
- 17 Q Do you know Ramone Smith?
- 18 A Huh?
- 19 Q How do you know him?
- 20 THE COURT: Please answer yes or no.
- 21 THE WITNESS: Yes, sir.
- 22 A Yes, sir.
- 23 Q How do you know him?
- 24 A I grew up in the area with him too.
- 25 Q All right. Is this Ramone Smith?

Cassandra Rice
Direct examination by Mr. Smith

- 1 A Yes, sir.
- 2 Q Did you have any interaction with him prior to this
3 happening?
- 4 A What do you mean?
- 5 Q Did you talk to him -- talk to him at all?
- 6 A Yes, sir.
- 7 Q Just similar, how are you doing? Okay. What ended up
8 spurring you to go outside?
- 9 A For air, I guess, like, the building was, like, small
10 and it was like a lot of people. To get some fresh air.
- 11 Q Okay. And what happened once you got outside?
- 12 A We stood out there for a while and, like -- like an
13 altercation, like, you know, words was saying, were passed,
14 you know, passed towards each other.
- 15 Q Okay. Do you know who these people were arguing back
16 and forth?
- 17 A It was a couple of people. So, you know, it was like
18 a lot of people outside.
- 19 Q Was Mr. Thompson one of those people?
- 20 A Yeah.
- 21 Q Was he arguing with Mr. Smith?
- 22 A No.
- 23 Q Okay. Was he arguing with anybody that Mr. Smith was
24 with or...
- 25 A No.

Cassandra Rice
Direct examination by Mr. Smith

1 Q Did you have -- did you know anything about what the
2 argument was about?

3 A No, sir. I asked -- when I -- when I noticed I was
4 just, like, everybody take -- we need to go home, everybody
5 has kids, it ain't worth it.

6 Q So you attempted to diffuse the situation.

7 A Yeah.

8 Q All right. Was Ramone out there?

9 A Yes.

10 Q He was out there.

11 A Yes.

12 Q Did you try to get him to leave?

13 A Yes.

14 Q Did you talk to Jody at all?

15 A No, sir.

16 Q But, generally, you were just trying to have cooler
17 heads prevail.

18 A Yeah. Because it was -- because we were there to have
19 a good time. No drama.

20 Q Did you see Mr. Smith or Mr. Thompson with a pistol?

21 A I seen Mr. Thomas with one.

22 Q Okay. When did that happen?

23 A When we were outside, like, he was walking around. He
24 kept on pulling his little shirt up so you could see it.

25 Q Did you see it or did you think that he was --

Cassandra Rice
Direct examination by Mr. Smith

- 1 A I seen it.
- 2 Q All right. And then what happened?
- 3 A Like, a couple of words was said. And then after that
- 4 shots were -- like he turned around and he shot Corey.
- 5 When he turned around and shot him, I took off
- 6 running. When I took off running, I ended up falling. And
- 7 when I fell I got hit.
- 8 After that it was like tunnel vision. I got up and
- 9 ran and got a -- got a couple of shirts and put on my face,
- 10 you know, to, like, stop the bleeding or whatever.
- 11 Q All right.
- 12 A And then I tried to get in my car to leave, but my car
- 13 was -- my tire was shot out. So I had to end up getting in
- 14 the car with somebody else to take me to the hospital.
- 15 Q All right. When you said he started shooting, who are
- 16 you referring to?
- 17 A Jody.
- 18 Q Is that the first person you saw fire?
- 19 A Yes, sir.
- 20 Q Is that -- did you see anybody else with a gun?
- 21 A No, sir.
- 22 Q And did you say he was firing at Corey Glenn?
- 23 A Yes, sir.
- 24 Q So you could see him aiming, is that --
- 25 A Yeah. He took it out and shot.

Cassandra Rice
Direct examination by Mr. Smith

- 1 Q Now, did you say -- you ended up getting struck at
2 some point?
- 3 A Right here. By a bullet. It scraped me right here,
4 like, right by my temple.
- 5 Q Do you remember how many shots that you heard in the
6 whole incident?
- 7 A No, I don't remember. Once I got hit, it's, like, I
8 panic about life. I didn't know what situation I was in.
- 9 Q Did you realize you'd been hit by a bullet or --
- 10 A Yes. I did. It burned. It was burning, and I was
11 like, oh, my God, I got hit. It didn't, like, bleed right
12 then, but, like -- like, once I got near the -- it just
13 started bleeding. And by me being a C.N.A., I know that
14 you put pressure on it. So I needed some pressure so I
15 wouldn't bleed out because I had already been drinking.
- 16 Q Right. Drinking makes you bleed more?
- 17 A Yeah.
- 18 Q And you tried -- what type of car did you have there
19 that night?
- 20 A I had a -- I got a 2013 blue Dodge Charger.
- 21 Q Why weren't you able to leave in it?
- 22 A My -- on the -- I want to say the right side of the
23 front tire, it was shot out. A bullet hit it.
- 24 Q And you said you ended up getting in another friend's
25 car and going home.

Cassandra Rice
Direct examination by Mr. Smith

1 A And going to the hospital.

2 Q Who was that friend?

3 A His name is Dang Dang.

4 Q And do you remember if he called 9-1-1 on the way to
5 the hospital?

6 A I don't recall, sir. It was -- I was panic. I was in
7 a panic mode.

8 Q Do you remember what you were wearing that night?

9 A Yes, sir. I had on a red jump -- a red jumpsuit and
10 some red and white Jordans.

11 Q Okay. I'm going to play a portion of State's
12 Exhibit 57. See if you can identify some of the people in
13 it. How do you know Corey Glenn?

14 A We all grew up in Greer.

15 Q Okay. Everybody that's involved in this is...

16 A Except for the other young lady. I don't really know
17 her.

18 Q Okay. But Jody Thompson and Corey Glenn and Mr. Smith
19 are all known to you for a long period of time.

20 A Yes, sir.

21 Q All right. Who is this guy if you can tell?

22 A I can't really see from the angle that I'm --

23 THE COURT: Ma'am, you can stand up. You can get out
24 of the witness chair and stand around there and look at it
25 if you want to. But when you respond to the question, go

Cassandra Rice
Direct examination by Mr. Smith

1 back to the microphone.

2 THE WITNESS: Yes, sir.

3 (Whereupon, the witness left the stand.)

4 A Ramone.

5 Q All right. That's Mr. Smith? What about this person?
6 Can you tell who that is?

7 A Uh-uh.

8 THE COURT: You've got to answer yes or no.

9 A No, sir.

10 Q Do you know who that is?

11 A Which one?

12 Q This guy.

13 MR. ALLEN: I believe that question has been asked and
14 answered, and I think we need better identification if --

15 THE COURT: Well, I'm having a hard time understanding
16 which one we're talking about so let's -- let's --

17 MR. SMITH: This individual here on the left side of
18 the screen.

19 THE COURT: Okay. Has she not already said she didn't
20 know?

21 MR. SMITH: I was just playing the video.

22 Q Go ahead and have a seat.

23 A I thought he was talking about when he was in the --

24 THE COURT: All right. Well, if you know who it is,
25 then let's be sure you point out somebody.

Cassandra Rice
Direct examination by Mr. Smith

- 1 Do you see who he's pointing to?
- 2 THE WITNESS: This right here --
- 3 THE COURT: Wait just a minute -- wait just a minute.
- 4 Q This. Do you know who this person is?
- 5 A Yes, sir.
- 6 Q Who is that?
- 7 A Jody.
- 8 Q All right. Who is this person?
- 9 A That's me.
- 10 Q All right. Who is this person?
- 11 A That's Corey.
- 12 Q Corey Glenn?
- 13 A Yes, sir.
- 14 THE COURT: Be sure you speak up loudly because you're
- 15 not near the microphone.
- 16 Q Is that you in the red and white?
- 17 A Yes, sir.
- 18 Q And this is Mr. Smith?
- 19 A Yes, sir.
- 20 Q All right. What -- what's happening here in the
- 21 video?
- 22 A The shooting started.
- 23 Q All right. Who is this, that blur right there? Who
- 24 is that?
- 25 A Which one?

Cassandra Rice
Direct examination by Mr. Smith

- 1 Q This person.
- 2 A That's Corey.
- 3 Q In the blue.
- 4 A Yes.
- 5 Q Looks like dark blue pants perhaps.
- 6 A That's Corey.
- 7 Q All right. And at this time it looks like you're on
8 the ground.
- 9 A Uh-huh.
- 10 THE COURT: Yes or no.
- 11 A Yes, sir.
- 12 Q Do you know if you'd been shot at this point? I mean,
13 I'll keep playing it. Were you shot when you were laying
14 on the ground?
- 15 A I fell right here.
- 16 Q Okay. At that point you were struggling.
- 17 A Yes, sir.
- 18 Q And you're applying pressure to it already.
- 19 A Yes, sir.
- 20 Q All right. I'm going to play one more.
- 21 MR. SMITH: Your Honor, for purposes of the record,
22 that was the third video on the disc on Channel Seven. All
23 of that prior testimony is referring to the third video,
24 Channel Seven.
- 25 This testimony will be dealing with the second camera

Cassandra Rice
Direct examination by Mr. Smith

- 1 on Channel Nine.
- 2 Q Can you tell where this is in relation to the prior
3 video we looked at? Can you tell where this is?
- 4 A The car was setting in front of the -- in front of the
5 club.
- 6 Q Okay. So would you -- do you know where you would be
7 relative to this?
- 8 A I would have been in front that way.
- 9 Q Off to the right.
- 10 A Yes, sir.
- 11 Q Okay. So this would be -- is this the right side of
12 the business of -- as in the road?
- 13 A Yes, sir.
- 14 Q Okay. This is the gas station.
- 15 A Yes, sir.
- 16 Q Convenience store. All right. Is that you?
- 17 A Uh-huh.
- 18 THE COURT: Yes or no.
- 19 A Yes, sir.
- 20 Q Is this your vehicle?
- 21 A Yes, sir.
- 22 Q Is that Mr. Smith?
- 23 A Yes, sir.
- 24 Q All right. Who is that?
- 25 A Corey.

Cassandra Rice
Direct examination by Mr. Smith

- 1 Q Getting in the vehicle?
- 2 A Yes, sir.
- 3 Q The pickup truck. And at some point you realized --
- 4 A I couldn't even leave out of the parking lot because
- 5 the tire was -- been shot out.
- 6 Q Do you know who owns this vehicle?
- 7 A I want to say Dang Dang. That's the car that I got
- 8 in.
- 9 Q All right. At this point y'all left and went --
- 10 A To the hospital.
- 11 Q Okay.
- 12 (Whereupon, the witness returned to the stand.)
- 13 Q Did you speak with law enforcement at the hospital?
- 14 A Yes, sir.
- 15 Q Did you tell them who you believed had shot first?
- 16 A Yes, sir.
- 17 Q And who was that?
- 18 A Jody.
- 19 Q Do you remember them taking pictures of you at the
- 20 hospital?
- 21 A I'm pretty sure they did. They was doping -- they was
- 22 giving me so much morphine I really couldn't remember.
- 23 Q Are you familiar with what your injury looked like
- 24 once you were treated? You have to answer audibly.
- 25 A Yes, sir.

Cassandra Rice
Cross-examination by Mr. Allen

1 Q And I hand you State's Exhibits 157 and 158 and ask if
2 you can tell me what these are.

3 A Pictures where I had my wound.

4 Q That's when you were in the hospital?

5 A Uh-huh.

6 MR. SMITH: Your Honor, at this time I'd move State's
7 Exhibits 157 and 158 into evidence.

8 MR. ALLEN: No objection.

9 THE COURT: They're admitted.

10 (Photographs marked State's Exhibits Nos. 157 and 158.)

11 MR. SMITH: And permission to publish it to the jury,
12 Your Honor.

13 THE COURT: You may.

14 Q Was it a fairly close call that night?

15 A Yes, sir.

16 Q You had made comments about markings down your face.
17 Was there -- is this the only wound or was there other --

18 A Right here.

19 Q Okay. Please answer any questions Mr. Allen has.

20 CROSS-EXAMINATION

21 BY MR. ALLEN

22 Q I believe you said that while you were outside you saw
23 Mr. Thompson lifting up his shirt, is that right?

24 A Yes, sir.

25 Q He was lifting up his shirt and doing what? I mean,

Cassandra Rice
Cross-examination by Mr. Allen

1 showing something?

2 A Showing his gun.

3 Q Gun? As he was walking around?

4 A Yes, sir.

5 THE COURT: You can turn the lights on.

6 Q I'm going to stand back here a little ways so that
7 hopefully if you try to talk to me everybody can hear.

8 So when you were outside, at that point the gun was in
9 Jody's waistband?

10 A Yes, sir.

11 Q Now, Jody didn't draw or didn't pull out his gun until
12 the shooting started, is that correct?

13 A Yes, sir.

14 Q You have to answer yes or no.

15 A Yes, sir.

16 Q Do you understand the lady here is taking down
17 everything that's said? And while we can see you nod your
18 head, you've got to answer so that she can pick it up.
19 Okay?

20 A Yes, sir.

21 Q Can you do that?

22 A Yes, sir.

23 Q Thank you.

24 Now, so essentially your testimony is that Jody pulled
25 out his gun and started shooting at pretty much the same

Cassandra Rice
Cross-examination by Mr. Allen

- 1 time, correct?
- 2 A Yes, sir.
- 3 Q And that was when you saw Jody had his hand on the
4 gun, correct?
- 5 A I seen him when he pulled out. He did like this,
6 shot -- shot go in his foot -- shot Corey in his foot. He
7 pulled the gun out and shot him in his foot.
- 8 Q And, now, Corey was standing where at that time?
- 9 A Kind of towards him -- kind of towards him.
- 10 Q Near him.
- 11 A Yes, sir.
- 12 Q Okay. Now, before that happened it's on the video
13 that you were pushing on, I think it was, Mr. Smith, is
14 that correct?
- 15 A Yes, sir.
- 16 Q Pushing him back, correct?
- 17 A Yes, sir.
- 18 Q And you saw him -- let me ask you this. On the
19 26th, you know, when it was current, did you see him just
20 standing out there in the packing lot by himself?
- 21 A Seen who standing by theirselves?
- 22 Q Mr. Smith was standing out in the parking lot before
23 you walked up to him.
- 24 A Uh-huh.
- 25 THE COURT: Is that a yes?

Cassandra Rice
Cross-examination by Mr. Allen

- 1 THE WITNESS: Yes, sir.
- 2 Q And in the video it looks like he was talking to
3 someone?
- 4 A He was talking to me. He was talking. I was
5 telling -- I was telling -- well, I was saying, like, y'all
6 don't need to be sitting out here arguing, we need to go
7 home, we all have kids, it's not worth it, let's go,
8 basically what I was saying.
- 9 Q And you pushed him to --
- 10 A Let's go.
- 11 Q Let's go. And what, if anything, did he say to you
12 about that?
- 13 A Go on.
- 14 Q Told you to go on?
- 15 A Yeah. Let's go. Go, go on.
- 16 Q Now, your attention was primarily with Mr. Smith and
17 Mr. Thompson? Would that be fair to say?
- 18 A Excuse me? I didn't understand what you're saying.
- 19 Q Your attention when you were out there, was that
20 primarily with Mr. Smith, and Mr. Smith and Mr. Thompson?
- 21 A For everybody. Because, like I said, there was a lot
22 of them. And I was, like, everybody let's go, we don't
23 need to do this, let's go. Not just talking. Just talking
24 to everybody in general.
- 25 Q And when you said we don't need to do this, what were

Cassandra Rice
Cross-examination by Mr. Allen

1 you --

2 A We don't -- we don't need no -- we don't need no
3 drama -- we don't need no drama.

4 Q What type of drama were you referring to?

5 A Any kind, any fussing, anything. We don't -- already
6 don't have nowhere to go. So, I mean, why we going to mess
7 up the only place that we did have to go?

8 Q Now, your car was the one we saw, that dark blue car,
9 I believe, is that correct?

10 A Yes, sir.

11 Q Is that correct?

12 A Yes, sir.

13 Q Okay. And Corey got into the back seat of that car,
14 correct? Somebody got into the back seat of that car.

15 A Somebody got in the back seat of my car, yeah. I
16 seen, but I don't know who it was.

17 Q You don't know who it was.

18 A No, because that's after I had got shot and, like, I
19 gotta go, I gotta go.

20 Q And did you see him carry anything?

21 A No.

22 Q Somebody got in the back seat. You don't even know
23 who he was?

24 A No. I was panicking. I was worrying about my life.
25 I wasn't worrying about who was getting in my car. I was

Cassandra Rice
Cross-examination by Mr. Allen

1 worrying about getting to the hospital.

2 Q Now, you had a cell phone that night out there?

3 A I don't even recall. I don't even -- I had one. I
4 don't know if it was on me or was it in the building. I
5 don't -- I don't recall, sir.

6 Q In what building? What are you referring to?

7 A Playoffs.

8 Q Playoff?

9 A Playoffs.

10 Q Do you normally leave your cell phone in Playoffs when
11 you go outside?

12 A I mean, I went outside to get some fresh air and to
13 come back in. I mean, it wasn't like going to leave my
14 cell phone.

15 Q Well, other people had cell phones, didn't they?

16 A I don't know.

17 Q Did you ask anybody to call 9-1-1?

18 A No. I was going to take myself to the hospital. I
19 panic.

20 Q Now, you didn't ask anybody to call 9-1-1 because of
21 the shooting?

22 A I don't know. I guess somebody had already called.

23 Q You didn't ask for that to be done.

24 A No, sir.

25 Q And you said Dang Dang took you to the hospital?

Cassandra Rice
Cross-examination by Mr. Allen

- 1 A Yes, sir.
- 2 Q In his white truck?
- 3 A Yes, sir.
- 4 Q And that's a man by the name of Damion Wallace?
- 5 A Yes, sir.
- 6 Q Anybody else go with you and Mr. Wallace to the
7 hospital in his truck?
- 8 A My cousin. I want to stay my cousin Dray was with us.
- 9 Q Your cousin who?
- 10 A Dray.
- 11 Q Dray. What's his last name?
- 12 A Rice.
- 13 Q Rice. He was out there that night?
- 14 A Yeah.
- 15 Q Do you know if he talked to the police that night?
- 16 A At the hospital, he did. When we went to the hospital
17 the officer -- they questioned them too.
- 18 MR. ALLEN: One second, please, Your Honor.
- 19 (Pause.)
- 20 Q Did you know Ramone Smith before that night?
- 21 A Yes, sir.
- 22 Q How long had you known him?
- 23 A Years. Grew up with him. Grew up together.
- 24 Q When you were talking with the officers at the
25 hospital, you never mentioned Ramone Smith to them, did

Cassandra Rice
Redirect examination by Mr. Smith

- 1 you, to the officers?
- 2 A No, sir.
- 3 Q You never mentioned that Ramone was shooting back, did
4 you?
- 5 A No, sir.
- 6 Q Thank you. No other questions.
- 7 REDIRECT EXAMINATION
- 8 BY MR. SMITH
- 9 Q Are you saying the first time you ever saw Jody with a
10 gun was right before the shooting?
- 11 A I mean, when he was walking around, I mean, with it,
12 yeah.
- 13 Q Okay. But I just want to clarify. Are you saying
14 that he drew it when he shot or was he --
- 15 A No. Like, you know how somebody -- you want somebody
16 to know you got you some heat on you and you keep pulling
17 your shirt up and let somebody know that you scrap.
18 Basically like that.
- 19 Q Did you have any doubt about who fired first --
- 20 A No, sir.
- 21 Q -- and who did that? Thank you.
- 22 THE COURT: You may step down.
- 23 MR. SMITH: Your Honor, she pointed to the defendant.
24 The state calls Ramone Smith.
25

Ramone Smith
Direct examination by Mr. Smith

- 1 Q Who did you -- did you go to Playoffs on the evening
2 of June 25th, early morning of June 26th?
- 3 A Yes.
- 4 Q How did you get there?
- 5 A I drove.
- 6 Q Who came with you?
- 7 A I was solo.
- 8 Q Were you intending to meet anybody there or just see
9 who was there?
- 10 A Just see who was there.
- 11 Q Did you end up meeting Corey and Cassandra?
- 12 A Yes. They was there.
- 13 Q What about Mr. Thompson? Did you see him?
- 14 A Yes.
- 15 Q What interaction did you have with Mr. Thompson inside
16 of Playoffs?
- 17 A None.
- 18 Q None. What's the first time that you came into
19 contact with him?
- 20 A Well, I had got in an altercation with some other guy.
- 21 Q Was it somebody that you think was maybe with him?
- 22 A Yes. Evidently.
- 23 Q Was that inside of Playoffs?
- 24 A It was -- it started outside.
- 25 Q Okay. What happened with that altercation?

Ramone Smith
Direct examination by Mr. Smith

- 1 A I was standing outside, and then as I was getting
2 ready to go in the other guy was holding the door and I was
3 waiting on him to go in.
- 4 He started drinking his beer and pouring it at my feet
5 at the same time. So it was like he'll drink, pour it,
6 drink, pour it. And I'm just looking at him like what
7 is -- what is his problem, so.
- 8 Q Was this guy known to you?
- 9 A No.
- 10 Q How did you figure he was associated with
11 Mr. Thompson?
- 12 A When -- when we was getting ready to have a fight or
13 whatever he stood in between both of us and was like no,
14 no. And from there it -- he stopped it. The other guys
15 walked off. He walked off with them.
- 16 Q Okay. So you were talking about a physical
17 altercation.
- 18 A Yeah.
- 19 Q Not a gunfight or anything.
- 20 A No.
- 21 Q Were you carrying a weapon that night?
- 22 A Yes.
- 23 Q Are you allowed to carry a concealed weapon?
- 24 A Yes. I have a C.W.P.
- 25 Q Where did you have the weapon on you?

Ramone Smith
Direct examination by Mr. Smith

- 1 A Like, on -- on my back side, like right here.
- 2 Q Are you right-handed or left-handed?
- 3 A Left-handed.
- 4 Q Is it kind of tilted toward the left side of your
5 body?
- 6 A Yeah.
- 7 Q Did you end up providing law enforcement with a copy
8 of your concealed weapons permit?
- 9 A I did.
- 10 Q Let me show you State's Exhibit 60.
- 11 MR. ALLEN: Your Honor, I have a matter of law to take
12 up. I mean, we can approach the bench if you like.
- 13 (Bench conference held off the record in the presence
14 of the jury but out of the hearing of the jury.)
- 15 THE COURT: Any objection?
- 16 MR. ALLEN: Yes, Your Honor, as we stated.
- 17 THE COURT: All right. Overrule your objection. It's
18 admitted.
- 19 (Copy of Ramone Smith's C.W.P marked State's Exhibit
20 No. 60.)
- 21 Q I'm going to show you what's been marked as State's
22 Exhibit 60 and ask if you can identify what that is.
- 23 A It's a concealed weapons permit.
- 24 Q To who?
- 25 A Myself.

Ramone Smith
Direct examination by Mr. Smith

- 1 Q For who?
- 2 A Ramone Maurice Smith.
- 3 MR. SMITH: Your Honor, at this time I'd move State's
- 4 Exhibit 60 into evidence.
- 5 THE COURT: It's admitted.
- 6 (Exhibit previously admitted.)
- 7 Q What type of weapon did you have that night?
- 8 A It was a Glock 27 .40 caliber.
- 9 Q Do you know how many rounds you had in it?
- 10 A I wanna -- I believe like 14.
- 11 Q Is that what it holds?
- 12 A Yeah.
- 13 Q Had you had any bad blood with Mr. Thompson or any
- 14 reason to be getting into an altercation with him this
- 15 night?
- 16 A No.
- 17 Q And you said initially that, I guess, this started at
- 18 the door of the business, is that --
- 19 A Yes.
- 20 Q And then you went inside.
- 21 A Yes.
- 22 Q Do you know how long you were in there before you got
- 23 back outside?
- 24 A Like ten minutes.
- 25 Q Okay. Did you have enough time there to do drinking

Ramone Smith
Direct examination by Mr. Smith

- 1 or anything like that?
- 2 A No.
- 3 THE COURT: Please use that microphone.
- 4 A No.
- 5 Q Will you describe what happened once you got outside
6 the second time?
- 7 A Second time he, the other guy, came outside.
- 8 Q Is that the guy that initially the confrontation was
9 with?
- 10 A Yes.
- 11 Q All right.
- 12 A And he was, like, what's going on, why do you want to
13 fight me. And he stepped in and said no, no, no. And then
14 they walked off towards the right side of the building.
- 15 Q All right. Then what happened?
- 16 A One girl came up to me. I told her to go back in the
17 building.
- 18 Q Is that -- who is that girl?
- 19 A April.
- 20 Q Okay. Not Cassandra.
- 21 A Uh-uh. And then Cassandra came. She was telling me
22 y'all don't need to do this, you got kids, let's go. I
23 told her to get back in the building, and she pushed me.
24 And the next thing you know she was falling. So when she
25 fell, I squatted down with her while she was falling. And

Ramone Smith
Direct examination by Mr. Smith

- 1 I realized somebody was shooting, and I turned around and
2 seen Jody with a gun shooting in my direction.
- 3 Q All right. So you're saying when you initially see
4 Cassandra fall, you don't know exactly what's prompted
5 that?
- 6 A Yes.
- 7 Q All right. And then you do look over there.
- 8 A Yes.
- 9 Q And see Mr. Thompson.
- 10 A Yes.
- 11 Q And what did you do at that time?
- 12 A I started -- I just reached for my gun and started
13 shooting back.
- 14 Q All right. Did you move first or get out of the way
15 of fire?
- 16 A Well, I -- all I remembered was just squatting down.
17 And when I rose up, I just started reaching for my gun and
18 turned around and started walking backwards until I seen
19 him. And then I started shooting.
- 20 Q So you were specifically aiming for Mr. Thompson.
- 21 A Yes.
- 22 Q Was he still firing or advancing or what? What is he
23 doing?
- 24 A He was just holding the gun pointing it at me. I
25 don't know if he was shooting at me at that point in time,

Ramone Smith
Direct examination by Mr. Smith

- 1 but I know he was pointing and the gun was dead at me.
- 2 Q You did see him fire.
- 3 A Yes.
- 4 Q But at this time he's just pointing the gun.
- 5 A Yes.
- 6 Q And then you returned fire.
- 7 A Yes.
- 8 Q Do you know if you hit him?
- 9 A No.
- 10 Q No. What did he do?
- 11 A I fired at least six or seven shots. He was still
12 standing there. Probably about the eighth or ninth shot he
13 took off running.
- 14 Q You don't know if you had hit him or anything.
- 15 A No.
- 16 Q What did you do at that point?
- 17 A After he took off running I heard Cassandra scream she
18 was hit. So I was making sure of her well-being, that she
19 got to the hospital.
- 20 So I walked towards her car and told them to go on,
21 take her to the hospital.
- 22 I walked around the side of the building to make sure he
23 wasn't coming back and shot again. I shot twice and then
24 jumped in my truck. When I jumped in my truck, I'm still
25 screaming at them to go, go, go.

Ramone Smith
Direct examination by Mr. Smith

1 By that time Corey walked around the front of my
2 truck, and he walked to the passenger side. And he was,
3 like, I'm hit. And I was like what. And I was shocked
4 then. So I told him to come on, you get in the car. He
5 got in the truck, and I took off, took him to the hospital.

6 Q All right. Did you drop him off at the hospital?

7 A Yes.

8 Q Where did you go after you dropped him off?

9 A I went home.

10 Q why?

11 A To secure my family and make sure my family was okay.

12 Q why did you have concerns about your family?

13 A I was just -- I didn't -- Greer is so small, so he
14 probably could have figured out if -- where I stayed. And
15 I didn't know if I'd hit him or if he was in jail or
16 nothing. So I was concerned for my family.

17 Q And what did you do once you got to your family?

18 A I got them out of the house and I took them to -- I
19 took my girl to her sister's house.

20 Q And what happened then?

21 A We just camped out until about 6:00 o'clock in the
22 morning, until the sun came up, and then we went back.

23 Q went back where?

24 A Home.

25 Q okay. Did you ever speak with law enforcement about

Ramone Smith
Direct examination by Mr. Smith

- 1 what happened?
- 2 A Yes.
- 3 Q Do you remember when that was?
- 4 A Maybe three to four days after.
- 5 Q Did they contact you or did you contact them? What
6 happened?
- 7 A They were contacting friends of mine.
- 8 Q All right.
- 9 A And the friends was contacting me.
- 10 Q You eventually speak with law enforcement?
- 11 A Yes.
- 12 Q And what did you do after you spoke with them?
- 13 A What did I do?
- 14 Q Yeah. Did you go down to the sheriff's office?
- 15 A Yeah. I went. I went to the Spartanburg County
16 office, and he told me to bring my gun. And when I got
17 there I had the gun on my hip. He asked me. I asked him
18 do I need to bring it in on my hip or are you going to take
19 it. He was like no, just leave it in the car.
- 20 So as I raised my shirt, took it off, put it in the
21 truck, he asked me did I have a -- he asked me do I carry
22 my gun all of the time like that, which on my hip. And I
23 was like, yes, I have a C.W.P. And he was, like, really.
24 And I was like yes. And he was like do you got it with
25 you, and I was like yes. And he -- he wanted to see it to

Ramone Smith
Direct examination by Mr. Smith

- 1 make a copy of it.
- 2 Q And did you speak with him about what happened that
3 night?
- 4 A Yes.
- 5 Q Tell him the same thing?
- 6 A Yes.
- 7 Q About today?
- 8 A Yes.
- 9 Q You're saying today.
- 10 All right. Again this is going to be State's
11 Exhibit 57, channel seven, third clip we're referring to.
12 Do you remember what you were wearing that night?
- 13 A A white t-shirt, red shorts, white and red shoes.
- 14 Q Can you see the person that you were in the initial
15 altercation with in this?
- 16 A He is the one with the shirt off.
- 17 Q This? This guy?
- 18 A Yeah.
- 19 Q And is -- who is the person to the left of that
20 individual?
- 21 A Jody.
- 22 Q All right. Do you know the shirtless male?
- 23 A No.
- 24 Q At -- at this point -- did you see Jody with a weapon
25 up until you say you saw him shooting?

Ramone Smith
Direct examination by Mr. Smith

- 1 A No.
- 2 Q Okay. Do you see a weapon on this video?
- 3 MR. ALLEN: I'm going to object. He's testifying to
4 what's on the video.
- 5 THE COURT: Overruled.
- 6 A It's right there.
- 7 Q Talking about what's in his right hand?
- 8 A Yeah. It's in his right hand.
- 9 Q All right. But you did not see this.
- 10 A No.
- 11 Q Are any of these people your people or --
- 12 A No.
- 13 Q All right. So when you referred to the shirtless guy
14 who you don't know and going away, is this what you're
15 talking about, that they went around toward the right side
16 of the building?
- 17 A Yes.
- 18 Q Do you know who that is in the blue?
- 19 A It's Corey.
- 20 Q All right. What's happening in this? Obviously, we
21 don't have sound on the video. What -- what's happening
22 during this time?
- 23 A Just, like, everybody just trying to figure out what's
24 going on.
- 25 Q Like jawing back and forth, that type of stuff or --

Ramone Smith
Direct examination by Mr. Smith

- 1 A Well, not with me. I don't know what else is
2 happening. I'm standing by myself.
- 3 Q All right. Is this the time that you're referring to
4 where Ms. Rice tries to calm down?
- 5 A Yes.
- 6 Q And you told her to go back inside?
- 7 A Yes.
- 8 Q At this point have you seen any guns on anybody, at
9 this point?
- 10 A No.
- 11 Q All right. You're grabbing there. Is that you
12 grabbing for your gun?
- 13 A Yes.
- 14 Q So it's stored kind of on the left hip there?
- 15 A Yes.
- 16 Q All right. And what were you doing there?
- 17 A Now I'm getting ready to pull my shirt up to retrieve
18 my gun.
- 19 Q All right. And I know you're out of frame, but what
20 did you do at that point?
- 21 A Started shooting towards him.
- 22 Q Did you say you ducked down?
- 23 A Yeah -- I mean, yeah. Ducking down, taking cover and
24 shooting back.
- 25 Q Do you have any idea of how many shots you fired in

Ramone Smith
Direct examination by Mr. Smith

- 1 that area?
- 2 A At least ten.
- 3 Q The following questions will be about Channel Nine,
4 video two..
- 5 Is this camera oriented to the left of where -- the
6 previous one we were looking at?
- 7 A If you're facing the building, that's the right side
8 of the building.
- 9 Q Right. Like this is the gas station.
- 10 A Yeah. That's facing towards the gas station.
- 11 Q The previous video was more pointed towards --
- 12 A In front of -- in front of Playoffs.
- 13 Q Right. So you would be out of screen to the right.
- 14 A Yes.
- 15 Q Is that right? Is this -- whose vehicle is this?
- 16 A That's mine.
- 17 Q Do you know whose that is?
- 18 A Cassandra's.
- 19 Q Is that you?
- 20 A Yes.
- 21 Q Is this where you said you fired off additional shots?
- 22 A Yes.
- 23 Q who is that?
- 24 A Corey.
- 25 Q Did you figure out where he had been shot?

Ramone Smith
Cross-examination by Mr. Allen

- 1 A Yeah, once he got in the truck.
- 2 Q Where was he shot?
- 3 A In his foot.
- 4 Q Please answer any questions Mr. Allen has.
- 5 CROSS-EXAMINATION
- 6 BY MR. ALLEN
- 7 Q As I understand it, you didn't have any words or any
8 discussion with Mr. Thompson, Jody Thompson, correct?
- 9 A No. I didn't.
- 10 Q You did?
- 11 A No. I didn't.
- 12 Q You did not. And the person, now, you were talking
13 about at the doorway was the fellow we saw without the
14 shirt, correct?
- 15 A Correct.
- 16 Q In the video. He did not have a shirt on in the
17 video.
- 18 A Correct.
- 19 Q You had words with him, correct?
- 20 A Yes.
- 21 Q So he was doing something with -- what was he doing
22 with the door?
- 23 A He -- I mean, he was standing at the door holding it,
24 and he was drinking with the other hand, pouring it at my
25 feet.

Ramone Smith
Cross-examination by Mr. Allen

- 1 Q Pouring what?
- 2 A Corona.
- 3 Q Corona at your feet?
- 4 A Yes.
- 5 Q And you said you got a problem?
- 6 A I said nothing at that point in time.
- 7 Q Then next did you go into the club?
- 8 A Yes.
- 9 Q And then this fellow we see in the video that didn't
10 have a shirt -- do you know his name?
- 11 A No.
- 12 Q The fellow we see in the video who had no shirt,
13 inside the club did he do anything?
- 14 A Yeah.
- 15 Q He bumped into you?
- 16 A No.
- 17 Q He didn't bump you?
- 18 A No.
- 19 THE COURT: Sir, can you put your hand down so we can
20 hear?
- 21 Q And you -- at some point told him that -- wanted to
22 know if he had a problem with you, correct?
- 23 A Yes.
- 24 Q You told him that if he had a problem with you that
25 you could -- y'all could take it outside, correct?

Ramone Smith
Cross-examination by Mr. Allen

- 1 A Yes.
- 2 Q And that's when he took his shirt off, correct?
- 3 A I'm not sure when he took his shirt off.
- 4 Q He took his shirt off when he went outside after you
5 asked him if he wanted to go outside, correct?
- 6 A Correct. I don't know if he took his shirt off. I
7 don't know exactly when he took his shirt off.
- 8 Q Well, do you recall talking to the officers on the
9 26th of March? Do you recall talking to Mr. Gadd --
10 Investigator Gaddy?
- 11 A When I turned myself in, yes.
- 12 Q And gave him a statement, correct?
- 13 A Correct.
- 14 Q Did you give a written statement, or was it just a
15 recorded statement?
- 16 A Recorded.
- 17 Q Recorded?
- 18 A Yes.
- 19 Q You didn't sign a written statement?
- 20 A Did I sign a written statement?
- 21 Q Yes, sir.
- 22 A Who wrote it?
- 23 Q I'm asking you did you sign a written statement at any
24 point --
- 25 A Stating what?

Ramone Smith
Cross-examination by Mr. Allen

- 1 Q -- in this case?
- 2 A Stating what?
- 3 Q Did you sign a written statement of what you say
4 happened? Do you know what I mean by giving a statement?
- 5 A No. I didn't.
- 6 Q Do you recall telling Investigator Gaddy that after
7 you asked him if you've got a problem, you and he could go
8 outside to handle it, that's when he went outside and took
9 his shirt off? Do you recall that?
- 10 A I don't know when he took his shirt off, sir.
- 11 Q Are you saying you did not make that statement, or you
12 just don't remember today?
- 13 A I just don't remember --
- 14 Q You don't remember.
- 15 A -- exactly when he took his shirt off.
- 16 Q Okay. And then someone else came up, and after you
17 went outside with this fellow, and basically tried to break
18 it up saying nah, nah, nah.
- 19 A Correct.
- 20 Q And who was that?
- 21 A Jody, yes.
- 22 Q Mr. Thompson, the defendant. And did you next see
23 someone reach for a pistol on someone's waist?
- 24 A Yes.
- 25 Q Who reached for a pistol?

Ramone Smith
Cross-examination by Mr. Allen

- 1 A The other guy.
- 2 Q The guy without the shirt.
- 3 A Yes.
- 4 Q And he reached on whose waist?
- 5 A Jody's.
- 6 Q On Jody's waist. But you didn't see a pistol,
7 correct?
- 8 A I didn't see it, but I know he was reaching towards
9 his waist, yes.
- 10 Q Do you know that the fellow without the shirt was
11 reaching towards Jody's waist?
- 12 A Yes.
- 13 Q As if to draw out a pistol.
- 14 A Yes.
- 15 Q And as far as you know he didn't get it.
- 16 A Yeah. He didn't get it.
- 17 Q As I understand it, your testimony earlier, you did
18 not -- you're saying you didn't hear any shots until after
19 you bent down to help Cassandra Rice, correct?
- 20 A Correct.
- 21 Q Did you have a cell phone with you, sir?
- 22 A Yes.
- 23 Q You didn't call 9-1-1 after this happened?
- 24 A No. I didn't.
- 25 Q You didn't call for an ambulance --

Ramone Smith
Cross-examination by Mr. Allen

- 1 A I didn't -- I didn't.
- 2 Q -- for anyone who might have been injured, correct?
- 3 A Correct.
- 4 Q Instead you -- I think you tapped Cassandra's car to
5 tell her to go on, correct?
- 6 A Yes. To the hospital.
- 7 Q And then you walked over to the right side of that
8 building, correct?
- 9 A Correct.
- 10 Q You didn't see anything out there, correct?
- 11 A No.
- 12 Q You didn't see anybody moving, correct?
- 13 A Correct.
- 14 Q You didn't see anybody shooting, correct?
- 15 A Correct.
- 16 Q But you shot anyway.
- 17 A Yes.
- 18 Q Do you recall how many times you shot?
- 19 A Twice.
- 20 Q And you were shooting towards the woods?
- 21 A Yes.
- 22 Q And you -- and after you -- you say you took Corey
23 Glenn to the hospital?
- 24 A Yes.
- 25 Q Did you go into the hospital with him?

Ramone Smith
Cross-examination by Mr. Allen

- 1 A No.
- 2 Q He walked in on his own?
- 3 A Yes.
- 4 Q After he got out of your truck --
- 5 A Yes.
- 6 Q -- you left.
- 7 A Yes.
- 8 Q When he got into your truck was he -- did he have
- 9 anything in his hands?
- 10 A No.
- 11 Q That was Corey Glenn getting in?
- 12 A Yes.
- 13 Q Wearing a blue shirt?
- 14 A Yes.
- 15 Q Now, after you left you did not come back to the
- 16 scene, correct?
- 17 A Correct.
- 18 Q And you didn't come back until when, or did you ever
- 19 go back to that scene?
- 20 A No.
- 21 Q You didn't know Mr. Thompson.
- 22 A No, not -- I mean, I know his -- know his name. I
- 23 don't know -- I never hung with him or anything.
- 24 Q As far as you know he had no reason to know you?
- 25 A No.

Ramone Smith
Cross-examination by Mr. Allen

- 1 Q Or where you lived?
- 2 A No.
- 3 Q Or anything about your family?
- 4 A I mean, he shouldn't.
- 5 Q Right. And you didn't go back to talk to law
6 enforcement until when?
- 7 A I don't know exactly, remember, but it was like at
8 least three to four days maybe, three or four days after.
- 9 Q Three or four days?
- 10 A Yeah.
- 11 Q You didn't bother contacting them at all?
- 12 A No.
- 13 Q Waited for them to contact you?
- 14 A They never contacted me.
- 15 Q Three or four days later, then you went back?
- 16 A Back where?
- 17 Q Or excuse me. That you went to the law enforcement.
- 18 A Yes.
- 19 MR. ALLEN: One second please, Your Honor.
- 20 (Pause.)
- 21 Q When you were -- when we were watching the video,
22 there was a period of time in which you appeared to just be
23 standing out there all by yourself. Do you remember that?
- 24 A Yeah. I guess. I don't know.
- 25 Q What was going on then?

Ramone Smith
Cross-examination by Mr. Allen

- 1 A where? where at -- show me in the video where.
2 (Pause.)
3 Q When you were out there by yourself. See if I can get
4 to it.
5 (Pause.)
6 Q So then -- so who is the person approaching you right
7 now on this video approximately a minute and 48 seconds
8 into it, into the video?
9 A I'm not sure.
10 Q Did he speak to you?
11 A Looks like it.
12 THE COURT: would you put your hand down, please, so
13 we can hear?
14 A It looks like it.
15 Q Do you recall what he said to you?
16 A I don't.
17 Q But he did talk to you, or do you know?
18 A I'm not a hundred percent sure.
19 Q Now, advance it a little bit more.
20 were you speaking to anyone at this point where you're
21 standing out here?
22 A No.
23 Q why were you standing there?
24 A Just watching everybody else that's on the left side,
25 well, the right side of that building.

Ramone Smith
Cross-examination by Mr. Allen

- 1 Q Were you waiting for a fight?
- 2 A No. They're actually kind of close to my truck.
- 3 Q Did you say get away from my truck?
- 4 A No. I didn't say a word.
- 5 Q Cassandra. Did she tell you to -- to go on?
- 6 A Yes.
- 7 Q And you told her to get on out of there?
- 8 A Yes.
- 9 Q Why did you say that?
- 10 A Because I knew Jody had a gun on his waist when the
- 11 other guy reached for it. well, I had assumed.
- 12 Q Okay. So were you afraid to get in your truck?
- 13 A Yeah, with people standing right by it, yeah.
- 14 Q I'm sorry?
- 15 A Yes. I was afraid to go towards the truck.
- 16 Q No one said anything bad to you, did they?
- 17 A No.
- 18 Q You were not employed there, were you, at the club?
- 19 A No, sir.
- 20 Q I mean, you were not employed as security or anything
- 21 like that.
- 22 A No, sir.
- 23 MR. ALLEN: Thank you, Your Honor.
- 24 THE COURT: Do you have any redirect?
- 25 MR. SMITH: Yes, Your Honor.

Ramone Smith
Redirect examination by Mr. Smith

1 REDIRECT EXAMINATION

2 BY MR. SMITH

3 Q Mr. Smith, I'm going to show you a document and ask if
4 you can tell me what this is or if you can recognize
5 anything on it.

6 A My signature.

7 Q Okay.

8 A It's --

9 Q What does it say it is?

10 A Pre-interrogation waiver form.

11 Q All right. Do you remember, did the police officers
12 when you went to the sheriff's office, did they go over
13 your rights with you?

14 A Yes.

15 Q And is that a form that you filled out in conjunction
16 with them about what your rights were?

17 A Yes.

18 Q And then you agreed to speak with them and signed as
19 such?

20 A Yes.

21 Q Is there a date on that?

22 A Yes. It's 6/26/2018.

23 Q Is there a time on that?

24 A It was at 1254 hours. Is that military?

25 Q It is.

Ramone Smith
Redirect examination by Mr. Smith

- 1 A Yeah.
- 2 Q Do you -- do you believe that that is potentially the
3 date and time that you spoke with law enforcement?
- 4 A Yes.
- 5 Q All right. And that looks like your signature on it?
- 6 A Yes.
- 7 Q So it was not three or four days before you contacted
8 law enforcement.
- 9 A What?
- 10 Q Or before you spoke with law enforcement.
- 11 A I don't exactly know which date. I mean, I don't know
12 the exact date of the incident, so, I mean, just --
- 13 Q Do you see the -- what -- the upper right-hand corner
14 State's Exhibit --
- 15 A Says 6/26.
- 16 Q All right.
- 17 A And what's the -- what's the date on that? The 26th.
- 18 Q Okay.
- 19 A Okay.
- 20 Q Okay. And the time would be in non-military time,
21 12:54 p.m.
- 22 A Yes, sir.
- 23 Q So if this clock is correct, nine hours afterwards?
- 24 A Okay. I didn't -- yeah.
- 25 Q It's two and a half years ago.

Ramone Smith
Recross-examination by Mr. Allen

- 1 A Yes.
- 2 Q But you believe that's correct.
- 3 A Correct.
- 4 MR. SMITH: I don't have any further questions.
- 5 THE COURT: Okay. You may step down.
- 6 MR. ALLEN: Your Honor, I've got just a couple of
7 followup.
- 8 THE COURT: Okay.
- 9 MR. ALLEN: Just limited to this.
- 10 THE COURT: We're going to take just like two
11 questions, and we're going to take a break. I promise you
12 that. I wanted to do that 30 minutes ago.
- 13 Do you have some questions?
- 14 MR. ALLEN: Yes, Your Honor.
- 15 RE CROSS-EXAMINATION
- 16 BY MR. ALLEN
- 17 Q You didn't talk to law enforcement for two years?
- 18 A Come again?
- 19 Q You said you think that this date is accurate,
20 6/26/18?
- 21 A Yes.
- 22 Q Okay. But this incident occurred on 6/26/2016, right?
- 23 A Oh, yes, yes.
- 24 Q So you talked -- you waited two years to talk to law
25 enforcement?

Ramone Smith
Recross-examination by Mr. Allen

1 A No.

2 Q So this date is not correct.

3 A Oh.

4 Q Is it? It does say -- it does look like it says 18,
5 correct?

6 A It's kind of scratched up. It looks like it's been
7 changed. There is a six. You can see a six, and then it
8 looks like somebody took --

9 Q Okay. And when you say that they advised you of your
10 rights, you're talking about the right to remain silent,
11 correct?

12 A Yes.

13 Q Anything you say can be used against you in court.
14 The right to talk to an attorney.

15 A Yes.

16 Q okay.

17 MR. ALLEN: Nothing further, Your Honor. Thank you.

18 THE COURT: You may step down.

19 We are going to take a break.

20 So please go to your jury room. Don't talk about the
21 case. I'll bring you back shortly.

22 (The following takes place outside the presence of the
23 jury.)

24 THE COURT: We'll be at ease for 15 minutes.

25 (Whereupon, a recess was taken.)

Renata Irby
Direct examination by Mr. Smith

1 THE COURT: Let me see y'all just a minute, please.

2 (Bench conference held off the record.)

3 THE COURT: Bring the jury in.

4 (The following takes place in the presence of the
5 jury.)

6 THE COURT: All right. Mr. Smith.

7 MR. SMITH: The state calls Renata Irby.

8 RENATA IRBY, having been first
9 duly sworn, testified as follows:

10 DIRECT EXAMINATION BY MR. SMITH

11 Q Will you please state your name for the jury?

12 A Renata Irby.

13 Q Where do you live, Ms. Irby?

14 A In Duncan.

15 Q Have you been a Spartanburg County resident --

16 A All of my life, yes.

17 Q Do you know the defendant?

18 A I don't know him personally, but I had met him maybe
19 two weeks prior to this incident.

20 Q Club Playoffs, I guess?

21 A Yes.

22 Q What about Ramone Smith or Corey Glenn or Cassandra
23 Rice? Do you know them?

24 A No. I did not know them until prior to this incident.

25 Q Did you go to Club Playoffs on June the 26th or June

Renata Irby
Direct examination by Mr. Smith

- 1 25th, late evening and early morning June 26th of 2016?
- 2 A Yes. I did.
- 3 Q Who did you go with?
- 4 A I was by myself.
- 5 Q What car did you use?
- 6 A I was in the Kia Forte, the one that had the bullet
7 hole in it on the passenger side.
- 8 Q The one we looked at before?
- 9 A Yes.
- 10 Q State's Exhibit 84. That's your vehicle?
- 11 A Yes.
- 12 Q Does that vehicle have keyless entry or are you able
13 to access it through the --
- 14 A It has a keyless entry where I could just mash the
15 button, unlock, lock.
- 16 Q When you do that does it make lights appear on your
17 vehicle or anything like that?
- 18 A No. I have to mash them myself.
- 19 Q When you mash the button does -- do the lights -- does
20 it blink?
- 21 A Yes.
- 22 Q Did you have a weapon with you that night?
- 23 A I did.
- 24 Q Did you bring it into Playoffs?
- 25 A No, sir.

Renata Irby
Direct examination by Mr. Smith

- 1 Q Where did you have the weapon?
- 2 A It was in my car in my glove compartment.
- 3 Q All right. Do you remember when you got to the club?
- 4 A I got there around maybe 11:30.
- 5 Q Were you drinking alcohol?
- 6 A I was.
- 7 Q Do you know how much you had to drink before this
- 8 happened?
- 9 A I was pretty intoxicated, so I had a few drinks.
- 10 Q But were you still essentially in control of your --
- 11 not --
- 12 A I was aware of my surroundings.
- 13 Q Did you end up -- or where was your car parked?
- 14 A I was parked directly in front of, beside a gas
- 15 station, directly in front of the store, well, the club in
- 16 front of the door.
- 17 Q Is that -- are you next to the gas pump?
- 18 A Yes.
- 19 MR. SMITH: This is State's Exhibit 87 I'm referring
- 20 to.
- 21 Q Is that -- do people commonly park there?
- 22 A Most people do park by the gas pumps because there's
- 23 no parking spots.
- 24 Q Is this a place that you hang out frequently?
- 25 A We did.

Renata Irby
Direct examination by Mr. Smith

1 Q Did -- what prompted you to go outside?

2 A I was with a group of girls that night, and it was a
3 local place where we used to just hang out, and we didn't
4 want to go nowhere too far. So that's where I decided to
5 go to. And they -- they met me there. I went by myself,
6 but my friend girls, they came after me, but they left
7 before me because they didn't like the environment.

8 Q Okay. What do you mean by that?

9 A There was just a lot going on, and they didn't like
10 the type of environment that was going on that night.

11 Q Did you end up going back out to your vehicle at some
12 point?

13 A I did a couple of times because my phone kept going
14 dead. So I would take my phone to my car and charge it,
15 and then I would come back in.

16 Q All right. Did you do that before this incident
17 happened?

18 A No, sir. I was in the club.

19 Q Okay. What -- all right. What happened as far as did
20 you see any altercations or anything happening inside the
21 club.

22 A That night, as I can recall, I was at the pool table
23 on the inside, and I just remember a group of guys in white
24 t-shirts walking out the door, and the club owner -- I seen
25 him go out behind them.

Renata Irby
Direct examination by Mr. Smith

1 So I went to the window. I remember going to the
2 window. And one of my friend guys, he was like get away
3 from the window. So I did. And I just stood there maybe
4 for about ten minutes and waited to see if whatever was
5 going on would stop.

6 So then I told him. I was, like, y'all, I'm going to
7 leave, I've got to go home, I've got to go in work in the
8 morning.

9 So I proceeded outside, I went straight directly to my
10 car. As I got in my car I just felt like something wasn't
11 right. You know, I -- I seen them in my left, on my left,
12 you know, guys, you know, in the white t-shirts. But I
13 didn't think nothing of it.

14 Q Left if you're --

15 A If I'm coming outta the club, they was to my left.

16 Q Okay. Which would be towards which side of the
17 building, the convenience-store side?

18 A The convenience-store side.

19 Q All right.

20 A So as I'm going to my car I get directly in my car.
21 So I -- I reach for my gun, and I pulled my gun outta my
22 glove department [sic], and set it below me in my driver's
23 side.

24 Before I could even drop it and put it down gunshots
25 started going off.

Renata Irby
Direct examination by Mr. Smith

1 I opened up my passenger side -- my driver's-side
2 door. I leaned out, because I didn't know where the
3 bullets was coming from.

4 As I rose back up I felt the burning sensation in my
5 leg and noticed that I had been shot. So that's when I
6 started making my lights blink in my car for somebody to
7 get --

8 Q Did you have your hazard lights on?

9 A Yeah. If I can get somebody's attention to let them
10 know that I was shot.

11 Q And in which leg were you shot?

12 A My right.

13 Q So you're seated in the car. And you started to, I
14 guess, take cover? Is that what you're --

15 A I did. I took cover after I found, I mean, you know,
16 that I was shot the first time. And then after I found out
17 I was shot the first time, they started shooting again. So
18 that's when I leaned my seat all the way back just in case,
19 but that was about it.

20 Q What happened from that point? Did you ever do
21 anything with your weapon as far as aiming it at anybody?

22 A No, sir, no, sir.

23 Q Did you even have it in your hands at that point?

24 A No, sir.

25 Q All right. What happened then?

Renata Irby
Direct examination by Mr. Smith

1 A Like I said, I was in my car, and I was trying to get
2 somebody's attention to come and help me, because, I mean,
3 right now I suffer from a lot of anxiety. And on top of
4 that night, it just made it worse.

5 So I remember somebody coming up towards me and
6 pulling me outta my car, but I don't know who it was. I
7 just remember somebody being on top of me putting a whole
8 bunch of pressure on me, because they said the bullet was
9 really big. I guess the -- the wound was big in my leg. I
10 never seen it when I first got shot until I got to the
11 hospital.

12 Q And how did you end up getting to the hospital?

13 A Somebody called ambulance.

14 Q And you got in it?

15 A Uh-huh.

16 Q Did you ever lose consciousness or anything?

17 A I did.

18 Q When was that?

19 A I think I was on the ground.

20 Q All right. Were you bleeding?

21 A I was.

22 Q You ended up at the hospital.

23 A I did.

24 Q Do you remember speaking to law enforcement there?

25 A Yes, sir.

Renata Irby
Direct examination by Mr. Smith

1 Q Did you tell them everything that you knew about what
2 happened?

3 A Yes, sir.

4 Q Do you know who started the shooting?

5 A I don't, because I was in my car, and my main focus
6 was to get in my car and go straight home. That was what I
7 was going to do. There was -- I was just trying to get
8 outta there just to go home. Didn't see nobody because I
9 had tint on my windows at the time. So my tint was pretty
10 dark. So I couldn't really see out my right side or my
11 left side because my tint was kinda dark in that car. And
12 it was -- it was nighttime. So it was like 2:00 o'clock in
13 the morning but --

14 Q You told them basically that.

15 A Yes.

16 Q That you just heard gunshots and that you were hit.

17 A Yes.

18 Q All right. Did you allow law enforcement access to
19 look at your weapon?

20 A Yes. I did.

21 Q You made arrangements for them to look inside your
22 vehicle?

23 A I did.

24 Q And you spoke with them freely at the hospital.

25 A I did.

Renata Irby
Direct examination by Mr. Smith

1 Q I'd like to go over your portion of the video, the
2 portion of the video that I believe contains you.

3 MR. SMITH: This is State's Exhibit 57, Channel Seven,
4 video three.

5 Q Can you tell from here if your vehicle is in this
6 picture or in the video?

7 A It is on the --

8 THE COURT: You can step down if you need to.

9 (Whereupon, the witness left the stand.)

10 Q Use this pointer.

11 A My car is right here, over here.

12 THE COURT: You'll need to speak up loudly because
13 you're away from the microphone. And everybody in the
14 courtroom has to hear it.

15 A My car should be somewhere up in this area, right in
16 here.

17 Q Okay.

18 A I'm thinking that may be it.

19 Q I'll play the video and see if you can.

20 A Okay.

21 Q Do you know any of the people that you see in this
22 shot right here?

23 A I do not. The only person I know is --

24 Q As an acquaintance.

25 A Yes. That's my car right there.

Renata Irby
Direct examination by Mr. Smith

- 1 Q The thing that just flashed in the upper right-hand
2 corner, that's your car that's still got a little bit of
3 the lights illuminated?
- 4 A Yes.
- 5 Q Is that you walking to it?
- 6 A That's me walking to my car right there.
- 7 Q All right.
- 8 A So it -- I wasn't in there maybe ten or fifteen
9 seconds at the most.
- 10 Q You can watch it. And at this point do you believe
11 you sat -- your seat was in the driver's seat of your car?
- 12 A I was sitting in my seat.
- 13 Q I'm going to fast forward to where this gets going.
14 (Pause.)
- 15 Q All right. Do you see that light? Do you know what
16 that is?
- 17 A That's my car.
- 18 Q All right. Is that the right blinker?
- 19 A That's my right blinker, yeah, on my passenger side.
- 20 Q So at that point you believe you'd been hit?
- 21 A I had been hit right there in that video.
- 22 Q Three minutes and 33 seconds into the video you're
23 hit.
- 24 A Uh-huh.
- 25 Q All right. You can go back.

Renata Irby
Direct examination by Mr. Smith

1 (Whereupon, the witness returned to the stand.)

2 Q what did you have to undergo as far as the treatment
3 of your wound?

4 A When I got to the hospital they just sent me to the
5 E.R. They told me that I couldn't -- it was not going to
6 be able to be removed.

7 So I seek a specialist to see if I can get the bullet
8 removed. My bullet wasn't removed until August the 8th of
9 2016. So I suffered for two months with a bullet inside of
10 me.

11 Q Did you contact law enforcement when you knew that
12 the --

13 A I did.

14 Q -- bullet could be removed?

15 A I let him know when my surgery was. And when I came
16 out of recovery they had already come and got the bullet.

17 Q Did you have to be under anesthesia for the bullet to
18 be removed?

19 A Yes. They put me to sleep.

20 Q State's Exhibits 145 and 146 and 144. Is this --
21 that's your gun, the pink .22?

22 A Yes.

23 Q With the eight -- eight rounds in there.

24 A Yes, sir.

25 Q I'm going to show you State's Exhibits 159 and 160 and

Renata Irby
Cross-examination by Mr. Allen

1 ask if you can identify what those are.

2 A That's me laying in the emergency room.

3 Q All right. What about the second one?

4 A That is the one where I got shot at. And that's where
5 they had patched it up.

6 MR. SMITH: Your Honor, at this time we'd move State's
7 159 and 160 into evidence.

8 MR. ALLEN: No objection.

9 THE COURT: They're admitted.

10 (Photographs marked State's Exhibits Nos. 159 and 160.)

11 Q Please answer any questions Mr. Allen may have.

12 A Yes, sir.

13 CROSS-EXAMINATION

14 BY MR. ALLEN

15 Q The bullet was removed from your leg August 8th, or
16 did you say 28th?

17 A August 8th.

18 Q August the 8th.

19 A Yes.

20 Q of 2016.

21 A 2016, yes.

22 Q Okay. Now, you said the group of guys left the club
23 while you were at the pool table, I believe you said.

24 A Yes, sir.

25 Q And, now, they just left. They didn't -- I mean, they

Renata Irby
Cross-examination by Mr. Allen

- 1 didn't rush out or anything like that.
- 2 A It was just like I said. It was a whole bunch of guys
3 in white t-shirts going outside the door, and I knew it had
4 to be some type of altercation because the club owner had
5 went behind them.
- 6 Q Okay. But you didn't hear anything inside the club.
- 7 A I did not.
- 8 Q You didn't see anything inside the club.
- 9 A I did not.
- 10 Q And you looked out the window.
- 11 A I proceeded to look out the window, but I was
12 instructed not to go by the window, because, obviously, one
13 of my friend guys, he knew what was going on.
- 14 Q well.
- 15 A I didn't.
- 16 Q And who is the friend guy that talked to you?
- 17 A His name is Telo -- his name is Telo.
- 18 Q Telo?
- 19 A Uh-huh.
- 20 Q what's his last name?
- 21 A Ballenger.
- 22 Q Ballenger.
- 23 Now, and you decided that you an un -- or you had an
24 uneasy feeling, so you -- is that correct?
- 25 A Yes, sir.

Renata Irby
Cross-examination by Mr. Allen

- 1 Q And you left the club, correct?
- 2 A I didn't leave the club. I left the club in an
3 ambulance.
- 4 Q You left the building.
- 5 A I left the building.
- 6 Q Of the club.
- 7 A Yes, sir.
- 8 Q Okay. You went to your car.
- 9 A Yes, sir.
- 10 Q Now, you walked directly to your car?
- 11 A I went directly to my car.
- 12 Q You weren't going to hang around.
- 13 A No, sir.
- 14 Q Now, when your -- what type of car do you have?
- 15 A It was a 2016 Kia Forte at the time.
- 16 Q 2016 Kia Forte.
- 17 A Yes, sir.
- 18 Q What color was it?
- 19 A It was like a brownish looking color.
- 20 Q Brownish type color.
- 21 A Yeah.
- 22 Q Now, in the video we saw the lights flash initially,
23 correct?
- 24 A Yes, sir.
- 25 Q And is that when you unlocked the car?

Renata Irby
Cross-examination by Mr. Allen

- 1 A No, that's not when I unlocked the car. That's when I
2 was trying to -- it may be -- I don't know. I'm not for
3 sure. That may have been when I unlocked my doors. But
4 when the peoples was -- they was running in the video what
5 I'm looking at, is when I had started blinking the lights
6 and my flashers on the inside of my car to try to get help.
- 7 Q Now, were you at the driver's door when you unlocked
8 the car door?
- 9 A Yes, sir.
- 10 Q And how did you unlock the car door?
- 11 A With my key.
- 12 Q With the fob, or did you insert a key?
- 13 A No. I have a key that you unlock and lock. It was
14 one a -- one of the little remotes.
- 15 Q A remote?
- 16 A Yeah.
- 17 Q Like a key fob?
- 18 A Yes, sir.
- 19 Q Okay. And you were -- so you hit the button to unlock
20 the door.
- 21 A Yes, sir.
- 22 Q And that would cause car lights to flash either once
23 or twice or something like that, correct?
- 24 A Right.
- 25 Q Okay. But you were at the car door when you unlocked

Renata Irby
Cross-examination by Mr. Allen

- 1 it with the fob.
- 2 A Yes, sir.
- 3 Q And you immediately got into the car.
- 4 A Yes, sir.
- 5 Q And, now, was this car -- do you start it with a --
- 6 put a key in the ignition and start it, or could you just
- 7 start it with a push button?
- 8 A I have to put my key in the ignition.
- 9 Q Okay. So you had your key in your hand when you
- 10 unlocked the car door with the fob.
- 11 A Yes, sir.
- 12 Q When you got into your car and you -- and you wanted
- 13 to leave, correct?
- 14 A Correct.
- 15 Q Before anything happened.
- 16 A Right.
- 17 Q And you inserted your key into the ignition?
- 18 A I didn't even have time to insert my key. My keys
- 19 were in my hand. My keys were still in my hand when
- 20 somebody took me outta my car.
- 21 Q Okay. The first thing you did when you got in the car
- 22 was take your gun out of the glove compartment.
- 23 A The first thing I did when I got in my car, I plugged
- 24 up my phone and I sent my --
- 25 Q You plugged up your phone?

Renata Irby
Cross-examination by Mr. Allen

- 1 A I plugged up my phone because my phone was completely
2 dead.
- 3 Q Okay.
- 4 A So I wanted to charge my phone up. So my phone was
5 setting at the bottom of my floor in my driver's side.
6 Then --
- 7 Q When you say you plugged in -- let me just stop you
8 right there. When you say you plugged in your phone, is
9 there -- does your phone charger work when your car is off
10 or does your car have to be on in order for it to work?
- 11 A That particular car worked with my car not being on.
- 12 Q Oh, okay. So you plugged in your phone.
- 13 A Yes.
- 14 Q And then I interrupted you. Did you want to complete
15 the answer about after you plugged your --
- 16 A After I plugged up my phone, that's when I proceeded
17 to take my gun outta my glove department. And I sat it
18 below me. As I started to set it below me, that's when
19 gunshots started firing off.
- 20 Q Okay. Now, all of this -- I mean, of course your car
21 was dark inside when you were plugging your phone in.
- 22 A Yes, sir.
- 23 Q And when you were getting the gun out of the glove
24 compartment?
- 25 A Yes, sir.

Renata Irby
Cross-examination by Mr. Allen

- 1 Q Of course to get the gun out of the glove compartment
2 you had to reach over to the right, is that correct?
- 3 A Correct.
- 4 Q Because you had it in the -- that compartment in front
5 of the passenger seat, not the console, correct?
- 6 A Correct.
- 7 Q And was your gun just there loose or was it in a
8 holster?
- 9 A It was there loose.
- 10 Q And then you place it at your feet.
- 11 A Yes.
- 12 Q And all during this time when you were plugging up
13 your charger, leaning over to get your gun out of the glove
14 compartment and put it at your feet in the dark, you had
15 your car keys in your hand and you did not start your car
16 to leave.
- 17 A I did not because I wanted to get out and get my
18 pocketbook out of my trunk.
- 19 Q okay.
- 20 A But that didn't happen.
- 21 Q Did you know who helped get you out of the car
22 afterwards?
- 23 A I do not.
- 24 Q Did you see that person or do you remember that
25 person?

Renata Irby
Cross-examination by Mr. Allen

1 A I was unconscious at the time.

2 Q Ma'am, in September 26th of 2011 were you convicted of
3 forgery?

4 A Possibly.

5 Q Possibly?

6 A I mean, I do have a record. I can admit that.

7 Q For forgery, correct?

8 A I have no idea what it was. I mean, that was eight
9 years ago, so I can't recall what it was because I've had
10 numerous charges since 2011.

11 Q In 2017 were you convicted in the court of general
12 sessions for breach of trust with fraudulent intent?

13 A Yes. I was.

14 Q You were.

15 MR. ALLEN: Thank you, Your Honor.

16 MR. SMITH: I just wanted to check something real
17 quick, Your Honor. I might not have any questions.

18 (Pause.)

19 MR. SMITH: I don't have any further questions, Your
20 Honor.

21 THE COURT: Okay. You may step down.

22 We're going to break for the evening.

23 Remember my caution previously given. No discussions,
24 no research, no investigation, no media exposure.

25 Have a good evening. Please report to your jury room

1 in the morning at 9:30, 9:30 in the morning.

2 (The following takes place outside the presence of the
3 jury.)

4 THE COURT: All right. Court is in recess until
5 9:30 in the morning.

6 END OF PROCEEDINGS FEBRUARY 12, 2019

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Cassandra Smith
Direct examination by Mr. Smith

1 (Proceedings February 13, 2019)

2 (The following takes place outside the presence of the
3 jury.)

4 THE COURT: Are we ready for the jury?

5 MR. SMITH: One second, Your Honor. Based off what we
6 talked about, we need to talk to a witness.

7 (Pause.)

8 MR. SMITH: We're ready, Your Honor.

9 MR. ALLEN: Yes, sir. We're ready.

10 THE COURT: All right. Bring them in.

11 (The following takes place in the presence of the
12 jury.)

13 THE COURT: Good morning ladies and gentlemen.

14 We've been dealing with some technology issues, and so
15 I hope those have all been resolved. That's why we've been
16 delayed in bringing you back in. But we are now ready to
17 continue with the state's presentation of evidence.

18 Mr. Smith.

19 MR. SMITH: Thank you, Your Honor. The state calls
20 Cassandra Rice -- Cassandra Smith. Excuse me.

21 CASSANDRA SMITH, having been
22 first duly sworn, testified as follows:

23 DIRECT EXAMINATION BY MR. SMITH

24 Q Will you please state your name?

25 A Cassandra Smith.

Cassandra Smith
Direct examination by Mr. Smith

- 1 Q What do you do for employment?
- 2 A I'm a nurse.
- 3 Q Where?
- 4 A Greer Memorial Hospital.
- 5 Q How long have you been doing that?
- 6 A Thirteen years.
- 7 Q Have you been at Greer the entire time?
- 8 A For the past three years.
- 9 THE COURT: Get a little closer to that black
10 microphone.
- 11 THE WITNESS: Yes, sir.
- 12 Q Were you working in Greer on June 26th, or excuse me,
13 July 20th of 2016?
- 14 A Yes, sir.
- 15 Q Did you assist a surgeon with a procedure that day?
- 16 A Yes, sir.
- 17 Q What? What was being done that day?
- 18 A A bullet retrieval.
- 19 Q And who was the bullet being removed from?
- 20 A The patient was Renata Irby.
- 21 Q And what are you referring to when you just looked
22 down there?
- 23 A This is a chain of custody that we have to use per
24 policy when we retrieve a bullet.
- 25 Q So it's a form generated by the hospital, or standard

Cassandra Smith
Direct examination by Mr. Smith

- 1 form?
- 2 A Yes, sir.
- 3 Q All right. And were you present when the procedure
4 was done on Ms. Irby?
- 5 A Yes, sir. I was.
- 6 Q And what happened after the bullet was removed?
- 7 A After the bullet was removed the surgeon passed it off
8 to me in a container. I secured the container, labeled it
9 and kept it in my possession until I met the officer that
10 picked it up.
- 11 Q And do you know what time? Is that notated on your --
- 12 A 7:36 is when I retrieved it, and I passed it off to
13 the officer at 9:22.
- 14 Q Okay. I'm going to show you what's been marked as
15 State's Exhibit 1, and you can open it and look at it, and
16 ask if you can identify what that is.
- 17 A Yes. This is the patient's label that I put on there.
- 18 Q How do you know it's yours?
- 19 A It has my handwriting on it, and we have to label it
20 with the patient's name and identification.
- 21 Q All right. And are you able to read which officer you
22 handed it off to?
- 23 A It looks like Robert -- I can't read the last name.
- 24 Q The ending part begin with anything?
- 25 A Tabanges [sic]. I don't know. I can't read the

Cassandra Smith
Cross-examination by Mr. Allen

1 handwriting. T-A-B-N-G-E-S maybe.

2 Q You never met him before?

3 A No, sir.

4 Q I don't have any further questions.

5 CROSS-EXAMINATION

6 BY MR. ALLEN

7 Q Let me see the exhibit. You said this procedure was
8 on July 20th of 2016?

9 A Yes, 7/20/16.

10 MR. ALLEN: One second.

11 (Pause.)

12 MR. ALLEN: Nothing further, Your Honor.

13 THE COURT: You may step down.

14 MR. SMITH: Your Honor, may she be excused?

15 THE COURT: She may be.

16 (Whereupon, the witness was excused.)

17 MR. SMITH: Next the state would call Investigator
18 Robert Talanges.

19 ROBERT CHARLES TALANGES,
20 having been first duly sworn, testified as follows:

21 DIRECT EXAMINATION BY MR. SMITH

22 Q will you please state your name for the jury?

23 A Robert Charles Talanges.

24 Q what do you do for employment?

25 A I work at the Spartanburg County Sheriff's Office as a

Robert Charles Talanges
Direct examination by Mr. Smith

1 forensic crime scene processor.

2 Q How long have you been doing that?

3 A With the city and -- I did it at Spartanburg City as
4 well as Spartanburg County going on approximately 20 years
5 now.

6 Q On July 20th of 2016 were you asked to retrieve
7 evidence for a case from the Greer Memorial Hospital?

8 A Yes. I was.

9 Q What did you do after getting that information?

10 A I responded to -- it's -- it's 830 South Buncombe Road
11 to recover evidence.

12 At that time when I arrived there I met with Nurse
13 Cassandra Smith and recovered a plastic container in a
14 plastic bag containing a projectile at 922 hours.

15 Q Okay. And did you sign a chain-of-custody form from
16 the hospital as well indicating that?

17 A Yes. I did.

18 Q All right. Will you look at State's Exhibit 1 and
19 identify what that is?

20 A A biohazard bag containing a plastic container with a
21 projectile in it.

22 Q Is that what you recovered from the nurse?

23 A Yes. It is.

24 MR. SMITH: Your Honor, at this time we would move
25 State's Exhibit 1 into evidence.

Robert Charles Talanges
Direct examination by Mr. Smith

- 1 MR. ALLEN: No objection.
- 2 THE COURT: It's admitted.
- 3 (Projectile from Renata Irby's leg marked State's
- 4 Exhibit No. 1.)
- 5 Q What evidence number did you give it for the sheriff's
- 6 office purposes?
- 7 A There's no number on the envelope. If I had the
- 8 property sheet, I could explain to you what it was.
- 9 (Pause.)
- 10 Q Hand you document and ask if you can identify what
- 11 that is.
- 12 A This is the property sheet that all evidence is turned
- 13 in under at the Spartanburg County Sheriff's Office. It's
- 14 stating the case number, date and time, location where the
- 15 item is collected from, and from whom.
- 16 It is -- I labeled it evidence Item No. 1. And it's
- 17 one fired projectile from Ms. Irby.
- 18 Q And who does it say that you received it from?
- 19 A Cassandra Smith.
- 20 Q All right.
- 21 MR. SMITH: I don't have any further questions.
- 22 MR. ALLEN: No questions.
- 23 THE COURT: You may step down.
- 24 MR. SMITH: Your Honor, may he be excused?
- 25 THE COURT: He may be.

Murray Brandon Letterman
Direct examination by Mr. Smith

1 (whereupon, the witness was excused.)

2 MR. SMITH: Next, Your Honor, we call Investigator
3 Brandon Letterman.

4 MURRAY BRANDON LETTERMAN,
5 having been first duly sworn, testified as follows:

6 DIRECT EXAMINATION BY MR. SMITH

7 Q Will you please state your name for the jury?

8 A It's Murray Brandon Letterman.

9 Q What do you do?

10 A I'm currently assigned as a sergeant at the
11 Spartanburg County Sheriff's Office Criminal Investigation
12 Division.

13 Q How long have you been with the sheriff's office?

14 A Here at the Spartanburg County Sheriff's Office right
15 at 14 years.

16 Q What capacity were you in in the sheriff's office on
17 June 26th of 2016?

18 A June 26th of 2016 I was a sergeant over the violent
19 crimes division. So I supervised the investigation into
20 this incident.

21 Q So does that mean you somewhat direct people what to
22 do as far as what evidence to collect, who to talk to?

23 A Correct. I'm mainly there in a support capacity but
24 also to make sure things are done that need to be done
25 while on the scene.

Murray Brandon Letterman
Direct examination by Mr. Smith

1 Q What was your involvement in this case? What did you
2 do the night of?

3 A The night of I received a call in reference to the
4 shooting that occurred and responded out there and called
5 for a few other investigators to respond to the scene.

6 While I was out there I pretty much just supervised,
7 stayed on the scene to make sure the correct individuals
8 were interviewed, witnesses, evidence was collected by our
9 evidence tech, things along those lines.

10 Also, while I was out there I recovered some video
11 from some video surveillance cameras that were placed
12 outside the business.

13 Q Okay. Did you walk around the building and look for
14 that potential evidence?

15 A Correct, yes.

16 Q I'm going to show you.

17 A Okay.

18 Q This is already in evidence. This is State's
19 Exhibit 101. I'm going to show you what's been marked as
20 State's Exhibit 37 and ask if you can identify what that
21 is.

22 A Yeah. This is a picture looking straight on at the
23 building. If you're looking straight on to the left is
24 where the club is at. To the right is a convenience store
25 that's attached to that building.

Murray Brandon Letterman
Direct examination by Mr. Smith

1 What's of note in this photo is right above this
2 propane exchange thing right there, that sign, correct,
3 where you're showing are two video surveillance cameras
4 that are mounted on the outside of the building.

5 Q And did you ultimately pull video from those two
6 cameras?

7 A Yes. I did.

8 MR. SMITH: Your Honor, at this time we move State's
9 Exhibit 37 into evidence with permission to publish.

10 MR. ALLEN: 37?

11 MR. SMITH: Yes.

12 MR. ALLEN: No objection.

13 THE COURT: It's admitted. You may publish it.

14 (Exhibit previously entered into evidence.)

15 Q And did you -- what county is this location in?

16 A It's in Spartanburg County.

17 Q Did you end up returning to the scene at any point?

18 A Yes. After we initially got the first video we
19 realized that there was still some video that we didn't
20 download. So we went back to the scene to secure that
21 video later on that morning.

22 Q Did you notice anything else when you returned to the
23 crime scene?

24 A Correct. Yes. When we returned to the crime scene we
25 noted in the parking lot was another spent shell with a

Murray Brandon Letterman
Direct examination by Mr. Smith

- 1 spent bullet laying in the parking lot.
- 2 Q All right. And did you collect that item?
- 3 A I did.
- 4 Q Where did you collect it from?
- 5 A It was -- from the front parking lot right there where
6 a Dodge Charger is seen on video, where it had been parked,
7 right there in the parking lot.
- 8 Q It was no longer there?
- 9 A Correct. The vehicle was no longer there, correct.
- 10 Q I'm going to show you State's Exhibit 56. I've got to
11 show it to the defendants.
- 12 (Pause.)
- 13 Q State's Exhibit 56 and ask if you can identify what
14 that is.
- 15 A This is an evidence envelope that's filled out in my
16 handwriting indicating that there's a copper jacket bullet
17 inside that was recovered on June the 26th of 2016 at 1100
18 hours from 105 Lyman -- Inman Road in Lyman in South
19 Carolina.
- 20 MR. SMITH: Your Honor, at this time we would move
21 State's Exhibit 56 into evidence.
- 22 MR. ALLEN: No objection.
- 23 THE COURT: It's admitted.
- 24 (Copper jacket from bullet marked State's Exhibit No.
25 56.)

Murray Brandon Letterman
Cross-examination by Mr. Allen

1 MR. SMITH: I don't have any further questions, Your
2 Honor.

3 CROSS-EXAMINATION

4 BY MR. ALLEN

5 Q Showing you a portion of -- well, I've got to make
6 sure how to work this thing. Showing you State's
7 Exhibit 101.

8 A Okay.

9 Q It's a photograph. As I understand it, Playoffs Club
10 is to the left as we're looking at this.

11 A Yes, sir. That's correct.

12 Q That's correct?

13 A Yes, sir.

14 Q So this plate glass window and entryway goes from the
15 left of this photographs, goes to Playoffs Club, right?

16 A That's correct.

17 Q And then the plate glass window and doors that are to
18 right of this photograph go to the convenience store.

19 A Yes, sir.

20 Q That was the one operated by Mr. Patel?

21 A That's correct.

22 Q This is the way the scene appeared when you arrived
23 that night, correct? well, before, I mean, minus the
24 placards that are put there.

25 A Correct. To the best of my knowledge, yes, sir.

Murray Brandon Letterman
Cross-examination by Mr. Allen

1 Q To the best of your knowledge. So this grayish or
2 silver car is a Pontiac, correct?

3 A Correct.

4 Q And that was already there.

5 A Correct.

6 Q And then these placards here are marking basically
7 casings or expelled cartridges, correct?

8 A I can't tell what they're making, but it would be
9 marking the evidence. So it's possible, yes.

10 Q And of course you're familiar with the way the
11 sheriff's department collects evidence. And they keep the
12 same evidence number on the -- inventory number on the
13 packages, correct?

14 A Correct.

15 Q Now, the cameras that you were talking about -- I'm
16 going to put State's Exhibit 37 back up here -- don't
17 really show everything over on the Playoffs side, correct?

18 A That's correct. I believe the camera on the left kind
19 of more has a direct-on angle. It's not so far as --
20 exhibit to the left is kinda pointed towards the door of
21 the convenience store.

22 Q That's correct.

23 A And the one to the right -- to the left of that, which
24 is a darker color, doesn't point all the way over towards
25 that -- I'm sorry -- towards that, the club. It kinda

Murray Brandon Letterman
Cross-examination by Mr. Allen

1 points out more directly to the parking lot.

2 Q You didn't see any video coverage that showed anything
3 about activity on the Playoffs side, the left side of that
4 building.

5 A I can't recall. I can't recall right now. Just in
6 any of the video cameras that are recording is what we --
7 we pulled all of that video.

8 Q Essentially the cameras were primarily focused on the
9 convenience store and the parking lot where there are gas
10 pumps.

11 A Yes. I believe so, yes, sir.

12 Q Okay.

13 MR. ALLEN: One moment.

14 (Pause.)

15 MR. ALLEN: No other questions. Thank you, Your
16 Honor.

17 MR. SMITH: I don't have any followup, Your Honor.

18 THE COURT: Step down.

19 MR. SMITH: May he be excused?

20 THE COURT: He may be.

21 (Whereupon, the witness was excused.)

22 MR. SMITH: State calls Jonathan Lawson.

23

24

25

Jonathan Lawson
Direct examination by Mr. Smith

- 1 JONATHAN LAWSON, having been
2 first duly sworn, testified as follows:
3 DIRECT EXAMINATION BY MR. SMITH
4 Q Will you please state your name for the jury?
5 A Jonathan Lawson.
6 Q Where are you currently employed?
7 A Spartanburg County Coroner's Office.
8 Q What do you do at the coroner's office?
9 A I'm the assistant chief investigator. Basically, my
10 job is a field supervisor in everyday operations of the
11 coroner's office.
12 Q What was -- what were you employed as in June 26th of
13 2016?
14 A I was a crime scene investigator for Spartanburg
15 County Sheriff's Office.
16 Q And did you have occasion to respond to the scene on
17 June 26th of 2016 above Playoffs?
18 A Yes, sir. I did.
19 Q What was your role that night at the scene?
20 A That night I was requested by Investigator Graham who
21 is also with the sheriff's office crime scene division to
22 come out to assist him due to a large amount of possible
23 evidence that was going to be found involving a shooting
24 incident that had occurred at Playoffs Night Club.
25 Q But was Investigator Graham essentially the lead and

Jonathan Lawson
Direct examination by Mr. Smith

1 you were just --

2 A Correct. I was just there for support purposes.

3 Q Okay. And did you help him identify evidence?

4 A I did. I walked through the crime scene with him,
5 helped him locate items of evidence so they can be marked
6 with evidence placards.

7 Q And did you have further involvement with this case
8 later on in the day?

9 A I did at approximately -- look back at my notes
10 here -- 1:05 in the afternoon. I was contacted by
11 investigators from the C.I.D. division, crime scene
12 investigation division -- our criminal investigation
13 division -- I apologize -- in reference to a gentleman had
14 came to the sheriff's office and had met with investigators
15 and advised that there was a firearm inside of his vehicle
16 that needed to be collected that apparently was utilized in
17 the incident.

18 Q And who was that individual?

19 A Either Raymond or Ramone Smith.

20 Q And was that June 26th?

21 A Yes, that was June 26th, at, 2016, at 1:05 in the
22 afternoon.

23 Q The same day that you responded to the scene.

24 A Yes, sir. Several hours later.

25 Q Did you meet with Mr. Smith?

Jonathan Lawson
Direct examination by Mr. Smith

1 A I met with him and the investigators in the parking
2 lot of the sheriff's office.

3 Q All right. And did he allow you to look in his
4 vehicle?

5 A Yes, sir, he did. He advised that there was a firearm
6 inside the vehicle, explained the type of firearm, which
7 was a Glock 27 .40 caliber handgun. It did have a magazine
8 inside the weapon. Even was advised that he had went home
9 earlier and reloaded the weapon after the incident.

10 THE COURT: Don't testify to what somebody else said.

11 THE WITNESS: Yes, sir.

12 MR. SMITH: I'm sorry.

13 Q He allowed you access to the weapon for you to inspect
14 it and collect it?

15 A Yes, sir.

16 Q Show you State's 153 through 154 and ask if you can
17 identify what these are.

18 A 153 is a picture of the, I believe the, front seat of
19 a vehicle. A firearm is laying on top of the seat and
20 looks like a black holster with a magazine inside the
21 firearm.

22 State's Exhibit No. 154 is where I had collected the
23 weapon from the vehicle and I had taken it out of the
24 holster, magazine out of the firearm, made the weapon safe
25 and photographed it, which is a Glock 27 .40 caliber

Jonathan Lawson
Direct examination by Mr. Smith

1 handgun.

2 And State's Exhibit No. 155 is another photograph of
3 just a firearm in a made-safe manner with the slide pulled
4 to the rear of the weapon to show the serial number of the
5 firearm.

6 Q And are these pictures of the weapon that you
7 collected from Mr. Smith on June 26th?

8 A Yes, sir.

9 MR. SMITH: Your Honor, at this time we move State's
10 Exhibit 153 through 155 into evidence.

11 MR. ALLEN: No objection.

12 THE COURT: They're admitted.

13 (Photographs marked State's Exhibits Nos. 153 through
14 155.)

15 Q I hand you State's 39 and ask if you can identify what
16 this is.

17 A This is what was marked as Spartanburg County
18 Sheriff's Office Inventory Item No. 39 and State's Exhibit
19 No. 39, a box that contains a Glock Model 27 .40 caliber
20 handgun, serial number REC592 with magazine containing four
21 Hornady .40 caliber unfired rounds and nine Winchester .40
22 caliber unfired rounds.

23 It states the date and the time that it was collected,
24 which was 6/26/2016 at 1:16 in the afternoon, and the
25 location it was recovered from, which was 8045 Howard

Jonathan Lawson
Cross-examination by Mr. Allen

1 Street, which is the Spartanburg County Sheriff's Office in
2 Spartanburg County. And that I recovered it, which is my
3 name, J. Lawson.

4 MR. SMITH: Your Honor, at this time we'd move State's
5 Exhibit 39 into evidence.

6 MR. ALLEN: No objection.

7 THE COURT: Let me see it.

8 MR. SMITH: Yes, sir.

9 (Bench conference held off the record in the presence
10 of the jury but out of the hearing of the jury.)

11 THE COURT: It's admitted.

12 MR. SMITH: Thank you, Your Honor.

13 (Block Model 27 .40 caliber marked State's Exhibit No.
14 39.)

15 MR. SMITH: I don't have any further questions, Your
16 Honor.

17 CROSS-EXAMINATION

18 BY MR. ALLEN

19 Q When you recovered this gun, State's Exhibit 39, it
20 was loaded?

21 A Yes, sir, it was. It was loaded.

22 Q And do you recall if there was a cartridge in the
23 chamber?

24 A I can't recall right off.

25 Q Certainly something you would have taken care of,

Jonathan Lawson
Cross-examination by Mr. Allen

- 1 right?
- 2 A No doubt. I'd have made that weapon safe.
- 3 Q Do you recall how many bullets the magazine held?
- 4 A I do not. I just know what was inside the firearm at
5 the time.
- 6 Q Do you recall how many bullets were in the firearm?
- 7 A Nine Winchester .40 caliber rounds and four Hornady
8 .40 caliber rounds, a total of 13.
- 9 Q Total of 13 rounds?
- 10 A Correct.
- 11 Q When you recovered the weapon could you tell if the
12 magazine was filled to capacity, in other words, couldn't
13 hold any more?
- 14 A I don't recall.
- 15 Q You don't recall?
- 16 A No, sir.
- 17 Q Also, during your meeting with Mr. Smith you conducted
18 a gunshot residue test.
- 19 A I collected a gunshot residue kit, yes, sir.
- 20 Q Collected. Excuse me. Collected a gunshot residue.
21 And that is a -- you've been trained in the collection of
22 gunshot residue, is that correct?
- 23 A Correct.
- 24 Q And use of that kit called the gunshot residue kit.
- 25 A Correct.

Jonathan Lawson
Cross-examination by Mr. Allen

1 Q And you've done that before.

2 A I have.

3 Q And, essentially, you take -- well, explain how you
4 collect gunshot, potential gunshot, residue from someone.

5 A Basically, with gunshot residue if you fire a handgun,
6 touch a handgun or you're in proximity of where a firearm
7 has been fired, you can have gunshot residue on your
8 clothing, on your hands, on any part of your body, on a
9 vehicle, what not.

10 In this process when I was collecting the G.S.R. kit,
11 basically it's four small, little round vials about this
12 high, about this big around. They have a little magnet
13 under the bottom.

14 And what you do is it's kind of a sticky little
15 magnet. It's labeled for each specific area of the hand.
16 It'll be the palm or the back left hand. You swabbed. You
17 basically dab those areas. Same thing with the other hand.
18 You would dab those areas.

19 You fill out a request form, put it back inside the
20 envelope. Basically, the request form has all of the
21 information of the person's name that you're collecting
22 this from, possibility of the firearm that was fired and
23 how many rounds, the head stamps of the different firearms
24 or bullet -- excuse me -- shell casings that may have been
25 found.

Jonathan Lawson
Cross-examination by Mr. Allen

1 After that you seal it up, place it in an envelope,
2 evidence envelope. It's sealed twice, once in the provided
3 G.S.R. kit, and the other is actually in a large Manila
4 envelope as you see there that's sealed, initialed. And
5 that is placed into our evidence at a later time. At the
6 request of the investigator, it's usually sent to South
7 Carolina Law Enforcement Division to be tested for gunshot
8 residue trace.

9 Q Okay. And of course the reason you do it from the
10 palm, you said you get it from the palm of the hand, as
11 well as the top of the hand?

12 A Correct. At that time it was a 2-part test. Now it's
13 just a 1-part test.

14 Q Okay. And you take it from both the palm and the back
15 of the hand because gunshot residue can go anywhere.

16 A Correct.

17 Q You also note the times that you take gunshot residue,
18 is that correct?

19 A That's correct, what time it's collected.

20 Q And on Mr. Smith you collected it after 1:00 o'clock
21 in the afternoon, is that correct?

22 A From my report, it says 1:20 p.m.

23 Q 1:20 p.m. Now, you -- you placed that into evidence
24 with the sheriff's department, is that correct?

25 A That's correct.

Jonathan Lawson
Cross-examination by Mr. Allen

1 Q And that was given the inventory number of the item
2 number of four, is that correct?

3 A I believe so. I don't have that information in front
4 of me today, sir.

5 Q Did -- you filled out the portion of the sheriff's
6 department property and evidence sheet?

7 A Correct. Any items of evidence we have to fill out a
8 property sheet.

9 Q One second, please.

10 (Pause.)

11 Q Showing this document to you. Is this a copy of the
12 property and evidence sheet that you filled out?

13 A That is correct.

14 Q In connection with this case.

15 A That's correct.

16 Q And it shows gunshot residue test or kit of Ramone
17 Smith.

18 A Correct. That's Item No. 40.

19 Q That's Item No. 40. And you know this because this
20 document has your signature on it.

21 A Right. My call sign and my print and signature.

22 Q Okay. Does this refresh your memory then about the
23 item number it was given?

24 A Yes, sir.

25 Q Earlier that morning you did a gunshot residue kit on

Jonathan Lawson
Cross-examination by Mr. Allen

- 1 another individual.
- 2 A That's -- that's correct.
- 3 Q And you followed the same procedure?
- 4 A Yes, sir.
- 5 Q And you, of course, took care to package it and label
6 it and turned it into property and evidence.
- 7 A I believe so, yes, sir.
- 8 Q Okay. And do you recall -- do you recall what number
9 that kit was given?
- 10 A No, sir, I do not. I apologize.
- 11 Q Showing you another document and ask you if this is a
12 property and evidence sheet that you filled out --
- 13 A Yes, sir. That is. It's --
- 14 Q -- in connection with the gunshot residue kit.
- 15 A Correct. It's labeled as Item No. 38. It's one
16 G.S.R. kit.
- 17 Q And did you note the name of the individual you took
18 that from?
- 19 A I think it's Stephone Anderson maybe, or Stephen. I
20 don't know how they -- he pronounces or says his name.
- 21 Q Do you recall where you collected that kit?
- 22 A If I can refer back to my notes, I'm pretty sure I
23 have that in there.
- 24 Q Please.
- 25 A This was actually at the incident location at 105

Jonathan Lawson
Cross-examination by Mr. Allen

1 Little Mountain Road there in Wellford or Lyman. Excuse
2 me.

3 Q Do you recall where this individual, Mr. Anderson, was
4 when you saw him that morning?

5 A Not right off. I can't -- I can't recall exactly
6 where he was at on that scene when I was there.

7 Q Do you recall how he was dressed that morning?

8 A No, sir. I do not.

9 Q Basically, you took the kit. You were asked to take
10 the kit from him, and you took the kit from him, is that
11 correct?

12 A That would be correct.

13 Q And to the best of your knowledge those kits are still
14 in the custody of the sheriff's department?

15 A I -- I guess so. I don't know, sir.

16 Q Okay.

17 A They should be unless SLED has them.

18 Q Okay. Items 38 and Items 40.

19 A Correct.

20 MR. ALLEN: Thank you, Your Honor. Nothing further
21 from Mr. Lawson.

22 MR. SMITH: Your Honor, can we approach?

23 (Bench conference held off the record in the presence
24 of the jury but out of the hearing of the jury.)

25 MR. SMITH: Your Honor, I don't have any further

Sara Kruger
Direct examination by Mr. Smith

1 questions.

2 THE COURT: Okay. Step down.

3 MR. SMITH: The state would call Sara Kruger.

4 Your Honor, may Investigator Lawson be excused?

5 THE COURT: He may be.

6 (Whereupon, the witness was excused.)

7 SARA KRUGER, having been first
8 duly sworn, testified as follows:

9 DIRECT EXAMINATION BY MR. SMITH

10 Q Will you please state your name for the jury?

11 A Yes. It's Sara Kruger.

12 Q Where are you currently employed?

13 A I'm currently employed with the Spartanburg County
14 Coroner's Office.

15 Q And what were you doing before that?

16 A I worked for the Spartanburg County Sheriff's Office
17 prior to that in the investigative unit, crime scene unit.

18 Q How long have you been in law enforcement?

19 A About six and a half years.

20 Q What are your job duties in the coroner's office?

21 A I investigate death investigations, is basically what
22 I do.

23 Q Have you ever attended an autopsy?

24 A Yes, sir.

25 Q Would you have possibly attended autopsies even in

Sara Kruger
Direct examination by Mr. Smith

- 1 your prior role?
- 2 A Yes, sir.
- 3 MR. ALLEN: Objection. I don't know what this has got
4 to do with this case.
- 5 MR. SMITH: We can approach.
- 6 (Bench conference held off the record in the presence
7 of the jury but out of the hearing of the jury.)
- 8 Q Would you have attended the autopsies when you worked
9 at the sheriff's office in the I.D. department?
- 10 A Yes, sir.
- 11 Q would these include people that have passed away from
12 gunshot wounds?
- 13 A Yes, sir.
- 14 Q In part of your investigations do you look at the size
15 of wounds?
- 16 A Yes. We will scale them and photograph them.
- 17 Q what is that relevant for?
- 18 A Possibly determine size of a projectile.
- 19 Q okay. Is there anything else that that could be
20 relevant for?
- 21 A That's -- that's what I --
- 22 Q what about -- what about the path of a bullet through
23 a person? would you potentially try to during autopsies
24 figure out which way the bullet went through?
- 25 A Yes. If there is -- if it's a through and through,

Sara Kruger
Direct examination by Mr. Smith

1 meaning it exited as well, then we will stick a dowel rod
2 through it to see what kind of angle the bullet may have
3 entered at.

4 Q How do you try to determine which way the bullet would
5 go through?

6 THE COURT: Get closer to that black microphone,
7 please.

8 THE WITNESS: Sorry.

9 MR. ALLEN: Your Honor, if it please the Court.

10 I think he needs to lay -- I object to her giving
11 these opinions until he lays a foundation that she has the
12 education, training or experience to give such opinions.
13 It looks like he's trying to get into expert testimony.

14 THE COURT: Let's do this.

15 Let me address something outside of the presence of
16 the jury.

17 Please go to your jury room. Don't discuss the case.
18 I'll bring you back in just a few minutes.

19 (The following takes place outside the presence of the
20 jury.)

21 THE COURT: Ms. Kruger, you can step down. We'll call
22 you back. We're going to take a break.

23 THE WITNESS: All right.

24 THE COURT: We're going to be at ease for 15 minutes.

25 (Whereupon, a recess was taken.)

Sara Kruger
Direct examination by Mr. Smith

- 1 THE COURT: All right. Are we ready for the jury?
2 MR. SMITH: Yes, Your Honor.
3 MR. ALLEN: Yes, sir.
4 THE COURT: Ms. Kruger, you can come back around.
5 (The following takes place in the presence of the
6 jury.)
7 BY MR. SMITH
8 Q Were you working in the I.D. -- were you working for
9 the sheriff's office in the forensic department on
10 June 26th of 2016?
11 A Yes. I was.
12 Q Were you informed about a shooting incident?
13 A Yes, sir.
14 Q And what were you asked to do as a part of that
15 investigation?
16 A I was requested to respond to the hospital to collect
17 evidence from victims who had been shot.
18 Q Which hospital did you respond to?
19 A I responded to Greer Memorial, as well as Spartanburg
20 Medical Center.
21 Q All right. We'll start with the first one.
22 who were you to see at Greer?
23 A Let me just look back.
24 The -- the two victims that I -- that I met with were
25 Corey Glenn and Cassandra Rice.

Sara Kruger
Direct examination by Mr. Smith

1 Q All right. And who did you meet with first?

2 A Corey Glenn.

3 Q What did you -- what did you observe about Mr. Glenn?

4 A I noticed that he was wearing a blue I.B.S. 3-XL
5 t-shirt. And it had a mark across the sleeve, but it was
6 not a hole.

7 I also observed that he was wearing some -- a gray
8 Flywire right shoe. I noticed that there was a hole in the
9 right side on the toe end of that shoe. And he also had a
10 black sock inside of the shoe that appeared to have small
11 pieces of bone fragment.

12 Q All right. So did you believe that he was struck with
13 a bullet in his foot?

14 A Yes, sir.

15 Q Did you photograph him?

16 A I did. I photographed the injuries, as well as the
17 clothing.

18 Q Did you notice anything about the shoe that you looked
19 at, the right shoe?

20 A In my -- I mean, in my report it says that I observed
21 that there was -- there were two holes in the shoe that
22 appeared to -- oh, wait. I'm sorry. There was two holes
23 in the right side on the toe end.

24 Q All right. I'm going to show you State's Exhibits 163
25 and 166 through 168 and ask if you can identify what they

Sara Kruger
Direct examination by Mr. Smith

1 are.

2 A In 163 Mr. Glenn is lying in a hospital bed with his
3 right foot wrapped. It's like hospital gauze and tape
4 around it.

5 In 166, is a picture of a right arm with what appears
6 to be a graze across it, an injury, a wound.

7 In 167 there's a picture of a large blue t-shirt. And
8 there also appears to be a dark mark on the right arm.

9 In 168, it's a picture of the toe of a right shoe with
10 two holes in the end of it on the -- it'd be on the outside
11 of the shoe.

12 Q Do those represent what you saw with Mr. Glenn that
13 night as far as his physical condition and the clothing
14 that he was wearing?

15 A Yes, sir.

16 MR. SMITH: Your Honor, at this time I move State's
17 Exhibits 163, 166, 167 and 168 into evidence.

18 MR. ALLEN: No objection.

19 THE COURT: They're admitted.

20 (Photographs marked State's Exhibits Nos. 163, 166, 167
21 and 168.)

22 MR. SMITH: Permission to publish.

23 Q Did you then -- what did you do next? Did you
24 eventually go see Ms. Rice?

25 A At the time Ms. Rice was having x-rays done, so I

Sara Kruger
Direct examination by Mr. Smith

1 responded to the other hospital, Spartanburg Medical
2 Center, to gather clothing and evidence from the other
3 people who had been shot.

4 Q Do you remember processing a vehicle at Greenville
5 Memorial Hospital?

6 A I believe -- I don't remember at what point, but I do
7 remember responding to the parking lot at Greer Memorial to
8 photograph a vehicle that I was told one of the people who
9 had been shot had been transported in.

10 Q Did you find anything in that vehicle that you thought
11 needed to be collected as part of this case?

12 A No, sir.

13 Q Any shell casings or any other sort of bullet,
14 gun-related material?

15 A No, sir.

16 Q And then I believe you said that you moved onto
17 Spartanburg Regional, is that correct?

18 A Yes, sir.

19 Q And who were you seeing at Spartanburg Regional?

20 A It would have been Jody Thompson and Ms. Irby.

21 Q And who did you make contact with first?

22 A I made contact with Jody -- wait, wait. Let me make
23 sure. With Jody Thompson, is who I first saw.

24 Q And what did you observe when you saw Mr. Thompson?

25 A I observed a hole on the inside of his lower left leg.

Sara Kruger
Direct examination by Mr. Smith

1 I also noticed an injury across the inside of his right
2 foot.

3 The clothing that he had on had already been removed
4 and placed into a hospital bag. I noticed a little bit of
5 blood on the -- the t-shirt that was in the bag. It also
6 appeared to have been cut off him, which is common by
7 medical personnel to do when they're trying to do
8 resuscitative efforts.

9 Q Were you able to see as far as the left leg the number
10 of wounds upon that leg?

11 A I only -- I only mentioned one wound in my report in
12 the lower left leg.

13 Q Did you understand if there was a bullet still left in
14 Mr. Thompson or not?

15 A I don't recall.

16 Q Did you photograph him and his condition of his
17 clothing?

18 A Yes, sir. I did.

19 Q I'm going to hand you State's Exhibits 169 through 174
20 and ask if you can identify what these are.

21 A Okay. In 169, it appears to be a left leg with a
22 wound to the calf, appears to be a hole in the calf on the
23 inside.

24 In 170, it's a picture of Mr. Thompson and his left
25 arm, which appears to have a wound in the lower portion of

Sara Kruger
Direct examination by Mr. Smith

1 the arm, the lower end.

2 171 is a picture of a white t-shirt with blood near
3 the collar on the left side.

4 In 172, there is a -- it is a picture of the same
5 shirt, just closer up, of the blood.

6 In 173, there is a picture of a pair of gray shorts
7 with a belt that have blood around the lower left leg of
8 it, and also appeared to be cut.

9 In 174, there are two shoes in one of the hospital
10 bags. Can't tell which is which. One of the shoes is
11 covered in a lot of blood. The other one has spots of
12 blood on it.

13 Q Do those represent accurately Mr. Thompson and his
14 clothing items that night you photographed him?

15 A Yes. That clothing was in his hospital room.

16 MR. SMITH: Your Honor, at this time we'd move State's
17 Exhibit 169 through 174 into evidence.

18 MR. ALLEN: No objection.

19 THE COURT: They're admitted.

20 (Photographs marked State's Exhibits Nos. 169 through
21 174.)

22 MR. SMITH: And permission to publish.

23 THE COURT: You may.

24 Q And then what did you do next?

25 A After collecting the clothing I did a G.S.R. kit. I

Sara Kruger
Direct examination by Mr. Smith

1 collected a G.S.R. kit.

2 Q Did you also do that on Mr. Glenn as well?

3 A Yes. I believe I did it on all of the victims, all of
4 the people who had been shot at the scene.

5 Q All right. That you interacted with the police.

6 A Yes, sir, yes, sir. I'm sorry. Yes. The ones that I
7 interacted with.

8 Q All right. And then what did you do after that?

9 A I collected items from Ms. Irby. I changed out my
10 gloves and collected items from her and did a G.S.R. kit on
11 her.

12 Q All right. And what did you observe -- maybe not to
13 be wearing -- but what had Ms. Irby been wearing that you
14 collected?

15 A I collected a pair of blue American Eagle jeggings,
16 which I observed a hole in the upper right leg in.

17 Q Was she wearing them at the time?

18 A I don't recall. I -- I don't recall. I believe she
19 was, but I don't recall for sure.

20 Q Will you look at your report and see?

21 A I'm -- I'm not sure. The hospital may have removed
22 them to work on her, but I -- I don't recall.

23 MR. SMITH: Your Honor, can I approach and point her
24 to her answer for the Court?

25 A I don't have. I'm sorry. Yes. Okay. The hospital

Sara Kruger
Direct examination by Mr. Smith

1 staff had cut the jeggings off.

2 Q Did you photograph them and Ms. Irby?

3 A Yes. I did.

4 Q Hand you State's Exhibit 161 and 162 and ask if you
5 can identify what they are.

6 A In 161 is the -- the jeggings, the American Eagle
7 jeggings, with a hole and blood surrounding the hole on the
8 upper right leg.

9 In 162, there is a closeup of the hole in the right
10 leg with the blood surrounding it.

11 MR. SMITH: Your Honor, at this time we'd move State's
12 Exhibits 161 and 162 into evidence.

13 MR. ALLEN: No objection.

14 THE COURT: They are admitted.

15 (Photographs marked State's Exhibits Nos. 161 and 162.)

16 Q Did you collect a G.S.R. kit from Ms. Irby?

17 A Yes. I did.

18 Q And what did you do after that?

19 A I responded back to Greer Memorial Hospital.

20 Q What did you do when you got there?

21 A It was -- Ms. Rice had completed the -- they had
22 completed the x-rays on Ms. Rice. So I took photographs of
23 her and also did a G.S.R. kit on her.

24 She had an injury to -- across her right temple and
25 ear that I photographed, and then I was also told that

Sara Kruger
Direct examination by Mr. Smith

1 Mr. Glenn had had a bullet still in his foot and the doctor
2 was going to retrieve it. So I took photographs prior to
3 the doctor collecting the bullet, and as well as after it
4 was removed, and then collected that from them.

5 Q Were you present when it was removed?

6 A I was.

7 Q And what did you do with the bullet once -- once you
8 took possession?

9 A I believe the hospital put it in a container. I would
10 have put it in an envelope and submitted it to our evidence
11 at the sheriff's office.

12 Q I'm going to show you State's Exhibits 54, 156, 164
13 and 165 and ask if you can identify what these are,
14 whatever order.

15 A Okay. In 156, it is the bullet that was removed and
16 placed into a container at the hospital.

17 In 164, it's a -- a picture of a part of the bullet in
18 the foot, in the right foot.

19 165 is another picture of the bullet inside of the
20 container without it being sealed. The first picture was
21 the container sealed.

22 Shall I open this?

23 Q If you need to to identify it.

24 A Oh, this is my handwriting on the outside of it.
25 silver bullet fragment from Corey Glenn's foot.

Sara Kruger
Cross-examination by Mr. Allen

1 Q And that's contained in the container. Do you need to
2 open it?

3 A Well, yeah. I mean, I can feel the container, but I
4 can open it too. Yes. This is a -- this is the same
5 container in the pictures.

6 Q All right.

7 MR. SMITH: Your Honor, at this time we'd move State's
8 Exhibits 164, and five, 156 and 54 into evidence.

9 MR. ALLEN: I'm sorry, Your Honor?

10 THE COURT: 54, 156, 164 and 165.

11 MR. ALLEN: No objection.

12 THE COURT: They're admitted.

13 (Silver bullet fragment marked State's Exhibit No. 54;
14 photographs marked State's Exhibits Nos. 156, 164 and 165.)

15 Q Did that conclude your involvement in this case?

16 A Yes, sir.

17 Q I don't have any further questions. Thank you.

18 A Thank you.

19 CROSS-EXAMINATION

20 BY MR. ALLEN

21 Q Ms. Kruger, you've been trained in the collection of
22 gunshot residue kits?

23 A Yes, sir.

24 Q And, essentially, it's a kit where you put on
25 someone's -- well, you tell me how it works.

Sara Kruger
Cross-examination by Mr. Allen

1 A Okay. The kit contains a pair of gloves inside. It
2 also contains a form that you fill out the information of
3 the person you are collecting the G.S.R. from, as well as
4 information about, if you know the bullet, how many shots
5 were fired, things of that nature.

6 It also contains -- I believe the ones at that time,
7 it was four cylinders that were labeled front -- front
8 right hand or palm right hand, back right hand, palm left
9 hand and back left hand.

10 And so you would just follow those. And the little
11 container, you would take off the top, and it had a little
12 sticky thing on it. You would dab that on whichever area
13 that the container showed and stick that back on once you
14 are completed with doing -- using each of those.

15 Then you would put them back into the -- the envelope
16 and seal that. And then later I would seal that in another
17 envelope from the sheriff's office.

18 Q And of course when you seal it in the second envelope,
19 it's given an inventory number, is that correct?

20 A Yes, sir.

21 Q And of course you sign it in or turn it over to the
22 property and evidence custodian, is that correct?

23 A That is correct.

24 Q And it's kept in safekeeping until.

25 A Yes, sir, until it's sent off, I suppose, or needed

Sara Kruger
Cross-examination by Mr. Allen

- 1 for other.
- 2 Q Send off, right?
- 3 A Yes, yes.
- 4 Q Now, part of the information that you get or that you
5 record is the time that you got the gunshot residue kit.
- 6 A Yes, sir.
- 7 Q That you collected it.
- 8 A Yes, sir.
- 9 Q And have you been trained as a lot of time is
10 important?
- 11 A There's -- well, there's a certain life span, I
12 suppose. People can wash their hands, you know, and it
13 can -- I mean, as you touch things -- come off. Sorry
14 about that. And within six hours, I believe, was the
15 timeframe I was given as far as it being relevant within
16 six hours of the incident that occurred.
- 17 Q Six to eight hours absorbed into the skin of a living
18 person, correct?
- 19 A I have not been told that.
- 20 Q You haven't trained in that. Okay. I appreciate it.
21 But you did record the time that you collected the gunshot
22 residue kits.
- 23 A Yes, sir.
- 24 Q Okay. And you don't recall sitting here today the
25 exact time that you obtained those gunshot residue kits,

Sara Kruger
Cross-examination by Mr. Allen

1 correct?

2 A I have it written in my report what times.

3 Q Okay. Good. The first gunshot residue kit that you
4 got was from Corey Glenn, is that correct?

5 A Yes, sir.

6 Q And that was of course -- you testified that was while
7 he was at the Greer hospital.

8 A Yes. He was.

9 Q Okay. And what time did you collect that gunshot
10 residue?

11 A At 4:25 hours so four -- about 4:30 in the morning.
12 Close to.

13 Q 4:25 in the morning?

14 A 4:25 is what I had in report, yes.

15 Q Okay. And later when you were turning evidence in you
16 recorded that on a property and evidence sheet, is that
17 correct?

18 A Yes, sir.

19 Q And do you recall the inventory number or the item
20 number of that?

21 A I have in my report it is Item 45.

22 Q Item 45.

23 Now, the next gunshot residue kit you obtained was from
24 Jody Ray Thompson?

25 A Yes, sir.

Sara Kruger
Cross-examination by Mr. Allen

- 1 Q Did you record the time that you collected it there?
- 2 A At about 5:17 a.m.
- 3 Q And you also collected that from Mr. Thompson at the
4 hospital, correct?
- 5 A Yes, sir.
- 6 Q And that was placed into property and evidence later?
- 7 A Yes, sir, as Item 46.
- 8 Q And that was given the Item No. 46?
- 9 A Yes, sir.
- 10 Q Of course we should mention that before you put it in
11 property and evidence you -- I think you mentioned that you
12 seal it up in one envelope and then it goes into another
13 envelope, correct?
- 14 A Yes, sir.
- 15 Q Your next collection of gunshot residue kit was from
16 Renata Irby?
- 17 A Yes, sir.
- 18 Q And you collected that from her at the hospital?
- 19 A I did at approximately 5:32 a.m.
- 20 Q 5:32 a.m. That was placed later into property and
21 evidence.
- 22 A Yes, sir.
- 23 Q Given item -- a number.
- 24 A Item 51.
- 25 Q And you last collected -- and I think you just said in

Sara Kruger
Cross-examination by Mr. Allen

1 your testimony that you had to return -- you returned and
2 went back?

3 A Yes. I returned to Greer Memorial Hospital where
4 Ms. Rice had completed her x-rays and photographed her
5 injury and collected a G.S.R. on her.

6 Q And the time that you collected that G.S.R. from her
7 was at?

8 A It was at 6:10 a.m., and it was Item 53.

9 Q Fifty-three?

10 A Yes, sir.

11 Q Now, all of these gunshot residue kits you collected
12 pursuant to your training, correct?

13 A Yes, sir.

14 Q You collected one -- I'm just going to say the left
15 palm. Maybe not in this order, but you collected from the
16 left palm and in a separate --

17 A Cylinder, yes.

18 Q -- cylinder.

19 A Yeah.

20 Q You had the back of the left hand.

21 A I believe so at that time. They've changed the kits.
22 So there's --

23 Q Sure.

24 A so you only do one of the cylinders for the whole hand
25 and another cylinder for the other hand.

Daniel Gipson
Direct examination by Mr. Smith

- 1 Q Okay. But so you collected it at least from -- one
2 from each hand.
- 3 A Yes, sir.
- 4 Q But when you collected it, you collected it from the
5 palm and the back of the hand.
- 6 A I believe I did, yes.
- 7 MR. ALLEN: Nothing further, Your Honor. Thank you.
- 8 MR. SMITH: I don't have any followup, Your Honor.
- 9 THE COURT: You may step down.
- 10 MR. SMITH: The state calls Officer Gipson, Daniel
11 Gipson.
- 12 DANIEL GIPSON, having been
13 first duly sworn, testified as follows:
- 14 DIRECT EXAMINATION BY MR. SMITH
- 15 Q Will you please state your name for the jury?
- 16 A Daniel Gipson.
- 17 Q Officer Gipson, where are you employed?
- 18 A What's that, sir?
- 19 Q Where are you employed?
- 20 A Wellford Police Department.
- 21 Q How long have you been there?
- 22 A Since 2015.
- 23 Q Did you have any prior law enforcement experience
24 before that?
- 25 A Yes, sir.

Daniel Gipson
Direct examination by Mr. Smith

- 1 Q What was that?
- 2 A With the City of Campobello and City of Landrum.
- 3 Q How long would that have been for?
- 4 A Currently nine and a half years in law enforcement at
5 this time.
- 6 Q Have you ever served as an E.M.T.?
- 7 A Yes, sir, for seven or seven and a half years,
8 Spartanburg E.M.S.
- 9 Q Did you do that in conjunction when you were also in
10 law enforcement?
- 11 A For a short time, yes, sir.
- 12 Q Were you working for the Wellford Police Department on
13 June 26th of 2016?
- 14 A Yes, sir. I was.
- 15 Q And did you respond to a call at Playoffs Lounge?
- 16 A Yes, sir.
- 17 Q Can you tell me what happened?
- 18 A I heard the call go out for Lyman Police Department.
19 We all respond together as mutual aid contract over
20 there. I responded to the scene. It was very chaotic when
21 I pulled up out front. I exited my vehicle. I believe
22 Officer Thompson and Officer Fowler who is with us today
23 was also there about the same time I arrived.
- 24 Had a young lady shortly after me getting out of the
25 car came up to me expressing concern that there was blood

Daniel Gipson
Direct examination by Mr. Smith

1 going around the building. She believed someone else had
2 been shot and had went to the back of the building.

3 I got the attention of Officer Fowler. We began
4 following what appeared to be a blood trail with a heavy
5 amount of blood on the ground from the front of the
6 building around the right side across the back parking lot
7 where it crossed into some grass, a wooded area.

8 Shortly after us making our arrival back there, heard
9 a gentleman speak out. He stepped out with his hands up, I
10 believe was detained by one of the other officers on the
11 scene, not myself.

12 I observed another black male lying on the ground
13 under some pine branches in the tall grass. I seen a large
14 amount of blood on his left leg, holding his left leg, and
15 began speaking with him to make sure he didn't have a
16 weapon, just asked him and then proceeded to wait for
17 E.M.S. until they arrived and could render aid.

18 Q Did -- did he tell you whether he had a weapon or not?

19 A He said he did not.

20 Q At that point did you believe him?

21 A At the moment, yes, sir.

22 Q I mean, did you keep your gun out, or what did you do?

23 A No, sir. Officer Fowler instructed me since he knew I
24 had had medical training to start talking with the man,
25 speak with him, and that he would actually provide

Daniel Gipson
Direct examination by Mr. Smith

1 protection for our location. So I holstered my weapon and
2 began speaking with the man.

3 Q Was he able to tell you what had happened in the
4 incident?

5 A I believe he -- from what I recall -- I do not have
6 the incident report in my hand, sir.

7 MR. ALLEN: Your Honor, I'm a little confused here.
8 I'm not sure which man he's talking to asked him what did
9 he say -- the first man.

10 Q Are you referring to the first man you met or the man
11 that was injured when you're talking about the conversation
12 that you had?

13 A The conversation I had was with the second gentleman
14 that was lying on the ground that had the blood on his leg
15 and holding his leg.

16 Q Hand you a copy of your incident report.

17 A Thank you, sir.

18 Q At this point is it fair to say you're trying to
19 figure out what's happened at this scene?

20 A Yes, sir, at this point.

21 I recall asking the gentleman on the ground if he
22 could provide a description or if he remembered a vehicle
23 even or who may have shot him or done this to him. It was
24 just investigation mode viewing him as a victim. Concerned
25 about his safety at that moment.

Daniel Gipson
Direct examination by Mr. Smith

1 Q Okay. Did you wear a body cam back in June 26th of
2 2016?

3 A Yes, sir.

4 Q Were you wearing one that night?

5 A I was, and it was activated, sir.

6 Q I'm going to hand you State's Exhibit 42 and ask if
7 you can identify what this is.

8 A It's a copy of a portion of my body-cam video from
9 that night, sir.

10 Q And how do you know that?

11 A I viewed it prior to this starting and authenticated
12 it myself.

13 MR. SMITH: Your Honor, at this time we would move
14 State's Exhibit 42 into evidence.

15 MR. ALLEN: Subject to my earlier motion.

16 THE COURT: All right. It's admitted.

17 (Gipson BWC No. 1 marked State's Exhibit No. 42.)

18 MR. SMITH: Permission to publish it to the jury, Your
19 Honor.

20 THE COURT: You may.

21 (Whereupon, the video was played for the jury.)

22 Q And when that video ended was E.M.S. arriving?

23 A Yes, sir. They were arriving in the parking lot.

24 Q Did you see them transport Mr. Thompson away?

25 A I stayed with him until they put him on the stretcher.

Daniel Gipson
Direct examination by Mr. Smith

1 I didn't actually see the ambulance itself leave.

2 Q And did you end up going back into the woods where --
3 in the area where Mr. Thompson was?

4 A Yes, sir. Once -- once E.M.S. arrived and they
5 started rendering aid to Mr. Thompson when they -- as they
6 were getting him patched up and moved, Officer Thompson
7 from Lyman came back around and advised us that he had been
8 told by other people --

9 MR. ALLEN: Objection as to what --

10 THE COURT: Sustained.

11 Q Don't say what people said. Just what did you do
12 based off what they said?

13 A Shortly after we responded back over there to that
14 same location we were just at, began looking around and
15 within --

16 Q what were you looking for?

17 A A firearm, a handgun, a black handgun. And within
18 just a few feet of where Mr. Thompson was laying under the
19 trees we did visualize, locate and call I.D. to come and
20 take care of retrieving the firearm that we found.

21 Q Did you have your body cam running for the search of
22 the weapon?

23 A Yes, sir. I did.

24 Q I'm going to show you State's Exhibit 58 and ask you
25 if you can identify what this is.

Daniel Gipson
Direct examination by Mr. Smith

1 A It's a portion of my body camera from this event
2 previously viewed and authenticated, sir.

3 MR. SMITH: Your Honor, at this time we'd move State's
4 Exhibit 58 into evidence.

5 MR. ALLEN: No objection pursuant -- may I approach?
6 (Bench conference held off the record in the presence
7 of the jury but out of the hearing of the jury.)

8 THE COURT: All right. It's admitted without
9 objection.

10 (Gipson BWC No. 2 marked State's Exhibit No. 58.)

11 MR. SMITH: Your Honor, may I publish it to the jury?

12 THE COURT: You may. That's 58?

13 MR. SMITH: Yes, Your Honor.

14 Q When you say you believe the weapon had jammed, what
15 were you basing that off of? What were you seeing?

16 A With it being found there, I wasn't going to touch it
17 or manipulate it. From looking from a distance away the
18 slide was locked back and I could still see a magazine
19 inserted into the weapon. So either it was jammed or shot
20 dry, one of the two.

21 Q You fairly familiar with weapons? You seem to
22 identify the type of pistol it was off the sight.

23 A Yes, sir.

24 Q I'm going to show you State's Exhibit 31. Can you
25 tell me what type of weapon that is?

Daniel Gipson
Cross-examination by Mr. Allen

1 A May I open it up to look at it?

2 Q Yes. You can. It's secured.

3 A It's a Taurus handgun.

4 Q .40 caliber?

5 A On the side it's laying I can't see the -- by looking
6 at the barrel it looks like .40 caliber.

7 MR. SMITH: I don't have any further questions.

8 CROSS-EXAMINATION

9 BY MR. ALLEN

10 Q From where you saw Mr. Thompson laying, the gun that
11 you saw was further back in the woods?

12 A A short distance, yes, sir.

13 Q A short distance. Not within -- from what you could
14 see, not within his immediate grasp where he was originally
15 laying.

16 A what distance would you consider his immediate grasp?

17 Q Well, let me ask the question a little bit
18 differently.

19 Did you measure --

20 A No, sir.

21 Q -- the distance from where he was laying to where you
22 saw the gun?

23 A No, sir. I did not.

24 Q Okay. Did not appear to you that he -- from where he
25 was laying that he could have reached and got the gun.

Daniel Gipson
Cross-examination by Mr. Allen

- 1 A My opinion is that it's possible. By short distance,
2 I would say 2 to 4 feet approximately.
- 3 Q 2 to 4 feet.
- 4 A Approximately.
- 5 Q Approximately.
- 6 A I didn't measure it, sir.
- 7 Q You didn't measure it. It was your best guesstimate.
8 Okay. During your talks with Mr. Thompson, he didn't
9 reach for any weapon.
- 10 A No, sir.
- 11 Q About the only thing I think he reached for was his
12 wallet at your request, correct?
- 13 A That's correct, sir.
- 14 Q You were primarily concerned with Mr. Thompson, is
15 that correct, when you were out there in the wood line?
- 16 A Yes, sir. That's correct.
- 17 Q And you saw this first person who came out of the wood
18 line who was not wearing a shirt?
- 19 A Yes, sir.
- 20 Q Do you know who he was?
- 21 A No, sir.
- 22 Q His identity was never disclosed to you?
- 23 A No, sir, not that I can recall. I didn't ask him his
24 name.
- 25 Q At least one of the other officers that were searching

Daniel Gipson
Cross-examination by Mr. Allen

1 the area with you took control of him?

2 A Best -- from what I seen on the video and best memory,
3 I believe Officer Fowler as that man stepped out, took
4 control of him and got him off to the side, one side,
5 initially contacted him.

6 Q Okay. And that's of course standard procedure,
7 correct?

8 A Fairly, yes, sir.

9 Q And then you proceeded on to go to Mr. Thompson.

10 A Yes, sir.

11 Q And he was holding his hands up that y'all requested
12 or commanded, correct?

13 A Yes, sir.

14 Q He just didn't stand up.

15 A Correct.

16 Q And of course when you saw the wound to his leg, you
17 understood why.

18 A Yes, sir.

19 MR. ALLEN: Nothing further, Your Honor. Thank you.

20 MR. SMITH: Nothing further, Your Honor.

21 THE COURT: You may step down.

22 MR. SMITH: Your Honor, the state calls officer
23 Jonathan Fowler.

24 Your Honor, may Officer Gipson be excused?

25 THE COURT: He may.

Jonathan Fowler
Direct examination by Mr. Smith

1 (whereupon, the witness was excused.)

2 JONATHAN FOWLER, having been
3 first duly sworn, testified as follows:

4 DIRECT EXAMINATION BY MR. SMITH

5 Q Please state your name for the jury.

6 A Officer Jonathan Fowler.

7 Q Where do you currently work?

8 A I work for the City of Inman Police Department.

9 Q What's your role with Inman?

10 A I'm a school resource officer.

11 Q Are you assigned to a specific school?

12 A Yes, sir. To Inman Intermediate School.

13 Q What did you do prior to joining the Inman police
14 force?

15 A Prior to here I worked briefly as a lake warden. And
16 then prior to that I was employed with the Duncan Police
17 Department, which would have been when this incident
18 occurred in June of '16.

19 Q And were you asked to respond to a call at Playoffs
20 Lounge?

21 A Yes, sir. I was.

22 Q Is that in Spartanburg County?

23 A Yes, sir. It is.

24 Q And did you respond to that call?

25 A Yes, sir. I did.

Jonathan Fowler
Direct examination by Mr. Smith

1 Q What did you observe when you arrived on the scene?

2 A When I arrived I saw a lot of people out in front. I
3 observed a -- there's a gas station on the corner of two
4 roadways, and affixed to the gas station is a commonly
5 known night club called Playoffs.

6 I did see that there were lights on there at the
7 Playoffs, but the gas station appeared to be closed and
8 dark.

9 I saw lots of people. There were people screaming;
10 there were people running around. I did see a female lying
11 on the ground that appeared to have been shot. I did see
12 lots of shell casings which suggested lots of shots had
13 been fired. I did see large amounts of blood leading to
14 the right of the business. But other than that, just a
15 very chaotic scene.

16 Q Did you run into Officer Gipson at the scene?

17 A Yes, sir. I did.

18 Q And what did y'all do?

19 A When we first got there we did what's called a safety
20 sweep, which is where you check the area for any potential
21 suspects, any potential victims. Basically, get the scene
22 secured.

23 Officer Gipson and I drew our weapons due to the
24 nature of the call. We proceeded around to the right side
25 of the business, which would have been on the gas-station

Jonathan Fowler
Direct examination by Mr. Smith

1 side. That's where the blood became more evident. It was
2 a large amount of blood. So large, in fact, I was
3 concerned about someone's safety tremendously. We followed
4 that path of blood, which was continuous. You could
5 definitely see a defined path with the blood. We followed
6 it to the rear of the business. And that path of blood led
7 into the wood line as you can see in the video.

8 Q All right. And what did you do when you got to the
9 wood line?

10 A When Officer Gipson and myself got to the wood line,
11 we paused momentarily due to the danger to advance a wooded
12 area from an open area. We stood there briefly.

13 I called for a sheriff's office canine unit, the dog,
14 to come and track because we had reason to believe that
15 there was someone or more than one person potentially in
16 the wood line due to the blood.

17 We did not know if those people were suspects, if they
18 were victims. All we knew is that there was blood going
19 into the woods.

20 While we were waiting on the canine to arrive we heard
21 some voices. When we heard the voices we loudly gave
22 verbal commands for the subject to exit the woods and put
23 their hands up.

24 That's when a rather large fellow with no shirt came
25 walking out. He was placed into a investigative detention.

Jonathan Fowler
Direct examination by Mr. Smith

1 He was not advised that he was under arrest. He was
2 advised he was in detention until we could figure out what
3 was going on.

4 At that time we had no idea if he was a perpetrator,
5 if he was a victim. We had no idea who was who at that
6 point.

7 Shortly -- when I say shortly, a matter of seconds
8 after that we heard another voice, and that's when I saw
9 later to be identified as Mr. Thompson lying on the ground.
10 I could see blood on his leg, on his calf. That's when
11 Officer Gipson and I walked over towards Mr. Thompson to
12 check on him.

13 Due to the nature of the call I remained in the cover
14 position, meaning I had my weapon out in case there was a
15 gunman nearby because we weren't sure how many people were
16 involved.

17 Officer Gipson had prior medical training, so I
18 suggested that he render aid to -- to the guy who was
19 Thompson. Mr. Gipson did that.

20 I kept my weapon out to provide cover for Mr. Thompson
21 and for Mr. Officer Gipson due to not knowing what the
22 location of any potential suspects.

23 A short time thereafter E.M.S. arrived. E.M.S. took
24 Mr. Thompson. They gave him some care and transported him
25 away.

Jonathan Fowler
Cross-examination by Mr. Allen

1 shortly thereafter it was learned that there was
2 potentially a firearm in the woods. And the reason I
3 believed that, I saw it. I was doing a frisk of the area
4 and saw the firearm. It was a black semiautomatic handgun
5 lying on the ground, and it was relatively close to the
6 area where we were rendering aid to Mr. Thompson, and it
7 was with a slide locked back. I do remember seeing that.

8 Q All right. And what did you do once you located that
9 weapon?

10 A When I located the weapon I did not take my eyesight
11 off of it to maintain integrity of that article. I stood
12 by and stood next to the firearm to make sure nobody could
13 get near it and also to provide security for that area not
14 knowing if there was another subject or victim or suspect
15 in the woods.

16 It was a good little bit. An evidence technician,
17 which would be an I.D. unit, came to the scene from the
18 sheriff's office. I do not remember their name. But
19 they -- they came and took possession of the weapon. And
20 then at that time I cleared up from the call.

21 Q Please answer any questions Mr. Allen has.

22 A Yes, sir.

23 CROSS-EXAMINATION

24 BY MR. ALLEN

25 Q When you -- the first guy that came out of the woods,

Jonathan Fowler
Cross-examination by Mr. Allen

- 1 the one you described as a large man without a shirt on --
- 2 A Yes, sir.
- 3 Q -- he was later identified?
- 4 A I'm sure he was. I don't remember his name.
- 5 Q You don't remember his name?
- 6 A No, sir.
- 7 Q It's not reflected in your report?
- 8 A No, sir.
- 9 Q You did not measure the distance from the gun to where
- 10 Mr. Thompson had been laying?
- 11 A No, sir. I did not.
- 12 Q But it was further back in the woods?
- 13 A It was -- in terms of a distance -- or excuse me -- in
- 14 terms of orientation from the parking lot into the wood
- 15 line, it would have been farther from the parking lot into
- 16 the woods than where he was laying, but it was close to
- 17 where he was laying. And I don't know a specific distance,
- 18 but it was close.
- 19 Q Right. The period of time that you're conducting --
- 20 y'all conducted a sweep or a search, Mr. Thompson didn't
- 21 make any moves toward that gun.
- 22 A Not that I was aware of.
- 23 Q Okay. You said you were the one that placed the man
- 24 without a shirt into investigative detention.
- 25 A Yes, sir.

Jonathan Fowler
Cross-examination by Mr. Allen

- 1 Q And you had him sit or lay on the ground after he came
2 out of the wood line?
- 3 A Yes, sir.
- 4 Q And you put him in handcuffs.
- 5 A Yes, sir.
- 6 Q Handcuffs behind his back.
- 7 A Correct.
- 8 Q I think later on you allowed him to sit up, right?
- 9 A I don't remember that, sir, but that could -- that
10 could have happened. It's not uncommon.
- 11 Q From what you could tell in talking when you first
12 arrived there, there was a lady laying in the parking lot
13 or being attended to by others.
- 14 A Yes, sir.
- 15 Q Bystanders.
- 16 A Yes, sir.
- 17 Q But you didn't see a man with a white shirt and red
18 shorts?
- 19 A I don't remember.
- 20 Q After you arrived, other than police officers,
21 sheriff's officers, and E.M.S., no other cars were allowed
22 to enter that parking lot.
- 23 A Not that I'm aware of. I was at the back in the wood
24 line, so I wasn't aware of what happened out front. I
25 don't know.

Jonathan Fowler
Cross-examination by Mr. Allen

1 Q So you didn't do anything with the front of the --

2 A Other than just walking through it, visually sweeping
3 as I entered the scene, no, sir.

4 Q Okay. Thank you.

5 MR. ALLEN: No other questions. Thank you, Your
6 Honor.

7 MR. SMITH: I don't have anything.

8 THE COURT: You may step down.

9 MR. SMITH: May he be excused, Your Honor?

10 THE COURT: He may be.

11 (Whereupon, the witness was excused.)

12 MR. SMITH: May we approach about scheduling?

13 THE COURT: Yes.

14 (Bench conference held off the record in the presence
15 of the jury but out of the hearing of the jury.)

16 THE COURT: All right. Ladies and gentlemen, we're
17 going to recess for lunch.

18 Remember my caution. No discussion, no research, no
19 investigation, no media exposure.

20 Do have a good lunch. I'll see you at 2:00 o'clock,
21 at 2:00 o'clock this afternoon.

22 (The following takes place outside the presence of the
23 jury.)

24 THE COURT: All right. Court is in recess until
25 2:00 o'clock.

Mark Gaddy
Direct examination by Mr. Smith

1 (whereupon, a recess was taken.)

2 THE COURT: Are we ready for the jury?

3 MR. SMITH: The state is ready, Your Honor.

4 MR. ALLEN: Yes, Your Honor.

5 THE COURT: Bring them in.

6 (The following takes place in the presence of the
7 jury.)

8 THE COURT: The jury is present. You may continue.

9 MR. SMITH: The state calls Investigator Mark Gaddy.

10 MARK GADDY, having been first
11 duly sworn, testified as follows:

12 DIRECT EXAMINATION BY MR. SMITH

13 Q will you please state your name for the jury?

14 A Mark Gaddy.

15 Q where are you employed?

16 A Spartanburg County Sheriff's Office.

17 Q what is your role at the sheriff's office?

18 A Currently I'm a gang investigator, but at the time of
19 the incident I was working violent crimes.

20 Q How long have you been involved in law enforcement?

21 A Twenty-five years.

22 Q How long have you been an investigator?

23 A For the last six.

24 Q How did you get involved with this case?

25 A On the date in question I received a call about

Mark Gaddy
Direct examination by Mr. Smith

1 4:00 o'clock in the morning that there had been a -- an
2 incident at Playoffs Night Club and was instructed by
3 Sergeant Brandon Letterman to respond to code 35, being
4 Spartanburg Regional to -- that there were two victims
5 there that needed to be spoken with.

6 Q Were you working at the time you received that call
7 or --

8 A No. I was home -- I was home. I just received the
9 call to come in and help.

10 Q All right. And did you respond to the hospital?

11 A I did.

12 Q Who did you see first?

13 A I saw Ms. Renata Irby first.

14 Q Did you ask her what happened?

15 A I did. She said that she had been at the --

16 Q Hold up.

17 MR. ALLEN: Objection to the hearsay testimony.

18 THE COURT: Sustained.

19 Q After speaking with her did you know how this incident
20 had come about?

21 A Yes. She --

22 THE COURT: That's it.

23 MR. ALLEN: Objection.

24 Q Do you know who the shooter was?

25 A No.

Mark Gaddy
Direct examination by Mr. Smith

1 MR. ALLEN: Objection, Your Honor. I think he's still
2 getting into --

3 THE COURT: Well, let me see y'all just a minute.

4 (Bench conference held off the record in the presence
5 of the jury but out of the hearing of the jury.)

6 Q Did she tell you what she knew of the events? without
7 saying what she told you, did she tell you what she knew?

8 A Yes.

9 Q All right. What did you do next?

10 A Next, I talked to Mr. Thompson.

11 Q All right. Did you take note of what he was wearing?

12 A Yes.

13 Q Showing State's Exhibit 170. Is that Mr. Thompson?

14 A Yes.

15 Q What do you notice about him in this picture?

16 A He has the black knot -- knit cap on his head.

17 Q State's Exhibit 169. What do you notice about this
18 picture?

19 A It appears to be a wound to the calf, left calf.

20 Q What about blood or anything?

21 A There is an amount of blood, and it appears that it's
22 been bleeding down his leg because he's got blood all of
23 the way down his leg.

24 Q He's in a hospital gown. Did you look at what
25 clothing had been removed from him?

Mark Gaddy
Direct examination by Mr. Smith

- 1 A Yes. It was still there.
- 2 Q State's Exhibit 171. what is this?
- 3 A white T-shirt, it appears to me.
- 4 Q That he was wearing or he had been transported with?
- 5 A Yes.
- 6 Q State's Exhibit 174.
- 7 A Pair of shoes.
- 8 Q All right. And State's Exhibit 173.
- 9 A would have been the shorts that he was wearing at the
10 time he was transported.
- 11 Q what color do they appear to you to be?
- 12 A Dark gray. Those -- those are white, shoes are white.
- 13 Q Make sure you say.
- 14 A Yes. A dark gray.
- 15 Q All right. Did you ask Mr. Thompson what had
16 happened?
- 17 A Basically, again, just trying to get some general
18 information from about the scene, about what happened.
- 19 Q what did he tell you?
- 20 A He advised me that what had happened, and from that I
21 reported to Sergeant Letterman.
- 22 Q You can tell me what he said. what did he say to you?
- 23 A He told me that he -- that he had been at the club and
24 that he heard some guys. And this is directly from my
25 writeup, that he had heard some guys popping off inside and

Mark Gaddy
Direct examination by Mr. Smith

1 that the argument spilled outside the club. He then tried
2 to act as a peacemaker and diffuse the situation. And he
3 did not know the people who were arguing.

4 At this point he started hearing gunshots and took off
5 around the right side of the building.

6 Q Did he tell you if he'd consumed any alcoholic
7 beverages?

8 A Yes.

9 Q How many?

10 A He said he had had four mixed drinks that night.

11 Q All right. And what else did he tell you?

12 A Thompson said that he was -- he was the one they were
13 trying to fight with. He told me that he did not realize
14 until he was in the wood line behind the store that he was
15 hit.

16 He also mentioned that he had \$800 missing from his
17 possession after E.M.S. transported him. I told him that
18 perhaps they had taken it into his possessions at the
19 hospital when he came in since he'd been taken to the
20 trauma bay first. Because he was under medical treatment
21 at this time, no further interview was done. I let them do
22 what they needed to do to tend to his wounds.

23 Q Did he tell you whether he knew the person that he was
24 found on the wood line with?

25 A He said that he did know the guy he was found with in

Mark Gaddy
Direct examination by Mr. Smith

1 the gray -- found in the grass with.

2 Q All right. At this time did you know who, if anybody,
3 had fired a weapon in this case?

4 A At this time it was just preliminary information that
5 we were trying to gather.

6 I called Sergeant Letterman from that point and
7 advised him what I had, what the two people there were
8 saying. And then it was at that time that I was told by
9 Sergeant Letterman that Mr. Thompson was a potential
10 suspect.

11 Q Okay. But Mr. Thompson's statement was he was a
12 peacemaker and didn't tell you he'd fired a weapon or
13 anything like that, I think.

14 A Correct.

15 Q What did you do after you left the hospital?

16 A Once I left the hospital I went to the office
17 and/or -- excuse me -- once I left the hospital, at that
18 point I went back to the scene, and at the scene it was --
19 there was still a lot, a lot of stuff out there to be done.

20 We were trying to figure out, because Ms. Irby had
21 locked her car. Because of some of the information that we
22 had been given, there were some things that we wanted to
23 see about her car. So we had to figure out how to get keys
24 and all of that stuff.

25 Q Were you ultimately able to get access to Mr. Irby's

Mark Gaddy
Direct examination by Mr. Smith

- 1 car?
- 2 A Affirmative.
- 3 Q All right.
- 4 A After a couple of trips back and forth.
- 5 Q Then what did you do?
- 6 A After the scene was secured I went to the C.I.D., and
7 once at C.I.D., which is just the sheriff's office, I was
8 briefed by Investigator Heyde that he had talked to a
9 suspect or a subject that was there, being a Mr. Anderson,
10 about what had happened.
- 11 Q Okay. And did you understand where Mr. Anderson had
12 been found or why he was brought in?
- 13 A Yes.
- 14 Q What was that? what was your understanding?
- 15 A He was in close proximity to Mr. Thompson.
- 16 Q Was he -- was he the shirtless man in the video at the
17 scene?
- 18 A Yes.
- 19 Q Then what did you do?
- 20 A After talking to Investigator Heyde, Sergeant
21 Letterman showed up at C.I.D. with the video, and we were
22 able to view the video, and from that you could -- you
23 could -- you could see some of the things that happened,
24 some of the things we already knew, some of the people we
25 already knew that were in the video. And we started

Mark Gaddy
Direct examination by Mr. Smith

1 piecing stuff together.

2 Q All right. Did you have information about what other
3 victims like Ms. Rice were wearing --

4 A Yes.

5 Q -- to aid you in identifying people on this video?

6 A Yes.

7 MR. SMITH: I'm going to be playing State's
8 Exhibit 56.

9 Q If you want to turn to your notes about the video, I'm
10 going to start with 7-1.

11 THE COURT: You are playing 57?

12 MR. SMITH: Fifty-seven, Your Honor, yes.

13 Q The following questions will be about 7-1. Can you
14 explain to the jury the orientation?

15 THE COURT: Be careful of the microphone, Mr. Gaddy.

16 THE WITNESS: Yes, sir. Sorry.

17 Q The orientation of this video, what would be to the
18 right of this video?

19 A Looking out from the camera, of course, the store is
20 behind you and this -- this particular camera is -- I think
21 they're almost in the middle of the store, and this is kind
22 of oriented back towards Playoffs.

23 Q Okay. What would be to the right?

24 A To that way would be Playoffs; to this way would be
25 the convenience store.

Mark Gaddy
Direct examination by Mr. Smith

- 1 Q Okay. This is -- do you believe this is the camera
2 that we looked at that zoomed-in picture with Investigator
3 Letterman that's pointed straight out?
- 4 A Yes.
- 5 Q All right. And this is the -- is this the initial
6 video that you have from this, the camera that was pulled?
- 7 A Yes.
- 8 Q Do you know whose car this is?
- 9 A That would be Ms. Irby's.
- 10 Q Are any of these people we've seen so far known to you
11 as part of this investigation?
- 12 A No, sir.
- 13 Q Did you see anything that you believe led to whatever
14 happened at the Playoffs based off that video?
- 15 A No, no, sir.
- 16 Q Following questions will be about 7-2. Are these
17 videos in chronological order?
- 18 A Yes.
- 19 Q This happens after the one I just played?
- 20 A Yes, sir.
- 21 Q Do you know who those people are? Do they have any
22 involvement in this case that you're aware of?
- 23 A No, sir, not that I'm aware of.
- 24 Q Or this individual?
- 25 A Not that I'm aware of.

Mark Gaddy
Direct examination by Mr. Smith

- 1 Q Anything on that video that aided your investigation?
- 2 A No, sir.
- 3 Q All right.
- 4 MR. SMITH: The following questions will be about 7-3
5 on State's Exhibit 57.
- 6 Q All right. Were you ultimately able to identify this
7 individual?
- 8 A Yes. That's Mr. Smith.
- 9 Q All right. And the man without a shirt?
- 10 A Mr. Anderson.
- 11 Q Do you know who this individual is?
- 12 A Do not.
- 13 Q All right. What -- I'm just going to talk about this
14 individual on the far left side of the screen before we get
15 a closer look at him. Do you notice him do anything here
16 in the couple of seconds I'm about to play with his right
17 hand?
- 18 A It appears he pulls -- it appears -- it's a mannerism
19 that would lead you to believe that he pulled a weapon from
20 under his shirt.
- 21 Q What do you see in his right hand?
- 22 A A weapon.
- 23 Q Were you able to identify who that individual is?
- 24 A Yes. That's the defendant, Mr. Thompson.
- 25 Q How did you do that?

Mark Gaddy
Direct examination by Mr. Smith

- 1 A Through dress. And as you watch the video you'll see
2 this individual sustained an injury that is consistent with
3 the one Mr. Anderson -- or excuse me -- that Mr. Thompson.
- 4 Q Not necessarily in this video but others?
- 5 A Right.
- 6 Q Do you notice anything about his head?
- 7 A He's got the same knit stocking cap on.
- 8 Q And what type of shirt is he wearing?
- 9 A The white t-shirt and the dark gray and white shoes
10 with the red on top.
- 11 Q Do you notice anybody else with pants as dark as
12 him --
- 13 A No.
- 14 Q -- shot? All right. what -- what do you see at this
15 part after he's dropped the cigarette out of his mouth?
16 what -- what do you see happening here?
- 17 A Mr. Anderson and Mr. Thompson go from toward the
18 center of the store toward the right-hand side of the
19 store.
- 20 Q All right. would that be towards the service station,
21 the convenience store?
- 22 A Yes.
- 23 Q All right. Did you see that right there?
- 24 A That appears to be Ms. Irby going to her car.
- 25 Q That -- that figure? You have to answer verbally.

Mark Gaddy
Direct examination by Mr. Smith

- 1 All right. This individual in the red jumpsuit, can
2 you see? Play it more.
- 3 A It's Ms. Rice.
- 4 Q All right. What about that individual?
- 5 A Mr. Glenn.
- 6 Q Do you know who this man is?
- 7 A No.
- 8 Q Or this man in the red?
- 9 A No.
- 10 Q This man?
- 11 A No.
- 12 Q I know we watched these multiple times. Do you know
13 if there is any audio to these tapes?
- 14 A Not that I'm aware of.
- 15 Q At this -- on this video does Mr. Thompson ever come
16 back into the frame on this clip?
- 17 A No.
- 18 Q What do you see happening here between Mr. Glenn and
19 Mr. Smith if you can tell?
- 20 A I mean, there's definitely conversation between what
21 appears to be me and the parties that -- that were pushed
22 out of this camera view.
- 23 Q All right. What do you see happening?
- 24 A They're reacting to something off to the right-hand
25 side of the store, if you're looking at it, that causes

Mark Gaddy
Direct examination by Mr. Smith

- 1 them to --
- 2 Q To?
- 3 A -- start moving backwards. I mean, I would --
- 4 Q From there where we've seen Mr. Thompson?
- 5 A Right. I would -- I would assume that it would be
- 6 the -- the shooting beginning.
- 7 MR. ALLEN: Objection as to what he assumes.
- 8 THE COURT: Sustained.
- 9 Q What do you see Ms. Rice do?
- 10 A She falls.
- 11 Q What about how she's facing?
- 12 A She's facing towards the left.
- 13 Q Towards the Playoff side.
- 14 A Towards the Playoff side of the store.
- 15 Q And then what does she do?
- 16 A She falls down. Mr. Smith tries to check on her, and
- 17 then she starts to stand up.
- 18 Q All right. There's a lot that happens in this. What
- 19 do you see Mr. Smith do? Which way is he facing?
- 20 A He's facing the gas-station side of the store, which
- 21 would be where Mr. Thompson and Mr. Anderson had gone to.
- 22 And then he starts moving backwards.
- 23 Q All right. And, potentially, what else do you see him
- 24 doing with his left hand?
- 25 A It appears as he's going for his -- he's a C.W.P.

Mark Gaddy
Direct examination by Mr. Smith

- 1 holder. It appears he's going for his weapon.
- 2 Q And what do you see him do then?
- 3 A Retreat.
- 4 Q Out of frame?
- 5 A Out of frame.
- 6 Q Around the same time that they're reacting, what do
7 you see coming on the left-hand side of the screen?
- 8 A Corey -- Corey Glenn is quickly moving from that side
9 to the other side.
- 10 Q All right. Do you notice anything in his hands?
- 11 A No.
- 12 Q All right. And he would be running to which side of
13 the business?
- 14 A He'd be running from the gas-station side, service,
15 convenience-store side toward Playoffs.
- 16 Q All right. I'd like for you to focus on Ms. Irby's
17 car. What do you notice right there?
- 18 A She -- her signal light is going off, which is in the
19 statement that she made, indicate that she was trying to --
- 20 MR. ALLEN: Objection as to what she was indicating.
- 21 THE COURT: Sustained. She's already testified.
- 22 Q All right. Do you believe that you see Ms. Rice get
23 struck by a bullet on this video?
- 24 A Yes.
- 25 Q All right. What gives you that indication?

Mark Gaddy
Direct examination by Mr. Smith

- 1 A If -- if you watch Ms. Rice when she gets up and
2 almost -- she turns, and when she does she's facing the
3 convenience-store side. And if you look at the distance in
4 between her and Ms. Irby's car, you can see her hair puff
5 out, and immediately after that she grabs her right ear.
- 6 Q All right. At the time that Ms. Irby flashes her
7 lights has Mr. Smith removed his weapon?
- 8 A No. Doesn't appear so.
- 9 Q Does it appear he's still grabbing?
- 10 A It appears he's still trying, yeah, still trying to.
- 11 Q Is that the poof that you're talking about the...
- 12 A Yes.
- 13 Q All right. The following questions will be about
14 camera nine, the second camera nine. If you could, start
15 by explaining the orientation of this video in relation to
16 the last and in relation to the building in general.
- 17 A This, again, the store is behind you or the business
18 is behind you, and this is looking -- I would say that this
19 is oriented from Playoffs towards the convenience store.
- 20 Q All right. And what do you see just initially here as
21 far as people?
- 22 A You see people looking out toward the parking lot, and
23 there's people in the upper corner there.
- 24 Q What do they appear to be wearing?
- 25 A It appears consistent with what the suspect was

Mark Gaddy
Direct examination by Mr. Smith

- 1 wearing that night.
- 2 Q From what you can see here --
- 3 A Yes.
- 4 Q -- what does it appear that they're wearing?
- 5 A Yes, yes.
- 6 Q All right. Who do you believe this to be?
- 7 MR. ALLEN: Objection as to who he believes it to be.
- 8 THE COURT: Sustained.
- 9 Q What do you see in these couple of seconds here?
- 10 A Saw a muzzle flash.
- 11 Q All right. What about the arm? Which arm do you
- 12 believe is --
- 13 A That appeared to be the right arm pointing toward the
- 14 crowd before the muzzle flash appeared.
- 15 Q Does it appear that the person may be holding
- 16 something in their left arm?
- 17 A He's got his hand up like this. I would say so.
- 18 Q Possibly a beer?
- 19 A Yes, sir. It could be.
- 20 MR. ALLEN: Objection to the possibly.
- 21 THE COURT: Sustained.
- 22 Let's don't speculate. If he knows, he knows. If he
- 23 doesn't, he doesn't.
- 24 Q Is that the muzzle flash you're referring to?
- 25 A Yes. The first, the second.

Mark Gaddy
Direct examination by Mr. Smith

- 1 Q All right. And then what is that individual doing?
- 2 A He advances toward the other side of the parking lot.
- 3 Q Which would be back toward the camera that we just got
- 4 done watching.
- 5 A Yes, yes.
- 6 Q All right. What do you notice out of these people
- 7 prior to this individual raising their arm and the muzzle
- 8 flash? What do you notice about this person?
- 9 A A change in behavior. I would only -- I would
- 10 categorize it as getting small.
- 11 Q Okay. But what is the --
- 12 A He starts looking towards the other side. I mean,
- 13 they're...
- 14 Q How about at that moment there with these two
- 15 individuals?
- 16 A I would say that they're reacting to something.
- 17 Q All right. What do you see here?
- 18 A At that point if you back it up just a little bit, you
- 19 don't see anything on the sidewalk. When the individual
- 20 runs through there you see that -- that swish right there,
- 21 that is blood. That was actually found to be blood.
- 22 Q What are the -- what about the -- can you notice
- 23 anything about this individual right there, that shot of
- 24 the left hand?
- 25 A It -- it looks like there's something there.

Mark Gaddy
Direct examination by Mr. Smith

- 1 Q All right. Different than his skin color.
- 2 A Right.
- 3 Q And who is this?
- 4 A Ms. Rice.
- 5 Q Do you know whose this vehicle is?
- 6 A That's hers.
- 7 Q Do you know who this vehicle is?
- 8 A That would be Mr. Smith's truck.
- 9 Q Do you know who any of these individuals are that
- 10 we've seen here? We know --
- 11 A I know who that is.
- 12 Q Who is that?
- 13 A That's Mr. Smith.
- 14 Q All right. But these other --
- 15 A People -- people don't have a tendency to hang around,
- 16 I mean.
- 17 Q What about that individual?
- 18 A I don't know his name.
- 19 Q All right. What do you observe Mr. Smith to be doing
- 20 here?
- 21 A He appears to go down where the person ran, and by his
- 22 body language I would say that he is absorbing the recoil
- 23 from two rounds that he's shooting down beside the store.
- 24 Q You mean how he kind of leans back there?
- 25 A Exactly.

Mark Gaddy
Direct examination by Mr. Smith

- 1 Q All right. Who is that individual?
- 2 A That appears to be Corey Glenn.
- 3 Q What do you see happening here?
- 4 A Ms. Rice getting in the white suburban and going to
5 the hospital.
- 6 Q All right. I would like to talk about camera three,
7 the first one, camera 3-1.
8 Can you tell -- it's not wanting to go.
9 Start with six, 6-1, instead. Can you tell your
10 orientation of this? I know it's obscured, but what we're
11 seeing in this video.
- 12 A Appears to be on the corner of the building on the
13 extreme right-hand side if you're looking at it.
- 14 Q Would that be the gas-station side?
- 15 A Yes.
- 16 Q What type of vehicle does this appear to be?
- 17 A That would be the truck.
- 18 Q Are you referring to Mr. Smith?
- 19 A Of Mr. Smith's truck.
- 20 Q And what do you see in this video?
- 21 A Individual, Mr. Thompson, running around the side of
22 the building.
- 23 Q All right. And what color of shoes?
- 24 A White shoes, dark colored shorts, white t-shirt.
- 25 Q All right. And what about the ground right here?

Mark Gaddy
Direct examination by Mr. Smith

- 1 A You don't see anything except oil spots at this point,
2 is how I would categorize it. And then you see the blood.
- 3 Q Can you tell who this individual is?
- 4 A Not from that view.
- 5 MR. SMITH: These questions will be about 6-2.
- 6 Q All right. Who is that?
- 7 A Mr. Smith.
- 8 Q And you believe this is the corner of the convenience
9 store?
- 10 A Yes, sir.
- 11 MR. SMITH: This will be 6-3.
- 12 Q Who is that driving away?
- 13 A Be Ms. Rice.
- 14 Q In the first one. I think you're looking at your
15 page.
- 16 A That's Mr. Smith.
- 17 Q All right. And the second vehicle?
- 18 A That's Ms. Rice.
- 19 MR. SMITH: Going to channel three, No. 1.
- 20 Q Can you tell the jury what this camera is looking at?
- 21 A It would be the back pumps, back area of the store.
- 22 Q Did you see anything on that video?
- 23 A No.
- 24 Q 3-2. Anything on that video?
- 25 A No.

Mark Gaddy
Direct examination by Mr. Smith

- 1 Q 3-3. What do you see there?
- 2 A That appears to be the suspect running across the back
3 parking lot toward the wood line where he was found.
- 4 Q Did you see anything of note on video four and five
5 from that channel?
- 6 A No.
- 7 Q 3-6. Anything on that video?
- 8 A No.
- 9 Q All right. Is that similar to the type of review you
10 did at the time that you had this case and were
11 investigating it?
- 12 A Yes.
- 13 Q What did you do after you had analyzed the videos?
- 14 A Wrote every -- I mean, obviously, wrote everything up,
15 and kept, you know just kept, reviewing and sending off
16 what evidence needed to be sent off.
- 17 Q Okay. But after -- after you looked at the shots,
18 what's the next thing you did in the investigation that
19 day?
- 20 A Okay. We looked -- we looked quickly. That kind
21 of -- we don't do that in-depth of a look at it until
22 later, but the two camera views that we looked at,
23 concentrated on primarily, were seven and -- I would say
24 seven and nine.
- 25 Q All right.

Mark Gaddy
Direct examination by Mr. Smith

- 1 A That's what we looked at with Sergeant Letterman.
2 After Sergeant Letterman -- after we reviewed the evidence,
3 the video evidence, at that point I went in and I
4 interviewed the suspect, Mr. Thompson.
- 5 Q Seven and nine are the two that are showing --
- 6 A Yes.
- 7 Q -- that half of the front of the store?
- 8 A Yes.
- 9 Q All right. So then you were saying you went in and
10 interviewed Mr. Thompson?
- 11 A Yes.
- 12 Q All right. At this time did you read him his Miranda
13 rights?
- 14 A I did.
- 15 Q Did you consider him to be a suspect in the case?
- 16 A I did.
- 17 Q Did -- did he agree to talk to you after he had been
18 read his rights?
- 19 A He did.
- 20 Q Did you record that statement?
- 21 A I did.
- 22 Q I'm going to show you State's Exhibit 44 and ask if
23 you can identify what this is.
- 24 A It would be a pre-interrogation waiver form filled out
25 to be speaking to Jody Thompson on 6/26/16, signed by he

Mark Gaddy
Direct examination by Mr. Smith

1 and I.

2 Q Is that a standard form that you do before --

3 A Yes.

4 Q -- reinterviewing a suspect?

5 A Yes.

6 MR. SMITH: Your Honor, at this time we'd move
7 Exhibit 44 into evidence.

8 MR. ALLEN: No objection.

9 THE COURT: It's admitted. What's the number?

10 MR. SMITH: Forty-four.

11 (Miranda waiver form marked State's Exhibit No. 44.)

12 Q And you said you made a recording of this. I guess
13 it's your second time speaking with Mr. Thompson with the
14 first time of him being a suspect.

15 A Yes.

16 Q I'm going to hand you what's been marked as State's
17 Exhibit 59 and ask if you can identify what that is.

18 A That would be the statement of Jody Thompson. It's
19 got the case number on it, the date and that there are two
20 separate times that I spoke with him. So there should be
21 two statements on there.

22 THE COURT: May I see those two exhibits that you just
23 referenced?

24 (Bench conference held off the record in the presence
25 of the jury but out of the hearing of the jury.)

Mark Gaddy
Direct examination by Mr. Smith

1 MR. SMITH: Your Honor, at this time we move State's
2 Exhibit 59 into evidence.

3 THE COURT: It's admitted.

4 (Recording of defendant's statement marked State's
5 Exhibit No. 59.)

6 MR. SMITH: With the permission to play the first
7 segment.

8 (Whereupon, the video was played for the jury.)

9 Q All right. Investigator Gaddy, did you do a follow-up
10 interview with Mr. Thompson --

11 A Yes.

12 Q -- shortly after that interview we just heard?

13 A Yes.

14 Q Did you record that as well?

15 A Yes.

16 Q Did you glean any additional information out of that
17 interview?

18 A I don't -- I didn't get it transcribed. I don't think
19 so. I don't think that there was anything real...

20 Q What was the focus of the investigation after this?

21 A The focus of the investigation after this was trying
22 to -- obviously, because his -- his series of events did
23 not match what evidence and statements that we had, we went
24 ahead and --

25 MR. ALLEN: Object to his talking about what matches

Mark Gaddy
Direct examination by Mr. Smith

1 or what doesn't match the evidence when the jury is
2 considering the evidence.

3 THE COURT: Well, you'll be able to cross-examine him
4 about his view of that unless the solicitor wants to go
5 into that in detail.

6 MR. ALLEN: Yes, sir.

7 Q What about any -- identifying any other potential
8 shooters in this case?

9 A We were -- we were still trying. We were still
10 working on identifying other people in the case.

11 Q What did you do after you interviewed Mr. Thompson?

12 A At that time point I moved to take -- have him taken
13 to the detention center. I went and signed warrants for
14 the people that we had identified at this point.

15 Q And that would be?

16 A That would be for the -- the warrant for Mr. Thompson
17 on Ms. Irby, Ms. Rice and Mr. Glenn.

18 Q All right. And when you arrived back at the sheriff's
19 office after getting those warrants, what happened then?

20 A Investigator Clark had told me, had advised me, that
21 he had identified the other person.

22 Q And then what happened?

23 A That person actually came to the sheriff's office.

24 Q All right. And what date are we talking about?

25 A On 6/26/16.

Mark Gaddy
Direct examination by Mr. Smith

- 1 Q The same day as the shooting?
- 2 A Yes.
- 3 Q And did you speak with Mr. Smith?
- 4 A I did.
- 5 Q Did he -- he spoke freely with you about what
6 happened?
- 7 A He did.
- 8 Q Did you inquire about whether he was able to carry a
9 gun as he appeared to be carrying it in the video?
- 10 MR. ALLEN: Objection, Your Honor. That matter has
11 been testified to by Mr. Smith, and he's going into
12 hearsay.
- 13 THE COURT: Sustained.
- 14 Q What did you do after you got done talking to
15 Mr. Smith?
- 16 A Put him with our I.D. person.
- 17 During the interview I made a copy of his C.W.P. I
18 got him with Investigator Lawson to process both he and the
19 handgun that he had brought with him to the sheriff's
20 office. And I went to sign an additional warrant on
21 Mr. Thompson.
- 22 Q And what was the rationale for signing that additional
23 warrant?
- 24 A I couldn't sign that warrant until I had Mr. Smith
25 identified.

Mark Gaddy
Direct examination by Mr. Smith

- 1 Q Did you -- what is your role in this case?
- 2 A I'm what they call the lead investigator.
- 3 Q What does -- what responsibilities come with that?
- 4 A Compile all of the data, make all of the charges.
- 5 Q Who makes the decision about whether to send evidence
- 6 for further analysis?
- 7 A That would be a decision between myself, a supervisor and
- 8 usually the solicitor's office.
- 9 Q Did you send off the ballistic evidence --
- 10 A Yes.
- 11 Q -- to be further analyzed in this case?
- 12 A Yes.
- 13 Q Where did you have that done at?
- 14 A To the Greenville lab.
- 15 Q And did you -- did you submit the State's Exhibits 31
- 16 and 39 to the Greenville lab?
- 17 A Yes.
- 18 Q Did you transport those personally?
- 19 A No.
- 20 Q All right. What about the -- all of the shell casings
- 21 and bullet fragments that have been entered into evidence?
- 22 Were all of those sent to the Greenville lab?
- 23 A To my knowledge, yes.
- 24 Q Did you choose to send the .22 that was recovered from
- 25 Ms. Irby's vehicle?

Mark Gaddy
Direct examination by Mr. Smith

- 1 A No.
- 2 Q why not?
- 3 A There were no .22 casings found at the scene.
- 4 Q And was her weapon one that would expel shell casings?
- 5 A Yes. Her weapon was a .22 long rifle, caliber pistol.
- 6 Q At the time that you initially sent everything to
7 Greenville did you have all of the evidence --
- 8 A No.
- 9 Q -- yet? Tell me about what happened.
- 10 A There was still search warrants to be done on the
11 vehicles that were hit, things like that.
- 12 Q What about Ms. Irby?
- 13 A She still had a projectile in her -- in her leg.
- 14 Q Okay. Were you -- did you ultimately have a
15 conversation with Ms. Irby without saying what y'all said?
- 16 A We did.
- 17 Q What did you do based off that conversation? When did
18 that occur?
- 19 A There were several conversations with Ms. Irby during
20 this time.
- 21 Q Were they in relation to the --
- 22 A In relation -- in relation to the case. She -- she --
23 she wanted for us to be able to tell the doctors that we
24 needed the projectile, but we couldn't do that.
- 25 Q Right. Well, did you ultimately have a conversation

Mark Gaddy
Direct examination by Mr. Smith

1 in which --

2 A She -- she went to a medical professional who chose to
3 take the -- the projectile out. I told her what the case
4 number was, my contact information and that when it
5 happened she needed to contact me or give them the
6 information, to contact us immediately so we could recover
7 the projectile.

8 Q And do you know when that conversation happened?

9 A That would have been on seven -- says on 7/20/2016. I
10 received a voice mail from Greer Memorial, Tammy Henson,
11 telephone numbers -- I wrote it in my report -- that said
12 that they were about to perform surgery on Irby and that
13 they would -- that we could come and recover the bullet.

14 I contacted I.D. Officer Talanges and advised him of
15 this information and he recovered the bullet.

16 At 1730 that same afternoon I received -- Officer
17 Talanges stopped me and informed me that he had, in fact,
18 recovered the bullet.

19 Q And then did you make sure that that bullet was then
20 submitted?

21 A Yes. It was submitted with the other, the other
22 evidence.

23 Q All right. Did you ultimately have an opportunity to
24 look back in a more detailed way at those videos?

25 A Yes.

Mark Gaddy
Direct examination by Mr. Smith

1 Q Did you find another person that you believed may have
2 possessed a weapon during this incident?

3 A Yes.

4 Q What did you do about that as far as once you had
5 identified that there was another potential person with a
6 weapon?

7 A Reviewed it all through again trying to track his
8 movements. I contacted you guys at the solicitor's office
9 to let you know what was going on. And ultimately in
10 the -- in the review of the video he moved from the -- if
11 you're looking at the store, he moved from the Playoff side
12 of the store towards the convenience-store side of the
13 store. And you never see him until I think -- I think it's
14 around 50 seconds after the -- what I would consider the
15 initial shooting.

16 Q Is it correct that -- I believe it's the channel
17 seven, clip four, you first saw that individual on?

18 MR. SMITH: Your Honor, this -- I'm about to play
19 portions of State's Exhibit 57.

20 A Yes.

21 THE COURT: When you get to a convenient time for a
22 break, let me know.

23 MR. SMITH: Yes, Your Honor. This is 7-4 of State's
24 Exhibit 57.

25 Q All right. Is this the clip that's immediately after

Mark Gaddy
Direct examination by Mr. Smith

- 1 that -- the one that shows Ramone Smith and --
2 A Yes.
3 Q -- Ms. Rice reacting?
4 A Yes.
5 Q Is this the individual?
6 A Yes.
7 Q Looks like potentially in his left hand --
8 A It appears to be, yes.
9 Q -- weapon? Were you ever able to identify this
10 person?
11 A No.
12 Q Did this -- did this person's presence change your
13 analysis of the case and how you viewed it?
14 A No.
15 Q Why not?
16 A Because when you see the people, the crowd, the
17 bystanders, react.
18 MR. ALLEN: I'm going to object to his analysis of the
19 case.
20 THE COURT: Sustained.
21 Q Do you ever see this person fire a weapon?
22 A No, sir.
23 Q Do you know if that weapon is real?
24 A No, sir.
25 Q Do you know if it was fired at all?

Mark Gaddy
Direct examination by Mr. Smith

1 A No, sir.

2 Q Do you know the caliber of it?

3 A No, sir.

4 Q Do you see that person on any other videos where you
5 found anything indicating that he had started this
6 incident?

7 A Not indicating that he'd started it, but he is seen on
8 some other clips, but we could never identify who he was.

9 (Pause.)

10 MR. SMITH: I don't have any further questions.

11 THE COURT: We're going to take a break.

12 I'll ask the jury to please go to your jury room.

13 Don't discuss the case. I'll bring you back shortly.

14 (The following takes place outside the presence of the
15 jury.)

16 THE COURT: You may step down. Don't discuss your
17 testimony during the break.

18 We'll be at ease for 15 minutes.

19 (Whereupon, a recess was taken.)

20 THE COURT: All right. Bring the jury in, please.

21 (The following takes place in the presence of the
22 jury.)

23 THE COURT: As you know, the witness has completed
24 direct examination. So we'll proceed with the
25 cross-examination by Mr. Allen.

Mark Gaddy
Cross-examination by Mr. Allen

1 MR. ALLEN: Thank you, Your Honor.

2 CROSS-EXAMINATION

3 BY MR. ALLEN

4 Q I want to go back to that last clip that we saw on
5 channel seven. I will try to advance it a little bit.

6 Now, there's a man in a black shirt and blue shorts, I
7 believe it is, correct?

8 A Appears to be.

9 Q Appears to be. And you said that that appears to be a
10 gun that he's holding, a black object in his hand.

11 A Appears to be.

12 Q Appears to be. He was apparently coming from, as you
13 said, the left side of the building to the right side
14 toward the convenience-store side. In other words --
15 that's correct?

16 A Yes.

17 Q From Playoff's side to convenience-store side.

18 A Yes.

19 Q Now, you had looked at all of the videos that were
20 available, correct --

21 A Yes.

22 Q -- for that time period --

23 A Yes.

24 Q -- on that day? Of course there was no videos that
25 really show what's going on much beyond there, correct?

Mark Gaddy
Cross-examination by Mr. Allen

- 1 A Correct.
- 2 Q At the corner of that building.
- 3 A Yes, sir.
- 4 Q On the left-side corner.
- 5 A Yes, sir.
- 6 Q Where three bullet cartridges were found.
- 7 A Yes, sir.
- 8 Q Items 28, 29 and 30.
- 9 A I believe. I don't remember the number, but I know
- 10 what you're talking about, yes, sir.
- 11 Q Yes, sir. When you were analyzing this video you had
- 12 not received the results of the ballistics test --
- 13 A No.
- 14 Q -- from the Greenville lab back yet.
- 15 A No.
- 16 Q Okay. I want to bring your attention now to the
- 17 second track of camera nine. And I'm going to advance it
- 18 -- advance it.
- 19 Now, Officer, I want to draw your attention to the man
- 20 that's getting into this car up in the foreground. Do you
- 21 see something that looked like it was metallic or silver
- 22 flashing in that man's left hand?
- 23 A You'll have to play it again.
- 24 Q okay. I'll be glad to. Do you see that?
- 25 A Yes.

Mark Gaddy
Cross-examination by Mr. Allen

- 1 Q Do you know what that is?
- 2 A No.
- 3 Q This man was getting into a car identified as
4 Cassandra Smith's car, correct?
- 5 A No.
- 6 Q Excuse me. Sandra Rice's car.
- 7 A Yes.
- 8 Q Thank you.
- 9 This looks like -- that man's also wearing a black
10 shirt, correct?
- 11 A Yes.
- 12 Q And some sort of lighter colored trousers, pants,
13 possibly blue, possibly gray, correct?
- 14 A Those are shorts. I would call them shorts. If
15 you're calling them pants, then yes.
- 16 Q Okay. Yeah. Shorts or pants, it might be. They come
17 down below the knee, correct?
- 18 A Okay.
- 19 Q But not much below the knee. You don't know who this
20 man is?
- 21 A No.
- 22 Q But he was getting in the car with Cassandra Rice,
23 correct?
- 24 A Correct.
- 25 Q And this car, of course, returned a few minutes

Mark Gaddy
Cross-examination by Mr. Allen

- 1 later -- that car.
- 2 A Yes.
- 3 Q Cassandra Rice's car.
- 4 A Yes.
- 5 Q She then got into the truck, the white truck, pickup
6 truck.
- 7 A After the car returned, yes.
- 8 Q After the car returned.
- 9 A Right.
- 10 Q That's correct.
- 11 Now, when you -- go back to your testimony about your
12 conversation with Mr. Thompson, Jody Thompson. I believe it
13 was at the hospital?
- 14 A Okay.
- 15 Q Do you recall that? In your testimony you -- I'm not
16 quite sure if I caught exactly what you said. But in your
17 testimony were you saying that Mr. Thompson himself was the
18 person that the other fellows were trying to fight with?
- 19 A I -- I read it from my report, what I had written,
20 about half way down just after he -- unless you want me to
21 read the whole thing, and right after Mr. Thompson said did
22 say, that he had only four mixed drinks. He said that he
23 started --
- 24 Q Yeah. I mean, let me just point you to the right
25 sentence.

Mark Gaddy
Cross-examination by Mr. Allen

- 1 You indicated -- and this would be, if I can look,
2 right here.
- 3 A "He said that he did not know the people who were
4 arguing."
- 5 Q Okay. He said that he did know the guy he was found
6 in the grass with.
- 7 A That's what I wrote.
- 8 Q And the very next sentence is, "Thompson said he was
9 the one they were trying to fight with."
- 10 A That's what it says.
- 11 Q So I know you can't remember Mr. Thompson's
12 conversation word for word today, correct?
- 13 A I would -- I would have to rely on what's written
14 down.
- 15 Q This was a little over two and a half years ago.
- 16 A Yes, sir.
- 17 Q About two-and-a-half years ago, correct?
- 18 A Yes, sir.
- 19 Q And looking at the way you wrote it down now is it
20 now -- is it your recollection that Mr. Thompson was trying
21 to convey to you that he knew the guy who he was in the
22 grass with but that the guy he was in the grass with was
23 the person they were trying to fight with or argue with?
- 24 A To be honest with you, I just -- I have to rely on
25 what's written down. I don't --

Mark Gaddy
Cross-examination by Mr. Allen

- 1 Q Okay.
- 2 A I wouldn't be able to say that.
- 3 Q You don't know which way, one way or the other.
- 4 A I would refer to what's written down.
- 5 Q Okay. And, once again, what you wrote down was in
6 those two sentences, "Thompson said that he did know the
7 guy he was found in the grass with. Thompson said he was
8 the one they were trying to fight with."
- 9 A Okay. That -- that -- I understand what you're
10 saying. That's what it sounds like.
- 11 Q Did you go out to the Playoffs Club on Little Mountain
12 Road at Lyman?
- 13 A That night, yes, and the next day.
- 14 Q You saw it both that night shortly after it happened
15 and later on the following morning.
- 16 A Right.
- 17 Q Correct? When you were out there -- basically, this
18 is a business place, correct?
- 19 A Yes, sir.
- 20 Q Concrete in the front with the building, some concrete
21 or pavement in the back.
- 22 A Yes, sir.
- 23 Q And other than the building, nearest place to take
24 cover would have been the wood line, correct?
- 25 A I would say that's correct, sir.

Mark Gaddy
Cross-examination by Mr. Allen

- 1 Q When you spoke with Mr. Thompson, Jody Thompson, in
2 the sheriff's office, that was on June the 26th, correct?
- 3 A Yes, sir.
- 4 Q Same morning --
- 5 A Yes, sir.
- 6 Q -- that you got involved.
- 7 A Yes, sir.
- 8 Q And you spoke with him, I believe, a little after
9 7:00 in the morning.
- 10 A I believe that's correct. The pre-interrogation form
11 is -- has a time of 7:24, so I'd say that's correct.
- 12 Q Because when you put the time on these
13 pre-interrogation forms, you make a point of looking at
14 your watch.
- 15 A Right.
- 16 Q I'm sure your watch is within a minute or two accurate
17 time, correct?
- 18 A Right. I don't wear a watch, but I use my phone, so
19 the phone is calibrated, so yes, yeah.
- 20 Q So that's even probably more accurate than a watch.
- 21 A Yes.
- 22 Q Okay. And of course prior to having talked to you,
23 Mr. Thompson had been as far as you understand taken by
24 E.M.S. from Little Mountain Road --
- 25 A Yes.

James William Armstrong
Direct examination by Mr. Smith

- 1 Q -- to the hospital.
- 2 A Yes.
- 3 Q In the hospital for a while.
- 4 A Yes.
- 5 Q Receiving treatment and then talking -- and then
6 talking to you.
- 7 A Yes.
- 8 MR. ALLEN: One second, please, Your Honor.
- 9 (Pause.)
- 10 MR. ALLEN: Thank you, Your Honor. No further
11 questions.
- 12 MR. SMITH: I don't have any further questions, Your
13 Honor.
- 14 THE COURT: You may step down.
- 15 MR. SMITH: Your Honor, can we approach --
- 16 THE COURT: Uh-huh.
- 17 MR. SMITH: -- whenever he is done?
- 18 (Bench conference held off the record in the presence
19 of the jury but out of the hearing of the jury.)
- 20 MR. SMITH: Your Honor, the state calls James
21 Armstrong.
- 22 JAMES WILLIAM ARMSTRONG,
23 having been first duly sworn, testified as follows:
24 DIRECT EXAMINATION BY MR. SMITH
- 25 Q will you please state your name for the jury?

James William Armstrong
Direct examination by Mr. Smith

1 A James William Armstrong.

2 Q Where are you employed, Mr. Armstrong?

3 A Employed with the Greenville County Department of
4 Public Safety Forensics Division Crime Laboratories.

5 Q And what do you do in that role?

6 A I am currently supervisor of the crime lab where I am
7 split between a firearms examiner and a forensic drug
8 chemist.

9 Q And how long have you been doing that type of work?

10 A I've been in the crime lab for over 23 years.

11 Q What type of educational background do you have for
12 that?

13 A I have a bachelor of science in chemistry from Erskine
14 College. I have trained in the area of firearm
15 identification under the direction of a retired firearm
16 examiner from Philadelphia P.D. for approximately two years
17 doing apprenticeship training.

18 I've attended 14 manufacturing facilities to see how
19 the firearms are manufactured from raw material to the
20 finished product.

21 I've attended four different ammunition assembly
22 plants to see how the ammunition is manufactured and
23 assembled.

24 I have been through five different armorer schools to
25 learn how to work on various firearms as well.

James William Armstrong
Direct examination by Mr. Smith

1 I have been through various courses with alcohol,
2 tobacco, firearms and explosives dealing with
3 identification of firearms, serial number restoration and
4 tracing those firearms.

5 And I've also been -- I'm a member of the association
6 of firearm and toolmark examiners, and I've testified in
7 federal and state court at least 66 times as an expert in
8 the field of firearm identification.

9 MR. SMITH: Your Honor, at this time I'd present him
10 as an expert in ballistic analysis.

11 MR. ALLEN: No -- no objection.

12 THE COURT: All right. He is qualified.

13 Q How do you receive work orders through your job?

14 A At the law enforcement center in Greenville, property
15 and evidence room stores all of the evidence, or at least
16 the gatekeeper, so to speak, of our evidence.

17 Agencies that are going to come in from outside
18 Greenville County, all they have to do is submit what we
19 call a lab request form. This gives us permission to touch
20 the evidence in the case. We write all of the item numbers
21 and ask what they want us -- what they want us to look at.

22 Then once we have that request, that our property room
23 will store it until I'm actually able to go down to
24 retrieve it and take it back to my office and do the
25 examinations.

James William Armstrong
Direct examination by Mr. Smith

1 Q All right. And did you receive a request? Do y'all
2 assign a case number, I guess?

3 A Yes, sir. We do.

4 Q And did you have -- I guess from the sheriff's office
5 agency 16061397? Were you asked to do an analysis on that?

6 A Yes, sir. I was.

7 Q All right. And do you ultimately make a report of
8 your findings in a case?

9 A Yes, sir. I did.

10 Q And did you that in this one as well?

11 A Yes, sir. I did.

12 Q I'm going to hand you what's been marked as State's
13 Exhibit 13 and ask if you can identify what that is.

14 A Yes. This is a copy of my report for the Spartanburg
15 Sheriff's Office, Case No. 16061397.

16 MR. SMITH: Your Honor, at this time I'd present
17 State's Exhibit 13 or request to move State's Exhibit 13
18 into evidence.

19 MR. ALLEN: No objection.

20 THE COURT: It's admitted.

21 (Ballistics report marked State's Exhibit No. 13.)

22 Q What does your report start out by listing?

23 A The items submitted.

24 Q All right. And in this case -- let's go over some
25 basic vocabulary terms, I guess, in -- in your world. What

James William Armstrong
Direct examination by Mr. Smith

1 is a -- a cartridge casing?

2 A A cartridge casing is what I refer to as a fired
3 cartridge case. That is the body of a cartridge which
4 actually holds the projectile and the powder all together
5 when it's in a live cartridge form.

6 The fired part is where it's actually been fired in
7 the firearm and that's what's left behind. It's just the
8 casing that held everything together.

9 Q Okay. If it's a semiautomatic weapon, would that be
10 what is ejected out of the weapon?

11 A Yes.

12 Q All right. What is a -- Item No. 1 is a fired bullet
13 specimen. What is a fired bullet specimen?

14 A A fired bullet specimen is actually the projectile
15 that was at one time seated with a cartridge case. It's
16 what actually goes down the barrel of the firearm and has
17 our projectile.

18 Q What about a -- I believe it's Item 21 is a bullet
19 jacket. What is that?

20 A The bullet jacket -- a fired bullet specimen is
21 constructed of usually brass or copper jacketing, which is
22 over the top of lead. Lead is the core, the center part of
23 it.

24 Sometimes when those projectiles hit a hard surface
25 the jacket or the copper may come off, and this is just

James William Armstrong
Direct examination by Mr. Smith

1 that jacketing over the projectile.

2 Q So, but that's something that would go out through the
3 barrel of the gun --

4 A Yes, yes, sir, it would.

5 Q -- if the gun was fired? What is a fired bullet core?

6 A A fired bullet core is typically --

7 Q Fired bullet core.

8 A Typically, it's just a -- it's a piece of lead that is
9 actually the center part of the projectile.

10 Q Are there any other vocabulary terms you think are
11 needed for this case -- core jacket? Any other type of
12 evidence that you analyzed in this?

13 A Not that I see, no, sir.

14 Q And then did you also receive firearms to compare to
15 these?

16 A Yes, sir. I did.

17 Q What -- what firearms did you have?

18 A I received what is known as Item 31. It's a Taurus
19 Model PT 640 Pro semiautomatic pistol, serial No. SET58415.
20 It's a caliber .40 Smith and Wesson semiautomatic handgun.
21 And Item 39, which is a Glock Model 27 semiautomatic pistol
22 with serial No. RUC592.

23 Q Both of those weapons are .40 caliber?

24 A Yes, sir. They are.

25 Q What about the caliber of all of the cartridge casings

James William Armstrong
Direct examination by Mr. Smith

1 that you got?

2 A All of the fired cartridge casings were .40 Smith and
3 Wessons.

4 Q All right. So how do you go about analyzing these
5 items?

6 A When I first receive the item I start and I inventory
7 what I have. I open up one item at a time such as the Item
8 1. I opened up first.

9 I then write down just in my notes about what it
10 actually is. Then I place an identifying number and my
11 initials on that item so I don't get them mixed up in doing
12 other examinations.

13 The fired cartridge casings when we're actually
14 comparing those, I'm actually doing a side-by-side
15 comparison on a comparison microscope.

16 We place one item on the left and one on the right,
17 and basically we're overlapping those images. We're trying
18 to see if any striations or imperfections that were
19 transferred to that cartridge case from the firearm were
20 impressed into there. And it's like putting a puzzle
21 together. We can line up all of the striations where
22 they're lining up perfectly, and then we can say, yes,
23 these were fired from the same firearm.

24 Q And that's in relation to cartridge casings?

25 A That's the casings.

James William Armstrong
Direct examination by Mr. Smith

1 Q what about for bullet specimens?

2 A In the bullet specimens it's done basically the same
3 way. If I'm asked to compare it to a firearm and actually
4 have the firearm, I go take a test fire. And then I'm
5 actually going to collect the projectile. And then I'm
6 going to sit down with a microscope and do a side-by-side
7 comparison on that just the same.

8 Q Is that the same procedure for a bullet core?

9 A Yes, sir.

10 Q And a bullet jacket?

11 A Yes, sir.

12 Q All right. And did you analyze all of the items that
13 you received in this case?

14 A Yes, sir. I did.

15 Q Were there any items that you were not able to make
16 any sort of conclusion off of?

17 A I had -- there's an Item 24, is not suitable for
18 microscopic comparison purposes. And Item 54 was not
19 suitable for microscopic comparison purposes.

20 Q what about Item 26?

21 A And 26 as well.

22 Q All right. And is that just -- what could cause that?

23 A It's various things can cause that to happen. Either
24 the fragments are too small to have any kind of identifying
25 features or the bullet cores did not pick up any rifling as

James William Armstrong
Direct examination by Mr. Smith

1 it was impressed from the barrel of the firearm.

2 Q All right. Let's -- first we'll take the -- the
3 cartridge -- well, how about all of the items that were not
4 cartridge casings -- the cores, bullet fragments and
5 jackets? What were you able to conclude about those items?

6 A The items, No. 1, 21, 27, 33 and 56, fired bullet
7 specimen and fired bullet jackets, were not fired from the
8 Item 39 pistol but bear similar but insufficient
9 microscopic marks to permit identification to the Item 31
10 pistol or each other.

11 Q All right. Does that mean that you can definitively
12 say that those did not come from Item 39, from the Glock?

13 A Correct. They were not fired from the Glock.

14 Q And you can't definitively say that they came from the
15 Taurus but that they have similar characteristics?

16 A Correct.

17 Q All right. What about Item 54?

18 A And Item 54, a fired bullet core, was not fired from
19 the Item 39 pistol but bear similar general rifling
20 characteristics to the Item 31 pistol.

21 Q Okay. So everything that's not a cartridge casing
22 that you were -- had sufficient markings to analyze doesn't
23 belong to Item 39 but bears similar characteristics to Item
24 31?

25 A Correct.

James William Armstrong
Direct examination by Mr. Smith

- 1 Q All right. As far as the cartridge casings, what were
2 you are able to conclude?
- 3 A From the cartridge casings, Items 5, 6, 7, 8, 10, 11
4 and 12 were not fired from the Item 39 pistol but were
5 fired in the Item 31 pistol.
- 6 And items 2, 3, 4, 14, 15, 16, 17, 18, 19, 20, 22, 23
7 and 25, fired cartridge casings, were not fired in the Item
8 31 Taurus pistol but were fired in the Item 39 Glock
9 pistol.
- 10 And then items 28, 29 and 30, fired cartridge casings,
11 were not fired in either of the two submitted pistols.
- 12 Q Do you know anything about these cases when you work
13 on them?
- 14 A No, sir.
- 15 Q About the layout of the -- nothing?
- 16 A No, sir.
- 17 Q Oh, how do y'all number these items?
- 18 A We try to keep the items the same as what the officers
19 or the submitting agency submit them under.
- 20 Q Okay. The one should correspond to the sheriff's
21 office inventory Item No. 1 or whatever the arresting
22 agency is?
- 23 A Yes, sir, yes, sir.
- 24 Q Requesting agency.
- 25 MR. SMITH: I don't have any further questions.

James William Armstrong
Cross-examination by Mr. Allen

- 1 Q Thank you.
- 2 CROSS-EXAMINATION
- 3 BY MR. ALLEN
- 4 Q Just a few questions.
- 5 When we're talking about the Item 39 pistol, we're
- 6 talking about the Glock.
- 7 A Yes, sir.
- 8 Q That's contained in this box.
- 9 A Yes, sir.
- 10 Q Okay. After your analysis -- by the way, you sent all
- 11 of the items back to the sheriff's department, correct?
- 12 A Yes, sir.
- 13 Q You don't typically hold the items.
- 14 A Once I complete my analysis, the evidence is taken to
- 15 our property and evidence room and stored until someone
- 16 from the submitting agency comes and retrieves it.
- 17 Q Okay. And, for the record, I was just showing you
- 18 State's Exhibit 39.
- 19 A Yes, sir.
- 20 Q Do you know what the capacity of the magazine from
- 21 State's Exhibit 39 was -- the Glock?
- 22 A The Glock magazine capacity was 14, had 13 in the
- 23 magazine and one in the chamber.
- 24 Q Okay. Magazine holds 13.
- 25 A Yes, sir.

James William Armstrong
Cross-examination by Mr. Allen

1 Q And the weapon itself could hold 14.

2 A If you have that magazine with that firearm, it could
3 hold 14 total, yes, sir.

4 Q Right. And No. 30, State's Exhibit 31. Show this to
5 you. We're talking about the Taurus pistol, right? That's
6 the one you examined.

7 A Yes, sir.

8 Q What's the capacity of that magazine?

9 A It has 11 in the magazine and one in the firearm, so
10 12 total.

11 Q Could hold 12.

12 A Could hold 12.

13 Q Okay. You don't know how many bullets were in the
14 magazines on the night of or on the early morning hours of
15 June 26th of 2016, do you?

16 A No, sir. No idea.

17 Q You're just analyzing what you are handed.

18 A That's right.

19 Q Okay. Now, I want to talk about terminology a little
20 bit, or not so much terminology but your opinion. Just so
21 that I understand it, we're talking about items that I'm
22 going to look at the second line of the third paragraph
23 from the bottom, the one that lines against with Items 1,
24 21, 27, 33 and 56.

25 A Yes, sir.

James William Armstrong
Cross-examination by Mr. Allen

- 1 Q And of course, again, those numbers are the same
2 numbers that were listed on the inventory with the
3 sheriff's office.
- 4 A Yes, sir.
- 5 Q Okay. And you put them back in the same batch.
- 6 A Yes, sir.
- 7 Q You're careful to do that.
- 8 A Yes, sir.
- 9 Q Okay. Now, you're not saying that these items were
10 fired by Item 31, the Taurus, are you?
- 11 A No, sir.
- 12 Q You can't tell.
- 13 A I can't tell.
- 14 Q May have been; may not have been. You don't know.
- 15 A Correct.
- 16 Q You are saying it was not fired by the Glock.
- 17 A Correct. Not fired from the Glock.
- 18 Q And as far as Item 54 that's referenced in the last
19 sentence --
- 20 A Yes, sir.
- 21 Q -- are you saying those have similar markings as those
22 others items that you mentioned there -- 21, 22?
- 23 A Yes, sir.
- 24 Q Thirty-three and 56?
- 25 A Yes, sir. The general rifling characteristics that

James William Armstrong
Cross-examination by Mr. Allen

- 1 were transferred to the core were similar just -- and just
2 by the number and direction of their twist. That's it.
- 3 Q But you're not saying that you can say definitively
4 that they were fired by the Taurus.
- 5 A No. I can't really say for certain.
- 6 Q Okay. You just don't know.
- 7 A Right. Don't.
- 8 Q But you do know it wasn't fired by the Glock.
- 9 A Correct.
- 10 Q Okay. You can say definitively that the items that
11 you -- that are labeled 28, 29 and 30 were not fired by
12 either one of these two weapons.
- 13 A That's correct.
- 14 Q Now, you've listed some of the metal fragments as not
15 being suitable for identification. Is that because they
16 came from the core of the bullet?
- 17 A Typically, the fragments that I receive, they could be
18 copper and/or lead, lead fragments. I'm not positive by
19 just looking right here.
- 20 Q Okay. But they have come from the interior portion?
- 21 A It could have. Interior or it could actually come
22 from the jacket itself, because only a portion of the
23 jacket is actually going to touch the rifling of the
24 barrel. And so the forward portion of the projectile may
25 fragment off and not have any rifling to discern which gun

James William Armstrong
Cross-examination by Mr. Allen

1 may have fired it.

2 Q So essentially they did not have any rifling for you
3 to match at the end.

4 A Correct.

5 Q Okay.

6 MR. ALLEN: Nothing further, Your Honor. Thank you.

7 MR. SMITH: I don't have anything, Your Honor.

8 THE COURT: You may step down.

9 MR. SMITH: He be excused, Your Honor?

10 THE COURT: He may be.

11 (Whereupon, the witness was excused.)

12 MR. SMITH: Your Honor, at this time the state would
13 rest.

14 THE COURT: Okay. That's all of the testimony or
15 evidence the state is going to offer, at least in their
16 case in chief.

17 Before we go further I've got some matters to address,
18 and that'll take us until 5:00 o'clock, I'm certain. So
19 we'll continue in the morning beginning at 9:30.

20 So keep in mind the caution I've already provided. No
21 discussions, no research, no investigation, no media
22 exposure.

23 Have a good evening. Report to your jury room in the
24 morning at 9:30, 9:30 in the morning. Have a good evening.

25 (The following takes place outside the presence of the

1 jury.)

2 THE COURT: Okay. Any motions or other matters to
3 address before we recess?

4 MR. ALLEN: Yes, Your Honor.

5 At this time I would make a motion for a directed
6 verdict based on the ground that concerning my motion, my
7 pretrial motion that was made concerning Mr. Thompson's
8 out-of-court statements on which we held the Jackson vs.
9 Denno hearings, and the Court's ruling from that, as well
10 as all the other evidence presented does not present
11 evidence of each and every element of the attempted -- of
12 the charges of attempted murder. Specifically, the state
13 has not presented any evidence of specific intent to kill.

14 THE COURT: Okay. Mr. Smith.

15 MR. SMITH: Your Honor, I believe in the light most
16 favorable to the jury -- excuse me -- to the state the
17 Investigator Gaddy testified that through his investigation
18 he determined that person on video nine, channel two, to be
19 Jody Thompson, believed that from the blood spill.

20 As he rounds the building that person is seen firing
21 three shots initially based off of the ballistics evidence
22 that we have, those shell casings and then advancing
23 towards the other victims in this case and shooting four
24 more shots.

25 The bullet that was recovered from Renata Irby's leg

1 has similar characteristics to Mr. Thompson's compared with
2 the timing.

3 In the light most favorable to the state, it appeared
4 that he was -- she was struck by Mr. Thompson's. The
5 bullet that was recovered out of Corey Glenn's foot also
6 bears similar characteristics to Mr. Thompson's gun, all of
7 the bullet specimens that were found there.

8 Your Honor, as far as the specific intent, he's seen
9 with a weapon out minutes before this incident happens
10 pacing back and forth, flipping a cigarette, generally
11 acting in a hostile manner.

12 There is -- as far as the state's concerned, there's
13 no video evidence about him firing in retaliation. There's
14 no reaction from anybody in the crowd until that individual
15 raises his right arm and begins firing.

16 In his own statement he admits that there was all
17 kinds of people out there and that he was firing at least
18 seven shot into a crowd of people and that three of
19 those -- three of those people were hit and that Ramone
20 Smith was one of the other people that was being fired at
21 in that instance, Your Honor.

22 Possession of a weapon, he's admitted to possessing a
23 weapon in his interview with Investigator Gaddy. And that
24 would apply to the unlawful carrying of a pistol as well.
25 Thank you, Your Honor.

1 THE COURT: All right. Mr. Allen, anything in
2 response?

3 MR. ALLEN: No, Your Honor.

4 THE COURT: All right. There is sufficient evidence
5 to establish each of the essential elements if it's found
6 to be credible by the jury, and therefore the motion for a
7 directed verdict is denied.

8 Any other matters we need to address before we
9 conclude?

10 MR. ALLEN: Your Honor, I don't know if you want to
11 address this tomorrow morning or this evening, but in the
12 event -- if my client decides to testify I'll inquire of
13 the state as to any crimes of -- they believe are
14 admissible under Rule 609 to be used for impeachment.
15 Convictions of my client, that is.

16 THE COURT: Do you have any offenses that you believe
17 to be admissible under 609 for purposes of impeachment,
18 Mr. Smith?

19 MR. SMITH: He has a shoplifting conviction in 2009.
20 I don't have the offense date in front of me to know if
21 that would be outside, but I would -- I'm almost fine with
22 saying that we won't introduce that.

23 He does have some things that he can open the door to,
24 but that's the only dishonesty crime he has.

25 I just -- I don't have enough information to know when

1 that conviction came to know if it's outside of ten right
2 in front of me, but that's the only potential conviction we
3 have.

4 THE COURT: That'd be before today, wouldn't it, ten
5 years ago? I mean, presumably. It's been nine years.

6 MR. SMITH: It looks like at least October of 2009 was
7 when the arrest date was.

8 THE COURT: All right.

9 MR. SMITH: That's all we have, Your Honor.

10 MR. ALLEN: Do you want to -- I mean, I do need to
11 talk to my client overnight based on the evidence that's
12 been presented as to whether or not he is going to want to
13 testify or not.

14 And I would ask the Court not to ask him -- well, the
15 Court may ask him if the Court desires if he intends to
16 testify, but I want to talk to him some more. So you might
17 want that ultimate question to be held off until in the
18 morning.

19 THE COURT: Okay. Mr. Thompson, as you know, you're
20 charged with a criminal offense, and whenever you are
21 charged with a criminal offense you have an have absolute
22 right to remain silent, which simply means nobody can
23 require you to answer any questions that relate to the
24 charges.

25 No one can require that you make any statement that

1 relates to the charges; no one can require that you take
2 the witness stand even during the trial of the case and
3 testify about anything that relates to the charges,
4 certainly not anything that might tend to implicate you or
5 prove you guilty of the commission of some crime the state
6 claims you committed.

7 So while you have an absolute right to remain silent,
8 nobody can make you take the witness stand during this
9 trial. I can't, your lawyer can't, the prosecutor can't.

10 But if you wish to testify or you wish to provide this
11 jury with any more information from yourself, then you'd
12 have to take the witness stand and testify during the
13 trial.

14 You can call other witnesses and you still not testify
15 during the trial. If you elect to testify, you've got to
16 answer your lawyer's questions, and you also have to answer
17 the prosecutor's questions to the extent that they're
18 relevant even if the responses to those questions might
19 tend to prove you guilty of a crime the state claims you
20 committed.

21 If you elect not to take the witness stand and
22 testify, I'm going to tell the jury, as I already have,
23 that they can't hold that against you, they can't consider
24 it in any way because the burden is not upon you to prove
25 anything. The burden's on the state to prove that you're

1 guilty.

2 So they'll be told that they can't hold the fact or
3 can't consider the fact that you don't testify in any way
4 in their deliberations or in their determination as to
5 whether or not your guilt has been proven.

6 But now, or at least tomorrow, will be the only time
7 that you'll have the opportunity to testify. You can't
8 wait until after the jury has reached a decision and change
9 your mind about that and seek to provide them with any
10 additional information.

11 So in the morning is going to be your turn to present
12 evidence. You can do that through your own testimony, or
13 you can choose to remain silent and still present other
14 witnesses' testimony or other evidence, or you can choose
15 not to introduce any additional evidence in the trial of
16 this case.

17 Do you understand that you have the right to testify
18 if you want to?

19 THE DEFENDANT: Yes, sir. I do now. Yes, sir.

20 THE COURT: And do you understand that you have a
21 right not to testify if you don't want to?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: And do you understand that you're the only
24 person that can make that decision?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: And have you and Mr. Allen had an
2 opportunity to discuss the advantages and disadvantages of
3 your testifying, as well as your not testifying?

4 THE DEFENDANT: He said he'll get with me tonight.

5 THE COURT: Okay. So you and he are going to discuss
6 the advantages of testifying, as well as the advantages of
7 not testifying. And then you'll have to reflect on your
8 decision. So you need to think about it tonight of course.

9 THE DEFENDANT: Right.

10 THE COURT: But you'll have to reflect upon your
11 decision. But I'll ask you in the morning whether or not
12 you want to testify. And if you do, you will. If you
13 don't, then you won't. Okay?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: So any questions that you have about that,
16 you be sure and discuss them with Mr. Allen. And he'll
17 fully advise you, and then I'll ask you what your decision
18 is in the morning when we reconvene.

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Okay. Anything else?

21 MR. ALLEN: Not for this evening, Your Honor.

22 THE COURT: All right. Court is in recess until
23 9:30 in the morning.

24 END OF PROCEEDINGS FEBRUARY 13, 2019

25

1 (Proceedings February 14, 2019)

2 (The following takes place outside the presence of the
3 jury.)

4 (G.S.R. kits marked Defendant's Exhibits Nos. 1 through
5 6 for Identification.)

6 THE COURT: Any matters to address before the jury is
7 brought in?

8 MR. SMITH: None from the state, Your Honor.

9 MR. ALLEN: I think the issue that we recessed on,
10 Your Honor, was my client desired to testify, should my
11 client want to testify. I don't know if the Court wanted
12 to inquire of that before we get started with the jury.

13 THE COURT: Okay. Mr. Thompson, have you talked to
14 Mr. Allen about your right to testify, or not?

15 THE DEFENDANT: Yes. I did.

16 THE COURT: And have you had time to think about your
17 decision?

18 THE DEFENDANT: Yes, sir. I did.

19 THE COURT: And have you come to a decision?

20 THE DEFENDANT: Yes. I have but I also --

21 THE COURT: Well, what is -- what is your decision?

22 THE DEFENDANT: My decision is, no, I'm not going to
23 testify.

24 THE COURT: Okay.

25 THE DEFENDANT: But I did have something that I did

1 want to address the Court.

2 THE COURT: Okay.

3 THE DEFENDANT: Okay. I am requesting a direct -- I
4 am requesting a direct verdict of not guilty due to --

5 THE COURT: Okay. You don't get to make any motions.
6 Your lawyer will handle that at the appropriate time.

7 THE DEFENDANT: Right. Okay. I just wanted to get it
8 on record. That way --

9 THE COURT: Well, your lawyer has put it on the
10 record. He's your lawyer.

11 THE DEFENDANT: Right.

12 THE COURT: He's representing you.

13 THE DEFENDANT: Right.

14 THE COURT: He'll make the motions for a directed
15 verdict, and I think he has.

16 THE DEFENDANT: Right. Okay.

17 THE COURT: Do you want to talk to him about it in
18 case he thinks he needs to add anything?

19 (Pause.)

20 MR. ALLEN: I think what we have here is a
21 disagreement on how to handle a directed-verdict motion.

22 He asked me to cite the case which states a correct
23 principle of law as to the standard for the test, but I
24 don't believe the facts are necessarily applicable in this
25 case.

Jennifer Nates
Direct examination by Mr. Allen

1 A I am.

2 Q And by whom are you employed?

3 A I'm employed by the South Carolina Law Enforcement
4 Division in the trace evidence section of the forensics
5 laboratory.

6 Q In general, what is the trace evidence division? What
7 do you mean by trace evidence?

8 A The trace evidence section is one of the divisions
9 within the laboratory that is responsible for different
10 types of analyses. We perform analyses in gunshot residue,
11 fiber, tape, explosives, fire debris, bank dye, glass and
12 unknown identifications in comparisons.

13 Q Do you conduct examinations in gunshot residue?

14 A I do.

15 Q And can you tell us about the training and experience
16 or the education and training and experience you've had in
17 gunshot residue?

18 A I received a bachelor of science degree from a small
19 state school in Pennsylvania named California University of
20 Pennsylvania in 1997.

21 Once I received this, I then proceeded to perform an
22 internship at the SLED laboratory. At the end of that
23 internship I was hired into the drug analysis department
24 where I completed their training program. And I began
25 accepting drug and poison cases for analysis and to present

Jennifer Nates
Direct examination by Mr. Allen

1 testimony in court.

2 At the end of a year there was an opening in trace
3 evidence, which is where I wanted to work. I applied for a
4 transfer, which I was given.

5 I then began a three-to-four year training program in
6 the trace evidence department under the senior analyst and
7 the lieutenant of the department at that time. This
8 training included hands-on training in each area of
9 analyses that was performed, training on the
10 instrumentation that is used and training on court
11 testimony and ethics.

12 The training also included competency tests. After I
13 would go through each area of testing I would be given a
14 test in that area in which I had to perform the analyses
15 and present the findings to my lieutenant.

16 I also attended numerous courses and classes --

17 THE COURT: Don't turn your back to the court
18 reporter. She likes to see your face. So at least have a
19 profile.

20 Mr. Allen, if you'll stand here -- if you'll look at
21 Mr. Allen, and she'll be able to see you, and the jury will
22 be able to hear you too.

23 A I took numerous classes and courses that would deal
24 with the types of analyses trace evidence examiners would
25 perform and the instrumentation that they would use for

Jennifer Nates
Direct examination by Mr. Allen

1 these analyses.

2 Once I was competent in all of those areas I was
3 deemed that I could perform analyses in all of these areas.
4 And currently I proficiency test in each area on a yearly
5 basis to maintain accreditation.

6 Q And were you so accredited in 2018?

7 A Yes.

8 Q How long have you been accredited to perform gunshot
9 residue?

10 A I've been able to perform them. It was -- the first
11 training I went through when I transferred into trace
12 evidence, which was in 1999, so I've been performing
13 casework under supervision since '99. And then I was out
14 of training in 2000.

15 Q In 2000?

16 A Yes.

17 Q Do you know how many examinations you have performed
18 on gunshot residue?

19 A The type of testing that we do has changed, but since
20 I have been doing testing it's been in excess of several
21 thousand samples.

22 Q And have you testified in court?

23 A I have.

24 Q In courts of South Carolina?

25 A Yes.

Jennifer Nates
Direct examination by Mr. Allen

1 MR. ALLEN: Your Honor, I submit Jennifer Nates as an
2 expert in the area of gunshot residue analysis.

3 MR. SMITH: No objection.

4 THE COURT: She is qualified.

5 Q You -- you are now a lieutenant in the state law
6 enforcement division?

7 A I am a lieutenant. That is just a term for the
8 supervisor over that section.

9 Q Okay. So you supervise the --

10 A The trace evidence section.

11 Q Okay. Did you perform an analysis in the case from
12 Spartanburg County involving a suspect named Jody Ray
13 Thompson?

14 A I did.

15 Q Was that a gunshot residue analysis?

16 A It was gunshot residue analysis.

17 Q Okay. I want to show you what's been marked as
18 Defense Exhibits 1 through 6 and if ask you recognize those
19 items.

20 A This is the packaging that we normally receive
21 evidence when it is submitted to the laboratory.

22 On each of these you will see what I have -- we have a
23 sticker. When the agency submits the evidence it is
24 assigned a laboratory number. It is a unique number that
25 is assigned to each case that comes into the lab. Any

Jennifer Nates
Direct examination by Mr. Allen

1 evidence that is submitted at a later time or from another
2 agency on that case will be assigned this same number and a
3 different item number.

4 So each of these are the items that I analyzed in this
5 case. I marked them with the date and my initials of when
6 I opened the items. So each of these envelopes is related
7 to this case. It is each of the item numbers that I
8 performed an analysis on.

9 Q When you receive these items and you open them up, are
10 they packaged in a separate envelope within this bigger
11 envelope?

12 A Within this bigger envelope will be a small white
13 envelope that is -- that consists of the gunshot residue
14 kit. It's a kit that's provided by SLED to the different
15 agencies within the state to -- to collect gunshot residue
16 evidence. So there's a white envelope in here that will be
17 labeled as a Tri Tech gunshot residue kit.

18 Q Is that what's opened there also a tamper-evident
19 envelope?

20 A Usually the evidence we receive will have a seal on
21 it, and initials and date or initials.

22 The envelope inside is provided with a -- with a seal
23 the officer or the coroner or the investigator places on
24 the kit after the collection. So they'll put the samples
25 in the kit or in the envelope, the information sheet that

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Direct examination by Mr. Allen

1 goes along with that kit, and then they will seal it with
2 the red tape or any other evidence tape that they use.

3 Q When you received each one of these items that are now
4 listed as Defense Exhibits 1 through 6, were they all
5 sealed when you received them?

6 A They were all sealed when I received them.

7 Q Now, you received, for example -- trying to go in
8 numerical order -- Defense Exhibit 1. The outside -- did
9 you fill out the outside information on this brown
10 envelope?

11 A No. I did not fill out any of that. I applied the
12 sticker and then the initials and the date, I wrote on,
13 yes.

14 Q Okay.

15 A Yes.

16 Q And of course your initials are J.M.N.

17 A Yes.

18 Q And I see other initials -- J.E.H. Do you know who or
19 what those initials are?

20 A She is an employee of the trace lab. She is our
21 technician who will bring evidence from the log-in
22 department, which is downstairs where the evidence is
23 submitted. Bring it up to us, and she will inventory the
24 kits for us and prepare them for analysis.

25 Q Now, looking at Defense Exhibit 1 for identification,

Jennifer Nates
Direct examination by Mr. Allen

1 this was an inventory -- okay. What's the inventory number
2 and the name on the G.S.R. kit?

3 A It was inventory No. 38 and it was a G.S.R. kit from
4 Stephone Anderson.

5 Q Proceeding to Defense Exhibit 2. What is the
6 inventory number that's on there and the name on the kit?

7 A It is inventory No. 40, and the name is Ramone Smith.

8 Q Defense Exhibit 3. Thank you. On Defense Exhibit 3,
9 what's the inventory number and the name on the kit?

10 A Defense Exhibit 3 is inventory No. 45, and it is a
11 G.S.R. kit from Corey Glenn.

12 Q And on Defense Exhibit 4 for Identification.

13 A Inventory No. 46, a G.S.R. kit from Jody Thompson.

14 Q Defense Exhibit 5.

15 A Inventory No. 51, a G.S.R. kit from Renata Irby.

16 Q And Defense Exhibit 6.

17 A Is inventory No. 53, a G.S.R. kit from Cassandra Rice.

18 Q Now, did you look at or perform an examination on all
19 six of these items?

20 A I did not perform an examination on one of them that
21 was collected beyond a required timeframe.

22 Q Okay. And which one was that?

23 A That was my Item No. 5, which is the G.S.R. kit from
24 Ramone Smith.

25 Q Let's talk a little about your item number. Did you

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Direct examination by Mr. Allen

1 change -- did you use a different item number when you
2 refer to them in your laboratory and in your report?

3 A The inventory numbers are the numbers that are
4 assigned by the sheriff's office, will be different usually
5 than what it is submitted as.

6 If they have a case where there's only two items that
7 they have evidence on, it's one and two. And if it's
8 submitted, it may be given Item 1 and 2, which will be the
9 same numbers.

10 In this case their inventory number was 40, but it was
11 the fifth item we received. So it was given Item No. 5.

12 Q And you were specifically referring to Defendant's
13 Exhibit 2 when you talked.

14 A Yes. That is Defendant's Exhibit 2, the kit from
15 Ramone Smith.

16 Q And your item number appears on this yellow tape.

17 A Yes.

18 Q And you also gave it a laboratory number, is that
19 correct?

20 A I do not -- I do not assign it the item number or the
21 laboratory number. That is assigned by the log-in
22 department.

23 So cases will be submitted or dropped off. They
24 retrieve them, and it will -- the system will assign the
25 next sequential number for that case number.

Jennifer Nates
Direct examination by Mr. Allen

1 Q And this is the log-in department for the state law
2 enforcement division.

3 A For SLED, yes.

4 MR. ALLEN: Now, Your Honor, at this time I offer
5 Defendant's Exhibits 1 through 6 into evidence.

6 MR. SMITH: No objection.

7 THE COURT: They're admitted.

8 (G.S.R. kits marked Defendant's Exhibits Nos. 1 through
9 6.)

10 MR. ALLEN: Thank you, Your Honor.

11 Q Now, first, let's talk about the Defendant's
12 Exhibit 2, the G.S.R. kit of Ramone Smith.

13 A Okay.

14 Q That's -- you said you did not perform an analysis on
15 that.

16 A I did not.

17 Q Why did you not perform an analysis on that?

18 A This is a copy of the G.S.R. collection sheet that is
19 submitted with any G.S.R. kit that is submitted for
20 analysis.

21 Q Let me interrupt you one second.

22 Is a copy -- is that G.S.R. collection kit in each bag?

23 A It is supposed to be, yes.

24 Q Okay. Supposed to be. It was when you received it.

25 A Yes.

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Direct examination by Mr. Allen

1 Q Okay.

2 A So it will have the subject's name or who they are
3 collecting the G.S.R. kit from, information on the subject,
4 whether they are living or dead, right-handed or
5 left-handed, is there debris or blood on their hands, did
6 they sustain a gunshot wound.

7 And then it has the time. The time is what is most
8 important on these because gunshot residue kits, in order
9 for them to be valid and be linked to that shooting, they
10 have to be collected within six hours of the shooting.

11 The reason for this is that gunshot residue is very
12 fragile. I can fire a weapon, wash my hands and I will
13 remove the residue.

14 We have done testing within our lab that at three to
15 four hours with just normal office work after firing a
16 weapon, there's no gunshot residue left on your hands.

17 So we give a little bit more of a timeframe. So a kit
18 must be collected within six hours in order for us to
19 perform an analysis on that kit to determine if any gunshot
20 residue was present and if it can be linked to that
21 shooting.

22 Q On a person who is alive is there -- what, if any,
23 absorption into -- does gunshot residue absorb into a
24 living person's skin?

25 A As I said, gunshot residue is fragile. It is

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1 microscopic, so it can absorb into your skin. It can be
2 removed if you brush your hands together, brush your hands
3 on your pants, hands in and out of your pockets. Anything
4 you touch with your hands can potentially remove that
5 residue.

6 Q Okay. If you would, tell me in general, what is
7 gunshot residue and why you analyze for gunshot residue.

8 A Gunshot residue is a term used in the forensic
9 community to describe any of the residue that is produced
10 when a firearm is discharged. This includes organic and
11 inorganic residue.

12 Our lab specifically tests for what is called P.G.S.R.
13 or primer gunshot residue, meaning it is specific to
14 residue produced from the primer of the cartridge that is
15 used in the gun to discharge it.

16 So our laboratory analyzes for three elements that are
17 in the primer -- barium, antimony and lead. We look for
18 these microscopic molten particles that contain these three
19 elements to identify that material as gunshot residue.

20 Q Why do you look for those specific three elements?

21 A Those three elements in combination in a single
22 particle are unique to primer gunshot residue. So it can't
23 have come from everyday sources where you may have touched
24 something and picked it up.

25 Q Are these elements common in our environment and in

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Direct examination by Mr. Allen

1 other things people come in contact with?

2 A They are common. I mean, you know, that you have lead
3 in many different things. Even though they are trying to
4 take it out of the environment, there are still a lot of
5 lead objects.

6 Barium is very common, especially in women's makeup.
7 Antimony is used in fire retardants.

8 So these elements are common and you can find them in
9 the environment, but they are not undergoing a high heat
10 and high pressure environment as they do in the discharge
11 of a firearm.

12 So what we look for is a molten round particle with
13 these three elements present in it.

14 Q And tell me more about why a molten particle, a round
15 particle, those three elements.

16 A A molten particle indicates it was a high-heat type
17 pressure environment, which is what the discharge of a
18 firearm produces.

19 There was some studies with certain brake pads on some
20 Ferraries that would give you a very crystalline particle,
21 some of them which contained these three elements. They
22 also contained high amounts of iron.

23 So we have to look at the morphology and the
24 composition of these particles in order to determine if
25 they are from gunshot residue or potentially another

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1 source. And the morphology is one of the items that we
2 look at.

3 Q By morphology, what do you mean?

4 A The roundness and the moldiness of that particle.

5 Q Now, going through the -- at the conclusion of your
6 testing did you produce a report?

7 A I did.

8 Q Did you share that report with law enforcement from
9 Spartanburg?

10 A The reports are sent to the agency that submits the
11 evidence. In this case it was Spartanburg County Sheriff's
12 Office who submitted the evidence.

13 Q Okay. When did you conduct this examination and
14 produce a report?

15 A The examination was started on September 21st of 2018
16 and my report was finalized on September 26th of 2018.

17 Q 2018?

18 A Yes.

19 Q Okay. There's been testimony presented that this
20 incident occurred and that the collection occurred in
21 June 26th of 2016. Do you know why it took a little over
22 two years for the examination?

23 A That fault lays on the laboratory. We receive so many
24 G.S.R. kits that we are not able to process them in a
25 timely manner.

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1 We work G.S.R. kits on a call basis for court. If we
2 get a call that a case is going to court, we will add that
3 to our list to work it. Right now we have well over 3,500
4 kits in our cue to be worked. So it's not possible for the
5 time that it takes to analyze a kit. We can't work them as
6 they come in the door.

7 Q Okay. Well, once a kit has been collected and then
8 been put in the envelope, the white envelope, and been put
9 into this envelope, does that kit lose any particles or
10 break down or become invalid with the passage of time such
11 as two years and three months?

12 A It does not. The particle lifts are a round stub that
13 has an adhesive on the top of it that is dabbed over the
14 hands. So it's a very light adhesive the officers will
15 collect by dabbing on the hands, put the cap back on it,
16 put it in the kit and seal it.

17 The particles will remain intact until they are
18 physically removed or physically altered by an outside
19 source. Just time will not disintegrate them or affect
20 them in any way.

21 Q Now, showing you defense -- Defendant's Exhibit 7. Do
22 you know what Defendant's Exhibit 7 is?

23 A Defendant's Exhibit 7 is a copy of the report I
24 generated for the SLED lab case L1610275.

25 Q Is that the laboratory number for this case we're

Jennifer Nates
Direct examination by Mr. Allen

1 talking about?

2 A That is the laboratory number for this case, yes.

3 Q And these envelopes.

4 A Yes.

5 MR. ALLEN: Showing a copy of this. Offer the report
6 into evidence as Defendant's Exhibit 7, Your Honor.

7 MR. SMITH: No objection.

8 THE COURT: It's admitted without objection.

9 (SLED report marked Defendant's Exhibit No. 7.)

10 Q Take me through this report. And we'll just start
11 with any order that it appears on your report, first with
12 Item 4. And, again, when we refer to Item 4, we are
13 referring to what number?

14 A Item 4 is Defendant's Exhibit 1.

15 Q Okay. And the item number that you have, again, is on
16 this yellow label, right?

17 A Correct.

18 Q Okay. So when you analyze Item 4, which is
19 Defendant's Exhibit 1, and the name on that kit again is?

20 A That was a kit from Stephen [sic] Brandall Anderson.

21 Q And what were your findings with respect to that kit?

22 A Okay. On the G.S.R. kit from Stephen Brandall
23 Anderson, I did not find any particles characteristic of
24 gunshot primer residue.

25 Q Did not.

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1 The next one in order, Item 5, which would be your Item
2 5, correct --

3 A My Item 5 was a G.S.R. kit from Ramone Maurice Smith,
4 and it is Defendant's Exhibit 2.

5 Q Okay. And of course we've already talked about that
6 one, haven't we?

7 A Yes. This was the kit that I did not perform an
8 analysis on because it was collected six -- beyond six
9 hours after the incident.

10 Q Item -- your Item No. 6.

11 A My Item No. 6 is a G.S.R. kit from Corey Rafeal Glenn,
12 and it is Defendant's Exhibit 3.

13 Q What are your findings there?

14 A On the kit from Corey Rafeal Glenn I found particles
15 characteristic of gunshot primer residue.

16 Q Found gunshot residue in those, in that kit.

17 A In the kit from Corey Glenn, I did find gunshot
18 residue.

19 Q Okay. Conclusions that could be made by finding
20 gunshot residue on his hands are what?

21 A When an analyst detects that gunshot residue was
22 present we can determine that that person was near a weapon
23 when it was discharged, that they discharged a firearm or
24 they handled an object with gunshot residue on it that
25 transferred to their hands.

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- 1 Q Moving on to Item 7.
- 2 A Item 7 is a G.S.R. kit from Jody Ray Thompson. It is
3 Defendant's Exhibit 4.
- 4 Q And your findings there?
- 5 A My findings were that I did not find any particles of
6 gunshot primer residue.
- 7 Q And Item 8.
- 8 A Item 8 is a G.S.R. kit from Renata Shantrice Irby. It
9 is Defendant's Exhibit 5.
- 10 Q Okay. And your findings.
- 11 A I did not find any particles characteristic of gunshot
12 primer residue.
- 13 Q And lastly Item No. 9.
- 14 A Item No. 9 is a G.S.R. kit from Cassandra Lee Juanita
15 Rice. It is Defendant's Exhibit 6. And I did not find any
16 particles characteristic of gunshot primer residue.
- 17 Q Now, the conclusions that could be made when you don't
18 find gunshot residue are what, if any?
- 19 A Gunshot residue is very fragile, as I stated earlier.
20 So if there is no gunshot residue on a person's hands the
21 conclusions we can make are, one, they didn't fire a
22 weapon; two, a weapon was fired but it did not produce
23 enough G.S.R. to be depositive on their hands; there could
24 have been residue present and it was later removed.
- 25 Q okay. Removed intentionally or removed how?

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Direct examination by Mr. Allen

1 A Just removed by any daily activity you would perform
2 that you -- anything you touch your hands to can remove it.
3 But it could be intentional or unintentional.

4 Q Now, I forgot to ask you. How does gunshot residue
5 get on the hands? I'm not sure we covered that.

6 A Gunshot residue can be deposited on a person's hands
7 from discharging a firearm, being in the vicinity to the
8 discharge of a firearm, or handling an object that has
9 gunshot residue on it.

10 Q Okay. More specifically, the mechanics of how this
11 gunshot residue is left, does it come from the firing of a
12 gun?

13 A It comes from the discharge of the firearm. The
14 firing pin will hit the primer, which starts a mini
15 explosion needed to set a spark into the chamber that holds
16 your gunpowder or smokeless powder.

17 This builds up heat and pressure as it burns and the
18 bullet will be propelled out of the weapon. When this is
19 done the heat and pressure will have those particles, will
20 then condense in any area around that discharge. And they
21 will deposit on anything within that immediate vicinity.

22 Q Now, again, you're testing specifically for gun primer
23 residue, is that correct?

24 A We call it P.G.S.R., which is primer gunshot residue.

25 Q Okay. And that's for those three elements, I think

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Direct examination by Mr. Allen

1 you mentioned, that are in gun primer, is that correct?

2 A Correct.

3 Q And in a typical cartridge, is it filled with gun
4 primer residue?

5 A This is moving more out of my area of expertise, so.

6 Q All right. But as far as a mini explosion, it starts
7 with the propelling of the bullet down the barrel, correct?

8 A Correct.

9 Q And how was the gun primer residue expelled out of the
10 gun or, I guess, out of the gun?

11 A It forms in somewhat like a cloud around the gun. Any
12 opening or orifice within that gun it can exit from. So
13 you have your trigger guard. If it's a revolver it can
14 come from a cylinder gap. It's going to come from the
15 barrel of the gun where the bullet exits as well. Any area
16 that is not seal within that gun, gunshot residue can
17 escape.

18 Q And how about a gun that uses a magazine that goes
19 into the handle of the gun? I want to call it automatic.

20 A It will come out of the slide when it cycles to fired
21 bullet.

22 Q When the top of the gun goes back?

23 A Yes.

24 MR. ALLEN: One second, please, Your Honor.

25 (Pause.)

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Direct examination by Mr. Allen

1 MR. ALLEN: I have no further questions from
2 Lieutenant Nates.

3 CROSS-EXAMINATION

4 BY MR. SMITH

5 Q Good morning.

6 A Good morning.

7 Q I know you went over some of the ways that gunshot
8 residue could be destroyed, but it looks like you have
9 bullet points on our report. Can you read all of those
10 reasons that --

11 A The reasons that an individual may not have gunshot
12 residue on their hands?

13 Q Yes.

14 A We try to just have a general number of them in the
15 report.

16 Q Sure.

17 A The individual not having discharged a firearm; four
18 to six hours passing between firing and sampling; normal
19 physical activity between firing and sampling; the
20 individual washing their hands, wiping the hands or
21 sweating profusely; the individual wearing gloves during
22 the discharge of a firearm; excessive blood or debris on
23 the hands; environmental factors including wind and rain;
24 the ammunition discharged was lead free and not producing
25 particles characteristic of the conventional gunshot primer

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Direct examination by Mr. Allen

1 residue; or the firearm not producing primer residue on the
2 hands when discharged.

3 Q Is that an exhaustive list of all of the things that
4 could cause gunshot residue to not be found?

5 A No.

6 Q You referenced the G.S.R. collection report that
7 should come along with the G.S.R. Do you have the one for
8 Mr. Thompson?

9 A I do.

10 Q Does it note anything about his hands, condition that
11 they were in?

12 A You said Mr. Thompson?

13 Q Yes, ma'am. I don't know which -- and when you find
14 it, we can refer to the state exhibit.

15 A I have it.

16 THE COURT: Four.

17 MR. SMITH: Four.

18 Q State's Exhibit -- Defense Exhibit 4.

19 A The G.S.R. kit from Jody Ray Thompson just listed that
20 there was debris and/or blood on his hands. And if yes,
21 describe. It was listed as blood.

22 Q So that could be a reason he doesn't have gunshot
23 residue on his hands.

24 A That can, yes. That can be a reason.

25 Q would it surprise you that he admitted to law

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Direct examination by Mr. Allen

1 enforcement to firing a weapon that night?

2 A Surprise me in what way?

3 Q That you didn't find gunshot residue in your test of
4 him.

5 A No.

6 Q I'd like to talk about -- you spoke about the vicinity
7 of the firearm. And I believe you said that gunshot
8 residue comes out of any opening. That would include the
9 barrel, I imagine.

10 A Yes.

11 Q All right. Can you explain what you mean by the
12 vicinity of a firearm?

13 A Normally with vicinity -- there are some studies that
14 have been done that have shown in a closed environment that
15 gunshot residue has been detected upwards of 50 feet from
16 the front of the barrel. The majority was much less than
17 that. But usually in the cases that we see we expect to
18 find gunshot residue if you're within, say, 20 feet of
19 someone who is firing a weapon.

20 If we find it, we can't rule out it was deposited
21 because you were near that weapon when it was discharged.

22 Q Do you know -- did you know anything about the factual
23 background of this case when you did your test?

24 A Usually, we don't know. We have an incident report
25 that we will look at if we need information on whether a

Jennifer Nates
Redirect examination by Mr. Allen

1 person we have a kit from sustained a gunshot wound. Or if
2 we need a time, we will have to call.

3 In this case I don't recall knowing much about the
4 case other than I had several people listed as victims and
5 witnesses.

6 Q All right. So could Corey Glenn have gunshot residue
7 on his hands if somebody fired a weapon at him?

8 A Yes.

9 Q Meaning he was within 20 feet of that person.

10 A He could.

11 Q And it could just mean that he didn't wash his hands
12 or rub his hand or something like that?

13 A It just was deposited on his hands and it was detected
14 by our test.

15 Q All right. Is it more likely the closer you would be
16 to someone who is shooting that you would have gunshot
17 residue on you than if you were further away?

18 A Yes.

19 MR. SMITH: I don't have any further questions.

20 MR. ALLEN: One question on redirect.

21 REDIRECT EXAMINATION

22 BY MR. ALLEN

23 Q Can you rule out the probability of someone had -- was
24 firing a gun if they had gunshot residue on their hands?

25 A I don't understand your question. I'm sorry.

Horace Lamar Thompson
Direct examination by Mr. Allen

- 1 Q Can you rule out the probability that someone was
2 firing a gun if they had gunshot residue on their hands?
- 3 A If someone has gunshot residue on their hands, I can
4 state that they potentially fired a weapon or were near a
5 weapon when it was fired or had gunshot residue transferred
6 from another source. But in the majority of our cases I
7 can't tell you specifically which of those three scenarios
8 caused the deposition of that gunshot residue.
- 9 Q Okay. Thank you.
- 10 THE COURT: You may step down.
- 11 MR. ALLEN: May Ms. Nates be excused?
- 12 THE COURT: She may be.
- 13 (Whereupon, the witness was excused.)
- 14 MR. ALLEN: Call Horace Lamar Thompson to the stand.
- 15 HORACE LAMAR THOMPSON, having
16 been first duly sworn, testified as follows:
17 DIRECT EXAMINATION BY MR. ALLEN
- 18 Q You are Horace Lamar Thompson?
- 19 A Yes, sir.
- 20 Q I couldn't hear that.
- 21 A Yes.
- 22 Q Speak up loud enough so we can hear way over here.
- 23 A Yes, sir.
- 24 Q Okay. If you would, try a little bit better.
- 25 A Yes, sir.

Horace Lamar Thompson
Direct examination by Mr. Allen

- 1 Q Okay. Just talk at me. Okay?
- 2 A Yes, sir.
- 3 Q Are you related to the defendant, Jody Ray Thompson?
- 4 A Yes. I am.
- 5 Q I did not hear that.
- 6 A Yes, sir.
- 7 Q How are you related to him?
- 8 A My brother.
- 9 Q He is your older brother or the younger brother?
- 10 A Older brother.
- 11 Q He is your older brother.
- 12 A Yes.
- 13 Q Do you normally go by Horace or Lamar or --
- 14 A Lamar.
- 15 Q Why do you go by Lamar?
- 16 A Well, reasons. My dad's name -- my first -- my dad's
- 17 name is Horace. His dad's name is Horace. So I normally
- 18 just go by Lamar.
- 19 Q Okay. To sort of keep things straight, right?
- 20 A Yes.
- 21 Q All right. Were you present at the Playoffs Club in
- 22 the early morning hours of June 26th of 2016?
- 23 A Yes.
- 24 Q Do you recall the incident that we have been talking
- 25 about here in court?

Horace Lamar Thompson
Direct examination by Mr. Allen

- 1 A Yes.
- 2 Q You've been in court since yesterday, I believe,
3 right?
- 4 A That's right.
- 5 Q Okay.
- 6 A Yes, sir.
- 7 Q were you out in the parking lot area outside the club
8 at the time of a shooting?
- 9 A Yes.
- 10 Q where were you?
- 11 A I was in the middle behind Jody -- Jody's car.
- 12 Q where and what was -- who -- what was Jody's car?
- 13 A It was the silver Pontiac.
- 14 Q well, that's 11. Placing State's Exhibit 32 on the
15 overhead projector. Can you see that?
- 16 A Yes, sir.
- 17 Q And which one is Jody's car?
- 18 A The silver one in the front.
- 19 Q The silver one in the front?
- 20 A Yes, sir.
- 21 Q Over here on the left side of the picture?
- 22 A Yes, sir.
- 23 Q And when you say you were behind that car, where were
24 you behind that car?
- 25 A well, from that angle right there is -- I was in the

Horace Lamar Thompson
Direct examination by Mr. Allen

- 1 front, in the front in -- over by the gas station.
- 2 Q Over by the gas station.
- 3 A Yes, sir.
- 4 Q Okay. Did you see what happened prior to the
- 5 shooting?
- 6 A No, sir.
- 7 Q Did you see -- what were you doing?
- 8 A Walking around.
- 9 Q Did you see a group of people out there?
- 10 A Yes. I did.
- 11 Q And where were -- I mean, did you know or have you
- 12 subsequently learned who Ramone Smith is?
- 13 A Yes.
- 14 Q And where was he in relation to that picture?
- 15 A He was on the left side of Playoffs.
- 16 Q On the --
- 17 A So he would be back here.
- 18 Q Back here?
- 19 A The right side would be the store.
- 20 Q Okay. Did he move out into the center of the parking
- 21 lot?
- 22 A Yes. He did.
- 23 Q Did you hear? Just tell me. How did the -- from what
- 24 you saw and heard, how did the shooting start?
- 25 A It was an argument between Ramone and Stephone.

Horace Lamar Thompson
Direct examination by Mr. Allen

- 1 Q By Stephone you mean whom?
- 2 A Stephone Anderson.
- 3 Q When you were here yesterday you saw some of the
4 videos?
- 5 A Yes, sir.
- 6 Q Do you recall -- and can you describe him from the
7 videos, how he was dressed?
- 8 A Can you repeat the question?
- 9 Q I'm sorry?
- 10 A Can you repeat the question?
- 11 Q Could you tell how he was addressed as we saw in the
12 videos?
- 13 A It was the big guy without the shirt.
- 14 Q Big guy without the shirt.
- 15 Now, did -- what happened while they were arguing?
- 16 A Well, while they was arguing Jody and myself was
17 trying to diffuse, you know, trying to get everybody calmed
18 down. And from that point right there gunfire just come of
19 the middle of nowhere.
- 20 Q What, now?
- 21 A I said while we were trying to get everybody calmed
22 down, there was gun -- gunfire just come outta the middle
23 of nowhere.
- 24 Q Where did the gunfire start?
- 25 A Right there at the left side of the Playoffs as far as

Horace Lamar Thompson
Direct examination by Mr. Allen

- 1 where Ramone and his group was standing.
- 2 Q Okay. When you say the left side of Playoffs, where
3 in that picture would it be?
- 4 A It'd be on this side behind me.
- 5 Q On this side behind?
- 6 A Yes.
- 7 Q And then did you see where they were shooting?
- 8 A No.
- 9 Q And then what happened?
- 10 A Well, once we heard gunfire everybody just took off
11 and went their own way.
- 12 Q Did other people shoot?
- 13 A Yes.
- 14 Q Did your bother shoot?
- 15 A Not as I recall.
- 16 Q Where did you run?
- 17 A I -- behind on the side of Jody's car.
- 18 Q When you were in court yesterday you were watching
19 some of the videos, correct?
- 20 A Correct.
- 21 Q Did you see Jody's car in any of those videos?
- 22 A Yes. I did.
- 23 Q Which one was that?
- 24 A I can't remember which one it was, but it was in a
25 couple of videos.

Horace Lamar Thompson
Cross-examination by Mr. Smith

1 Q Do you remember seeing the Dodge Charger, the
2 automobile that Cassandra Rice first got in?

3 A Yes.

4 Q Where was her car parked in relation to Jody's car?

5 A On the -- on the side right here of the Playoffs.

6 Q Playoffs side?

7 A Yes.

8 Q Or the other side, or what?

9 A Right. Right in this area here.

10 MR. ALLEN: One second, please, Your Honor.

11 (Pause.)

12 MR. ALLEN: Nothing further, Your Honor. Thank you.

13 CROSS-EXAMINATION

14 BY MR. SMITH

15 Q Morning.

16 A Good morning.

17 Q I was a little confused during your testimony. Who
18 did you say you saw start the shooting?

19 A Well, from my back turned I thought maybe it might
20 have been Ramone.

21 Q Maybe it might have been Ramone?

22 A Yes.

23 Q I'm showing State's Exhibit 101. Is that Jody's car?

24 A Yes. It is.

25 Q Where were you standing when the shooting started?

Horace Lamar Thompson
Cross-examination by Mr. Smith

- 1 A In the front.
- 2 Q In the front of Jody's car.
- 3 A Yes.
- 4 Q Where was Ramone?
- 5 A On the side of the Playoffs behind me.
- 6 Q All right. Where was Cassandra Rice?
- 7 A I don't know.
- 8 Q All right. So you're saying -- are you -- you've been
9 watching the whole trial?
- 10 A No.
- 11 Q All right. Are you saying Ramone is standing on the
12 very far corner of Playoffs?
- 13 A Yes.
- 14 Q Like that?
- 15 A Right. Right on the side.
- 16 Q All right. What did you do when shooting started?
- 17 A I ran.
- 18 Q All right.
- 19 A Side of Jody's car.
- 20 Q Was Jody standing beside you?
- 21 A At one point in time.
- 22 Q Did you see Ramone? You said you think it was Ramone
23 Smith.
- 24 A Right.
- 25 Q Are you sure?

Horace Lamar Thompson
Cross-examination by Mr. Smith

- 1 A I thought it was.
- 2 Q All right. And you were looking at the corner of
3 Playoffs?
- 4 A No. When Jody had dropped his cigarette, I picked it.
5 So I was not paying any attention then.
- 6 Q Okay. So the guy in the video that drops the
7 cigarette is Jody Thompson.
- 8 A Yes. It is.
- 9 Q With the black --
- 10 A Yes.
- 11 Q And the dark colored pants and the white shirt and the
12 gun that was out.
- 13 A Well, I wasn't paying attention to any guns.
- 14 Q You saw the cigarette and not the gun.
- 15 A Yeah.
- 16 Q Okay. This is where you're saying Ramone was
17 standing, right? Is this the corner you're referring to?
- 18 A A little bit before though.
- 19 Q In front of? So directly in front of Playoffs?
- 20 A Right. Like right at the doorway.
- 21 Q Right at the door.
- 22 A Uh-huh.
- 23 Q All right. And did you see what Ramone did after he
24 started shooting?
- 25 A No.

Horace Lamar Thompson
Cross-examination by Mr. Smith

- 1 Q I'm going to play some videos for you and see if you
2 can help me identify some people.
- 3 Did everybody react instantly when the shots started?
- 4 A Well, to tell you the truth, I have no idea. I wasn't
5 worried about everybody else. I was worried about myself.
- 6 Q Did you react instantly --
- 7 A Yes.
- 8 Q -- when the shots started?
- 9 A Yes.
- 10 Q There wasn't, like, shots and then a huge pause and
11 then shots that made people react?
- 12 A No, sir.
- 13 Q Have you seen yourself on any of the videos that have
14 been played?
- 15 A Yes. I have.
- 16 Q All right. You're the guy that picks up the
17 cigarette. I just noticed that this morning when I was
18 looking at the video again. Have you seen yourself on this
19 video?
- 20 A Yeah. That's me right there.
- 21 Q In the light colored pants?
- 22 A Yeah.
- 23 Q This one?
- 24 A That's right.
- 25 Q All right. Who is this?

Horace Lamar Thompson
Cross-examination by Mr. Smith

- 1 A That would be Jody.
- 2 Q All right. Do you see what's in his hand there?
- 3 A Yeah. But you see I'm behind him. So how could I see
4 what's in his hand? .
- 5 Q I don't know. You look like you're looking at him
6 right there. No? Who is the shirtless guy?
- 7 A That would be Stephone.
- 8 Q All right. Can you tell me where the Pontiac is or
9 where you're talking about the Pontiac being in relation to
10 this?
- 11 A It would be on this side.
- 12 Q Are you sure?
- 13 A I'm thinking.
- 14 Q All right.
- 15 A Not positive.
- 16 Q What -- what do you think is to the left side of this
17 video, the Playoffs or the convenience store?
- 18 A I really don't, don't know right now at this time.
- 19 Q All right. What's going on with Jody at this time?
- 20 A I have not a clue.
- 21 Q You're saying that you and Jody are trying to stop
22 Stephone from getting into a fight? That's your testimony?
- 23 A Right.
- 24 Q Is that what's happening right here?
- 25 A No. Not right now.

Horace Lamar Thompson
Cross-examination by Mr. Smith

- 1 Q what -- what's happening here? Does it appear to you
2 that maybe every one of Jody's friends is trying to stop
3 him?
- 4 A No.
- 5 Q No? How much had you had to drink that night?
- 6 A A good bit.
- 7 Q How much?
- 8 A I can say I was over the limit.
- 9 Q All right. You got a good memory of what happened?
- 10 A Somewhat.
- 11 Q All right. How about Jody? Was he intoxicated?
- 12 A I mean, yeah. He had a few drinks, but I don't know
13 about just being intoxicated.
- 14 Q All right. And is this man here who you're saying is
15 Ramone Smith?
- 16 A Yeah.
- 17 Q All right.
- 18 A I really can't see him right now but I -- yes.
- 19 Q The big guy in white shirt with the red shorts?
- 20 A Right.
- 21 Q And that's who you believe started the shooting.
- 22 A I thought so.
- 23 Q You thought so.
- 24 A Yeah.
- 25 Q Do you think so now?

Horace Lamar Thompson
Cross-examination by Mr. Smith

- 1 A Well, as far as looking at the videos, no.
- 2 Q Who do you think started the shooting now?
- 3 A I have not a clue.
- 4 Q So you don't know?
- 5 A No.
- 6 Q But you do know that it came from the corner of
- 7 Playoffs.
- 8 A Yes.
- 9 Q Did you see people on this video run towards Playoffs
- 10 after they're reacting to something, like Corey Glenn? Did
- 11 you see guy in blue --
- 12 A Yeah, Corey.
- 13 Q -- as he sprints towards Playoffs?
- 14 A What me and Corey doing was talking.
- 15 Q What are y'all talking about?
- 16 A We was trying to diffuse it.
- 17 Q Okay. But, I mean, have you seen the video where
- 18 Corey Glenn once people start reacting to something, where
- 19 he sprints by? Did you see that on the video?
- 20 A Yes. I did.
- 21 Q Do you understand that he's sprinting towards where
- 22 you're saying gunfire is coming from?
- 23 A Right.
- 24 Q Is he Superman or --
- 25 A No. It's just that it's -- it was his people, so.

Horace Lamar Thompson
Cross-examination by Mr. Smith

- 1 Q So he's running into their gunfire.
- 2 A Well, I figured he tried to get back on his side.
- 3 Q All right. So you acknowledge that the shooter is all
4 the way over here to the right of this video, and you, and
5 now you and Jody, are off to the left, I believe, right?
- 6 A Uh-huh.
- 7 Q Okay. And you're saying that the shooter you believe
8 is the people of Ramone and Corey and maybe Cassandra.
- 9 A Right.
- 10 Q And are Ramone, Corey and Cassandra in between the
11 shooter and Jody? I mean, isn't this the middle of where
12 you're saying the shooting started from and where you and
13 Jody are standing?
- 14 A Yes.
- 15 Q So this guy who you don't know now but you thought was
16 Ramone but now you don't know is firing through his
17 friends. Do you know who he was trying to hit?
- 18 A No.
- 19 Q But you do think he's associated with these people --
- 20 A Right.
- 21 Q -- in the middle.
- 22 All right. Let's watch this right here. Is that --
23 what do you see happening in this video right at that
24 moment? That's still Ramone, right?
- 25 A That's right.

Horace Lamar Thompson
Cross-examination by Mr. Smith

- 1 Q And looks like -- what do you see him doing with his
2 left hand there? Can you see it? what do you think he's
3 doing? And that's Mr. Glenn running towards the gunfire.
4 A Right.
- 5 Q Okay. what's Ramone doing? Can you tell?
6 A Yeah. Look like he was reaching for a weapon.
- 7 Q All right. Does it seem that people are reacting to
8 something prior to him doing that?
9 A Yes.
- 10 Q Do you see that all of these people look left and not
11 backwards towards where you're saying the shots come from?
12 A Right.
- 13 Q I'm going to show you another one. This is 9-2. Do
14 you know who these two people in this corner are up here?
15 A No, because I really can't see.
- 16 Q All right. what were you wearing that night, do you
17 remember?
18 A I was wearing some blue and white Jordans, light brown
19 and dark brown khaki shorts and a white t-shirt.
- 20 Q And you're aware that Jody got shot in this incident,
21 right?
22 A No. I wasn't.
- 23 Q Have you become aware of that?
24 A Yes.
- 25 Q Do you know where he got shot?

Horace Lamar Thompson
Cross-examination by Mr. Smith

- 1 A No.
- 2 Q So you -- is this you, this person, not the person
3 that just moved off the camera. But is this you? And if
4 you don't know, you don't know. It looked like you were
5 wearing light colored shorts in the other video, right?
- 6 A That's right.
- 7 Q And that person appears to be wearing light colored
8 shorts when they come around the car right there. Do you
9 see that? All right. And your testimony with Mr. Allen
10 was that you never saw Jody shoot.
- 11 A No.
- 12 Q Do you remember speaking to law enforcement about this
13 case?
- 14 A Yes. I do.
- 15 Q Do you remember when that happened?
- 16 A I don't know the specific date.
- 17 Q Did you request to speak to them?
- 18 A Yes. I did.
- 19 Q Did you want to get your side of the story out?
- 20 A Yes.
- 21 Q Had your brother been charged with these crimes at the
22 time you spoke with them?
- 23 A That I don't know because I was incarcerated for child
24 support.
- 25 Q All right. Did the information that you gave to law

Horace Lamar Thompson
Cross-examination by Mr. Smith

- 1 enforcement that day, was that accurate?
- 2 A Somewhat.
- 3 Q Somewhat. What was not accurate about it?
- 4 A That I don't remember. The only thing I do remember
5 is really, what I really was trying to do as far as that,
6 as someone took a shot at me.
- 7 Q Okay. You were trying to possibly pursue charges
8 against Mr. Smith?
- 9 A That's right. Yes.
- 10 Q Okay. But you gave a general breakdown of what
11 happened that night.
- 12 A Yes. From what I recall.
- 13 Q Okay. Had you ever seen the surveillance video when
14 you gave this statement?
- 15 A No.
- 16 Q All right. Do you remember? I'm going to show you a
17 statement. Is this -- I don't believe you wrote it. I
18 think somebody wrote it for you. Is that right?
- 19 A Yes. They did.
- 20 Q But will you take a look at and let me know if that's
21 your statement, if there's anything different about it?
- 22 A No, sir.
- 23 Q Is that -- is it accurate? All right. Do you
24 remember telling law enforcement that, "I was trying to
25 break up the argument between Stephone Anderson and Ramone

Horace Lamar Thompson
Cross-examination by Mr. Smith

- 1 Smith and at that time Ramone Smith started shooting"?
- 2 A Yes.
- 3 Q So you were certain it was Ramone Smith then.
- 4 A No.
- 5 Q You weren't certain.
- 6 A No.
- 7 Q But you signed your name to it --
- 8 A Right.
- 9 Q -- with law enforcement.
- 10 A Uh-huh.
- 11 Q why did you do that?
- 12 A Because, like I said, the shots -- I was standing
- 13 right there, and I seen the shots coming behind, from
- 14 behind me. So I had my back turned towards Ramone and
- 15 them.
- 16 THE COURT: Excuse me just a minute.
- 17 Let me ask you to turn and speak into that microphone,
- 18 please.
- 19 THE WITNESS: Yes.
- 20 Q So why did you say it was Ramone Smith if you didn't
- 21 know?
- 22 A Well, I had a figure it was Ramone.
- 23 Q Okay. I mean, do you still think it was Ramone?
- 24 A As far as seeing the video, no.
- 25 Q Okay. Does it look to you like Ramone and Cassandra

Horace Lamar Thompson
Cross-examination by Mr. Smith

1 are getting shot at by somebody to the left on that
2 previous video 7-3?

3 A Well, yes.

4 Q Do you remember telling law enforcement that Jody
5 Thompson fired back to defend himself?

6 A Yes.

7 Q Is -- you've changed your recollection of that now
8 too?

9 A No.

10 Q You said with Mr. Allen he did not shoot.

11 A Right.

12 Q Right?

13 A Right.

14 Q And so which is it?

15 A Well, as far as that video that I seen right there,
16 yes.

17 Q So he did shoot. So when you hadn't seen the video
18 you thought he shot. When you testified with Mr. Allen you
19 thought he didn't shot. Now you've seen the video and you
20 think he shot.

21 A Right.

22 Q So you think that that person -- you weren't able to
23 tell that one person in the corner if it's you, but you
24 think that other one is Jody on this video?

25 A As far as the -- as far as running?

Horace Lamar Thompson
Redirect examination by Mr. Allen

- 1 Q Yes. That runs around the corner here. Is that Jody?
2 This person. Is that your brother? Do you see him
3 spilling blood on the ground there?
4 A Right.
5 Q Is that Jody?
6 A Yes.
7 Q So the person in the upper right-hand corner of 9-2 is
8 Jody Thompson, that person right there.
9 A Right.
10 MR. SMITH: I don't have any further questions.
11 REDIRECT EXAMINATION
12 BY MR. ALLEN
13 Q Just so that I'm clear, where did the first -- where
14 did the shooting start? Where did the first shot come
15 from?
16 A The first shot, it come from behind me.
17 Q Behind you.
18 A Yes.
19 Q And what's --
20 A That's on the Playoff side.
21 Q Huh?
22 A On the Playoff side.
23 Q On the Playoff side.
24 A Yes.
25 Q Okay.

1 MR. ALLEN: Nothing further.

2 THE COURT: You may step down.

3 MR. ALLEN: One second, please, Your Honor.

4 (Pause.)

5 MR. ALLEN: Your Honor, may we approach?

6 (Bench conference held off the record in the presence
7 of the jury but out of the hearing of the jury.)

8 THE COURT: We're going to take a short break.

9 I'll ask the jury to please go to your jury room. Do
10 not yet discuss the case. I'll bring you back shortly.

11 (The following takes place outside the presence of the
12 jury.)

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

14 (Whereupon, a recess was taken.)

15 THE COURT: Any matters to address before the jury
16 returns?

17 MR. ALLEN: Your Honor, when the jury returns, we will
18 rest. My client has decided or is staying with his
19 decision not to testify.

20 So we can discuss charges at this time if the Court so
21 desires.

22 THE COURT: All right. Mr. Thompson, you're sticking
23 with your decision that you told me this morning that
24 you're not going to testify?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Is that a decision that you made of your
2 own free will and accord?

3 THE DEFENDANT: It is, sir.

4 THE COURT: Anybody force you into it?

5 THE DEFENDANT: No, sir.

6 THE COURT: Anybody pressure you into it?

7 THE DEFENDANT: No, sir.

8 THE COURT: You made that decision on our own?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: You're satisfied with it?

11 THE DEFENDANT: I am satisfied with it.

12 THE COURT: Okay. All right. Instruction requests?
13 The state?

14 MR. SMITH: Your Honor, on the three people that were
15 struck -- Ms. Rice, Mr. Glenn and Ms. Irby -- we would ask
16 for attempted murder and assault and battery high and
17 aggravated.

18 On the indictment for -- against -- with the victim
19 being Ramone Smith, we would ask for the attempted murder
20 and assault and battery first.

21 THE COURT: All right. Mr. Allen, any objection to
22 those requests?

23 MR. ALLEN: Well, Your Honor, I request --

24 THE COURT: I know. Do you have any objection to
25 theirs?

1 MR. ALLEN: I don't have any objection to the Court's
2 or the Court charging assault and battery of a high and
3 aggravated nature on those indictments, or on the
4 indictment concerning Ramone to charge assault and battery
5 first.

6 However, I would also ask the Court to charge as
7 lesser included offenses assault and battery first as to
8 all of the victims, as well as assault and battery second,
9 assault and battery first being defined in 16-3-600(C)(3)
10 as a lesser included offense of attempted murder and being
11 an offer or attempt with the present ability and
12 accomplished by means likely to produce death or great
13 bodily injury.

14 I think those elements can fit all of the cases, as
15 well as on assault and battery second degree, the
16 unlawful -- which is also defined in 16-3-600(D)(3) as a
17 lesser included offense to attempted murder.

18 I ask the Court to charge that charge because it is
19 defined as the unlawful -- unlawful injury -- injures or
20 offers or attempts to injure with present ability and
21 moderate bodily injury to another person results or could
22 have resulted.

23 of course moderate bodily injury is defined in
24 16-3-600(A)(2) as essentially temporary or moderate
25 disfigurement or requires medical treatment, anesthesia or

1 results in a fracture or dislocation.

2 I believe there was some testimony that some of them
3 received some sort of treatment off of -- it wasn't a great
4 deal of discussion about the details of their treatment.
5 As I recall -- I don't have the statute with me -- in any
6 event, I would ask the Court to charge those two offenses
7 as well as to all three of the indictments of attempted
8 murder.

9 Also, I ask the Court to charge the defense of
10 self-defense. I believe that there is sufficient evidence
11 in the record which raises that defense.

12 There was statements made by my client that someone
13 shot first and basically that he was responding to being
14 shot at first. If the jury has a reasonable doubt as to
15 who shot first, it is conceivable that he could have
16 been -- that they could concede that he had been shot at,
17 perceiving himself as being shot at, and was shooting in
18 response, and therefore in self-defense.

19 There was no testimony from any of the other alleged
20 victims -- Mr. Smith, Ms. Rice or Ms. Irby -- that they saw
21 my client with a gun.

22 I realize what the video shows that he had a gun in
23 his right hand, but of course most of the time it seems in
24 the video his right side was on the far side from where
25 they were standing, and that is conceivable that they did

1 not see a gun or that that gun did not precipitate the
2 shooting to which he was responding. And the testimony
3 concerning his responding to the shooting comes from Horace
4 Lamar Thompson who testified today, as well as from my
5 client's recorded statement that he gave to Investigator
6 Gaddy, which was played yesterday.

7 So I believe there is sufficient evidence to support
8 each and every element of the defense of self-defense. He
9 was not at fault in bringing on the difficulty, that it was
10 an assault on him which could result in his death or bodily
11 injury, that was reasonable for a person in his position to
12 believe that he was in such danger and that he had no
13 opportunity to retreat.

14 The Court has seen the photographs and has seen
15 placement of his car that has been identified by Mr.
16 Thompson. The Court in viewing the photographs, the
17 placards and some of those cartridges that were nominated
18 by those placards, came from Mr. Smith's weapon.

19 And I believe that it is reasonable for him not to be
20 able to retreat based on the placement of where everybody
21 was immediately before the shooting and that he would not
22 believe his safety -- in fact, one witness, Ms. Irby, said
23 that she felt like she could not get her car started and
24 leave in safety as well.

25 So I think all of the elements have been presented and

1 would ask the Court to charge on the defense of
2 self-defense.

3 THE COURT: Okay. Mr. Smith.

4 MR. SMITH: Your Honor, I don't believe as to the
5 three individuals that A and B first is appropriate. This
6 would be falling under the second subsection, and that is
7 an offer or attempts to injure another person with the
8 present ability to do so.

9 All of the evidence in this case is that there was an
10 assault and that it did result in an injury, which would be
11 an assault and battery of a high and aggravated nature.
12 It's not an offer-or-attempt situation.

13 As far as A and B second, A and B second does have the
14 part about an unlawful injury or the offers or attempts. I
15 have less issue with that.

16 There's not a great deal of testimony other than
17 Ms. Irby about the significance of their injuries. We're
18 proceeding mostly under the ABHAN part of accomplished by
19 means likely to produce great bodily injury or death, and
20 the attempted murder as well.

21 I don't think for any of the individuals who were
22 actually struck that A and B first would be appropriate. I
23 think that should be an attempted murder or an assault and
24 battery of a high and aggravated nature.

25 For Mr. Smith, I do believe the A and B first is

1 appropriate because he was not struck, and that was
2 testified to, that he was not hit.

3 MR. ALLEN: If I may, Your Honor, as to the striking,
4 there's never -- there's not been any testimony that
5 specifically says that they were struck by bullets from my
6 client's gun.

7 There's several cartridges out there that cannot be
8 definitively traced to or identified with my client's
9 weapon, and we also know that there are three cartridges
10 that were not traced to either of these two weapons,
11 Mr. Smith's or my client's.

12 So it's not really been proven. Certainly the jury
13 may take the view that it's not been proven beyond a
14 reasonable doubt that the injuries that any of those three
15 or all of those three received came from my client's weapon
16 since the -- at least little fragments that were examined
17 could be identified with any particular weapon.

18 THE COURT: Well, if the jury were to find that, then
19 they couldn't find him guilty of any degree of assault and
20 battery, because the only assault and battery, or assault,
21 that's been alleged is by the use of a firearm.

22 There's no other assault and/or assault and battery
23 that's been alleged, is there, against your client? I
24 mean, nobody's suggesting that he did anything and fire a
25 weapon. Nobody's suggesting that he threw anything or hit

1 them --

2 MR. ALLEN: Yes, sir.

3 THE COURT: -- with his fist. I mean, there's no --
4 there's no other allegation of an assault or an assault and
5 battery other than by the use of a firearm. I think that's
6 clearly undisputed.

7 MR. ALLEN: Yes, Your Honor. But to the degree that I
8 believe assault and battery high and aggravated requires
9 that there be an assault, I mean, that there -- it be a
10 battery that's -- it's just not been proven that they were
11 actually hit by his weapon or by a bullet that he put in
12 motion.

13 THE COURT: Well, so what is it that you're objecting
14 to?

15 In other words, if the jury finds that no bullet he
16 fired hit anybody, then they couldn't find him guilty of
17 anything, could they?

18 I mean, if they -- in other words, they could find him
19 guilty of an assault if they found that he fired at them.
20 But if you're saying there's no evidence that anything he
21 fired either threatened them or struck them, then he'd
22 be -- have to be found not guilty.

23 otherwise, if it did strike or it did almost hit --
24 and it seems to me it would be either attempted murder or
25 an aggravated assault and battery where there's an actual

1 injury, and it couldn't be an assault and battery in the
2 first degree if there is no injury.

3 MR. ALLEN: I guess what I'm saying is if the injury
4 they -- the jury has a reasonable doubt that the injury
5 that they received came from his weapon, then there would
6 be an -- going to be a similar situation and use a similar
7 analysis as the Court is doing with respect to the
8 indictment involving Ramone Smith, and that that's why I
9 think assault and battery first is appropriate, because
10 there would be an offer or attempt with the present ability
11 and accomplished by means likely to produce death or great
12 bodily injury.

13 If they can't find or if they choose -- if they find
14 reasonable doubt that he was the one that shot Ms. Rice,
15 Ms. Irby and Mr. Glenn then --

16 THE COURT: He's not guilty.

17 MR. ALLEN: Yes, sir. I mean --

18 THE COURT: So he wouldn't be guilty of a lesser
19 offense. He'd be not guilty if they found that nothing he
20 did constituted an assault or a battery against those three
21 individuals.

22 MR. ALLEN: That's true, but I -- I still think
23 assault and battery first would apply.

24 THE COURT: Okay. All right. Well, I'm going to
25 decline that request.

1 I'm going to charge attempted murder on each of the
2 indictments, which is 00261, 00262, 00263 and 00266.
3 Attempted murder will be charged as to each of those
4 indictments.

5 As to Indictment 00261, I'll be instructing the jury
6 as to the lesser offense of assault and battery of a high
7 and aggravated nature.

8 As to Indictment 00262, I'll be charging them with the
9 lesser offense of assault and battery in the first degree.

10 On Indictment 00263, I'll be instructing them on the
11 lesser offense of assault and battery of a high and
12 aggravated nature.

13 And on Indictment 2000 -- excuse me -- on 00266, I
14 will also be instructing them as to the lesser offense of
15 assault and battery of a high and aggravated nature, and
16 that's primarily because assault and battery of a high and
17 aggravated nature requires proof either of great bodily
18 injury or the act is accomplished by means likely to
19 produce death or great bodily injury. And any time you use
20 a firearm, that clearly is likely to produce death or great
21 bodily injury. I don't think that can be disputed by
22 anybody.

23 Assault and battery in the first degree requires --
24 requires an injury if committed under circumstances that
25 are not applicable in this case.

1 So the only thing that would be applicable on the
2 offense of assault and battery in the first degree would be
3 if someone offered or attempted to injure another person
4 with the present ability to do so and it is accomplished by
5 means likely to produce death or great bodily injury.

6 As I say, any time you fire a weapon, a firearm, at
7 someone, it is means likely to produce death or great body
8 injury.

9 So in my view if the state doesn't prove a specific
10 intent to kill, then the defendant could still be found
11 guilty of the lesser offense of assault and battery in the
12 first degree as it relates to the indictment wherein
13 Mr. Ramone Smith is alleged to be the victim.

14 The others -- there is -- there was injury, and I
15 understand your argument that if they show that injury
16 didn't come from him, in that event he'd have to be found
17 not guilty.

18 So, and you're requesting assault and battery in the
19 second degree on all indictments?

20 MR. ALLEN: Yes, sir, Your Honor.

21 THE COURT: All right. Well, I find that in this case
22 it's undisputed that it was used, that any offense was
23 committed by the use of a firearm, and therefore that's not
24 applicable in the case. And I also will charge the defense
25 of self-defense.

1 All right. Anything else?
2 MR. SMITH: No, Your Honor.
3 MR. ALLEN: No, Your Honor.
4 THE COURT: Does anybody request a voluntary
5 intoxication charge?
6 MR. SMITH: I would, Your Honor.
7 THE COURT: Any objection?
8 MR. ALLEN: Did he say he would not or would?
9 THE COURT: He says he does not object to a voluntary
10 intoxication charge.
11 MR. ALLEN: I don't object to it.
12 THE COURT: Okay. I'll charge it.
13 All right. Anything else?
14 MR. SMITH: Are we ready, Your Honor? Yes.
15 MR. ALLEN: We're ready.
16 THE COURT: All right. Bring them in.
17 (The following takes place in the presence of the
18 jury.)
19 THE COURT: All right. Mr. Allen.
20 MR. ALLEN: The defense rests, Your Honor.
21 THE COURT: All right. Is there any reply?
22 MR. SMITH: No, Your Honor.
23 THE COURT: All right. Ladies and gentlemen, that is
24 all of the testimony or other evidence to be offered in the
25 trial of the case, and therefore what remains to be done

Closing arguments

1 are the lawyers' final summations after which I'll instruct
2 you on the law, and then you can begin with your
3 deliberations.

4 The way that's accomplished is the state has the
5 burden of proof, so they'll go forward first in their final
6 statement to you, followed by the defense, and then the
7 state has the opportunity to provide a brief reply to the
8 defendant's final statement, after which I'll instruct you
9 on the law, then you'll begin deliberations.

10 So please give the lawyers your attention now as they
11 give you their final summations.

12 Mr. Smith.

13 MR. SMITH: Thank you, Your Honor.

14 I'll start with the law and get down to why you should
15 find him guilty.

16 Mr. Thompson is charged four attempted murders. Those
17 are against Mr. Smith, Ms. Rice, Ms. Irby and Mr. Glenn.

18 The judge is going to tell you that you'll also have
19 the option as to the three individuals that were shot,
20 which is Ms. Rice, Ms. Irby and Mr. Glenn, that you could
21 even convict Mr. Thompson of assault and battery of a high
22 and aggravated nature.

23 I'll start with attempted murder. The judge will
24 instruct you that a person who with intent to kill attempts
25 to kill another person with malice aforethought, expressed

Closing arguments

1 or implied, has committed the offense of attempted murder.

2 Intent to kill means that you're shooting at that
3 person with the intent, that you mean to do what you're
4 doing.

5 Malice aforethought means that there's some sort of
6 thought before you do it. It doesn't have to be what you
7 might think of, you've heard traditionally, or sketching up
8 a plan about how it's going to happen. It can develop very
9 quickly.

10 In this case you have a video of Mr. Thompson bruting
11 with a gun out solid minutes before this incident happens.
12 He's already working up the courage. I believe him pacing
13 back and forth was him working up the courage -- stupidity,
14 recklessness, whatever you want to call it -- to end up
15 doing what he did, which is open fire in a crowd of people
16 striking three. Fortunately, only three.

17 There's no doubt that he has malice aforethought. He
18 knew what he was doing. He's, basically, walking sideways
19 and then suddenly raises and shoots into the crowd. He's
20 using a gun. Guns kill people. Everybody knows this.
21 They can be used for defense, but they still kill people
22 even if you use them for defense. That's what they do. So
23 when you're trying to use a weapon shooting at another
24 person, you're trying to kill that person.

25 Assault and battery of a high and aggravated nature

Closing arguments

1 requires that a person unlawfully injures another person
2 and great bodily injury to another person results or the
3 act is accomplished by means likely to produce great bodily
4 injury or death. This would be for the three people that
5 are hit.

6 If for whatever reason you believe that he didn't have
7 an intent to kill these people but that he did assault them
8 and that they were injured and that it was accomplished by
9 a means likely to produce great bodily injury or death,
10 then he's guilty of assault and battery of a high and
11 aggravated nature. So the difference is the specific
12 intent to kill, the intent to kill versus an intent to
13 assault.

14 In this instance all three of them, there's testimony
15 that they were injured. Mr. Glenn on his foot, on his left
16 arm; Ms. Irby in her hip, right hip; and Ms. Rice right by
17 her head, right along her ear. So all three of those
18 people have suffered injuries. All three of those people
19 suffered injuries from a manner that was likely to produce
20 great bodily injury or death of a gunshot.

21 For Mr. Ramone Smith, because he was not struck and
22 therefore there's no injury to him and can't -- couldn't be
23 an assault and battery of a high and aggravated nature, it
24 can still be an attempted murder. It couldn't be an
25 assault and battery of a high and aggravated nature.

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1 You will have an option of assault and battery in the
2 first degree. That requires that a person commits --
3 offers or attempts to injure another person with the
4 present ability to do so. And that's accomplished by means
5 likely to produce great bodily injury or death. Again, the
6 question between these two lessers is what was his intent,
7 did he have a specific intent to kill or was he without
8 that intent.

9 If he was about that intent, you can find that he did
10 offer or attempt to shoot Ramone Smith by shooting in the
11 direction, shot a lady that was standing right in front of
12 him, as you've seen on the video, and that that was
13 accomplished by means likely to produce great bodily injury
14 or death. I believe that all of these are attempted
15 murders based off of what I'll go into once I'm done.

16 You'll also get an instruction on self-defense in this
17 case. I think you should dismiss that without even knowing
18 what the law is, just using your logic, but these are the
19 four elements. The state -- we only have to just prove any
20 one of them. Any to these you think doesn't exist, he
21 doesn't get self-defense.

22 Without fault in bringing on the difficulty. There's
23 testimony that there's an argument between Stephone
24 Anderson and Mr. Smith. Apparently some people believe
25 Mr. Thompson was a peacekeeper. Watching the video, it

Closing arguments

1 certainly appears that Mr. Thompson is anything but the
2 peacekeeper and Mr. Anderson may have actually been trying
3 to be the peacekeeper. He's got a pistol out before the
4 shooting happens. He's pacing around. Certainly difficult
5 to say that he didn't have any fault in bringing about the
6 difficulty. He also shot first.

7 The defendant actually believes he was in imminent
8 danger of losing his life or sustaining serious bodily
9 injury. Horace Smith told you that 9-2 video, the little
10 bit blurry one, the two once, watched a bunch, that that
11 man that you see did shoot, then advance, go off of the
12 camera, and then come back and bleed on the sidewalk and
13 walked around the building, which is consistent with what
14 Mr. Thompson told Investigator Gaddy, that that is Jody
15 Thompson.

16 That person certainly does not appear on that video to
17 be in imminent danger. In fact, the guy that's standing
18 next to him doesn't even move when he starts shooting
19 bullets. Everybody's reaction on that video and on the 7-3
20 video is to Jody Thompson shooting a weapon.

21 He -- he runs. He actually advances towards where
22 he's saying that gunfire was coming from or from where his
23 brother says the gunfire was coming from depending on which
24 of his versions you believe.

25 And then you have a reasonable-person standard, the

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1 similar situated person would have felt the same way that
2 that person felt that night and that there was no probable
3 means of avoiding the danger. That also seems very, very
4 farfetched to believe.

5 There is -- he's out with a weapon. You heard he got
6 access to the vehicle there. Could have walked around.
7 All kinds of other options rather than continuing to pace
8 in the parking lot and then shooting into a crowd.

9 One -- there's a lot of evidence in this case, and I
10 want to try to make it simple for you. I've looked at it a
11 lot, and there's a lot of shell casings and a lot of
12 testimony.

13 I want to kinda start by going to the scene and
14 combining it with the ballistics report that you heard from
15 the expert, Mr. Anderson, from Greenville.

16 He received this total of 23 cartridge casings. And
17 you'll have this report back. What I want to point out to
18 y'all is the sheriff's office number is the same as the
19 state's exhibit number, is the same as the Greenville
20 firearms report number.

21 So when you see Item 1 on this report, that will match
22 up with state's Exhibit 1, and that should also on the
23 sheriff's office -- due to the sheriff's office inventory
24 number. So you can use this as a key for what those items
25 are and match them up to the exhibits when you go back.

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1 I'm going to give you what I believe the report
2 states -- what the report states.

3 Every single -- and Armstrong testified to this --
4 every single piece of bullet material that they recovered
5 or that he tested in this case was not from Ramone Smith's
6 gun definitively. Also, every piece of bullet material
7 that was recovered -- not the casing but the thing that
8 actually projected out through the barrel -- bears similar
9 characteristics to Mr. Thompson's gun.

10 So there are no fragments, anything that we have that
11 came out of a barrel that we can attribute to Mr. Smith's
12 weapon or the other weapon that fired those three shell
13 casings that we don't know, we don't have.

14 Now, the report, the testimony and the video actually
15 match up quite well. The way I put it in through
16 Investigator Graham is I kinda went through steps of the
17 crime scene as he started, which was on the
18 convenience-store side, moving to the Playoffs-lounge side.
19 That's how he numbered the crime scene.

20 State's Exhibit 61 shows placards two, three and four.
21 You remember that's the one beneath the ninety-nine cents
22 sign there on the corner.

23 The firearms report attributes these to pistol, 39,
24 which is Ramone Smith's, the Glock that was recovered. And
25 it says up here the 39 is the Glock. He testified he owned

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1 a Glock.

2 Those are the three shots that you see on video. I
3 know he testified that he shot two in the video after he
4 went around the corner to continue to fire at Mr. Thompson,
5 but he apparently fired three. But those are his bullets.
6 Those are his shell casings. That's consistent with the
7 video; that's consistent with his testimony.

8 The second bit, the second shooting, which is not
9 second in time but second as we progress to the scene, I
10 believe this is the initial shooting, which would be five,
11 six and seven. Five there, seven, and then that far one
12 that's on the handicap line is six.

13 I believe those are the three shots. You see two
14 muzzle flashes, four, on the video 9-2, the one that Horace
15 Thompson says is Jody shooting a gun. That's five, six and
16 seven, I believe.

17 These are attributed to Item 31, which is the Taurus
18 that was recovered in the wood line next to Mr. Thompson
19 where he initially said he did not have a gun but later
20 told Mr. Gaddy that that was the gun -- that the gun that
21 was found in the woods was his. Those are the three shots
22 that you see that starts all of the chaos that ensued.

23 You can see where that white shirt is. That's where
24 the next grouping of shots comes from. I don't believe
25 those shots are captured on video, because you can tell

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1 between the 7-3 and the 9-2 there's a -- there's a blind
2 spot in between them unfortunately.

3 These would be 8, 10 and 11 and 12. Nine is the
4 T-shirt. The firearms report says that 8, 10, 11 and 12
5 are not fired from 39 and are fired from 31. Those are
6 shots attributable to the Taurus that Jody Thompson
7 admitted was his that was found in the woods. And he only
8 admitted that after he was informed that the police had
9 seen a video of this incident.

10 He advances forward on the tape from 9-2 where he's
11 seen firing the two muzzle flashes that produce those three
12 shell casings to this location where he continues to fire.

13 And when I played the videos through, keep that in
14 mind, that you can actually see that Cassandra and
15 Ramone -- they almost stop. And even on the 9-2 video the
16 guys that are hiding behind the truck, there's almost a
17 pause, like they think that the episode is over, and then
18 there's more reaction.

19 Mr. Thompson advances, which I think is totally
20 inconsistent with self-defense, and I think is where you
21 absolutely should find the malice aforethought in the
22 intent to kill.

23 If he was firing in defense, he certainly had an
24 opportunity to run away. Instead, he advances towards
25 where Cassandra Smith and Ramone -- Sandra Rice and Ramone

Closing arguments

1 Smith are standing. And he fires four more shots.

2 At that point Mr. Smith has the gun out and fires
3 back, and then he runs around the right side of the
4 building still carrying his weapon, which he admitted to
5 Mark Gaddy as well.

6 State's Exhibit 101. This is the Ramone Smith area of
7 shooting. Remember the blow-up picture. Behind that white
8 sign there at the convenience store is where the two
9 cameras are. So you can tell that this is out of the range
10 of the camera because the video we've seen, you never see
11 Ramone fire weapons. You do see him drawing his weapon,
12 but he continues to back up, and then he fires.

13 There are ten shell casings found in this area. Some
14 of these, some of the items in this area, are bullet
15 fragments, but ten of these shell casings are Mr. Smith's.
16 And that's actually -- I think the exact number he said
17 when he testified, he thought he let off about ten there.
18 He said two at the corner. But remarkably consistent.

19 These are not Mr. Thompson's weapons. We believe by
20 the time these are fired Mr. Thompson's still back there
21 and has been retreating.

22 Then we have State's Exhibit 32 which shows the three
23 that are on the corner of Playoffs that of course Thompson
24 kinda wants you to believe, but I kinda think by the end of
25 it he agreed with me that Jody Thompson was the person that

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1 started the reaction. Actually, agreed that Ramone and
2 Cassandra appear to be reacting to gunshots coming from
3 what would be the convenience side of the store, the right
4 side of the building as you're facing it, the exact
5 opposite side of Playoffs.

6 Those we cannot account for. Investigator Gaddy
7 talked about that he did review that video and eventually
8 that guy with the gun. Was never able to determine who he
9 was if he fired. And I'll go over the video to tell you
10 that although it's clear that somebody fired a weapon, it
11 does not change Mr. Thompson's guilt because Mr. Thompson
12 is the one that started this incident and shot these
13 people.

14 So there's really -- the -- Mr. Smith's, which is by
15 the corner, and then you have Mr. Thompson's shell casings
16 where you see on video.

17 You see the next set, is once he has advanced off that
18 video, fires four more shots, and then you have Mr. Smith's
19 ten, and then you have the unknown three. That's basically
20 the walkthrough of the crime scene. You can look at the
21 report. You don't have to take my word for it, but that's
22 what the report says.

23 Remember two of the items that bear similar
24 characteristics to Mr. Thompson's gun are removed from
25 Corey Glenn's foot and removed from Renata Irby's hip.

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1 Cassandra Rice told you that she saw Jody Thompson
2 shoot Corey Glenn. I believe she even said in the foot.

3 Ms. Irby, as you watched the video, told you that once
4 she was hit she starts flashing her lights, an
5 indication -- and when we watch the video you'll see that
6 she does that. That's before Ramone's pulled his gun.

7 We know definitively that Ramone's gun from the
8 ballistics did not cause Ms. Irby's injury and couldn't
9 have caused it just physics-wise where the location is
10 inside of Ms. Irby's vehicle.

11 And then Ms. Smith also appears to be hit based off of
12 how she turns by Mr. Thompson. She also testified that
13 Mr. Thompson's firing at her.

14 The judge is going to instruct you on we have to prove
15 the identity of the shooter. We have to say that that
16 person who shot is Jody Thompson. That's one of the
17 necessary elements of the crime.

18 Mr. or Investigator Gaddy spoke to you about how he
19 did that, because remember he went and spoke to
20 Mr. Thompson at the hospital and saw him wearing this,
21 which you will notice on the video, quite substantially, I
22 don't believe there's any other individuals that are
23 wearing that.

24 Obviously, he has this wound that's still pouring
25 blood out in the hospital that leaves a blood trail all the

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1 way to where police end up finding him where he lies about
2 his involvement in this and whether he had a weapon and
3 whether he shot that weapon. Got a white t-shirt, dark
4 pants and white shoes.

5 We're talking about State's Exhibit 57. I know you've
6 seen this video a bunch of times, but you've never seen it
7 with me being able to tell you what I see in this video.

8 We've got Ramone Smith in the upper right-hand corner.
9 We've got Stephone Anderson in the middle. They're
10 arguing. The man without a shirt. And here comes Jody,
11 the peacemaker, pulling a gun out right there. You can see
12 him. As he rounds the corner he lifts up his shirt.

13 He pulls -- I also want you to take note of the
14 position of his left arm. It's not a normal arm position
15 in my experience unless you're drinking something, in which
16 it's quite normal. And as he comes around here you'll see
17 he's got something in his hand. Looks like a beer to me,
18 which is probably the start of his lies. He told Mark
19 Gaddy that he had four mixed drinks. But here he comes.
20 pulls the gun out right there.

21 As you can tell, this video is three minutes and
22 fifty-three seconds long. This is 26 seconds into it, and
23 the shooting starts in about 30 seconds left on the video.
24 So a significant period of time that he's the only person
25 that ever see on video with a gun out, certainly not

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1 somebody that I would say is acting in self-defense.

2 I would say he's a person who is working up the
3 courage, recklessness, stupidity, malice, intent to do
4 something crazy, which he is about to do.

5 Notice what he's wearing. Dark-colored pants, white
6 shoes, white shirt. You can see the stocking cap. You can
7 see it's a gun. Clearly, he said it was black and chrome.
8 You'll see the chrome piece right there.

9 Here's Horace and like a litterer. And we don't see
10 Jody on this again.

11 Oh, got one thing I wanted to point out to you. That
12 was interpret 9-6. If you'll look on his left wrist he's
13 got a watch, some sort of metallic item. It's visible on
14 9-2.

15 It's not -- other than Horace's statement that it's
16 his brother who he should know it's his brother, but we'll
17 give some further indications when we look at 9-2.

18 I know it's been stated, but this -- there's testimony
19 that going off to this is going to the convenience-store
20 side. This is the Playoff's side. The right side would be
21 where there's no surveillance videos. The left side's
22 where we have the 9-2 video and the other video that shows
23 him spitting blood.

24 There's Ms. Irby going to her vehicle. There's Ms.
25 Rice and Mr. Smith now. Of course didn't really have much

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1 insight as to what was going on here. He did say that
2 Corey was attempting to break up the fight or to diffuse
3 the situation, I think is what he said.

4 We know where Mr. Smith has his weapon. He told us.
5 I don't ever see him on this video reach for the weapon
6 until shots are coming at him. That's what he said in his
7 testimony. That's what's on the video. The -- the video
8 testimony and ballistics are remarkably consistent as far
9 as everyone's statements about what happened other than
10 Mr. Thompson's -- both Mr. Thompsons.

11 Right here Ramone is facing where Jody is. Cassandra
12 is facing the opposite way. If you notice as soon as
13 Ramone starts to act, she does a 180, turns right around.
14 She's reacting to something behind her.

15 She's looking in the direction from where Horace is
16 saying that these three shots come from on the corner of
17 Playoffs. She apparently did not see the muzzle flash or
18 hear the noise coming from that direction under what
19 Mr. Thompson says.

20 She's clearly -- and just like she testified to --
21 she's reacting to something happening behind her, which is
22 Mr. Thompson shooting. There she does the 180. There's --
23 all right. He's already starting to reach, but then she
24 falls down.

25 All right. Here's Corey Glenn. G.S.R. person tells

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1 you that Corey Glenn has G.S.R. on him. I thought it was
2 interesting that it's more likely that he would have it on
3 him if he was closer to the shooter, was one of the
4 questions that -- or answers she gave to my question.

5 Mr. Glenn in this situation is the closest person to
6 Mr. Thompson because he's off the video. Cassandra says
7 that Jody is initially firing at Corey Glenn. That would
8 make sense because he's running faster than anybody. He
9 would have a better ability to perceive what's going on due
10 to the proximity of how close he is to Mr. Thompson.

11 And also we know that Ms. Rice appears to get shot on
12 the second of all of the rounds, we believe, after
13 Mr. Thompson had advanced.

14 I think it is important to note if you pause it his
15 hand is open there. He's just springing. He -- Horace
16 Thompson wants to believe he is running straight into
17 gunfire that's occurring half way across the parking lot
18 and he's not -- appears to not be facing that way. Seems
19 to be in a conversation earlier on the video with people to
20 the left.

21 But even though that's where his attention is focused,
22 he hears something behind him and decides to react. It's
23 just not consistent. All of these people are reacting to
24 something to the left. He's running for his life.

25 Ms. -- Ms. Rice falls down. Ramone tries to pick her

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1 up and then decides he needs to pull his gun out.

2 There Ms. Irby, as she testified, she started giving
3 indications that she needed help. There's her light on
4 already. Ramone has not pulled out his weapon.

5 We also know from the ballistics report that the
6 bullet that was pulled out of her leg is definitively not
7 from Ramone's gun. Also know that the bullet pulled that
8 you've seen is on the passenger side of her door that
9 passed through and into her leg. We know that it ended up
10 in her leg because that's where it was recovered. So we
11 know the path of the bullet.

12 Ramone Smith couldn't have fired that shot, and the
13 mystery shooter on the club of -- on the side of Playoffs
14 could not have fired that shot given the video and her
15 testimony.

16 It does, the bullet does, have similar characteristics
17 to Jody and that's the direction that Jody is firing in.
18 All of the other people are firing the opposite direction.
19 And we do know there's only three types of -- three
20 different guns as far as anything that was recovered.

21 There. I think in all of the ballistics and the
22 various witness testimony and all the video Ms. Rice -- she
23 gets lost in this. But she's very important to me. She
24 testified she's known Jody Thompson for 30 years. Her
25 whole life she's known this man.

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1 And I think when she was up on the stand, any time
2 that she would be asked if Jody did it, it was reluctant.
3 She didn't -- because of -- she didn't want to say that
4 because it's somebody that she has known for all of this
5 time. She can't believe that this happened, somebody that
6 she said -- I think since she was a baby she's known Jody
7 Thompson. And it's hard for her to grasp that he shot her.

8 She is an excellent witness. She's standing right
9 there. She says she sees Corey shot. Her -- her testimony
10 is absolutely consistent with the video.

11 As you can see if you look at her head and the space
12 between the Kia and her head, there's a puff of air right
13 before she reacts right there. That's her being struck, a
14 very, very, very close call for Ms. Rice.

15 9-2. Horace tells us that this man right here is his
16 brother walking back and forth. Notice the arm right
17 there. Do you see that left arm? Looks like he's holding
18 the same thing he was holding, the same position he had in
19 7-3 when he's got his beer or whatever he's got. Just an
20 interesting way to hold your arm if you're not holding
21 something in your hand usually that you're going to be
22 drinking.

23 All right. Mr. -- Mr. Thompson, by Horace's
24 admission, what I'll prove to you here in a couple of more
25 seconds, is not even facing the corner of Playoffs.

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1 He appears to be walking straight towards the
2 convenience store. And then when he told Investigator
3 Gaddy he doesn't know where the shots came from, he just
4 started hearing shots and returned fire. He also told
5 Investigator Gaddy that he was running away and shot once
6 or twice as he was running away trying to get cover. Just
7 look at this and see if that's believable. Boom.

8 He never even looks towards the area where he's saying
9 gunfire comes until he switches his whole body, raises his
10 arm and begins firing at Corey Glenn. Boom.

11 That's the three shell casings that you've got in his
12 area. Looks like he might have shot one of them with the
13 gun sideways so the shell would go up.

14 Advancing, pacing back and forth. Everybody's seen
15 that in their experience trying to get your friends to hold
16 you back before you do something stupid. But nobody was
17 able to control him that night, not even Stephone Anderson
18 who looks like he could control most people.

19 This individual's got light-colored pants on you can
20 tell, and they don't ever really leave the frame. Boom.
21 They're reacting. This person doesn't react. Look at
22 these other people. Look at what they react to. Boom.
23 This guy's starting to back up already right as you see
24 that muzzle flash. Boom. Looking towards where the shots
25 are coming, doesn't seem to be scared because nobody's

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1 firing in his direction at this point. Just mosey on back.

2 This guy standing right here -- Horace wasn't sure if
3 it was him or not -- he doesn't even move when Jody starts
4 shooting. I mean, he has no reactions, because he's on the
5 guy with the gun who's firing into a crowd's side. He
6 doesn't have anything to worry about because nobody's
7 shooting back at him yet.

8 And then here he comes back, left-hand. Watch his
9 left hand. Still in that position. Look at his left
10 wrist. See the contrast between his skin color and the
11 white shirt? Looks like a watch, metallic. Shows up well
12 with his background.

13 Now this guy's looking this way and he's taking cover.
14 They're taking serious cover. The shots are coming back.
15 We know he's hit right now. Look at the sidewalk here.
16 Nothing on it. About to be covered in blood.

17 All right. Look at the right hand here as I back this
18 up a little bit. Mr. Thompson told Investigator Gaddy that
19 he carried his gun around the right side of the building
20 with him and took it into the woods.

21 This is a man identified by his brother as Jody
22 Thompson, and the clothing description is Jody Thompson,
23 but is doing the exact same thing that Jody Thompson says
24 that he did after he was retreating, running around the
25 right side of the building.

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1 It appears that he has a weapon in his right hand,
2 which would be consistent with what he told Investigator
3 Gaddy. You can see it against the backdrop of the Suburban
4 right there. And watch the sidewalk as he goes by. There
5 it is. Dark-colored pants, white shoes, white shirt.

6 And then you -- you know the rest of the video.
7 Ramone admits, admitted to Investigator Gaddy he went
8 around. He got beside the store and shot at him or he
9 actually said he wasn't there. He was making sure he
10 didn't come back. But it's exactly what's on the video and
11 it's exactly what the shell casings showed.

12 There's nothing inconsistent in these statements.

13 Go to 6-1. This one's quick. See the hand position,
14 left hand? See that on the left wrist, the wrist watch?
15 Seen on 7-3 in more detail. Seen on 9-2 in the same hand
16 position. It's Jody Thompson. You can actually see right
17 here if you look closely a delineation I believe is the ski
18 cap that he's got on, whatever, stocking cap.

19 Darkening. There's the left hand still held that's
20 been all along and a wrist watch there and blood about to
21 splatter all over the sidewalk. It's Jody. It's the man
22 that just shot three shots and then advanced into the crowd
23 and shot four more.

24 Jody talks about people chasing him in the woods and
25 searching for him and stuff like that. If we watch the

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1 video where Ramone goes around the corner and shoots three,
2 he hops in the pickup truck and takes Corey Glenn to the
3 hospital. I don't know what he's talking about. There's
4 no shell casings found anywhere in the back of the building
5 or anything like that. Just a bunch of blood that led to
6 him.

7 You've also got the video of Jody running through the
8 back parking lot right into the woods where they find him.

9 This is 3-3. There he is. Goes right by those
10 kerosene pumps that you can see on the body cam that
11 officer Gipson had.

12 I'd like to talk a little bit about Officer Gibson's
13 interaction with Mr. Thompson. I can't believe how nice he
14 treated him, but he treated him like that, thought he was a
15 victim at the time.

16 Didn't know that there was a gun around him, talking
17 through. Mr. Thompson even said thank God for you. I
18 mean, it was a very, very nice reaction.

19 Mr. Thompson had every opportunity to say what he
20 later told Investigator Gaddy, that he was acting in
21 self-defense and that he had fired one or two shots. But
22 he didn't do that. He wasn't even being treated as a
23 suspect, but he didn't do that.

24 He wanted to leave that gun in the woods and not be
25 found so we wouldn't have a ballistics expert that can say

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1 that the bullet pulled out of Renata Irby's leg bears
2 similar characteristics to his gun and the bullet that
3 pulled out of Corey Glenn's boot bears similar
4 characteristics to his gun.

5 He wanted that thing to stay in the woods, him be
6 treated like a victim and everything be fine. It's only
7 after Investigator Gaddy said we've talked to your buddy
8 and we've seen the video that we get the final story of I
9 was acting in self-defense, I shot once or two times, which
10 is seven times based off of the ballistic expert, but it
11 was as I was retreating for cover. That's not what the
12 video shows. It is a lie, just like the first story he
13 told law enforcement.

14 This is State's Exhibit 140, the inside of Ms. Irby's
15 car. You can see the bullet hole through her speaker. She
16 lost an eyelash. This is her gearshift.

17 It actually appears that the bullet -- if you look at
18 where this position is versus where it hit her up high in
19 the hip, looks like the bullet actually hits the gearshift
20 and then diverts and then hits her up higher on the hip.

21 And then if you look at the bill in this picture and
22 then the bill in this one, you can tell that it must have
23 because the bullet didn't go through that part from the
24 bill. It came through this portion and then into her hip.

25 she told you she was obviously hospitalized as a

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1 result of that and had to carry that bullet in her leg
2 until July 20th when it was removed and then was sent for
3 further testing.

4 It's a -- she suffered. She could have died from
5 this. You know, arteries in your legs, infection, all
6 kinds of things that could come from having a bullet in
7 your leg and being shot like she was. She certainly could
8 have died, and that was Mr. Thompson's intention that
9 night.

10 158. Cassandra Rice. I mean, it goes without saying
11 how close she was to dying. Everybody knows that this
12 bullet is just a couple of inches, you know, she's gone.
13 She's not a witness in this case. She's a victim of a
14 murder.

15 This is attempted murder. She's shot in the second
16 round of gunfire. He is advancing towards her. He said in
17 his statement to Investigator Gaddy that there weren't
18 women out there, it was just the men that he was fighting
19 with there. That's just not true. There's -- she's
20 standing in between him and Ramone when she shoots or when
21 shoots initially.

22 There's Ms. Irby's leg, and you've got Corey Glenn's
23 foot. The two ones that were able to recover bear some of
24 her characteristics.

25 Ms. Rice. You just have to look at the timing of

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1 everything that happened to understand that Ramone Smith
2 was with her. Ramone Smith was obviously accurate enough
3 to strike Mr. Thompson. Just doesn't make sense any other
4 way. And all three of these wounds are caused by Jody
5 Thompson.

6 As far as attempted murder on Ramone Smith, the
7 argument was with him. It's fair for you to conclude that
8 the intention was to try to kill Mr. Smith. That seems to
9 be who they were arguing with -- him and Mr. Glenn.

10 I told at the beginning the video is very -- it's not
11 the most clear video, but when you get the context of it,
12 the video is clear as to what happened.

13 There was a disagreement, but the only person that had
14 a gun out and was pacing around, drinking a beer, throwing
15 a cigarette on the ground, being restrained by five people
16 was Jody Thompson.

17 It is fair to conclude that the guy two minutes later
18 on the video who just turns his body and starts shooting is
19 Jody Thompson, the guy that was already walking around with
20 the gun. He doesn't draw it on 9-2. It's a body-turn and
21 shot. The gun is already out. He already has bad
22 intentions before he's ever seeing another person with a
23 gun.

24 And he told Mark Gaddy he did not see who was
25 shooting. Didn't say Ramone was shooting at him, didn't

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1 give any name, wasn't able to give a vehicle or any sort of
2 description or where the shots were coming from or
3 anything. And he felt comfortable firing through a parking
4 lot with all kinds of people in it over this alleged
5 threat.

6 As far as the three shell casings, got to use some
7 logic on that too. Mr. Thompson says that the person he
8 believes though -- before he saw the video he thought it
9 was Ramone Smith, and then he changed his story to it must
10 have been one of his people.

11 Well, that would mean he wants you to believe that
12 that person is the initial aggressor and fired the least
13 shots out of everybody involved in this situation, which
14 seems odd, and that that person fired through his own
15 friends, his or her own friends, to attempt to hit Jody
16 Thompson who -- I mean, that's the entire length of a
17 parking lot. It just doesn't make sense.

18 And then you combine that with the reactions of Corey,
19 Cassandra and Ramone, and it's just clear whether -- if
20 those shots came from the back, they wouldn't know that
21 they were their people. They would be turning around that
22 way because they are in the danger zone.

23 I ask to consider the lies that were told by Mr.
24 Thompson, the attempts to hide the weapon, the attempts to
25 minimize his role, how it continued to change, the more

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1 information that he was told that law enforcement had, and
2 then you compare that to Cassandra Smith, told them at the
3 hospital that it was Jody Thompson that shot. Renata Irby.
4 She can't tell you who shot, put the bullet in her, and the
5 physical evidence can tell you who shot her.

6 Corey Glenn. Cassandra says that she saw Jody
7 Thompson shoot Corey Glenn in the foot. It's all there.
8 It all matches the video and the ballistics matches the
9 video as you walk through the scene. It's all consistent
10 with the state's witnesses and the video evidence and the
11 ballistic evidence.

12 The defense witness and the statements of Mr. Thompson
13 and Mr. Gaddy are just demonstratively false.

14 The unlawful carrying of a pistol, not authorized to
15 carry a pistol out in the open like that. That's what that
16 charge is.

17 Possession of a weapon during a violent crime, that is
18 attached to Cassandra Smith's indictment. You have the
19 options of attempted murder, and then assault and battery
20 of a high and aggravated nature.

21 If you convict him of either one of those charges and
22 you believe that he possessed a weapon when he committed
23 that crime, then he's guilty of possession of a weapon
24 during a violent crime. That's the remaining law that I
25 didn't discuss with you.

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1 I think you for your attention. I know you have a lot
2 to consider. I'm trying to emphasize it as much for you as
3 I can, but I want you to give it careful consideration. I
4 put it all in for a reason, so you have as good of an
5 understanding as you can about what happened.

6 And I ask that you once you do that, please return a
7 verdict of guilty an on all four counts of attempted
8 murder, unlawful carrying of a pistol and possession of a
9 weapon during a violent crime. Thank you.

10 THE COURT: Mr. Allen.

11 MR. ALLEN: Thank you, Your Honor.

12 Ramone Smith asked Stephone Anderson you got a problem
13 with me. This was in response to apparently Stephone
14 pouring some beer out in front of him or at his feet or
15 something like that. Invited, take him outside or invited
16 him outside to settle. And Stephone took off his shirt,
17 the actions of somebody that sounds like they're -- they
18 want to fight.

19 Jody Thompson, after having been at the club for a
20 while, goes outside. Yes. He's holding a gun. He's
21 holding a gun in his right hand, but he's walking around.
22 And Mr. Smith doesn't notice a gun in his hand at all.
23 He's not being threatened by a gun in his hand. His beef
24 seems to be with Mr. Anderson.

25 At some point, as you just saw -- I'm not going to

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1 play the videos necessarily for you again. You'll have
2 them back in the jury room. You can watch them. But at
3 some point Cassandra Rice and Mr. Smith are reacting to
4 something.

5 And there is testimony, there is evidence, that there
6 was a shot initially from the corner or from the side of
7 Playoffs, what we have been referring to as the left side,
8 which we see in State's Exhibit 10 or 110. For some reason
9 that picture always eludes me.

10 Well, like I did at trial, I'll use State's
11 Exhibit 32. Horace hears a shot. When Horace hears a
12 shot, sounds like it come from that side. They're reacting
13 to something.

14 Mr. Thompson, my client, Jody Thompson, tells
15 Investigator Gaddy that he heard shots and he returned
16 fire. He thought they were shooting at him. He thought he
17 was being shot at.

18 Tempers were already up. Mr. Smith was obviously
19 ready to fight someone. And he acted in self-defense. He
20 shoots several times.

21 There are about seven cartridges that are linked with
22 the gun he had, the Taurus. He wasn't able to get away.
23 He wasn't able to get away because, you see, his car is
24 that silver car over there on the -- in the foreground
25 of -- well, not in the front of the building in the

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1 foreground of State's Exhibit 32.

2 State's Exhibit 101, you again see this car, the
3 Pontiac. But he couldn't get away, you see, because -- you
4 see these placards -- 16. Number is cut off a little
5 bit -- 16, 17, 18, 19, 20, 22, 25. All of these placards
6 go to a cartridge casing, and those cartridge casings which
7 were ejected from the gun -- those cartridge casings were
8 all identified as having been fired not by the Taurus but
9 by the Glock, the Glock pistol that belonged to Mr. Smith,
10 the Glock pistol that was in his hand that he was using to
11 shoot out there.

12 Apparently after being shot Jody then ran for his
13 life. He ran around to the other side of the building, as
14 you saw, and ran for the wood line in this paved parking.
15 Got pavement in the back as well. That was the closest
16 place that he could think apparently to take cover.

17 He stayed until law enforcement arrived. Renata Irby
18 stayed too. She was seen. Many other people left.

19 As you saw on the video, after Ramone Smith had shot
20 these bullets or these rounds, at some point he went over
21 to the right side of the building and shot a few more
22 apparently for a good measure. Had nothing in particular.
23 And at some point he starts, as you see, tapping on the
24 back of Ms. Rice's car.

25 Okay. Get away. How come they didn't wait for the

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1 ambulance? How come they didn't wait for law enforcement?
2 How come Mr. Smith left? How come Mr. Smith did not come
3 back after he dropped one person off at the hospital for
4 emergency care if that was his reason? What was he trying
5 to conceal at that point? Is he just trying to get away?
6 Hopefully, nothing happens, hopefully, didn't have to come
7 back.

8 He comes back approximately, what, 12 hours or so
9 later. He claims he went home to protect his family from
10 people that he did not know, that he had no reason to know,
11 that knew him or where he lived. That does not sound
12 reasonable.

13 We know there were other guns, just don't know how
14 many. But we do know that these placards, State's
15 Exhibit 110, shows it a little bit better, but I'm not
16 going to delay while I go searching among all of those
17 photographs.

18 These placards over here in the foreground -- I'm
19 pointing to right now -- are placards 28 and 29 and 30, and
20 they match up to 28 and 29 and 30 items on Mr. Armstrong's
21 report that will also be back with you in the jury room.
22 And they were not fired by any -- can't read. They were
23 not fired by any of the two pistols that he had to examine.
24 They were not fired by the Taurus; they were not fired by
25 the Glock.

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1 The last paragraph. Could have been fired by a Glock,
2 could have been fired by a Smith and Wesson possibly. But
3 not those two. They did not have those distinctive
4 characteristics.

5 The wording on the paragraph, by the way, since I'm
6 showing you that, the wording on the paragraph about some
7 of these other bullets or the other bullet casings, the
8 officer cannot identify those items to the Taurus. That's
9 what he says. He cannot identify them to the Taurus.
10 Insufficient marks to permit identification to Item 31 or
11 each other.

12 Now, these items, 121, 27 and 33 and 56 are those
13 portions that you'll see -- you've got them in evidence --
14 of the bullet fragments and the other fired projectiles
15 that were picked up.

16 He doesn't know where they came from. He can't tell,
17 because scientifically they don't have enough marks in
18 order for them to be identified.

19 He can't tell if they were all fired by the same
20 weapon either because he can't -- he cannot identify them
21 to that pistol or to each other.

22 I'm not going to replay a portion of the video, but we
23 saw it. I believe it was yesterday. You remember a
24 portion of the video after the shooting was going from left
25 to -- or from our right to the video's left, but the

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1 store's left to the store's right. We stopped it. He had
2 clearly what appeared to be a gun in his hand. No one
3 identified who he is or what his role was.

4 Ms. Rice when she first tried to leave in her car
5 before she realized the tire or a tire was flat -- some
6 fellow tried to get in her car right before it left.

7 And I demonstrated yesterday to Mr. Gaddy on the stand
8 that that person had something shiny in his hand as he
9 opened up that back door.

10 Again, you'll have these videos in evidence. You can
11 watch them. You can start them and you can stop them and
12 you can see them. But he had something, possibly a gun.

13 She didn't know who it was apparently. She only
14 identified her brother as being in the car with her, but
15 clearly there was more than one person in the car.

16 These are not the actions of people who want law
17 enforcement or want you, ladies and gentlemen, to know
18 everything.

19 The state has brought these charges against
20 Mr. Thompson, and their requirement is to prove it beyond a
21 reasonable doubt to your satisfaction. It doesn't matter
22 what the solicitor believes or what anyone believes. The
23 standard is proof against Mr. Thompson beyond all
24 reasonable doubt.

25 While I'm on the subject of the standard of proof, we

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1 are not required, Mr. Thompson and I are not required, to
2 prove self-defense. I'm going to get -- use that right
3 there. We saw the solicitor put up the elements of
4 self-defense. The judge will tell you what the elements of
5 self-defense are.

6 It's not a matter of what we're required to prove,
7 because we started from the presumption and we still start
8 from the presumption of innocence.

9 Mr. Thompson right now is innocent. That's where we
10 start from. The judge will tell you that I'm not required
11 to prove anything. The state must prove his guilt beyond
12 all reasonable doubt.

13 In other words, they must disprove that he acted in
14 self-defense. We don't have to prove self-defense.
15 They've got to disprove he acted in self-defense.

16 At the time Mr. Thompson started shooting he did not
17 have the specific intent to kill, which is an element of
18 attempted murder. He was not acting with malice
19 aforethought, expressed or implied, which is another
20 element of that offense. He was reacting to what he heard.
21 He was reacting to the crime. He was reacting to this
22 buildup of -- one witness called it drama. Another one may
23 call it emotion.

24 Somebody shot first. Somebody shot first, and the
25 evidence tended to give you an indication that there was

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1 somebody else out there shooting. And the one thing, put
2 another way, the state has not proven beyond a reasonable
3 doubt that Mr. Thompson shot first.

4 They rely a great deal on the video. The video didn't
5 show everything, doesn't show everything. That, those
6 videos, those cameras, are not set up to let everyone know
7 what's going on at Playoffs. They were set up for the
8 security of the convenience store and of the gas station.
9 That's what they are there for. That's why they -- you
10 don't see all of the way over to Playoffs.

11 They don't show what happened over there. They don't
12 show why there are three cartridges that were not fired by
13 Mr. Smith or Mr. Jody Thompson. And of course clearly none
14 of these cartridges, even though they're numbered in a
15 certain way, they don't indicate the sequence of the
16 shooting.

17 In any event, Mr. Thompson was reacting to what he
18 perceived as a danger. He shot to defend himself, and that
19 is why he did not have a specific intent to kill, that is
20 why he did not have malice aforethought.

21 More importantly, that is why he is not guilty of
22 assaulting these people. That's why he's not guilty of
23 assaulting Mr. Smith, I mean, or attempting to murder, not
24 guilty of those, of that crime. He's not guilty of
25 attempting to murder Ms. Rice and he's not guilty of

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1 attempting to murder Mr. Glenn and not guilty of attempting
2 to murder Ms. Irby.

3 He shot in self-defense. He couldn't get away because
4 of where they were in relation to his car. That's why
5 we're here today.

6 They put too much reliance on videos and not enough on
7 all of the other evidence they tend to show.

8 The state has failed in its burden of proof. Ladies
9 and gentlemen, I ask you, as I know you will, to follow
10 your duty, to find him not guilty of those offenses. Thank
11 you.

12 MR. SMITH: You're going to have to use your reasoning
13 skills that I know all of you have. You're all adults.

14 The video would make you think that every single
15 person on the video has misinterpreted where the initial
16 shots come from. It's just not believable.

17 Mr. Thompson now just admitted that he fired seven
18 shots because he is the guy on the video.

19 Look at the guy next to him. No reaction, no
20 reaction. If the shots are coming from Playoffs, why
21 doesn't he move? He didn't even move when Jody starts
22 shooting, because that's the initial shots. He has no
23 reason to move because he's not being shot at yet.

24 That other guy only moves when you see Jody go off,
25 and then he comes running back. And, obviously, Jody's hit

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1 at that time. So you know Ramone has started shooting
2 back.

3 Also, there are vehicles to the right of Mr. Thompson
4 on that 9-2 video. If we're supposed to believe that he
5 was fired at from the corner of Playoffs, which is an
6 incredible distance with an incredible number of people in
7 between, he fires three shots in response, and then rather
8 than go get under cover and maybe continue firing or
9 whatever, he just walks right into it out in the open, no
10 cover, advances and fires four more shots. It's not
11 believable. It makes no sense.

12 You have to look at the video, but you also have
13 Ms. Rice. You have Ms. Irby; you have Mr. Smith. They all
14 say the same things. You want to talk about hiding, it's
15 3:30 in the morning. He's been involved in a shooting. He
16 comes into the sheriff's office nine hours later, drives
17 his own vehicle there, hands them his gun, gets Mirandized
18 and tells the story that he told in court today with
19 people.

20 Was it a safe place? Would you have felt safe
21 sticking around the scene of this thing? There's a lot
22 going on. Cassandra Rice in the hospital is saying that
23 Jody Thompson is the person who shot her, a person she's
24 known for 30 years, a person that she's standing 20
25 something feet away from. Saw him, knows he did it. She

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1 says he started the shooting too. That's matches the
2 video.

3 Just be reasonable. Look at the video. All of those
4 people are reacting to the place that Jody Thompson is now
5 admitting he shot from.

6 The angle from this 101 shot or State's Exhibit 32, I
7 mean, the person -- the shell casings are here, which means
8 the person would be off to the left.

9 I mean, it -- it's crazy to think that that's the
10 person that shot, that would've all reacted that way.
11 You've got the guys behind the truck on 9-2. No reaction
12 until Jody turns and fires. That's the first time the guys
13 on 9-2 react. The guy standing next to Jody, who I would
14 assume is with him because he doesn't react to Jody firing,
15 no reaction until Ramone Smith starts shooting.

16 I believe these three shots came during a time where
17 there were so many shots going that you wouldn't have been
18 able to necessarily tell where things are coming from.

19 The first shot is what would cause people's reaction,
20 and the reactions are all towards the convenience-store
21 side, not towards Playoffs.

22 There's no doubt that a lot of shots started going and
23 it would have been disorienting from that point, but Ramone
24 -- Corey. Corey -- Corey is the closest person to Mr.
25 Thompson who Cassandra says he's trying to shoot -- runs.

Closing arguments

1 Apparently, he misinterpreted it and it was actually the
2 guy behind him that was shooting and not the guy that he's
3 looking at who is shooting him in the foot which causes him
4 to run for his life. It's not believable.

5 And then you've got to look at -- I like that
6 Mr. Thompson stayed at the scene, like, oh, thank you.
7 That was very nice of him.

8 He's got a gunshot wound in his leg where he can
9 barely move. He's lost all kinds of blood and doesn't tell
10 the story to police. He did not.

11 Acts like he's the -- you know, the good guy who
12 stayed at the scene. Lies to the officers at the scene,
13 lies to Gaddy at the sheriff's -- or at the hospital, lies
14 in his interview since he just admitted now that he shot
15 seven shots. And he is clearly not seeking cover or
16 shooting behind him or any of the other stories that he
17 told.

18 It is a lie, like everything else that he said to law
19 enforcement number, until he admitted that that was his gun
20 and he had shot. The manner in which he shot is a lie.

21 He absolutely had intent to kill. You can -- he
22 already had the gun out. They admit he's got a gun out. I
23 mean, that -- and nobody else does. And we're supposed to
24 believe that suddenly he's looking towards the convenience
25 store and hears a -- hears a shot and just turns and starts

Jury charge

1 firing three shots and then advances and fires four more.

2 And I -- presumably -- of course Jody said he didn't
3 know where he'd be shot from. You'd think he'd be shooting
4 through this area, but he hits this lady. It's ridiculous.
5 If he's shooting at Ramone and Corey, he's a bad shot,
6 maybe, and hit Ms. Irby, but to think that he's shooting at
7 the corner of Playoffs or even perceived that that's where
8 the bullet came from is just -- defies belief.

9 Like I said in my initial closing, the video, the
10 eyewitness testimony and the ballistics are consistent.
11 I'm not overemphasizing the video. I think it helps
12 provide context to the scene and what was happening, but
13 I'm not over relying on it. It all supports our position.
14 It all supports that Jody Thompson fired. Cassandra Smith
15 says so, the video says so. And the ballistics show that
16 the -- the bullets that come from that area are Jody
17 Thompson's. I ask that you return a verdict of guilty on
18 all of the charges.

19 THE COURT: Does any juror need a quick break before I
20 provide you with the instruction? Anybody?

21 Okay. Mr. Foreman and ladies and gentlemen, you of
22 course have heard and seen all of the evidence in the case.
23 You have now heard the final summations of the lawyers, and
24 therefore it now becomes my duty and obligation to instruct
25 you on the law that's applicable. You'll then be asked to

Jury charge

1 go back and to begin with your deliberations. Through that
2 process you'll be called upon through the exercise of good
3 judgment and common sense conscientiously applied to the
4 testimony and evidence received during the trial to
5 determine what you believe to be -- the facts to be as they
6 relate to the allegations made by way of indictments where
7 you can. And after determining those facts you apply the
8 law that I will have provided you, and you jurors will
9 determine whether or not the defendant's guilt as to any
10 charge has been proven beyond a reasonable doubt.

11 It is your exclusive prerogative to determine what the
12 facts are. And, as I say, you do that through your own
13 common sense examination and evaluation of the testimony
14 and evidence received during the trial of the case.

15 You 12 jurors alone will decide what weight, value and
16 effect to give to any particular witness' testimony or
17 other evidence in the case. Your sole objective is to
18 simply render a fair and impartial decision based upon the
19 evidence presented and the law that's applicable as I will
20 have provided it to you.

21 Now, in this case, as you know, the state by way of
22 these indictments has accused the defendant of having
23 committed six separate and distinct offenses, although they
24 are alleged to have arisen out of one particular event or a
25 course of events which the state alleges occurred back on

Jury charge

1 June the 26th of 2016. But they are separate criminal
2 charges. You will be called upon to render separate and
3 distinct verdicts as they relate to the separate charges,
4 and you'll do that of course based upon your determination
5 of fact and your application of the law as it relates to
6 that particular charge.

7 But in this case the defendant is charged with four
8 counts of attempted murder. He's also charged with
9 possession of a firearm during the commission of a violent
10 crime, that violent crime alleged to be attempted murder.
11 And he's also charged with the unlawful carrying or
12 possession of a firearm.

13 Now, as to those allegations and as to each of those
14 charges contained in those separate indictments the
15 defendant has entered a plea of not guilty.

16 As I told you, that plea of not guilty has placed upon
17 the state the burden of proving the allegations that they
18 have made by way of the indictments, the burden of proving
19 each of the essential elements of the crimes that have been
20 alleged against this defendant; and therefore the burden is
21 upon the state to establish the defendant's guilt to the
22 satisfaction of you 12 jurors beyond a reasonable doubt
23 before any verdict of guilty could be returned as to any of
24 the separate charges contained in those indictments.

25 The burden is never upon a person accused of a crime

Jury charge

1 to prove that they are not guilty or to prove that they are
2 innocent because in some cases that might not be possible.
3 The burden is always upon the state because they brought
4 the accusation, they made the charge, to establish the
5 defendant's guilt beyond a reasonable doubt.

6 You are instructed that it is a vital, important and
7 cardinal rule of law that every defendant in a criminal
8 trial -- and it doesn't matter how serious the offense
9 might be for which that person stands charged -- that
10 person shall always be presumed innocent of that charge.
11 That presumption of innocence remains with any defendant,
12 as it does with Mr. Thompson, throughout the course of
13 criminal process and even throughout the course of the
14 actual trial.

15 As I told you, that presumption of innocence will be
16 with Mr. Thompson even as you go back into the jury room to
17 begin with your deliberations in the case, and that
18 presumption of innocence will be with him in that jury
19 room, and it'll be with him forever unless you 12 jurors
20 determine that he's no longer entitled to that presumption
21 of innocence as it relates to a particular charge.

22 In other words, after you've carefully considered all
23 of the evidence in the case and all the evidence as it
24 relates to the allegations in each of the separate
25 indictments, if you 12 jurors unanimously determine that

Jury charge

1 his guilt as to a charge has been proven beyond a
2 reasonable doubt, then he would no longer be entitled to
3 the presumption of innocence as it relates to that
4 particular charge. But it is only if, unless and until you
5 are satisfied of his guilt beyond a reasonable doubt that
6 the presumption of innocence would no longer be applicable.

7 Now, as I told you, the state has the burden of
8 proving the defendant's guilt beyond a reasonable doubt.
9 This does not mean that the state however has to prove his
10 guilt beyond all doubt or beyond any possible doubt, but it
11 does require the state to prove his guilt to your
12 satisfaction beyond a reasonable doubt.

13 The term reasonable doubt should be given its plain
14 and ordinary meaning. A reasonable doubt is the kind of
15 doubt that would cause a reasonable person to hesitate to
16 act upon the information that has been provided.

17 The defendant in a criminal trial is entitled to any
18 reasonable doubt that arises from the evidence or lack of
19 evidence in a case, and if, upon any factual issue
20 essential to a finding of a verdict of guilty, you have
21 some reasonable doubt as to how that issue should be
22 resolved, it would be your duty to resolve that reasonable
23 doubt in favor of the defendant.

24 Now, while there are various forms of evidence such as
25 testimony, photographs, documents, charts and other types