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SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Florence County

Honorable D. Craig Brown, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

LARRY JA JUAN SCIPIO, JR.

APPELLANT

APPELLATE CASE NO. 2022-000949

RECORD ON APPEAL

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State of South Carolina	)	Court of General Sessions
	)	Twelfth Judicial Circuit
County of Florence	)	Case No. 202
	)	
State of South Carolina,	)	
	)	
Plaintiff,	)	
	)	
-vs-	)	Transcript of Record
	)	
	)	
Larry Ja Juan Scipio, Jr.,	)	
	)	
Defendant.	)	
	)	

June 20-24, 2022
Florence, South Carolina

B E F O R E:

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

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

Todd Tucker, Esquire
Attorney for the State

Stephen Krzyston, Esquire
Patrick Sharpe, Esquire
Attorneys for the Defendant

Krystal J. Smith
Official Circuit Court Reporter

1 Price, his prior familiarity with the defendant. I certainly
2 -- I don't think -- it's not the State's intention to elicit
3 any testimony from Investigator Price when he's on the stand
4 with regard to any past conduct or contact he's had with the
5 defendant in this case in chief either.

6 Now, of course, again, that would be if Mr. Scipio were
7 to testify and open the door to that, certainly we reserve
8 that right to go into it at that point and, certainly, we do
9 not intend to introduce anything like that in our case in
10 chief.

11 THE COURT: Anything in response?

12 MR. KRZYSTON: I think probably the only thing that
13 there's an argument to be had on is 3(a)(3), which would be
14 the circumstances in Mr. Scipio's custodial taping.

15 Your Honor, on July 8th of 2019, approximately a day
16 after the subject allegations, the consolidated 9-1-1 call
17 center here in Florence received a call for service by a
18 family member of Mr. Scipio's. She initially -- at least
19 looking to the report, certainly there's some hearsay within
20 hearsay, but looking to the reports, it looks like the family
21 member was at first not aware of who was attempting to enter
22 the home and then subsequently identified Mr. Scipio.

23 It's my understanding that the Florence Police
24 Department, City of Florence Police Department, responded to
25 Jarrett Street, which was the location for the call for help,

1 and, you know, took Mr. Scipio into custody. And then the
2 Florence County Sheriff's Office came out and took -- took
3 custody from Florence City and then remitted Mr. Scipio to the
4 jail.

5 You know, Your Honor, my obvious concern there is that,
6 you know, the materiality of that set or piece of evidence is
7 -- is really overly -- excuse me -- is really outweighed by
8 the danger of unfair prejudice under 403. The arrest and
9 actual custodial taking of Mr. Scipio served no material
10 purpose with regard to the substance of these allegations.

11 And so, you know, we think it's fine if the State wants
12 to elicit testimony that he was taken into custody without
13 issue on the 8th at such and such address, but I think this
14 idea that he's breaking into a house certainly has the
15 potential to transcend into 404(b) evidence. I think it also,
16 again under 403, is -- is -- is outweighed by the danger of
17 unfair prejudice. And so, again, we just don't think that
18 there's any material issue or material fact that that tends to
19 prove, and so we'd ask that the Court limit their ability to
20 go into that information.

21 MR. TUCKER: And, Your Honor, the intent of going into
22 that would be to set the circumstances surrounding Mr.
23 Scipio's arrest. Certainly, the call came out to the Florence
24 Police Department as a possible burglary call and, in that
25 regard, they responded. They found Mr. Scipio on the back

1 porch, and it turns out that this is his grandmother's
2 residence, and I think his grandmother -- his testimony would
3 come out was she didn't know who it was and called law
4 enforcement.

5 But at any rate, when they determined that Mr. Scipio, in
6 fact, was the complainant's grandson, they -- of course, in
7 the process of determining all of that, they ran him through
8 NCIC, and it was at that point they realized that he was a
9 suspect in a murder that they had an open warrant for and they
10 took him into custody and notified law enforcement.

11 So they just responded to the original burglary
12 complaint. And certainly, what we would elicit from Officer
13 Manley, who was the one who responded, what was the nature of
14 the call and what did you encounter when you got there? Did
15 you determine that this individual later when you ran through
16 NCIC was wanted by the Sheriff's Office for murder? What did
17 you do then? Arrest him, take him into custody?

18 But in terms of -- and then I could ask, were there any
19 charges with burglary or anything like that or I can stay away
20 from the burglary aspect, but I think it's relevant. The
21 nature of the call, at least, is what brought the Florence
22 Police Department there, but certainly I can, you know, get
23 from Officer Manley that there were no charges of burglary.
24 As it turned out, Mr. Scipio's grandmother lived there.

25 MR. KRZYSTON: And just to provide a little bit of

1 contextual background, Your Honor, we received no incident
2 report from Deputy Manley or Officer Manley. We have no
3 information, no recorded recollection of what Deputy Manley or
4 Officer Manley would testify to. And again, there is no
5 logical connection between any of the material elements of
6 murder, manslaughter, or involuntary manslaughter that that
7 evidence would even be realistically designed to prove. And
8 so that's why we're doing it.

9 MR. TUCKER: And the only thing I would add to that, Your
10 Honor, certainly the State can -- you know, flight is evidence
11 of guilt and, certainly, I think we can establish that Mr.
12 Scipio was not at home when he was arrested. He was
13 elsewhere. So again, I think we could go into it for that
14 limited purpose as well.

15 MR. KRZYSTON: I don't know if I need to address that,
16 but certainly he's within the jurisdiction. I mean flight is
17 to me grasping at straws, Your Honor, respectfully.

18 THE COURT: I mean it -- all right. This is what I'm
19 going to allow.

20 From what I've heard from the attorneys as they've stated
21 their position -- and you all correct me if I misstate some
22 facts that I gathered here. That there was a call that came
23 in to 9-1-1 of a possible or potential burglary; is that
24 right?

25 MR. TUCKER: That is correct, Your Honor.

1 THE COURT: Pursuant to such is when Florence Police
2 Department remained and is how they came into contact with the
3 defendant. There was, in fact, no burglary because it was, in
4 fact, the defendant's grandmother's house; right?

5 MR. TUCKER: That's correct.

6 THE COURT: All right. The defendant was not charged
7 with burglary. This was simply how the police came into
8 contact with the defendant, and they subsequently ran his
9 personal information to determine that he was wanted, etc.

10 I will allow the State to go into those facts. And
11 certainly on cross-examination, if not cleared up on direct
12 examination, that there was no charges brought as a result of
13 such contact or as a result of the defendant being at that
14 residence that there were no charges brought against him and
15 it was, in fact, the defendant's grandmother's house.

16 I think that -- well, for purposes of illustrating or
17 showing how they came into contact with the defendant, I do
18 not believe that any prejudicial effect from that is
19 outweighed or the probative value is outweighed by the
20 prejudicial effect of that in and of itself. Okay?

21 MR. TUCKER: Yes, sir.

22 MR. KRZYSTON: Yes, sir.

23 You know, with that, Judge, again, we still have the
24 *Daubert/Council* issues to address as they arise, but at this
25 point we don't foresee any issues. And certainly if issues

1 marked as well, as well as an overhead map of the Tall Oaks
2 area in Florence County, which is State's 28.

3 THE COURT: And those are without objection as well?

4 MR. SHARPE: Judge, we would object to the 9-1-1 call
5 just because it's hearsay, the declarant is not here, an out-
6 of-court statement.

7 MR. TUCKER: And, Your Honor, of course, 9-1-1 calls are
8 a recognized exception to the hearsay rule, as long as they
9 are contemporaneous with the emergency nature of the call, as
10 well as the caller is under the excitement of the event, which
11 I think is clearly on the 9-1-1 call.

12 THE COURT: All right. Objection is so noted for the
13 record, but I'm going to allow it.

14 MR. SHARPE: Thank you, Your Honor.

15 THE COURT: Provided it certainly falls within those
16 parameters, Mr. Tucker.

17 All right. Anything else we need to take up before jury
18 comes?

19 MR. TUCKER: I'm sorry, Your Honor?

20 THE COURT: Anything else we need to take up before the
21 jury?

22 MR. TUCKER: Your Honor, there is one *Lyle* matter. I did
23 get a chance to speak to defense counsel about it, and it goes
24 back to what we were discussing yesterday with regards to, I
25 believe, one of the pretrial matters Mr. Krzyston raised with

1 regards to Mr. Price in terms of his prior knowledge of Mr.
2 Scipio.

3 Now, again, it's the State's position, after speaking
4 with Investigator Price yesterday evening, we would not go
5 into any particulars of how Investigator Price knew Mr.
6 Scipio, but his prior dealings with Mr. Scipio is what aided
7 Investigator Price to identify Mr. Scipio from the name Ja
8 Juan, which is what he was given by the witnesses who were
9 there at the scene.

10 So simply, I would ask again when I have Investigator
11 Price up there given the name Ja Juan, given that you had the
12 address of Ja Juan, were you able to identify based on those
13 parameters and not go into anything about how he knew that or
14 -- but because of those past dealings, Investigator Price was
15 able to put Ja Juan with his physical description, with the
16 address that was given to him by the witnesses who were there
17 who knew him, and certainly he was able to identify him based
18 on that and the other dealings because he knew where he lived
19 based on prior dealings, but we would not touch that in terms
20 of his testimony.

21 THE COURT: All right.

22 MR. KRZYSTON: So I don't know if I exactly understand
23 what they're seeking to elicit. Like what, if you don't mind?

24 MR. TUCKER: All right. And essentially, Mr. --
25 Investigator Price was given the name Ja Juan, he was given a

1 physical description of Ja Juan, and he was given the address
2 of Ja Juan by the witnesses who were there and knew Ja Juan.
3 They just didn't know his last name. Investigator Price had
4 dealt with Ja Juan. He knew him to be Larry Ja Juan Scipio
5 and knew where he lived and was acquainted with his physical
6 description.

7 So when Investigative Price is testifying, I would simply
8 ask him given that the witnesses told you Ja Juan, given you
9 were given a physical description which matched Larry Scipio,
10 and given that the address to which Mr. Scipio was registered
11 in terms of living, were you able to identify Ja Juan as Larry
12 Ja Juan Scipio based on those parameters and not going into
13 any of the how he knew exactly in terms of having arrested him
14 before and charging him.

15 MR. KRZYSTON: Okay. So no questions about prior
16 dealings, no intimation about prior dealings at all?

17 MR. TUCKER: No. Just that, of course, given the
18 information that he was given, he was able to identify him
19 based on that, without going into how how and why he was able
20 to identify him.

21 MR. KRZYSTON: Yeah. We're obviously fine with that.
22 Thank you, Judge.

23 THE COURT: All right. Anything else?

24 MR. TUCKER: I think that's it, Your Honor.

25 THE COURT: Anything from defense counsel?

1 statements.

2 Mr. Tucker?

3 OPENING STATEMENT ON BEHALF OF THE STATE

4 MR. TUCKER: Those that go looking for trouble usually
5 don't have to travel too far to find it. Now, that statement
6 does not apply to the victim in this case, Rico Johnson.
7 He did not go looking for trouble on the evening of July the
8 6th, 2019, but sadly and tragically, trouble would find him.

9 But Rico Johnson was not hanging out with dangerous
10 people, he was not hanging around dangerous places, and he
11 certainly was not involved in dangerous activity. As the
12 evidence will show, when death came for Rico Johnson on July
13 the 6th, 2019, he was sitting in the living room with friends
14 less than ten feet from his one-year-old son.

15 But death did not come in the form of an anonymous
16 stranger. Death did not come in the form of some grim reaper.
17 Death came for Rico Johnson that evening in the form of a
18 familiar person, the defendant Larry Ja Juan Scipio. This is
19 a case about senseless violence, this is a case about needless
20 tragedy and, ultimately, ladies and gentlemen, this is a case
21 about the murderous actions of one man.

22 July 4th weekend. That's a time for celebration. In
23 fact, we've got one just around the corner now. That's
24 exactly what Rico Johnson was doing that very weekend in 2019.
25 He had come back to Florence with his one-year-old son to

1 spend the 4th of July weekend with his father and family and
2 friends. He had moved to Columbia for employment purposes but
3 had returned back that weekend for that very purpose. Now,
4 one of those friends was Orlando Mendez, who lived at [REDACTED]
5 Tall Oaks Drive in Florence, which is down the street from
6 where Rico's father, Nathaniel, lived.

7 You will hear testimony that during that weekend they
8 also celebrated with another friend, Khalid Belin. Now, Mr.
9 Belin was known to them from the neighborhood as well, and it
10 was a picture-perfect weekend until the evening of July the
11 6th, 2019, when Rico Johnson, Orlando Mendez, and Khalid Belin
12 stopped at a neighborhood residence that was in Battery Park
13 for the purposes of playing in a friendly small-wager dice
14 game. Now, it was there they encountered the defendant, who
15 also showed up to this dice game and began to play too.

16 Now, the defendant was known to all three gentlemen from
17 the neighborhood as well. They knew him as Ja Juan. And you
18 will hear evidence that as it began to get dark, Orlando
19 Mendez, Rico Johnson, and Khalid Belin left to get into Rico
20 Johnson's red Camaro to leave to go home, and it was then that
21 trouble found Rico Johnson.

22 As you will hear, Rico was driving the car. Orlando
23 Mendez was in the front passenger seat. Khalid Belin was
24 behind them in the back in the back seat. Now, all three men
25 as Rico began to pull out perceived the defendant, Larry Ja

1 Juan Scipio, standing just outside the driver's door
2 preventing Rico from pulling out of the place where he had
3 parked.

4 You will hear how Rico Johnson asked the defendant
5 several times to please move so he and his friends could
6 leave, and each time the defendant stood fast. Eventually,
7 Rico Johnson started to ease his car out inch by inch until it
8 ultimately nudged the defendant, who at that time stepped
9 aside so Rico and his friends could leave. Now, when they did
10 so, Orlando and Khalid will tell you they heard the defendant
11 yell, "It's war."

12 Now, these three guys didn't pay any attention to that
13 during that encounter. They left there. They went to the
14 convenience store. They bought a six-pack of beer, and then
15 they went home to Orlando Mendez's residence at [REDACTED] Tall Oaks
16 Drive. It had been about 30 minutes since that encounter with
17 the defendant, but unfortunately, they would meet again and
18 soon and this one would have deadly consequences.

19 You will hear evidence that Khalid Belin before going
20 inside stood outside on the steps to smoke a cigarette.
21 Orlando Mendez and Rico Johnson went inside. It was within a
22 few minutes after that that Khalid Belin saw a familiar face
23 walking up and spoke to him. It was the defendant there, Ja
24 Juan Scipio. The defendant shook Khalid Belin's hand and
25 asked him if Rico and Orlando were inside. Khalid Belin, not

1 sensing anything out of the ordinary, said yeah, they're
2 inside. The defendant goes up the steps and knocks on the
3 door.

4 Now, inside just on the other side of the door was
5 Stephanie Lucas, who is the mother of Orlando Mendez's two
6 daughters. Now, you will hear evidence that when Ms. Lucas
7 heard the knock on the door, she opened the door and she saw
8 the defendant standing there. She knew him as Ja Juan and
9 recognized him immediately. She even said, "Hey, Ja Juan."
10 You will hear how the defendant responded back, "Hey, Ms.
11 Steph. Is Rico there?"

12 Now, in her wildest nightmare, she could not have
13 imagined what was about to happen because the defendant went
14 straight by her right into the living area where Rico Johnson
15 was sitting. Now, behind her in the living area that had full
16 view of everything that was taking place was her then 14-year-
17 old daughter, S.M. [REDACTED]. Now, at S.M. [REDACTED]'s
18 feet were two one-year-old children, one of which was the
19 victim's child, Rico Johnson, ten feet away from where Rico
20 Johnson was sitting on the couch.

21 Also in the bedroom that was nearby with the door open
22 that could see the living room area also was Ms. Lucas's other
23 teenage daughter, A.M. [REDACTED], and from her vantage point, she
24 could see most of the living room as well. Back to her right,
25 talking to her in the bedroom was her father, Orlando Mendez.

1 Rico Johnson was sitting on the couch minding his own
2 business, not bothering a soul. As the evidence will show,
3 the defendant walked right by Ms. Lucas and asked the
4 defendant -- or the victim, Rico Johnson, let's go outside.
5 Rico Johnson said no, and it was at this point that the
6 defendant pulled a pistol and shot Rico Johnson multiple times
7 as he was sitting on that couch less than ten feet from his
8 one-year-old son.

9 Upon hearing the gunshots, Stephanie Lucas turned,
10 scooped up the two children, and turned to go into her bedroom
11 for safety. Her 14-year-old daughter, S.M. who
12 had seen the whole thing, got up and joined her in her race to
13 try to get to safety. A.M. saw Mr. Scipio pull out the
14 gun and fire the rounds into or where Mr. Johnson was sitting
15 and, at this point, her father, Orlando Mendez, come racing
16 out of the bedroom and towards the gunfire.

17 When he gets into this area, the evidence will show he
18 saw Mr. Scipio run out the front door with a gun still in his
19 hand. Now, he did what any father would do. He run outside
20 and right there on the porch tried to wrestle the gun from Mr.
21 Scipio. At one point, as you will hear, Mr. Scipio pushed him
22 back, pointed the gun at him, and said, "Don't make me shoot
23 you too." And it was at this point that the defendant went
24 down the stairs, around the side of the house, and out of
25 view.

1 Now, when the gunshots occurred, Khalid Belin, as you
2 will hear, was sitting out on the steps smoking a cigarette
3 and when the gunshots rang out, he took off. He ran to a
4 neighbor's house and didn't come back until the coast was
5 clear. There were other neighbors who were out who heard
6 gunfire and they went to try to render assistance as best they
7 could to the mortally wounded Rico Johnson.

8 A 9-1-1 call was made. EMS arrived shortly thereafter,
9 followed by the deputies from the Florence County Sheriff's
10 Office, but despite their best efforts, Rico Johnson was
11 transported to a local hospital, and he was subsequently
12 pronounced dead.

13 Now, the ensuing law enforcement investigation focused on
14 Larry Ja Juan Scipio. Why? Because every witness in the
15 Mendez household told them the same thing. It was Ja Juan
16 Scipio who came in and pulled the gun and shot Rico Johnson.

17 Now, you will hear testimony from everybody who was in
18 the house that saw what happened from varying viewpoints.
19 You'll hear testimony from law enforcement. You will hear
20 testimony from SLED experts at the crime lab in Columbia.
21 You'll hear from EMS, and you will hear from a pathologist who
22 performed the autopsy on Rico Johnson from the Medical
23 University of South Carolina.

24 But the most compelling and damning testimony that you
25 will hear will come from the individuals who were in that

1 household at [REDACTED] Tall Oaks Drive when this thing happened.
2 They were there and witnessed it. They were there when death
3 came, when he came, when Larry Ja Juan Scipio came.

4 Rico Johnson wasn't hanging out with dangerous people,
5 Rico Johnson wasn't doing dangerous things, and Rico Johnson
6 was not hanging out in dangerous places. This is a case about
7 senseless violence, this is a case about a needless tragedy,
8 but ultimately, ladies and gentlemen, this is a case about one
9 man's murderous acts, and that man is the defendant, Larry Ja
10 Juan Scipio. And at the end of the State's case and at the
11 end of this trial, it will be time to hold that man
12 responsible and find him guilty of the murder of Rico Johnson.

13 THE COURT: Defense counsel?

14 MR. KRZYSTON: Thank you, Your Honor. May it please the
15 Court?

16 THE COURT: Yes, sir.

17 MR. KRZYSTON: Thank you.

18 Madam Clerk, would you just turn on our computer here?

19 OPENING STATEMENT ON BEHALF OF THE DEFENDANT

20 MR. KRZYSTON: Facts. Facts matter, more so here and in
21 these seats than anywhere else in this country. Facts matter.

22 You just heard the State's opening statements. You heard
23 their opening arguments, and as you listen to evidence and
24 consider the witnesses, I would encourage you to keep Mr.
25 Tucker's statements about this case in your mind.

1 Ladies and gentlemen, my name is Steve Krzyston, as you
2 heard at jury selection, and together with my good friend, Pat
3 Sharpe, it is an honor today to be here arguing in front of
4 you for Larry. There is perhaps no higher calling than to be
5 a lawyer for those innocent people who are wrongly accused.

6 As we go through the case, ladies and gentlemen, you are
7 going to hear several things from witnesses, from experts.
8 You're going to see several things, pictures. But today in
9 this country, there's too much argument and not enough focus
10 on the facts.

11 And so as I talk to you for the next couple of minutes,
12 I'm not going to argue about what the facts are going to show,
13 because each and every one of you is smart enough, wise
14 enough, and has enough life experience to be able to discern
15 fact from fiction.

16 Larry, stand up.

17 Ladies and gentlemen, this is Larry Ja Juan Scipio.
18 Seated in the courtroom are his family, an entire network of
19 support. This is Patricia, his mama. This is Alonna,
20 Aaliyah, Natasha Holmes, Larry Scipio III, his aunt, Andrea,
21 and his nephew, Karon. These are the people that make up the
22 core of Larry's life. These are the people that Larry goes to
23 work for every day, 9 to 5. These are the people that Larry
24 lived for.

25 And as we argue and as we elicit evidence and bring fact

1 and fiction into your viewfinder, remember that's his solar
2 system. That's his network of support. That's his life.

3 Ladies and gentlemen, the case before you is what I would
4 consider a young man's worst nightmare, to be innocent and
5 wrongfully accused of a heinous act at the hands of people who
6 we believe the evidence will show are not being truthful with
7 the State, with their investigators, and we ultimately don't
8 think they're going to be truthful with you.

9 Part of the reason that you're here today is to decide
10 beyond all reasonable doubt whether or not the State has
11 enough evidence to prove that Larry shot Rico. At bottom,
12 this case is about fact -- excuse me -- about proof and, more
13 accurately stated, it's a case about lack of proof. Okay?

14 Your job as you sit here and listen to these lawyers'
15 presentation is to watch, look, and listen. Watch the
16 witnesses. Watch their demeanor. Watch how they respond to
17 the lawyer's questions. Listen to what they're saying, listen
18 to how they're saying it, and decide whether you think they're
19 credible because at the end of the day, you are going to have
20 to consider their statements on this stand, their statements
21 to this investigator, their statements to the different
22 deputies, and you're going to have to weigh that against the
23 most objective thing that we have in this courtroom and in
24 this case, physical evidence.

25 And you just heard that when death came for Rico Johnson,

1 he was sitting in the living room, and we're going to examine
2 that with those witnesses and with that evidence. Again, as
3 you're confronted with the substance of the government's case,
4 I ask that you refer back to Mr. Tucker's arguments because I
5 believe and we will submit that that evidence is going to show
6 that Larry did not kill Rico.

7 Now, I've tried a case or two in my day, and one of the
8 things that we do and we may do is talk to jurors after a
9 verdict has been rendered. Why? Because lawyers are curious
10 people. We want to understand how people think and process
11 information. We want to understand how to effective -- excuse
12 me -- effectively convey to you what we believe to be true,
13 and so I'm going to show you a slide that kind of establishes
14 an analogy for what reasonable counsel is.

15 And so I'm a young dad. I've got a two-year-old
16 daughter, light of my life, and one of the things that some of
17 you may or may not know is when you get to be my age,
18 financial planners start coming out of the woodwork. I feel
19 probably two call a week at the office asking somebody or
20 somebody asking me to sit down.

21 One of the things that they always tell me -- okay? -- is
22 this thing called the Rule of 72. Okay? And it's pretty
23 simple, but the details about how it works are pretty
24 complicated. And so up top here, the Rule of 72 is if you put
25 ten bucks into the marketplace and you let -- and you invest

1 it -- okay? -- and you experience a rate of return of about 7
2 percent, but when you annualize the gains that you're gaining
3 -- okay? -- that you end up in about ten years with 20 bucks.
4 Okay? And so the formula up here up at the top, this T equals
5 $\ln 2 \text{ slash } \ln 1 \text{ plus } R$. I have no idea what that means or how
6 that works. Okay? And for me it doesn't matter. Right? The
7 details of how 10 bucks become 20 bucks, that formula, that
8 base plan doesn't matter to me. Okay?

9 But in this case, those details matter to you. They
10 matter to Larry. They matter to Patricia, Aaliyah, Alonna,
11 Natasha, Larry III, Andrea, and Karon. Okay? They matter to
12 everybody in this courtroom.

13 And so when you take physical evidence and you take
14 witness statements and expert opinions and you put them inside
15 the box, you jumble it up after hearing it on the witness
16 stand, you should be left when you open that box with a clear
17 and clean explanation about what happened and how it happened.
18 Your understanding of what happened shouldn't have gaps, it
19 shouldn't have gray area.

20 You should -- you should hold those beliefs and that
21 understanding beyond all reasonable doubt. In this case,
22 details matter. Don't let the State gloss over details that
23 matter, and we submit that they will be frequent and plenty in
24 this case.

25 Ladies and gentlemen, as lawyers, we'll ask questions of

1 some witnesses, we won't ask questions of other witnesses.
2 It'll be a mystery to you. Some jurors try to figure it out.
3 Just listen to the questions that we're asking and the answers
4 that are given because if we're asking a question, we think
5 it's really, really important. Okay?

6 We're not up here to listen to ourselves talk. We're up
7 here to get what we consider some of the most important
8 information in this case into the people -- into the hands of
9 the people who we believe matter most, y'all. So if we ask a
10 question that sounds dumb, it's not because we don't know the
11 answer. It's not that we want to hear ourselves talk. It's
12 because we're trying to establish something and we're trying
13 to draw your attention to it. If we don't ask a witness
14 questions, don't read into that. We just may not need that
15 witness from a standpoint of fact, and you will be clarified
16 and understand that in our closing arguments.

17 Ladies and gentlemen, this is a huge undertaking for you.
18 On Monday morning when you woke up and came to the courthouse,
19 I'm sure you thought you were probably going to come in and
20 sit down for maybe a trial on a speeding ticket, maybe a car
21 crash. Okay? But what you are seated for and what you are
22 here to consider has some of the most drastic consequences
23 that are available to those in this country.

24 We ask that you look, listen, and watch those witnesses.
25 We ask that you fairly consider the evidence, weigh the

STEPHANIE RENEE LUCAS - DIRECT BY MR. TUCKER

1 evidence, because at the end of the day after we've questioned
2 these witnesses and after we pull out what was actually told
3 to the government, we believe that you, too, will feel Larry
4 Scipio is an innocent man.

5 THE COURT: Call your first witness, please.

6 MR. TUCKER: Thank you, Your Honor. May it please the
7 Court. At this time, the State would call Stephanie Renee
8 Lucas to the stand.

9 (WHEREUPON, there was a pause in the proceedings until
10 the witness entered the courtroom, after which the
11 proceedings resumed as follows.)

12 THE CLERK: Please place your left hand on the Bible and
13 raise your right hand. Do you swear to tell the -- the
14 testimony you give in this case to be the truth, the whole
15 truth, and nothing but the truth, so help you God?

16 THE WITNESS: Yes.

17 THE CLERK: Please be seated and state your full name for
18 the record.

19 THE WITNESS: My name is Stephanie Lucas. I live at [REDACTED]
20 Tall Oaks Drive, Florence, South Carolina.

21 MR. TUCKER: Thank you.

22 THE WITNESS: Uh-huh.

23 STEPHANIE RENEE LUCAS, being
24 first duly sworn, testified as follows:

25 DIRECT EXAMINATION

STEPHANIE RENEE LUCAS - DIRECT BY MR. TUCKER

1 BY MR. TUCKER:

2 Q: Hey, Ms. Lucas. How long have you lived there at [REDACTED]

3 Tall Oaks Drive?

4 A: About 18 years.

5 Q: Now, how long have you been in Florence County total?

6 A: About 21.

7 Q: Now, who lives there with you at [REDACTED] Tall Oaks Drive?

8 A: My daughters, my grandma, and my uncle.

9 Q: Now, when you say your daughters, to whom are you

10 referring specifically?

11 A: My daughters, [REDACTED] A.M. [REDACTED] and [REDACTED] S.M. [REDACTED].

12 Q: How old is [REDACTED] A.M. [REDACTED]?

13 A: [REDACTED] A.M. [REDACTED] is now 20.

14 Q: And how old is [REDACTED] S.M. [REDACTED]?

15 A: Little [REDACTED] S.M. [REDACTED] is now 17.

16 Q: And you said your grandmother lives there also?

17 A: Well, she just recently moved.

18 Q: Okay. And who else you mentioned, Johnny?

19 A: My uncle, yes.

20 Q: How old is Uncle Johnny?

21 A: He's 74.

22 Q: Now, does Orlando Mendez live there with you as well?

23 A: He comes to visit a lot, yes.

24 Q: Okay. How would you describe your relationship with

25 Orlando Mendez?

STEPHANIE RENEE LUCAS - DIRECT BY MR. TUCKER

1 A: Oh, we have a good relationship.

2 Q: Now, is he the father of your two daughters?

3 A: Yes, sir.

4 Q: Now, I want to call your attention to the time frame

5 around July the 6th, 2019. Okay?

6 A: Uh-huh.

7 Q: Now, were you friends with some of the neighbors in the

8 Tall Oaks community around that time?

9 A: Yes.

10 Q: How would you describe that community in terms of

11 closeness with neighbors?

12 A: Oh, we're friendly towards each other. My neighbors were

13 real good.

14 Q: Now, was one of the neighbors the Johnson family?

15 A: Yes.

16 Q: Specifically, I'm referring to Nathaniel Johnson.

17 A: Yes.

18 Q: How would you describe your relationship with the Johnson

19 family?

20 A: We have a very good relationship. His boys are

21 practically my godsons. You know, I treat them like my sons.

22 Q: Now, you said his boys. Was one of his boys Rico

23 Johnson?

24 A: Yes, sir.

25 Q: And how well did you know Rico Johnson?

STEPHANIE RENEE LUCAS - DIRECT BY MR. TUCKER

1 A: Very well. He was a good kid. Very well. He took to me
2 like I was a mama. You know, he's real good. Very kind.

3 Q: And up to that point on July the 6th, 2019, how long had
4 you known the Johnson family and Rico specifically?

5 A: Since I moved there. That was 2003 I believe we moved to
6 Tall Oaks because I still was pregnant with the youngest
7 child.

8 Q: All right.

9 A: So I've known them since then.

10 Q: So if my math is correct -- and I didn't major in math,
11 but that'd be about 15, 16 years --

12 A: Yes. Uh-huh.

13 Q: -- if you moved there in 2003?

14 A: Uh-huh.

15 Q: Now, how would you characterize Rico's relationship with
16 Orlando Mendez?

17 A: Oh, he looked up to him like he was a big brother or an
18 uncle or something like that. They had a good relationship,
19 very good.

20 Q: Okay. Now, with regards to Khalid Belin, how well did
21 you know him?

22 A: Kaleek [ph]?

23 Q: I think he's referred to as Juice.

24 A: Oh, he's the neighbor across the street. Good guy, very
25 good.

STEPHANIE RENEE LUCAS - DIRECT BY MR. TUCKER

1 Q: And how long had you known Juice up until that point?

2 A: They moved there a while after. You know, maybe it was a
3 couple of years that they moved in.

4 Q: Okay.

5 A: Yeah.

6 Q: Now, I want to draw your attention to specifically the
7 evening of July the 6th, 2019. Who was in your home around
8 the 10 o'clock p.m. timeframe?

9 A: My grandmother, my uncle, myself, my daughters, Orlando,
10 which is the daughters' father, Rico, his son, and my
11 grandson. We all were at the home.

12 Q: Now --

13 MR. TUCKER: Your Honor, may I approach the witness?

14 THE COURT: Yes, sir.

15 BY MR. TUCKER:

16 Q: Ms. Lucas, I'm going to hand you what's been marked as
17 State's 1 through 26, and I would ask if you can identify --
18 just look through those -- what's depicted in these pictures
19 or if you recognize what's in the pictures?

20 A: This is my home, the front of my home. This is also at
21 front of my home when Rico's car was parked.

22 THE COURT: All right. If you would, ma'am, as you go
23 through those, I need you to specify which number you're
24 looking at --

25 THE WITNESS: Okay.

STEPHANIE RENEE LUCAS - DIRECT BY MR. TUCKER

1 THE COURT: -- and you're speaking as to specifically.

2 THE WITNESS: 1, this is the front of my home.

3 THE COURT: Okay.

4 THE WITNESS: Picture 1.

5 BY MR. TUCKER:

6 Q: Ms. Lucas, if you could just go through them to see if
7 you can just generally recognize the pictures?

8 A: Yes.

9 Q: And then I'll come back to them specifically. Okay?

10 A: Picture 2 I recognize. It's also in front of my home.

11 Picture 3, this is the door with my home, the front of my
12 door.

13 Also, Picture 4 is also the front door of my home.

14 5, this is also the front door holding to my home.

15 Picture 6 is just the front room of my home and my den
16 area.

17 7, also the front room and den area.

18 8, also the front room and den area, facing a little bit
19 of the kitchen.

20 9, also the same as 8, the front room. You see my living
21 room and the kitchen area.

22 10, also my front room.

23 11, also is my front room.

24 12, also is my front room where the doorway is.

25 13, also front room where the doorway is.

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1 14, also the living room area front where the doorway is.
2 15 is the living room also where I also have my living
3 room door space there.
4 16 is also the living room facing the den area, dining
5 area.
6 17, the living room and dining area.
7 18 is the living room and dining area exactly.
8 19 is also the dining area and part of the living room
9 area.
10 20 is my kitchen area facing off from my living room
11 area.
12 21 is facing off from the living room to my daughter's --
13 oldest daughter's bedroom going into where my room is.
14 22 is the front door area with the living room, the front
15 door.
16 23 is also the living room area with my front doorway.
17 24 is my living room.
18 25 is my living room.
19 26 is my front living room.
20 Q: And do those photos accurately and fairly depict your
21 home as it appeared on the evening of July the 6th, 2019?
22 A: Yes, sir.
23 MR. TUCKER: Your Honor, at this time the State would
24 move State's 1 through 26 into evidence.
25 THE COURT: Any objection?

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1 MR. SHARPE: No objection, Your Honor, if I can review
2 them first?

3 THE COURT: Sir?

4 MR. SHARPE: If I can just review them first, Your Honor.
5 No objection, Your Honor.

6 THE COURT: Without objection, State's Exhibit 1 through
7 26 admitted in evidence.

8 (WHEREUPON, State's Exhibits No. 1 through No. 26,
9 photographs, were admitted into evidence.)

10 BY MR. TUCKER:

11 Q: And, Ms. Lucas, I'm showing you what has been entered
12 into evidence as State's 1, as soon as we get it into focus.

13 A: Uh-huh.

14 Q: And I need you to speak up just a little bit so everyone
15 can hear you. But what are we looking at in photo 1?

16 A: This is the front of my home.

17 Q: Okay. And I'm now showing you what's been entered into
18 evidence as State' 2. What are we looking at in that
19 particular photo?

20 A: This is also the front of my home near the -- near the
21 steps, the front door, and where the cars were parked.

22 Q: Now, with regards to that car, had you ever seen that car
23 before?

24 A: Yes, that's my godson's car.

25 Q: That's who's?

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1 A: Rico's.

2 Q: Okay. And I'm now showing you what's been marked State's

3 3 and entered into evidence. What are we looking at in that

4 photo?

5 A: That's the front door entrance to my home.

6 Q: And I'm now showing you State's 4.

7 A: That's the front door of my home and my porch.

8 Q: And now I am showing State's 5, although it's going to be

9 a kind of a funny angle there.

10 A: Yeah.

11 Q: What are we looking at there?

12 A: That's the front door of the home entering into the

13 living room area.

14 Q: Okay. And we're looking at State's 6 now. What are we

15 looking at in that photo?

16 A: This is my front living room and a part of my dining room

17 area.

18 Q: Now I want to direct your attention back to just around

19 10 o'clock. Do you recall where everybody was in the house at

20 that point?

21 A: Yes. My daughter, the youngest daughter, was at the

22 dining room table feeding the babies.

23 Q: So would she have been sitting somewhere kind of over in

24 this direction here?

25 A: Yeah. In that chair right there. Yes.

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- 1 Q: Okay. And you said she was feeding one of the babies?
- 2 A: She was feeding both of them. Yeah.
- 3 Q: And again, how old were those two?
- 4 A: They were a year old.
- 5 Q: They were a year old each?
- 6 A: Only a year old.
- 7 Q: And one of those young children I believe you indicated
- 8 was your grandchild, and the other was who?
- 9 A: Rico's son.
- 10 Q: Okay. And do you recall where your other daughter was,
- 11 A.M.?
- 12 A: A.M. was sitting in that chair across from S.M.
- 13 Then she got up because her dad asked for something, to bring
- 14 him something. So she got up.
- 15 Q: Okay.
- 16 A: Yes.
- 17 Q: Now, you mentioned that your grandmother and your uncle
- 18 lived there as well?
- 19 A: Yes.
- 20 Q: Where were they?
- 21 A: My uncle was in his bedroom and my grandma was in her
- 22 bedroom, the two bedrooms in the back.
- 23 Q: So if I were to walk in the front door, would they have
- 24 been to the left --
- 25 A: Yeah.

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1 Q: -- or to the right?

2 A: They were to the left.

3 Q: To the left?

4 A: They would be to the left to the back as well.

5 Q: All right. And then I'm going to show you what's been

6 marked State's 7, and what are we looking at in that photo?

7 A: That's a part of my living room area and the dining area

8 still.

9 Q: Okay. Now I'm going to show you what's been marked

10 State's 8, and what are we looking at in that photo?

11 A: That's my living room area.

12 Q: Okay. Now, I want to ask you some questions. Shortly

13 around 10 o'clock, did Orlando come back to the house with

14 Rico?

15 A: Uh-huh. He did.

16 Q: And do you recall when they came into the house where

17 they went once they entered?

18 A: Orlando went into the room and Rico sat right there on

19 the couch.

20 Q: Now, when you say Orlando went into the room, to which

21 room are you referring?

22 A: My room.

23 Q: And if we were looking -- I want to go back to State's 7.

24 A: Uh-huh.

25 Q: As we're coming through the front door, would your room

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1 have been to the right or to the left of where that picture
2 was taken?

3 A: To the right.

4 Q: To the right?

5 A: Uh-huh.

6 THE COURT: Is that a yes?

7 THE WITNESS: Yes.

8 THE COURT: Thank you.

9 BY MR. TUCKER:

10 Q: Okay. And I want to go back to State's 8, and you
11 indicated that Rico Johnson came into your home and sat in
12 this particular chair?

13 A: Yes, sir.

14 Q: Okay. So that would be just as you come through the
15 front door --

16 A: Yes.

17 Q: -- in the living area?

18 A: Yes.

19 Q: And let me ask you, Ms. Lucas, when Mr. Johnson came into
20 the residence, how well-lit was the inside of your home?

21 A: It was bright. All the lights were on because the babies
22 were playing, you know, so we had it bright in there so we
23 could see everything.

24 Q: Okay. Now I want to show you what's been marked State's
25 9. What are we looking at in that photo?

STEPHANIE RENEE LUCAS - DIRECT BY MR. TUCKER

1 A: That's my living room area.

2 Q: Okay. And does it -- it appears -- I want to confirm is

3 that the kitchen that's kind of behind the living room?

4 A: Yes.

5 Q: Kind of take a half left --

6 A: Yes.

7 Q: -- from the door?

8 A: Uh-huh. Yes.

9 Q: And you mentioned your grandmother and your uncle's room.

10 Would they be back over in that direction --

11 A: Yes, sir.

12 Q: -- from the kitchen?

13 A: Yeah.

14 Q: And I want to show you State's 10. What are we looking

15 at in that photo?

16 A: That's my living room area.

17 Q: And I want to show you now State's 12, and what are we

18 looking at in that photo?

19 A: That's the front door of my home where the living room --

20 when you walk in, that's the living room area.

21 Q: Okay. Now I want to go back to State's 7, I believe.

22 Now, after Orlando and Rico came into your home after ten on

23 July the 6th, 2019, did anything else occur? Did anybody

24 else knock on the door thereafter?

25 A: Someone knocked at the door, and I answered.

STEPHANIE RENEE LUCAS - DIRECT BY MR. TUCKER

1 Q: Now, do you recall how many minutes had occurred from
2 when Orlando and Rico came in until you heard the knock at the
3 door?

4 A: It had to be around, like, maybe 15 minutes.

5 Q: Okay.

6 A: Maybe 15, 20 minutes.

7 Q: Okay. Now, once you heard the knock on the door, what,
8 if anything, did you do?

9 A: I got up and I said, now, who could be knocking at my
10 door, you know. So I don't let the girls answer the door at
11 night. So I went towards my door, and I opened the, you know,
12 door and I was like, oh, you know, spoke to the person kindly
13 and everything.

14 Q: Okay. Did you know the person who was knocking on the
15 door?

16 A: Yes, sir.

17 Q: And who was it?

18 A: It was Ja Juan.

19 Q: Now, when you say Ja Juan, are you referring to the
20 defendant in this case, Larry Ja Juan Scipio?

21 A: Yes, sir.

22 Q: Now, did you know Ja Juan prior to him knocking on your
23 door that night?

24 A: I knew him since I -- the year before when I lost my son.
25 That's when he first started coming around that, you know, I

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1 knew him.

2 Q: So you knew him from the neighborhood? Would that be

3 fair to say?

4 A: Yeah. From the neighborhood, yeah.

5 Q: Recognized him when you saw him?

6 A: Yes.

7 Q: Now, what, if anything, did you say to him or he say to

8 you after you opened the door?

9 A: Just hello. I said, oh, hey, how are you doing? You

10 know, he's saying, hey, how you doing, Ms. Stephanie, back,

11 and that was it.

12 Q: Okay. What, if anything, happened after that?

13 A: I went back to my room and just like, maybe five, maybe

14 like five -- five or six seconds, I heard shots. I heard my

15 daughter scream.

16 Q: Now, could you recognize which daughter was screaming?

17 A: My youngest daughter.

18 Q: Would that be S.M. ?

19 A: Yes.

20 Q: All right. Now, let me ask you this. If you need just a

21 second? When you opened the front door and Ja Juan was

22 standing on the other side, where was S.M. sitting at

23 that time?

24 A: She was sitting right at the dining table feeding the

25 babies.

STEPHANIE RENEE LUCAS - DIRECT BY MR. TUCKER

1 Q: And again, I'm going to point to -- was it this
2 particular chair --

3 A: That chair, yes.

4 Q: -- she was sitting in?

5 A: Yes.

6 Q: And you indicated that Rico Johnson was sitting on the
7 couch here?

8 A: Yes, but he was sitting on the other side of the couch,
9 not right there, but closer to the other side.

10 Q: On the other side?

11 A: Yeah.

12 Q: Okay. Now, when you left to go back into the room, your
13 daughter was still sitting in the chair?

14 A: Yes.

15 Q: Now, after you heard the gunshots, what, if anything, did
16 you do?

17 A: I went running towards my daughter because I didn't know
18 what had happened. I thought maybe she had got hurt or
19 anybody. So after she got up, she was screaming. She was
20 trying to get the babies. I helped to get the babies to the
21 back, and I see my grandma and my uncle running towards the
22 front. I started pushing them all back and put them in the
23 back room. I told them to stay there and don't move.

24 Q: Now, when you say the back room, that would be back --

25 A: It would be my grandma's room.

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1 Q: Back toward your grandmother's room?

2 A: Yes. And I told them to stay there. Nobody move. Don't

3 come to this door.

4 Q: Okay. And what happened next?

5 A: I came back to the area and I saw Rico, and I saw blood

6 and I started panicking and screaming because I didn't know

7 what had happened.

8 Q: And do you still see Ja Juan in your house at this point?

9 A: No. At that point, I saw -- I saw Orlando on the front

10 porch with him, and he was telling me, Stephanie, shut the

11 door, shut the door. And after that, I don't know what else.

12 Q: Okay. Now, I need you to back up just a little bit

13 because I'm not quite sure I understood you, but you said that

14 when you went back into the living room, you looked out on the

15 front porch and saw what again?

16 A: I saw Orlando tussling with Ja Juan.

17 Q: Now, when you say Orlando, are you referring to Orlando

18 Mendez?

19 A: Yes.

20 Q: Now, before I ask you another question along that line,

21 where was Orlando and your other daughter, Amya, when the

22 shots rang out?

23 A: In the room with me because I was watching a program and

24 they was asking me what I was watching.

25 Q: Okay. And, Ms. Lucas, bear with me one second. I want

STEPHANIE RENEE LUCAS - DIRECT BY MR. TUCKER

1 to show you what's been entered into evidence as State's 17.
2 What are we looking at in that photo?
3 A: That's my living room and part of my dining area.
4 Q: And I need you to speak up just a little bit.
5 A: That's my living room and part of my dining area.
6 Q: Now, you indicated that you had went to your room as soon
7 as Ja Juan came in, and then that's where you were when you
8 heard the shots?
9 A: Uh-huh. Yes.
10 Q: And you had indicated that Orlando and your other
11 daughter, A.M., were in the room with you?
12 A: Yes.
13 Q: Now, is that the room there?
14 A: No. That's the bathroom door, and my room is the room
15 right next to that.
16 Q: Right next to it?
17 A: Yes.
18 Q: Okay. When you heard the shots, was the door open to
19 your bedroom or open or closed?
20 A: My door was open.
21 Q: And where was A.M. sitting?
22 A: A.M. was sitting on the bed then. I was sitting in a
23 chair, and Orlando was sitting on the bed.
24 Q: Okay.
25 A: Yeah.

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1 Q: Now, going back to when you say you saw Orlando on the
2 front porch tussling with Ja Juan, what, if anything, happened
3 after that?

4 A: I was just hysterical, screaming. My daughter -- when
5 she saw the blood, she hopped on the phone and started dialing
6 9-1-1, and I was just screaming. I didn't know. No, just
7 hysterical.

8 Q: Did help finally come?

9 A: Yes.

10 Q: Now, did -- were there other people that lived in the
11 neighborhood? Did they come in also to your house?

12 A: Yes. Two of the neighbors that lived on the right of me,
13 they heard the commotion also and they came running.

14 Q: Now, at this point, was Rico in the couch or was he on
15 the floor? Do you recall?

16 A: Rico still was on the couch and they was trying to attend
17 to him, and one of them was trying to calm me down and the
18 other was trying to see, you know, how Rico was doing, and
19 then the paramedics came and the cops.

20 Q: And what happened once the paramedics got there?

21 A: They got us all out of the house so they can work on
22 Rico.

23 Q: Okay. And did law enforcement eventually show up as
24 well?

25 A: Yes.

STEPHANIE RENEE LUCAS - DIRECT BY MR. TUCKER

1 Q: And did you tell them pretty much what you had just
2 testified to here today?

3 A: Yes.

4 Q: Now, would it be fair to say though -- you mentioned that
5 you were crying and they were trying to get you to calm down.
6 Were you upset when all this was going on?

7 A: I was totally -- I was in shock.

8 Q: Okay. Now, once you talked to law enforcement, did
9 anything else happen after that in terms of events?

10 A: No. No.

11 Q: And, Ms. Lucas, I'm going to ask you, do you see the man
12 that you knew as Ja Juan that came into your house that
13 evening of July the 6th of 2019 here in this courtroom here
14 today?

15 A: Yes.

16 Q: And could you point to him, please?

17 A: (Indicating.)

18 MR. TUCKER: Your Honor, I'd like the record to reflect
19 that the witness has identified the defendant, Larry Ja Juan
20 Scipio.

21 THE COURT: So noted for the record.

22 BY MR. TUCKER:

23 Q: Now, Ms. Lucas, did Orlando eventually come back into the
24 house?

25 A: Yes.

STEPHANIE RENEE LUCAS - DIRECT BY MR. TUCKER

1 Q: Now, at any point prior to the gunfire, did you see
2 Orlando and Rico arguing with one another?

3 A: No. There was no arguing, nothing.

4 Q: How were they getting along that night?

5 A: Fine. They were laughing, having a good time, you know.
6 They were just hanging and having a good time. That's all,
7 all day.

8 Q: And other than family members that you mentioned that
9 have testified to were present in your home that night, were
10 there anybody else besides Ja Juan who came into your house up
11 until the time the gunfire rang out?

12 A: No one else.

13 MR. TUCKER: Thank you, Your Honor. I believe those are
14 all the questions I have.

15 THE COURT: Cross-examination.

16 MR. SHARPE: Thank you, Your Honor. May it please the
17 Court.

18 THE COURT: Yes, sir.

19 CROSS-EXAMINATION

20 BY MR. SHARPE:

21 Q: Good morning, Ms. Lucas. My name is Pat Sharpe. I'm one
22 of the attorneys representing Mr. Scipio.

23 A: All right.

24 Q: Now, Ms. Lucas, the night of the incident, you spoke with
25 three different people from the Sheriff's Department; is that

STEPHANIE RENEE LUCAS - CROSS BY MR. SHARPE

1 right?

2 A: Yes, sir.

3 THE COURT: I need you to speak up. Okay?

4 THE WITNESS: Yes, sir.

5 BY MR. SHARPE:

6 Q: And you're -- the series of events that you described has
7 kind of differed from each investigator that you spoke to, as
8 as well as today; is that right?

9 A: Yes, sir.

10 Q: So let's see if we can't narrow down what -- what
11 actually you say happened. Do you remember talking to Sgt.
12 Odom with the Sheriff's Department?

13 A: I remember speaking to several people that night, but I
14 was so hysterical, sir. I was totally in shock.

15 Q: Yes, ma'am. And -- and do you remember telling him that
16 basically you opened the door and the -- the -- the person
17 immediately came in and started shooting.

18 A: I don't remember saying that.

19 Q: If I showed you his report, would that help you?

20 MR. SHARPE: May I approach the witness, Your Honor?

21 THE COURT: Yes.

22 BY MR. SHARPE:

23 Q: What's that say up at the top? Florence County Sheriff's
24 Office?

25 A: Yes.

STEPHANIE RENEE LUCAS - CROSS BY MR. SHARPE

1 Q: Okay. And then tell me what that says, this line right
2 here says?

3 A: Sgt. William Odom.

4 Q: Right?

5 A: Yes.

6 Q: And down here in his report, it's -- please read this
7 right here, starting right here.

8 A: Yes, sir.

9 Q: Yes, ma'am, where it mentions you.

10 A: I asked the homeowner, Stephanie Lucas, who shot the
11 individual. She advised she opened the door and the subject
12 came in and started shooting her little cousin, Rico Johnson.
13 Stephanie Lucas advised the subject was a large black man --
14 large-built black man, a black male with short dreads. Sgt.
15 Odom immediately secured the scene. I advised units coming in
16 and out of suspect's description. I advised Department Amber
17 Jones -- Deputy Amber Jones to use crime scene --

18 Q: That's enough.

19 A: Okay. All right.

20 Q: Now, you see that Sgt. Odom -- do you think that Sgt.
21 Odom was wrong when he wrote this down?

22 A: No, I don't think he was wrong, but I, like I said, was
23 in a state of shock. That's all I can say that I was in a
24 state of shock.

25 Q: Yes, ma'am.

STEPHANIE RENEE LUCAS - CROSS BY MR. SHARPE

1 A: My nerves was very bad. I was upset and totally under --
2 couldn't understand anything that went on in my house that
3 took place.

4 Q: Yes, ma'am. That's understandable.

5 A: Very upset.

6 Q: Now, would you agree with me that you said here this
7 morning that you had made it back to your room before you
8 heard the gunshots; right?

9 A: Yes, I did.

10 Q: And would you also agree with me that the distance from
11 the front door to your room is much longer than the distance
12 from the front door to the -- to the couch area?

13 A: It's not that long. You step right out. If I was
14 sitting in front of my room door, I would have been able to
15 see, but I was sitting in a certain area in my room where I
16 could not see him, but I know who I let in my home that night
17 and that evening it was him.

18 Q: Please take a look at State's Exhibit No. 6 with me, and
19 this is the living room area. It appears it's a picture
20 that's taken from the threshold of the front door. Would you
21 agree?

22 A: Yes, sir.

23 Q: And would you agree with me that it probably is
24 approximately two or three steps to get to this ottoman right
25 here?

STEPHANIE RENEE LUCAS - CROSS BY MR. SHARPE

1 A: Yes, sir.

2 Q: Okay. Thank you. Now, this picture seems -- appears to
3 be taken from somewhere from inside the threshold of the
4 house.

5 THE COURT: What exhibit --

6 Q: Do you agree?

7 THE COURT: -- number is that?

8 MR. SHARPE: This is -- I apologize, Your Honor. This is
9 State's Exhibit 15.

10 THE COURT: Okay. Thank you.

11 BY MR. SHARPE:

12 Q: Now, wouldn't you agree with me that it appears that it
13 would take much more than two to three steps to make it all
14 the way around this corner to get to your room? Would you
15 agree with me there?

16 A: My room is right by that door there, which is my bathroom
17 door. That's the bathroom door. My room is right next to
18 that, and my door was wide open.

19 Q: So if this -- if this wall wasn't here, I'd be basically
20 pointing at your front -- at your door, your room door?

21 A: Yes.

22 Q: All right. Now, not only did you talk to Sgt. Odom, you
23 also spoke with Deputy Amber Jones. Do you remember speaking
24 with her?

25 A: Sir, I was so hysterical. I remember speaking to people,

STEPHANIE RENEE LUCAS - CROSS BY MR. SHARPE

1 but I can't -- you know.

2 Q: That's okay. That's okay. Now, do you remember telling
3 Amber Jones that you -- you heard the knock at the door? Rico
4 was sitting on the couch, and so you basically walked past
5 Rico to answer the door; is that right?

6 A: Yes.

7 Q: Okay. Now, do you remember telling Amber Jones that you
8 had gotten back to your room and you'd sat in your chair?

9 A: Yeah.

10 Q: Okay. So you told Sgt. Odom that the person came in and
11 immediately started shooting, but you told Amber Jones that
12 you had made it back to your room?

13 A: Yeah, I made it back to my room. I did.

14 Q: Okay. Do you --

15 A: But when I heard the gunshots, you know, he was the only
16 one to enter my room -- my house. That's it, the only person.

17 Q: And do you remember you told Sgt. Odom that the -- the
18 individual, Larry, didn't say anything, but you told Amber
19 Jones that he said "yo" to Rico?

20 A: He said "yo" to Rico? No, I remember him saying "yo" to
21 me. I remember he said something.

22 Q: If I show you her report, would that help you?

23 A: Like I said, I was hysterical.

24 Q: I understand. Again, if you'll read at the top?
25 Incident report, Florence County Sheriff's Department.

STEPHANIE RENEE LUCAS - CROSS BY MR. SHARPE

1 A: I'm sorry.

2 Q: Do you agree with that?

3 A: Yes, sir.

4 Q: And then right here, it says Deputy Amber Jones. So that
5 would be her report. Do you agree with that?

6 A: Yes, sir.

7 Q: All right. Now, this is your statement to Ms. Jones. If
8 you want to go ahead and read that to the jury, please?

9 A: And I made contact with Ms. Stephanie Lucas, who is the
10 owner of the residence where the incident took place. She
11 stated that the victim, Rico, was her little cousin. Ms.
12 Lucas stated she was inside her residence in her bedroom when
13 heard a knock on the front door. She said that Rico was in
14 the living room sitting on the couch.

15 When she went to the door, she stated she opened the
16 front door and seen that it was the suspect, Mr. Scipio, who
17 was wearing a green shirt and dark pants. She stated that she
18 has known him for years because of Rico and his brother. She
19 stated that Scipio asked for Rico and she advised he was
20 sitting on the couch. After she opened the door, she went
21 back to her room to sit on her chair but could -- could see
22 Rico on the couch. This is when she heard Scipio say "yo" and
23 seen him approach and discharge a firearm multiple times at
24 Rico.

25 Lucas stated that she was checking on the kids in the

STEPHANIE RENEE LUCAS - CROSS BY MR. SHARPE

1 room and when she came out, she seen Mr. Scipio and Orlando
2 fighting on the -- in the yard. She went to render aid Rico
3 -- aid to Rico. This is all information Ms. Lucas had to
4 give.

5 Q: Okay. Now, do you remember telling the jury just a
6 moment ago on direct examination that Larry and Rico were
7 laughing and talking before the shooting?

8 A: Larry and Rico? No, no, I did not.

9 Q: Now, the third officer you talked to would have been
10 Investigator Price, who is sitting right here; right?

11 A: Uh-huh.

12 Q: Do you remember talking to him?

13 A: Like I said, I spoke to many people. I was hysterical.

14 Q: Do you -- do you remember telling him that the shooting
15 occurred while you were walking back to your room, that you
16 weren't in your room?

17 A: No. No. I don't --

18 Q: You don't remember telling him that?

19 A: No. No.

20 Q: Would it help you if I showed you the report where
21 Investigator Price wrote that you told him that --

22 A: Uh-huh.

23 Q: -- the shooting occurred --

24 A: You can show me.

25 MR. SHARPE: May I approach the witness, Your Honor?

STEPHANIE RENEE LUCAS - CROSS BY MR. SHARPE

1 A: I can honestly tell you I don't remember too much of
2 speaking. I was hysterical.

3 Q: Again, officer case notes, Florence County Sheriff's
4 Office. Do you agree?

5 A: Yes, sir.

6 Q: It's Ben Price. Do you agree?

7 A: Yes, sir.

8 Q: All right. I'm going to read this off to you. Okay?

9 A: Uh-huh.

10 Q: And you hold that and follow along. I'm about midway
11 through that first big paragraph. Okay?

12 A: Uh-huh. Yes, sir.

13 Q: It says he talked to Stephanie, an incident named
14 Stephanie or an individual named Stephanie Lucas. You're
15 inside the house. You heard a knock on the door, answered it.
16 Ja Juan was at the door. Then it says she said that he asked
17 for Rico, and he came inside of the house. And while she was
18 walking back to her room, the suspect shot Rico numerous
19 times. Is that right?

20 A: Yeah. I see that.

21 Q: Okay. But you didn't tell Sgt. Odom or Amber Jones that
22 part; right?

23 A: Like I said, I was so hysterical. Someone had asked me
24 anything, someone just got murdered in my home. Could I be so
25 calm to speak to anybody? I don't think so.

STEPHANIE RENEE LUCAS - CROSS BY MR. SHARPE

1 Q: And so then you said that you were able to grab all your
2 children or all of the children and take them to the back
3 bedroom and while all that was going on, you came back out and
4 you saw Orlando fighting with Larry; right?

5 A: Yes, I did see that.

6 Q: And you said they were fighting on the front porch?

7 A: Yes, sir. On the front porch.

8 Q: And there's no -- there's no trees or anything in front
9 of the front porch that would block it?

10 A: There's one big tree there, yes.

11 Q: But it's not in front of the front porch; right?

12 A: It's right there by the railing on the front porch. I
13 also have a porch light that's bright.

14 Q: Right. Okay. So the front porch was lit up at the time?

15 A: Yes.

16 Q: Okay.

17 MR. SHARPE: I beg the Court's indulgence.

18 THE COURT: Yes, sir.

19 MR. SHARPE: Thank you for answering my questions, Ms.
20 Lucas.

21 THE COURT: Any --

22 MR. SHARPE: No further questions, Your Honor.

23 THE COURT: Thank you.

24 Any redirect?

25 MR. TUCKER: Briefly, Your Honor.

STEPHANIE RENEE LUCAS - REDIRECT BY MR. TUCKER

REDIRECT EXAMINATION

1
2 BY MR. TUCKER:

3 Q: Ms. Lucas, you didn't write the reports of Amber Jones --
4 Amber Flowers, William Odom, or Investigator Ben Price, did
5 you?

6 A: No, I did not.

7 Q: Now -- and again, you were giving this information to
8 those individuals minutes after this happened in your house?

9 A: Yes, sir.

10 Q: Now, you were asked about whether you were on your way to
11 your bedroom or actually in your bedroom in a chair when the
12 gunfire rang out?

13 A: Yes, sir.

14 Q: And again, this was a very traumatic experience for you?

15 A: Yes, it was.

16 Q: And you were upset?

17 A: Very. Still is.

18 Q: Now, are you clear though, however, on who knocked on
19 your door and when you opened who was standing there?

20 A: Yes, sir, I am.

21 Q: And who was that?

22 A: That was Ja Juan, Larry Scipio.

23 Q: And he's the one who came into your house?

24 A: Yes, sir.

25 Q: And then you heard gunfire almost within seconds of him

STEPHANIE RENEE LUCAS - REDIRECT BY MR. TUCKER

1 entering?

2 A: Yes, sir.

3 MR. SHARPE: Objection. Leading, Your Honor.

4 THE COURT: Overruled. Go ahead.

5 MR. TUCKER: I believe those are all the questions I
6 have, Your Honor.

7 THE COURT: All right. Any recross?

8 MR. SHARPE: Nothing on recross, Your Honor.

9 THE COURT: All right. Ma'am, you may step down. Thank
10 you.

11 THE WITNESS: Thank you.

12 MR. TUCKER: And, Your Honor, I would ask if Ms. Lucas
13 could be released from her subpoena?

14 THE COURT: Any objection?

15 MR. KRZYSTON: Not at current, Judge.

16 THE COURT: Sir?

17 MR. KRZYSTON: Not at current, Judge.

18 THE COURT: Ma'am, you're released from your subpoena.
19 You're free to go. Thank you for being here.

20 All right. Before the State calls its next witness, I'm
21 going to take a short break.

22 MR. TUCKER: Yes, sir.

23 THE COURT: Ladies and gentlemen, I'm going to let you
24 step to the jury room. Do not discuss the case. I'll get you
25 back out here in just a few minutes. Okay?

1 MR. TUCKER: Thank you.

2 THE COURT: All right. We'll stand down for a few
3 minutes.

4 (WHEREUPON, there was a break in the proceedings from
5 10:52 a.m. until 11:13 a.m., after which the proceedings
6 resumed as follows.)

7 THE COURT: All right. Anything from the State before I
8 bring the jury back out?

9 MR. TUCKER: Nothing, Your Honor.

10 THE COURT: Defense counsel?

11 MR. SHARPE: Nothing, Your Honor.

12 THE COURT: Let's get the defendant back in here, please.

13 (WHEREUPON, there was a pause in the proceedings until
14 the defendant entered the courtroom, after which the
15 proceedings resumed as follows.)

16 THE COURT: All right. Anything from defense counsel
17 before I bring the jury back out?

18 MR. SHARPE: Nothing, Your Honor.

19 THE COURT: All right. All right. Bring me the jury,
20 please, sir.

21 THE BAILIFF: Yes, sir.

22 (WHEREUPON, the jury entered the courtroom at 11:15 a.m.)

23 THE COURT: All right. Mr. Foreman and ladies and
24 gentlemen of the jury, I hope you all had a nice break and are
25 ready to proceed.

LEVI JAMES - DIRECT BY MR. TUCKER

1 At this time I'll recognize the State. Call your next
2 witness, please.

3 MR. TUCKER: Thank you, Your Honor. May it please the
4 Court. At this time the State would call Levi James to stand.

5 THE CLERK: Sir, if you will please place your left hand
6 on the Bible and raise your right hand. Do you swear or
7 affirm the testimony you give in this case to be the truth,
8 the whole truth, and nothing but the truth, so help you God?

9 THE WITNESS: Yes.

10 THE CLERK: Please be seated and state your full name for
11 the record.

12 THE WITNESS: Levi James.

13 LEVI JAMES, being first duly
14 sworn, testified as follows:

15 DIRECT EXAMINATION

16 BY MR. TUCKER:

17 Q: Mr. James, where do you work?

18 A: Florence County Emergency Management at the 9-1-1 center.

19 Q: And how long have you worked there?

20 A: Five-and-a-half years.

21 Q: And in what capacity are you currently employed with
22 them?

23 A: I am the public information officer.

24 Q: Now, what are some of the duties and responsibilities
25 associated with your current position?

LEVI JAMES - DIRECT BY MR. TUCKER

1 A: I pull CAD information, audio, radio traffic from
2 incidents that's been called into the 9-1-1 center, put those
3 files together, and send them out to the respective agencies.

4 Q: Now, when you say CAD, what is that short for and an
5 acronym for?

6 A: Computer Aided Dispatch.

7 Q: Now, could you tell me how a 9-1-1 call is handled when
8 it comes into your particular center?

9 A: When a 9-1-1 call comes in, the dispatcher gets basic
10 information about what's going on, time, date. All that stuff
11 is logged into that CAD report. Every report has its own
12 individual CAD number. We get time, date, location, general
13 information about what's going on so we can send the
14 appropriate units to that location.

15 Q: Now, all of that information is included in the CAD
16 report?

17 A: Yes.

18 Q: And you indicated it's specific to each call that comes
19 in?

20 A: Yes.

21 Q: Now, are the 9-1-1 calls themselves recorded?

22 A: Yes.

23 Q: And how long are they kept in terms of recordings?

24 A: It depends on the case files. Sometimes from 90 to 180
25 -- 120 days. Sometimes they can go as long as a year.

LEVI JAMES - DIRECT BY MR. TUCKER

1 Q: I imagine y'all get -- what? -- five or six calls for --
2 through the 9-1-1 center a day?

3 A: No.

4 Q: Now, were you asked to pull the CAD report on the 9-1-1
5 call in reference to a call that originated on July the 6th,
6 2019, at [REDACTED] Tall Oaks Drive in Florence?

7 A: Yes.

8 Q: And what did you do when you received that request?

9 A: Went into our computer system and to our recording
10 system. I listened to all the audio from radio traffic, 9-1-1
11 calls, and put all the information together. I also pulled
12 the CAD report, put it together, and sent it back to the
13 Solicitor's Office.

14 Q: Okay. Now, with regards to the 9-1-1 call itself, you
15 indicated you downloaded a copy of that and submitted it to
16 the Solicitor's Office?

17 A: Yes.

18 MR. TUCKER: And if I may approach, Your Honor?

19 THE COURT: Yes.

20 BY MR. TUCKER:

21 Q: And, Mr. James, I want to show you what's been marked
22 State's 27, and let me first ask you if you recognize what
23 I've handed you?

24 A: Yes. Now --

25 Q: How do you recognize it?

LEVI JAMES - DIRECT BY MR. TUCKER

1 A: So this is from my office, a 9-1-1 call.

2 Q: Is it in reference to this specific case?

3 A: Yes.

4 MR. TUCKER: And, Your Honor, at this time the State
5 would ask for permission to publish the 9-1-1 call to the
6 jury.

7 THE COURT: Has it been introduced into evidence?

8 MR. KRZYSTON: Subject to prior.

9 MR. TUCKER: Yeah. I'm sorry, Your Honor. At this point
10 I would move it into evidence now that he's authenticated it.

11 THE COURT: All right. Any objection?

12 MR. KRZYSTON: Subject to prior objections.

13 THE COURT: All right. So noted for the record. You may
14 publish the 9-1-1 call.

15 (WHEREUPON, State's Exhibit No. 27, 9-1-1 call on disk,
16 was admitted into evidence and was played in open court.
17 Not transcribed herein. During publishing, the recording
18 was interrupted and the proceedings resumed as follows.)

19 MR. KRZYSTON: Your Honor?

20 THE COURT: Yes.

21 MR. KRZYSTON: I'm sorry to interrupt here, but again, we
22 would renew our objection on the progress.

23 THE COURT: Your objection was noted at the outset.
24 Okay?

25 MR. KRZYSTON: Thank you.

LEVI JAMES - CROSS BY MR. KRZYSTON

1 THE COURT: So noted.

2 (WHEREUPON, the recording resumed playing, after the end
3 of which the proceedings resumed as follows.)

4 BY MR. TUCKER:

5 Q: Mr. James, did that pretty much conclude your involvement
6 regarding this case?

7 A: Yes.

8 MR. TUCKER: Thank you, Your Honor. I believe those are
9 all the questions I have.

10 THE COURT: Cross-examination.

11 MR. KRZYSTON: Briefly, Judge.

12 CROSS-EXAMINATION

13 BY MR. KRZYSTON:

14 Q: All right. Mr. James, you just heard the contents of
15 that 9-1-1 call, did you not?

16 A: Yes.

17 Q: Okay. Did you hear approximately 30 seconds ago a lady
18 get on the 9-1-1 or telephone and say he just started -- he
19 walked in my house, he said "yo" and just started shooting?

20 A: Yes.

21 Q: Okay. Did at any point in time you hear that recording
22 or anybody on that recording say that they had walked back to
23 their room?

24 A: Oh, no.

25 Q: Did that person say that they had been seated in a chair

LEVI JAMES - CROSS BY MR. KRZYSTON

1 five or six seconds and then they heard shots?

2 A: No.

3 Q: That person said, in fact, somebody walked in my house;
4 correct?

5 A: Right.

6 Q: Somebody said "yo": correct?

7 A: Correct.

8 Q: Somebody started shooting; correct?

9 A: Yes.

10 Q: Okay. Earlier, there was some discussion with the 9-1-1
11 operator about the location of the wounds. That caller
12 indicated that there were three, maybe four shots in the back;
13 correct?

14 A: Yes.

15 Q: Okay. Any indication about any wounds elsewhere?

16 A: No, from what I heard on the 9-1-1 recording.

17 Q: Okay.

18 MR. KRZYSTON: Mr. James, thank you for your service as a
19 9-1-1 operator. I know you are very busy, and I wish you were
20 not, but thank you for taking the time to be here today.

21 THE WITNESS: Thank you.

22 THE COURT: Any redirect?

23 MR. TUCKER: Just briefly.

24 REDIRECT EXAMINATION

25 BY MR. TUCKER:

LEVI JAMES - REDIRECT BY MR. TUCKER

1 Q: Mr. James, that person that Mr. Kryzston was asking you
2 about that heard the boy say "yo" and then started shooting,
3 did that person seem upset to you on the phone?

4 MR. KRZYSTON: Objection. Calls for speculation.

5 MR. TUCKER: I would think in his capacity as a 9-1-1
6 operator, he deals with these types of calls all the time and
7 can tell if someone's upset on the phone.

8 THE COURT: Objection overruled.

9 BY MR. TUCKER:

10 A: Yes, very upset.

11 Q: And Mr. Krzyston asked you about that person indicated
12 that there were three or four shots to the back, what appeared
13 to be back. Did that person -- did you hear them indicate to
14 any medical training whatsoever?

15 A: No.

16 MR. TUCKER: Thank you. Those are all the questions I
17 have.

18 THE COURT: Any recross?

19 MR. KRZYSTON: No, Your Honor.

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

22 MR. TUCKER: And, Your Honor, I would ask if Mr. James
23 could be released from his subpoena.

24 THE COURT: Any objection?

25 MR. KRZYSTON: Without objection.

WILLIAM ODOM - DIRECT BY MR. TUCKER

1 THE COURT: Sir, you are released from your subpoena.
2 You're free to go. Have a nice day.

3 THE WITNESS: Thank you.

4 THE COURT: Call your next witness, please.

5 MR. TUCKER: Your Honor, at this time the State would
6 call Sgt. William Odom to the stand.

7 (WHEREUPON, there was a pause in the proceedings until
8 the witness entered the courtroom, after which the
9 proceedings resumed as follows.)

10 THE CLERK: Sir, if you will please place your left hand
11 on the Bible and raise your right hand. Do you swear or
12 affirm the testimony you give in this case to be the truth,
13 the whole truth, and nothing but the truth, so help you God?

14 THE WITNESS: Yes, ma'am.

15 THE CLERK: Please be seated and state your full name for
16 the record.

17 THE WITNESS: Sgt. William Odom, Florence County
18 Sheriff's Office.

19 WILLIAM ODOM, being first duly
20 sworn, testified as follows:

21 DIRECT EXAMINATION

22 BY MR. TUCKER:

23 Q: And, Sgt. Odom, you kind of stole my first question as to
24 where you work. Let me follow up by asking how long have you
25 worked at the Sheriff's Office?

WILLIAM ODOM - DIRECT BY MR. TUCKER

- 1 A: A little over 14 years.
- 2 Q: And did you have any prior law enforcement experience
- 3 before coming to work at the Florence County Sheriff's Office?
- 4 A: State constable for three years.
- 5 Q: And what are your present duties and responsibilities
- 6 there with the Sheriff's Office?
- 7 A: I'm a sergeant on patrol.
- 8 Q: And how long have you been a sergeant on patrol?
- 9 A: Roughly six years.
- 10 Q: Again, if my math is correct, that would have put you as
- 11 a sergeant on patrol on or about July the 6th, 2019?
- 12 A: Yes, sir.
- 13 Q: Now, let me ask you this before we get into that
- 14 particular incident or on that date. What are some of the
- 15 duties and responsibilities associated with being a patrol
- 16 sergeant or a patrol officer in general with the Sheriff's
- 17 Office?
- 18 A: Just supervise the shift, make sure calls are handled
- 19 correctly.
- 20 Q: And you mentioned calls. What types of calls would you
- 21 go on on a typical shift, if there is such a thing?
- 22 A: Assaults, homicides.
- 23 Q: And shooting complaints or calls? Would that be
- 24 something that the Sheriff's Office would respond to?
- 25 A: Yes, sir.

WILLIAM ODOM - DIRECT BY MR. TUCKER

1 Q: Now, I want to direct your attention specifically to the
2 evening of July the 6th, 2019. Were you on duty on that date?

3 A: Yes, sir.

4 Q: And again, I think we've established you would have been
5 a patrol sergeant at that particular date, would you not have
6 been?

7 A: Yes, sir.

8 Q: And do you recall which particular shift you were working
9 in terms of A, B, C, or D?

10 A: Charlie Squad, C Squad.

11 Q: Okay. And do you recall specifically receiving a request
12 to respond to [REDACTED] Tall Oaks Drive in Florence?

13 A: Yes, sir.

14 Q: And this may seem like a stupid question, but is [REDACTED]
15 Tall Oaks in Florence County?

16 A: Yes, sir, it is.

17 Q: Now, what did you do after you received a request to
18 respond to that incident location?

19 A: Responded to the location in reference to a shooting.

20 Q: And do you recall what you did when you first arrived?

21 A: Yes, sir. I exited my patrol car. I noticed there was
22 some subjects pointing to the front door of the residence. I
23 entered the residence, looking for the victim to render aid.
24 First noticed that there was a black male subject on his
25 knees, leaning over the couch. I immediately checked his

WILLIAM ODOM - DIRECT BY MR. TUCKER

1 condition. There was two females rendering aid. One advised
2 that she was a nurse, so I allowed them to continue. I then
3 secured the scene.

4 Q: Now, was -- the black male that you indicated was on the
5 couch receiving aid, was he conscious? Could you tell at
6 that point?

7 A: No, sir. He didn't appear to be.

8 Q: Do you recall if he said anything to you or to anybody
9 else that you heard?

10 A: No, sir, not at that time.

11 Q: Now, you mentioned the couch.

12 MR. TUCKER: Your Honor, if I may approach?

13 THE COURT: Yes.

14 BY MR. TUCKER:

15 Q: Sgt. Odom, before I show you a a picture of the interior,
16 I want to show you what's already --

17 THE COURT: What exhibit?

18 MR. TUCKER: State's Evidence 1.

19 THE COURT: No. 1?

20 MR. TUCKER: Yes, sir, Your Honor.

21 THE COURT: Okay. I'm sorry.

22 BY MR. TUCKER:

23 Q: And, Sergeant, does that appear to be the residence that
24 you responded to at [REDACTED] Tall Oaks?

25 A: Yes, sir.

WILLIAM ODOM - DIRECT BY MR. TUCKER

1 Q: All right. And if I could show you first State's 5, and
2 is that as the scene appeared as you -- more or less as you
3 came through the front door?
4 A: Yes. Yeah. Yes, sir.
5 Q: Now I want to show you State's 6, which is a better shot
6 of the inside, and I want to point so that you can see on the
7 screen. Is this the couch that the victim was on when you
8 first entered the residence?
9 A: Yes, sir.
10 Q: And he was kind of on his knees on the couch? Is that
11 what you said?
12 A: Knees on the floor.
13 Q: Leaning over the couch?
14 A: Hunched over the couch.
15 Q: Gotcha. Okay. Now, you indicated that there was several
16 people rendering aid. At some point, did other first
17 responders arrive there to the scene?
18 A: Yes, sir. EMS arrived.
19 Q: Do you recall specifically who from EMS got there? Do
20 you recall?
21 A: No, sir. I don't recall exactly who it was.
22 Q: Okay. But were you inside the residence when they
23 arrived at that point?
24 A: Yes, sir. I was securing the scene and getting everybody
25 out of the back door --

WILLIAM ODOM - DIRECT BY MR. TUCKER

1 Q: Okay.

2 A: -- to secure the crime scene.

3 Q: Now, once EMS got there and they, I'm assuming, started

4 to work on the victim or try to render aid at that time; is

5 that correct?

6 A: Yes, sir.

7 Q: What did you do in terms of securing the scene?

8 A: Got everybody out of the back of the residence so they

9 wouldn't come through the crime scene. Once I got everybody

10 out of the residence, I got Deputy Jones to secure the crime

11 scene with the crime scene tape and --

12 Q: Okay.

13 A: Okay.

14 Q: And the individuals that you indicated you got out the

15 back that were in the crime scene, were you able to establish

16 whether or not these individuals lived at that residence?

17 A: I think I made contact with one of them. It was the

18 homeowner. It was a -- I'm sorry. Ms. Stephanie Lucas.

19 Q: Now, what you just referred to, is that the incident

20 report that was prepared in connection with this case?

21 A: Yes, sir.

22 Q: Okay. And you were actually gathering some of the

23 information that went into this report?

24 A: Yes, sir. As I was securing the scene.

25 Q: Okay. And how would you describe Ms. Lucas's demeanor

WILLIAM ODOM - DIRECT BY MR. TUCKER

1 when you were talking to her?

2 A: She was distraught and upset.

3 Q: And what, if anything, was she able to tell you?

4 A: She advised -- I asked her who might have done this while
5 I was trying to get everybody out of the residence to secure
6 the scene, and she advised it was a heavysset black male with
7 short dreads.

8 Q: Was she able to provide a name to you at this point?

9 A: No, sir.

10 Q: Again, you described her as being distraught; is that
11 correct?

12 A: Yes, sir.

13 Q: Now, with regards to other possible witnesses, were you
14 able or were any of those brought to your attention?

15 A: Once I secured the scene, a Mr. Mendez came up to me and
16 stated he wanted to let me know who committed the shooting.

17 Q: Now, when you say Mr. Mendez, are you referring to
18 Orlando Mendez?

19 A: Yes, sir.

20 Q: Okay. And you indicated he said he wanted to tell you
21 who had done the shooting?

22 A: Yes, sir.

23 Q: And what, if anything, did he tell you?

24 MR. KRZYSTON: I'm going to object to that. Hearsay.

25 THE COURT: Overruled.

WILLIAM ODOM - DIRECT BY MR. TUCKER

1 BY MR. TUCKER:

2 A: Mr. Mendez advised that Larry Scipio was the one that

3 entered the residence and was firing shots.

4 Q: Now, in terms of other deputies who were on scene by this

5 point, do you know who they were?

6 A: Deputy Jones arrived. I got her to secure the crime

7 scene first. My next deputy was Deputy Matt McDaniel. I got

8 him to start a crime scene log.

9 Q: Okay. Now, when you said Deputy Jones, are you referring

10 to Amber Jones?

11 A: Yes, sir.

12 Q: And I believe now she goes by -- her last name is Amber

13 Flowers; is that correct?

14 A: Yes, sir.

15 Q: Okay. And again, at some point, did Investigator Ben

16 Price arrive?

17 A: Yes, sir, he arrived.

18 Q: And what was your understanding in terms of his role in

19 the incident?

20 A: When he arrived, his role as far as the investigation was

21 take over the scene. Myself and Amber provided him with all

22 the information that we had at the time.

23 Q: Okay. At any point did you direct Deputy Flowers, Amber,

24 to talk to any possible witnesses who had been identified?

25 A: Yes, sir.

WILLIAM ODOM - DIRECT BY MR. TUCKER

1 Q: And do you recall who those might have been?

2 A: I know there was two young females that was kind of
3 distraught and they was upset, and I think I got her to speak
4 with them and the witnesses that was on hand outside.

5 Q: Okay. Let me ask you this, Sergeant Odom. At that time
6 were you equipped with a body-worn camera?

7 A: No, sir, not at the time.

8 Q: Was anyone on your shift, to your knowledge, equipped
9 with a body-worn camera?

10 A: No, sir.

11 Q: To your knowledge, was anyone in the patrol division
12 equipped with a body-worn camera?

13 A: Not at the time.

14 Q: Now, presently is the Florence County Sheriff's Office
15 body-worn-camera capable? In other words, are they now
16 issued to deputies?

17 A: Yes, sir. Everybody has one.

18 Q: But on July the 6th, 2019, they were not standard issue?

19 A: No, sir, it was not.

20 Q: Now, once Investigator Price arrived at the scene, what,
21 if anything, did you do at that point?

22 A: Once Investigator Price arrived, we advised him of the
23 situation and all the information we had, and myself and
24 Deputy Jones got the witnesses together for him. I then just
25 held a perimeter back. We had some incidents in the street

WILLIAM ODOM - DIRECT BY MR. TUCKER

1 where some people was starting to fight, be disorderly.

2 Q: Okay.

3 A: And so I had to -- I basically secured the scene.

4 Q: Now, at some point, did you go to the Sheriff's Office,
5 the actual office, and put what you had learned into the
6 report that you were just reading from?

7 A: Yes, sir.

8 Q: Now, would it be fair to say that the scene was kind of
9 chaotic the entire time you were there?

10 A: Yes, sir.

11 Q: And again, there were a lot of people shouting, a lot of
12 people saying things; would that be fair to say as well?

13 A: Yes, sir.

14 Q: Okay.

15 MR. TUCKER: I believe those are all the questions I
16 have, Your Honor.

17 MR. KRZYSTON: May it please the Court.

18 THE COURT: Cross-examination.

19 MR. KRZYSTON: Thank you, Judge. Court's indulgence.

20 CROSS-EXAMINATION

21 BY MR. KRZYSTON:

22 Q: All right, Sergeant. I am sorry. You said that at the
23 time of this incident you were a sergeant with Florence County
24 Sheriff's Department; correct?

25 A: Yes, sir.

WILLIAM ODOM - CROSS BY MR. KRZYSTON

1 Q: Okay. And at the time of the incident, about how long
2 had you been a sergeant?

3 A: At the time of the incident, maybe two years
4 approximately.

5 Q: Two years? Okay. And so kind of walk me through, if you
6 will, how do you -- you know, what does a sergeant do? I
7 mean explain to them.

8 A: A sergeant is a supervisor. We supervise the deputies on
9 our shift. We -- any major calls, we respond, make sure
10 they're handled correctly. We answer any questions they need,
11 we offer assistance, and we make sure things are handled
12 correctly.

13 Q: Okay. So if I'm understanding you, if I'm picking up
14 what you're putting down, each shift has what I'm going to
15 call line officers; correct? Those are just regular deputies;
16 right?

17 A: Yes, sir.

18 Q: And so each shift has a shift supervisor; correct?

19 A: Yes, sir.

20 Q: Okay. And again, the function of that shift supervisor
21 is basically respond to any major incidents and kind of try to
22 allocate personnel within the shift as calls come in; correct?

23 A: Yes, sir.

24 Q: Okay. And so by virtue of being a shift supervisor and a
25 sergeant over this region at the time, Florence County had --

WILLIAM ODOM - CROSS BY MR. KRZYSTON

1 had recognized your ability to kind of, you know, use manpower
2 and respond to crime scenes; correct?

3 A: Yes, sir.

4 Q: Okay. You had been, you know, identified as a person
5 with, you know, more skill, more experience than some of your
6 line deputies who may just be starting out and that sort of
7 thing; correct?

8 A: Yes, sir.

9 Q: And so you had experience coming in to a scene, almost
10 like a hot scene, where there's, again, a major crime has
11 occurred and you kind of take control and secure the most
12 important parts of the scene; correct?

13 A: Yes, sir.

14 Q: Okay. In fact, you did that here at [REDACTED] Tall Oaks;
15 correct?

16 A: Yes, sir.

17 Q: Okay. I'm going to draw your attention, Sergeant, to
18 what's been marked as State's 1. Oops. All right.

19 Again, you testified on direct that that is the incident
20 location; correct? [REDACTED] Tall Oaks?

21 A: Yes, sir.

22 Q: Okay. To the left of this picture -- and when I say
23 left, I'm saying in the orientation as us facing it towards
24 the Camaro. That's where [REDACTED] Tall Oaks would be; correct?

25 A: I'm assuming, yes.

WILLIAM ODOM - CROSS BY MR. KRZYSTON

- 1 Q: The next-door house --
- 2 A: Uh-huh.
- 3 Q: -- where the Fridays were; correct?
- 4 A: Uh-huh.
- 5 Q: Okay. And then to the right would be what? 3133 or
- 6 something like that?
- 7 A: I'm assuming yes.
- 8 Q: Okay. And so I'll next draw your attention to State's 2,
- 9 and this is a little bit more of a leftward orientation to the
- 10 front of the incident location at [REDACTED] correct?
- 11 A: Yes, sir.
- 12 Q: And so you can see actually in this image to the left
- 13 side of this image where [REDACTED] is; correct?
- 14 A: Yes, sir.
- 15 Q: Okay. And so you would agree with me that from a vantage
- 16 point standpoint, there are no trees or shrubbery that would
- 17 foul one's ability to see from [REDACTED] to what -- to the railing
- 18 of this front porch area; correct?
- 19 A: It doesn't appear so.
- 20 Q: Okay. And so, again, that would be a clear vantage point
- 21 on that; correct?
- 22 A: Yes, sir.
- 23 Q: Okay. Thank you. All right. I'm next going to draw
- 24 your attention to State's 3. That's a depiction of the front
- 25 porch at [REDACTED] correct?

WILLIAM ODOM - CROSS BY MR. KRZYSTON

- 1 A: Yes, sir.
- 2 Q: And you would note that in this picture there is a light
- 3 that is completely illuminated on; correct?
- 4 A: Yes, sir.
- 5 Q: And there is a screen door here that is a barrier to the
- 6 entrance of the domicile; correct?
- 7 A: Yes, sir.
- 8 Q: Okay. All right. Sergeant, when you respond to a crime
- 9 scene or when you responded to this crime scene, were you --
- 10 were you the first -- first boots on the ground?
- 11 A: Yes, sir.
- 12 Q: Okay. And so there -- there were some people around Mr.
- 13 Johnson at that time; correct?
- 14 A: Yes, sir.
- 15 Q: Okay. And so -- well, let me back up. You arrive at
- 16 [REDACTED] you park in front?
- 17 A: I pulled in front.
- 18 Q: Okay. You -- is there -- when you pull up in front, is
- 19 there anybody in the yard?
- 20 A: I don't recollect if there was anybody in the yard. I
- 21 think there might have been one or two people to the left when
- 22 I pulled up at the residence.
- 23 Q: Towards [REDACTED]
- 24 A: Near the red car, and they was pointing at the front
- 25 door.

WILLIAM ODOM - CROSS BY MR. KRZYSTON

1 Q: As if -- as if to say go in there, that's where you need
2 to go?

3 A: Yeah.

4 Q: Okay. So they knew something was going on to the best of
5 your knowledge, and then they directed you to the actual crime
6 scene?

7 A: Yes, sir.

8 Q: Okay. And so you proceed up the stairs; correct?

9 A: Yes, sir.

10 Q: Okay. You enter the domicile; correct?

11 A: Uh-huh.

12 Q: Okay.

13 A: Yes, sir.

14 Q: You then testified on direct that you saw Mr. Johnson
15 slumped down over the couch; correct?

16 A: Yes, sir.

17 Q: Okay. I'm going to do a little bit of demonstrative.
18 Was Mr. Johnson slumped like this over the couch?

19 A: It was like that, sir.

20 Q: Pardon?

21 A: It was like that. Yes, sir.

22 Q: Exactly like that?

23 A: Uh-huh.

24 Q: Okay. And so he wasn't sitting on the couch, he wasn't
25 laying on the couch; correct?

WILLIAM ODOM - CROSS BY MR. KRZYSTON

- 1 A: No, sir. He was slumped over the couch.
- 2 Q: Okay. Were several people attending to him?
- 3 A: There were two females.
- 4 Q: Okay. And once you -- what did you do next? Did you
- 5 check Mr. Johnson?
- 6 A: I checked the status, number one.
- 7 Q: Okay.
- 8 A: Number one when you arrive, you want to check on the
- 9 victim so you can render aid. That's the most important. I
- 10 checked his status. It didn't look good. The two ladies --
- 11 one of them advised she was a nurse, so I thought it was best
- 12 to let them keep applying pressure and tending to Mr. Johnson.
- 13 Q: Okay. And so I mean you get, like, some basic first aid
- 14 treatment or -- excuse me -- training in the academy and
- 15 through the Sheriff's Department; correct?
- 16 A: Yes, sir.
- 17 Q: But obviously, the nurse would have, you know, a little
- 18 bit more working knowledge, and so you kind of defaulted to
- 19 her? Is that what I'm understanding?
- 20 A: Yes. Yes, sir.
- 21 Q: Okay. Did you, in fact, come to learn that that lady's
- 22 name was Jelana Friday?
- 23 A: I don't recollect her name.
- 24 Q: Okay. You don't recall her name?
- 25 A: No, sir.

WILLIAM ODOM - CROSS BY MR. KRZYSTON

1 Q: Okay. All right. And so after you see that, you know,
2 medical personnel for all intents and purposes are attending
3 to Mr. Johnson, your focus then shifts to securing the crime
4 scene; correct?

5 A: Yes, sir.

6 Q: Okay. And so when you secure a crime scene, what's the
7 first thing you do? Remove witnesses; correct?

8 A: Yes, sir.

9 Q: Okay. The reason that you remove people or witnesses
10 from the crime scene is because they can either intentionally
11 or unintentionally affect the evidence; correct?

12 A: Yes, sir.

13 Q: Okay. So, obviously, after your personal safety, after
14 the victim's, you know, well-being, then the crime scene
15 becomes kind of your main focus; correct?

16 A: Yes, sir. It's the main focus.

17 Q: Okay. Instead of your ushering people out of the house;
18 correct?

19 A: Yes, sir.

20 Q: Okay. Did anybody give you any difficulty on the scene?

21 A: No, sir. Not in the residence.

22 Q: Okay. So everybody kind of -- you said, hey, I'm here.
23 Please, everybody come outside with me. You know, I need to
24 secure the crime scene so that we make sure we secure it?

25 A: Yes, sir. The crime scene was around the couch and the

WILLIAM ODOM - CROSS BY MR. KRZYSTON

1 front door. I had everybody exit the back door.

2 Q: Okay.

3 A: So nobody would track through it.

4 Q: Okay. So I'm going to go back to State's 1, and we can

5 -- that's actually a poor image. Let's go to State's 3. And

6 so that's the front door; correct?

7 A: Yes, sir.

8 Q: Okay. In relation to the front door, where's the back

9 door?

10 A: Directly behind the residence.

11 Q: Okay. And so when you say directly behind the residents,

12 I mean is it on either of the sides of the building?

13 A: I don't recollect, but it's in the rear of the -- rear of

14 the residence.

15 Q: Okay. Was the exit through the kitchen or another

16 bedroom or another room?

17 A: I want to say kitchen.

18 Q: Okay. So there's a door basically on the opposite side

19 of where this front door is at [REDACTED] that -- that leads people

20 out through the -- you know, through the kitchen; correct?

21 A: Yes, sir.

22 Q: Into what purports to be a backyard; right?

23 A: Yes, sir.

24 Q: Okay. And so you actually had people not -- not go

25 anywhere near Mr. Johnson. You put them out of the rear of

WILLIAM ODOM - CROSS BY MR. KRZYSTON

1 the residence; correct?

2 A: Yes, sir.

3 Q: Okay. At that point you ensured and continue to ensure
4 through the time that you were on scene that nobody else
5 without proper credentials entered the crime scene; correct?

6 A: Yes, sir.

7 Q: Okay. And so the pictures that are depicted in the
8 exhibits that the State entered earlier are basically an
9 untouched representation of what the crime scene looked like
10 at the time that you arrived as everybody got out; correct?

11 A: Yes, sir.

12 Q: Okay. Nobody was moving things or altering the crime
13 scene when you arrived; correct?

14 A: No, sir.

15 Q: Okay. All right. I'm going to draw your attention to
16 this. Do you see any -- any highchairs, any -- you know,
17 anything of that nature in this picture that's marked as
18 State's 6?

19 A: I just see some chairs.

20 Q: Just some regular chairs?

21 A: Yeah.

22 Q: Okay. Okay. All right. Once you -- once you responded
23 and got everybody out -- okay? -- you started talking to a
24 couple people; correct?

25 A: Once everybody was out the back door, I had other

WILLIAM ODOM - CROSS BY MR. KRZYSTON

1 deputies gather them up so they could be interviewed by
2 investigations.

3 Q: Okay.

4 A: And I -- go ahead. I'm sorry.

5 Q: No, I'm sorry. I'll let you finish. I didn't mean to
6 interrupt.

7 A: I stayed to make sure the scene was secure --

8 Q: Okay.

9 A: -- outside the residence.

10 Q: I'm sorry. I did it again. Go ahead.

11 A: You're fine. Go ahead.

12 Q: Okay. And so, you know, you get everybody out of the
13 house, and by that time are we to understand that other
14 deputies from the Sheriff's Department had arrived?

15 A: Yes, sir.

16 Q: Okay. And so you spoke to Deputy Jones?

17 A: Uh-huh.

18 Q: Okay. And you told her (A) you had gathered the
19 witnesses essentially; correct?

20 A: The ones from the inside.

21 Q: Okay. And so you basically said to her, hey, these
22 people are witnesses, watch them?

23 A: I know it was other deputies on my shift. I don't know
24 directly --

25 Q: Okay.

WILLIAM ODOM - CROSS BY MR. KRZYSTON

1 A: -- if it was Ms. -- Deputy Jones. I know she was
2 securing the scene.

3 Q: Okay. And so when the -- as soon as these people get out
4 of the house, you're telling a Sheriff's Department employee,
5 hey, watch these people. These are witnesses, you know, just
6 -- just watch them because we're going to need to talk to
7 them; correct?

8 A: Yes.

9 Q: And then your focus goes back to securing the scene;
10 correct?

11 A: Securing the scene and giving out a suspect description
12 on the radio.

13 Q: Okay. At some point during -- during you continuing to
14 secure the scene, did several witnesses confront or come up to
15 you?

16 A: I recollect Mr. Mendez --

17 Q: Okay.

18 A: -- coming up to me.

19 Q: Okay. And then, obviously, you came in contact with Ms.
20 -- Ms. Stephanie Mendez or Lucas?

21 A: Yes, sir. Inside the residence.

22 Q: Okay. And so she was in shock. Did you leave her inside
23 of the residence?

24 A: No, sir. When I first entered the home when I arrived,
25 after checking on the victim, I asked where was the suspect,

WILLIAM ODOM - CROSS BY MR. KRZYSTON

1 and that's when she gave me the description. Initially, she
2 exited the residence with everybody else.

3 Q: Okay. And you asked her for a name, and she couldn't
4 provide a name; correct?

5 A: No, sir. Huh-uh.

6 Q: Okay. And at that time she indicated to you that she had
7 opened the door and the subject came in, a heavysset black male
8 I think you testified to, and just started shooting; correct?

9 A: Yes, sir.

10 Q: Okay. She didn't provide a name again; correct?

11 A: No, sir.

12 Q: That was all she told you?

13 A: Yes, sir.

14 MR. KRZYSTON: Court's indulgence.

15 THE COURT: Yes, sir.

16 MR. KRZYSTON: Sergeant, thank you for your service. I
17 appreciate everything that you do. I know everybody does in
18 this courtroom. I hope you weren't working late last night.
19 With that, I'll turn it over for redirect.

20 THE WITNESS: Yes, sir. Thank you.

21 THE COURT: Mr. Tucker, any redirect?

22 MR. TUCKER: Just briefly.

23 REDIRECT EXAMINATION

24 BY MR. TUCKER:

25 Q: Sergeant Odom, you were asked about the crime scene when

WILLIAM ODOM - REDIRECT BY MR. TUCKER

1 you got there, but you don't know what went on prior to you
2 getting there; correct?

3 A: No, sir.

4 Q: And as you indicated, there were several people tending
5 to Mr. Johnson and trying to render aid?

6 A: Yes, sir.

7 Q: And that would have been where the primary crime scene
8 was in terms of the entire scene; right?

9 A: Yes, sir.

10 MR. TUCKER: I believe those are all the questions I
11 have, Your Honor.

12 MR. KRZYSTON: Briefly, Judge.

13 RECROSS-EXAMINATION

14 BY MR. KRZYSTON:

15 Q: You mentioned on your direct that there were some fights
16 acting out in the street?

17 A: This was after the scene was secured.

18 Q: Okay.

19 A: There were some disorderly subjects in the street --

20 Q: Okay.

21 A: -- at the perimeter of the crime scene.

22 Q: Okay.

23 A: And once investigations arrived, I had to attend to that
24 situation.

25 Q: Okay. And so -- but I just want to be clear there were

WILLIAM ODOM - RECROSS BY MR. KRZYSTON

1 no suspects on the scene once y'all arrived and the perimeter
2 was secure, nobody that y'all considered at that point to be a
3 suspect; correct?

4 A: Not on scene.

5 MR. KRZYSTON: Thank you. No further questions.

6 THE COURT: Sir, you may step down. Thank you.

7 THE WITNESS: Yes, sir. Thank you, Your Honor.

8 MR. TUCKER: And, Your Honor, I would ask if Sgt. Odom
9 could be released from his subpoena.

10 THE COURT: Any objection?

11 MR. KRZYSTON: No, sir.

12 MR. TUCKER: Thank you.

13 THE COURT: Sir, you're released from your subpoena.
14 You're free to go. Thank you for being here. Have a nice
15 day.

16 THE WITNESS: Yes, sir. Thank you.

17 THE COURT: Call your next witness, please.

18 MR. TUCKER: Thank you, Your Honor. May it please the
19 Court. At this time, the State would call Gary Turner to the
20 stand.

21 (WHEREUPON, there was a pause in the proceedings until
22 the witness entered the courtroom, after which the
23 proceedings resumed as follows.)

24 THE CLERK: Sir, if you will please place your left hand
25 on the Bible and raise your right hand. Do you swear or

GARY TURNER - DIRECT BY MR. TUCKER

1 affirm the testimony you give in this case to be the truth,
2 the whole truth, and nothing but the truth, so help you God?

3 THE WITNESS: I do.

4 THE CLERK: Please be seated and state your full name for
5 the record.

6 THE WITNESS: Gary Douglas Turner.

7 GARY TURNER, being first duly
8 sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MR. TUCKER:

11 Q: And, Mr. Turner, the uniform kind of gives it away, but
12 where do you work?

13 A: I work with Florence County EMS.

14 Q: And in what capacity are you employed with them?

15 A: I am a lieutenant paramedic with them.

16 Q: And how long have you been with Florence County?

17 A: I believe this year makes five years with them.

18 Q: And did you have any prior EMS or paramedic experience
19 prior to coming to work for Florence County?

20 A: Yes, sir. I've been in EMS for about 21 years now. I
21 started in Horry County in 2001.

22 Q: Okay.

23 A: Worked for county services since then as an EMT. I've
24 been a paramedic about 15 years now.

25 Q: Now, what kind of training did you have to undergo to

GARY TURNER - DIRECT BY MR. TUCKER

1 become an EMT or paramedic?

2 A: Well, in the state of South Carolina, we're a national
3 registered state, so we have to have around 220 hours of
4 training in just basic first responder to get your EMT basic.
5 After that, a little over 1,000 hours whenever you step up to
6 go to paramedic school after that, plus somewhere around 400
7 hours of clinical time.

8 Q: All right. Lt. Turner, you won't take offense when I say
9 this, but I'm glad that you were there, but I hope I never
10 have to have you professionally look after me.

11 A: Understood.

12 Q: But it's nice to know you're that trained. Now, what
13 kind of duties and responsibilities are associated with being
14 a paramedic?

15 A: Generally speaking, we respond to medical emergencies,
16 some worse than others, provide first responder, first aid to
17 them, advanced life support. We kind of can do anything from
18 putting a Band-Aid on you to trying to restart your heart, if
19 necessary.

20 Q: Okay. Let me ask you specifically about the evening of
21 July the 6th, 2009. Were you on duty at that point?

22 A: I was, yes, sir.

23 Q: And again, if my math is correct, that would have put you
24 working for Florence County on or about that day; correct?

25 A: Yes, sir. I was assigned at Medic 11, which is the one

GARY TURNER - DIRECT BY MR. TUCKER

1 out at the university, Francis Marion.

2 Q: Now, do you recall receiving a call for assistance at
3 [REDACTED] Tall Oaks Drive in Florence?

4 A: I do remember getting a call for in that area. We were
5 returning from McLeod Hospital from a previous call. I do not
6 remember what that one was, but I do remember getting the call
7 for Tall Oaks.

8 Q: And what did you do once you received that call or
9 request for assistance?

10 A: We were coming back from McLeod, headed back towards the
11 college. We're somewhere about the airport, if I recall
12 correctly.

13 Q: And when you say we, to whom are you referring?

14 A: Me and my partner, Mr. Stein -- Reinstein [ph], I
15 believe, was my partner that night, if I'm not badly mistaken.
16 Let me double check that. Yes, Reinstein. We were returning
17 from the hospital, and it came out called to us as someone
18 possibly shot. It hadn't been confirmed yet, but possibly.

19 Q: And what did you do in response thereto?

20 A: We went in route to it. Generally, our standard
21 procedure is to stage for the Sheriff's Department. You don't
22 see any kind of cleared scene whenever it's a violent scene of
23 that nature, but there was a little bit of confusion as far as
24 if they were there or weren't there yet. So we kind of came
25 in to the scene right behind the first arriving sheriff's

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1 deputy, which was Officer Odom.

2 Q: Okay. I was going to ask do you recall who that was?

3 A: Yes, sir.

4 Q: And once you arrived and Sergeant Odom arrived, what, if
5 anything, did you do at that point?

6 A: As we arrived, as I pulled behind his car, I realized I
7 think we had pulled past the actual address that we were
8 supposed to be responding to. When we stepped out of the
9 ambulance, there was people calling for us and hollering at us
10 to come help at a house right behind us. It was very apparent
11 at that time that he was the first officer there and
12 everything was unsecure at that point.

13 Q: Okay.

14 A: But we were already there; so there weren't no reason to
15 leave or anything like that. We started doing what we were
16 supposed to do.

17 Q: Okay. And you indicated that there was some confusion
18 about where the actual incident location was?

19 A: Well, we pulled in behind the sheriff's deputy's vehicle
20 that was parked on Tall Oaks, and the numerics were -- we
21 couldn't really see them because it was kind of dark out there
22 even though we had our scene lights on, and it ended up I
23 think it was the house right behind the ambulance that we --
24 when we stopped at the sheriff's patrol vehicles, it was the
25 house to the right just to the rear of it, if I'm not badly

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1 mistaken, if I recall correctly.

2 Q: Okay. But ultimately, you were able to determine that it
3 was [REDACTED] Tall Oaks that had the patient and/or victim at this
4 point?

5 A: Yes, sir.

6 Q: And what, if anything, did you do once you made entry?

7 A: As we entered into the house or as we were walking up
8 getting our equipment together to go to the front door of the
9 house, there were some folks standing in the doorway that was
10 screaming for us to hurry up, hurry up, hurry up. And as we
11 walked into the house, I seen the victim almost in a kneeling
12 position on the floor in front of a couch, laying across the
13 couch with his knees on the floor in front of the couch, face
14 down.

15 Q: And could you ascertain anything in terms of his
16 condition at this point in your assessment?

17 A: Well, there was some females there, I do believe -- I'm
18 not sure who they were -- that was on scene that was trying to
19 render some aid. They had a towel that they had put on to him
20 or some kind of fabric trying to stop the bleeding that had
21 come from what appeared to be gunshot wounds whenever I
22 actually got close enough to get his shirt off and be able to
23 assess him.

24 MR. TUCKER: And, Your Honor, if I could show witness
25 what's been marked as State's 7.

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1 BY MR. TUCKER:

2 Q: And, Lt. Turner, I'm going to point. Does that appear to
3 be the item that was wrapped around the victim in an attempt
4 to stem the flow of blood?

5 A: I -- honestly, I do not recall. I think he had a white
6 t-shirt on. I'm not color -- I'm not sure what color the
7 fabric was that he had that they were using.

8 Q: Okay. And once you got closer, what, if anything, did
9 you do in terms of trying to render aid?

10 A: Okay. So first thing we identified was that he had
11 multiple puncture wounds to his back chest area. We commenced
12 to putting some chest wound seals on that. As we did that, we
13 put a sheet on his back and rolled him over to assess him to
14 see if he was breathing or had a pulse, and he had neither at
15 that point in time.

16 Q: And would it -- again, could you tell whether or not he
17 was conscious or --

18 A: He was unresponsive. He was not -- not breathing, not --
19 no pulse, wasn't responding to us at all.

20 Q: Now, you indicated at this point you were able to
21 ascertain, based on your training and experience, that he had
22 what appeared to be gunshot wounds to the chest and to the
23 back?

24 A: Yes, sir. It appeared to be puncture wounds of some
25 nature. I weren't 100 percent sure that it was shot, but

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1 considering the circumstances, we were there from what we got
2 called, we were under the impression that it was gunshot
3 wounds at that time.

4 Q: And once you were able to get him kind of in the position
5 that you just described, what, if anything, did you do at that
6 point?

7 A: When we rolled him over onto his back, we realized that
8 he had more of what appeared to be gunshot wounds to the front
9 of his chest. And unfortunately, we don't carry but two chest
10 wound seals in our first-in bags that we take into the house.
11 So with there being puncture wounds to the chest, any type of
12 ventilations or anything of that nature, if he does have any
13 kind of puncture wounds, it's actually going to make it worse
14 on him.

15 So considering the lighting inside the house and outside
16 the house, we scooped him up, me and my partner, and we went
17 to our stretcher to get him into the back of our truck, which
18 was right in front of the residence, so that we could actually
19 assess more and thorough what was going on and be able to
20 treat him accurately.

21 Q: Now, you indicated that y'all put him in the back of the
22 EMS rig?

23 A: Yes, sir.

24 Q: And were you in the back with the patient at this point?

25 A: Yes, sir. Me and my partner was both.

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1 Q: Okay. Who was actually driving the EMS rig at this
2 point?

3 A: Nobody was. We had the fire department usually come as
4 first responders to assist us. And if we have really, really
5 sick patients, usually both of us will work on it and get a
6 driver from the fire department or a first responder of some
7 nature, but we were the only ones on scene, so we were unable
8 to get anyone to drive us at that point in time. So me and my
9 partner were both working on him because he was in really bad
10 shape.

11 Q: And at some point did someone assume the duties and
12 responsibilities of driving?

13 A: Yes, sir. I think it was about 15 minutes after we
14 arrived on the scene, the scene was cleared and Windy Hill
15 Fire Department came in one of their engines, as what was
16 supposed to be our first responders for the call, and one of
17 the guys off the rig drove us to the hospital.

18 Q: And when you arrived at the hospital, what, if anything,
19 did you do?

20 A: Well, we treated him on the way to the hospital. When we
21 got to the hospital, I gave a report to Dr. Carney, I believe,
22 at McLeod Hospital and transferred care. Told him what we had
23 done, what we had found, and that we hadn't changed anything
24 during our trip to the hospital as far as our treatments.

25 Q: Now, and to be clear, at any point during your

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1 involvement with the victim, did you detect a pulse or any
2 kind of sign of life?

3 A: No, sir. Actually, we have several devices after we get
4 an airway tube into them and possibly get an I.V. started on
5 them or I started on him as far as giving him fluid to try to
6 replenish some of the fluid that they had of measuring the
7 probability of what could possibly come out of working the
8 rest that we were doing. His end-tidal reading, if I recall,
9 was around 9. Generally speaking, anything under 10, we're
10 not going to get any kind of change from that. Normally, it's
11 usually a failed effort at that point in time.

12 Q: I understand. Now, at any point during this, were you
13 able to get a name to go with the identity or to identify the
14 patient or something?

15 A: When we got to the hospital, I recall -- which we didn't
16 look in his wallet or pockets or anything while we were
17 treating him. We were too busy trying to work on him. We got
18 to the hospital. There was an ID pulled from his pocket by
19 one of the staff members there, and we got our information
20 from him. We at no point in time knew his name, just an
21 estimated age on him and that he was a male subject was all we
22 knew while we were treating him.

23 Q: And what was the name on the identification that you used
24 for your purposes of identification?

25 A: If I recall correctly, it was Rico Johnson was what we

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1 had him labeled as.

2 Q: Okay. And once you handed off Mr. Johnson to the
3 hospital, what, if anything, did you do after that?

4 A: Just start doing the paper chart that we leave at the
5 hospital, which is pretty much just a preliminary run report
6 for the doctors and the nurses and getting our truck put back
7 in service, cleaned back up and deconned so that we can go run
8 the next call.

9 Q: At some point thereafter, did you learn what Mr.
10 Johnson's status was after he arrived at the hospital?

11 A: I think about an hour later we went back to the hospital
12 on another call and we were told that he had deceased, that
13 there was not much that they were going to do for it.

14 Q: And in terms of what you did after that, did you prepare
15 a report in connection with your activity here?

16 A: Yes, sir. The -- the hard copy that we left at the
17 hospital, that is the chart that we use as far as whenever we
18 sit down at the station and -- or while we're in between calls
19 to kind of refresh our memories and complete our chart, and
20 that would be the one that I have in front of me right now.

21 Q: Yeah, and pretty much all that information was included
22 in what we call a run report or --

23 A: Yes, sir.

24 Q: -- that report that you just mentioned?

25 A: Yes, sir. It's just a refresher for me. Depending on --

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1 because we run so many calls, sometimes we don't have time to
2 sit down that moment and do it. Usually it's 30, 45 minutes
3 later, so we need something as far as being able to accurately
4 document what's going on whenever we do our run report.

5 Q: I understand.

6 MR. TUCKER: Your Honor, I believe those are all the
7 questions I have.

8 THE COURT: Cross-examination.

9 MR. KRZYSTON: Court's indulgence, Judge.

10 THE COURT: Yes, sir.

11 MR. SHARPE: No questions for this witness, Your Honor.

12 THE COURT: Sir, you may step down. Thank you.

13 THE WITNESS: Yes, sir.

14 MR. TUCKER: Your Honor, can we approach?

15 THE COURT: Yes.

16 MR. TUCKER: And, Your Honor, I would ask if Lt. Turner
17 could be released from his subpoena.

18 THE COURT: Any objection?

19 MR. SHARPE: No objection, Your Honor.

20 THE COURT: Sir, you're released from your subpoena.

21 You're free to go. Have a nice day. Thank you.

22 THE WITNESS: Yes, sir.

23 (WHEREUPON, a bench conference was held off the record,
24 after which the proceedings resumed as follows.)

25 THE COURT: All right. Ladies and gentlemen, what we're

1 going to do at this point, I'm going to go ahead and let you
2 go to lunch. Okay? I'm going to ask that you be back here at
3 2 o'clock, 2 o'clock.

4 As I've told you from the outset -- I'm going to sit
5 down. I don't want y'all thinking I'm standing over you.
6 Okay?

7 Be back at 2 o'clock. As I told you from the outset, do
8 not discuss the case at all with anyone. Do not do any
9 independent investigation. You're to decide this case based
10 solely solely -- solely upon the evidence and testimony that's
11 presented in this courtroom and nowhere else.

12 Y'all have a nice lunch. I'll see you back at 2 o'clock.
13 Okay?

14 (WHEREUPON, the jury exited the courtroom at 12:09 p.m.)

15 THE COURT: All right. Anything from the State before we
16 break for lunch?

17 MR. TUCKER: Nothing, Your Honor.

18 THE COURT: Defense Counsel?

19 MR. KRZYSTON: No, sir, Judge.

20 THE COURT: All right, 2 o'clock.

21 MR. TUCKER: Thank you, Your Honor.

22 (WHEREUPON, there was a break in the proceedings from
23 12:10 p.m. until 2:00 p.m., after which the proceedings
24 resumed as follows.)

25 THE COURT: All right. It's my understanding we have all

1 the jurors. Anything from the State before I bring the jury
2 out?

3 MR. TUCKER: No, Your Honor.

4 THE COURT: Defense counsel?

5 MR. KRZYSTON: No, sir.

6 THE COURT: All right. Bring me the jury, please, sir.

7 THE BAILIFF: Yes, sir.

8 (WHEREUPON, the jury entered the courtroom at 2:01 p.m.)

9 THE COURT: All right. Mr. Foreman and ladies and
10 gentlemen of the the jury, I hope you all had a nice lunch and
11 are ready to proceed here this afternoon.

12 At this time I'll recognize the State. Call your next
13 witness, please.

14 MR. TUCKER: Thank you, Your Honor. May it please the
15 Court. At this time the State would call Amber Flowers to the
16 stand.

17 THE CLERK: Please place your left hand on the Bible and
18 raise your right hand. Do you swear or affirm the testimony
19 you give in this case to be the truth, the whole truth, and
20 nothing but the truth, so help you God?

21 THE WITNESS: I do.

22 THE CLERK: Please be seated and state your full name for
23 the record.

24 THE WITNESS: Amber Flowers.

25 AMBER FLOWERS, being first duly

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1 sworn, testified as follows:

2 DIRECT EXAMINATION

3 BY MR. TUCKER:

4 Q: And first things first, Deputy Flowers. When this
5 incident occurred back in 2019, you were known by a different
6 last name; is that correct?

7 A: Correct.

8 Q: And that last name was?

9 A: Jones.

10 Q: And so you are now Amber Flowers; is that correct?

11 A: I am.

12 Q: All right. Now that we got that out of the way, where do
13 you presently work?

14 A: At Florence County Sheriff's Office.

15 Q: And how long have you worked at the Sheriff's Office?

16 A: Since 2018.

17 Q: And in what capacity are you currently employed there?

18 A: I am an investigator for criminal sexual conduct.

19 Q: And how long have you been an investigator?

20 A: Since last December. I mean, last September. I'm sorry.

21 Q: So coming up on about a year?

22 A: Yep.

23 Q: Give or take? When you started out at the Sheriff's
24 Office, in what division did you start?

25 A: I actually started here at the courthouse until I was

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- 1 moved to patrol.
- 2 Q: And how long were you in patrol approximately before you
- 3 move to investigations?
- 4 A: Up until last year from -- I went to patrol in December
- 5 of 2019.
- 6 Q: Now, if my math is correct -- and I have to check myself
- 7 frequently, but were you working in the patrol division on or
- 8 about July the 6th, 2019?
- 9 A: Yes, sir, I was.
- 10 Q: And I want to direct your attention specifically to the
- 11 10:30 p.m. timeframe. Do you recall being dispatched to [REDACTED]
- 12 Tall Oaks Drive in Florence?
- 13 A: Yes, sir.
- 14 Q: And is that location in Florence County?
- 15 A: Yes, sir, it is.
- 16 Q: And do you recall what you did after getting that
- 17 dispatch to that location?
- 18 A: I was not far from the location, and I responded to it.
- 19 Q: Do you recall what the nature of the call was or what it
- 20 was for?
- 21 A: It was a shooting incident.
- 22 Q: Did you say shooting incident?
- 23 A: Yes, sir, I did.
- 24 Q: And what did you do when you first arrived?
- 25 A: When I arrived on scene, EMS was already there. Sgt.

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1 Odom was already there. At the time, EMS was removing the
2 victim, Rico, from the residence, and I was instructed by Sgt.
3 Odom to secure the scene and rope it off.

4 Q: You mentioned Sgt. Odom. What capacity was Sgt. Odom to
5 you and the patrol squad that you were working at that time?

6 A: He was my sergeant, and he was the acting lieutenant
7 because my lieutenant was off.

8 Q: Okay. Now, once you got directions from Sgt. Odom, what,
9 if anything, did you do at that point?

10 A: Once he instructed me to rope off the scene and secure
11 it, I did that to make sure no one else went inside. And then
12 he removed all the witnesses from inside the residence, and I
13 was responsible for gathering information and keeping up with
14 those witnesses.

15 Q: Now, you mentioned witnesses. How would you describe the
16 demeanor of the witnesses in general?

17 A: They were distraught, emotional, and it was a very
18 traumatic event for everybody, I believe. So they were
19 extremely emotional.

20 Q: Now, do you recall which witness you approached and spoke
21 to first?

22 A: Approached -- obviously, I was approached by many.
23 Everybody wanted to tell their side of the story, but I spoke
24 to Mr. Orlando first, Mendez.

25 Q: Okay. And do you recall what Mr. Mendez told you there

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1 at the scene?

2 A: He stated he was inside the residence in the bedroom. He
3 heard some gunshots. At the time he went into the living room
4 where he seen Mr. Rico on the couch, and he seen Mr. Larry
5 Scipio leaving out the front door.

6 Q: Now, when you say Mr. Rico, are you referring to the
7 victim, Rico Johnson?

8 A: Yes. Yes, sir, I am.

9 Q: Now, when he said Larry Scipio, did he refer to him by
10 another first name?

11 A: He did. He referred to him as Ja Juan. To gather
12 information, I have to get full names. So he then later told
13 me that it was Larry Ja Juan Scipio.

14 Q: Now, was he able to give you a physical description of
15 Larry Ja Juan Scipio at that time?

16 A: A black male with dreads with a green shirt.

17 Q: And after you spoke to Mr. Mendez, did he tell you
18 anything else in addition to what he saw?

19 A: Yes, sir. He stated he seen Mr. Scipio leaving the
20 residence, going out the front door. He followed him in
21 attempts to get the firearm, at which point in time he said
22 Mr. Scipio -- he wasn't able to get it and Mr. Scipio pointed
23 the firearm at him and told him he would shoot him too, and at
24 that point in time he backed up and let him -- Mr. Scipio
25 leave. He ran.

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1 Q: Okay. And after you spoke to Mr. Mendez -- well, after
2 that, he told you that, was there anything else meaningful he
3 told you in regards to the investigation?

4 A: I asked him if he had any reasons to or if he knew any
5 reasons as to why Mr. Scipio would have shot Mr. Johnson. He
6 said that he did not know. There was -- they were playing
7 dice at a separate location beforehand, and the only thing he
8 could recall was that before they went to leave, they were in
9 Mr. Rico's red Camaro, and Mr. Scipio stood in front of the
10 Camaro -- Camaro and they had an argument as far as Mr. Rico
11 telling him to get out from in front of the car, at which
12 point in time Mr. Scipio did, and they were able to separate.

13 Q: Now, did Mr. Mendez say at what time that occurred in
14 relationship to the shooting?

15 A: No, sir. It was before the shooting. I just don't know
16 the exact time.

17 Q: Okay. But it was definitely before the shooting?

18 A: Yes, sir.

19 Q: Now, after you talked to Mr. Mendez -- and let me first
20 ask you, did you have a body-worn camera issued to you?

21 A: I did not. We were not issued them at that time.

22 Q: And when you say that, you mean the entire --

23 A: The Department did not have body cameras.

24 Q: Do you know whether or not, in your knowledge, if they
25 have body-worn cameras now?

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1 A: Yes, sir, they do.

2 Q: Okay.

3 A: We got them before I left patrol.

4 Q: Okay. But just didn't in 2019?

5 A: Yes, sir.

6 Q: Now, after you spoke to Mr. Mendez, what, if anything,

7 did you do next?

8 A: Then I spoke to Mr. Khalid Belin. He was another

9 witness. He was at the residence. He stated that he was

10 outside when the shooting took place, and he informed me he'd

11 seen Mr. Rico -- I mean Mr. Scipio leaving.

12 Q: Now, after you spoke to Mr. Belin, did you speak to

13 anybody else there who was a witness?

14 A: I did. I spoke to Ms. Stephanie Lucas. She is the

15 residence owner. She stated that she was in the bedroom. She

16 heard a knock at the door. She went to the door, opened it.

17 Mr. Scipio was at the door. He asked for Rico. She stated he

18 was on the couch. She was familiar with Mr. Scipio from being

19 friends and being friends with Rico. So she identified him.

20 Went back to her room, stated from her bedroom she could see

21 the couch, and she heard Mr. Scipio say "yo" and then he began

22 to discharge the firearm at Mr. Rico, who was laying on the

23 couch.

24 Q: And again, how would you describe Ms. Lucas's demeanor

25 when she was talking to you?

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1 A: Very distraught and emotional.

2 Q: Now, were you able to record any of these statements in
3 any way that Mr. Mendez, Mr. Belin, or Ms. Lucas made to you?

4 A: No, sir. Other than me -- me taking their statements
5 personally for my report.

6 Q: And after you spoke to Ms. Lucas, to whom did you speak
7 next?

8 A: After Ms. Lucas? I believe it -- for witnesses?

9 Q: Yes.

10 A: For the juveniles, I made contact with the juvenile, Ms.
11 A.M. .

12 Q: Was she the older of the two juvenile witnesses?

13 A: Yes, she was. She was 17 at the time. She did not see
14 anything, but she did hear gunshots. She was --

15 Q: She did hear gunshots?

16 A: Yes, sir.

17 Q: Did she indicate or did you get the impression from her
18 she was distraught and emotional as well?

19 A: Yes, sir.

20 Q: And did you speak to the other juvenile?

21 A: I did. Due to me being a female, it's a lot easier
22 definitely. When tensions are high and they're emotional, I
23 tend to get the job of going and talking and trying to calm
24 them down due to the nature of it. So I was the one that was
25 getting the -- you know, an incident report ready for

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1 everybody or the statements from everybody, but definitely the
2 juveniles. So then I spoke to Ms. [REDACTED]. She was, I
3 think, 14 at the time.

4 Q: Yeah.

5 A: She stated she was in the same area of the house, like
6 dining room, but it's an open area, and she witnessed her mom
7 going and opening the door, seeing Mr. Scipio. She seen
8 obviously Rico on the couch, and she witnessed Mr. Scipio
9 shoot Rico.

10 Q: And --

11 A: And I did not ask her any other questions because she was
12 so emotional.

13 Q: And was what she told you consistent with what the other
14 witnesses had told you up to that point?

15 A: Yes, sir. Everybody's -- everybody's statement was
16 consistent with the same suspect.

17 Q: After you talked to the witnesses, what, if anything, did
18 you do at that point?

19 A: Once I gathered all the witnesses, their statements, and
20 do what I would normally do, which Investigator Price was
21 there, I gave him all the information I had, and then I hung
22 around to make sure the scene would stay secure until evidence
23 forensics was finished and everything was documented the way
24 it's supposed to be.

25 Q: And once that was accomplished, what, if anything, did

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1 you do?

2 A: I then -- once I was able to clear the scene, I was
3 instructed to take the crime scene tape down. I would -- I
4 left, and then any time we -- obviously, we have more than one
5 report, but any time there's reports with murders or shootings
6 or any type of very, very serious crimes, we -- we know we
7 have to make sure those reports are done. So I went and sat
8 and completed that report.

9 Q: Now, given that you were given a lot of information from
10 the witnesses and then you were preparing the report a little
11 bit later on, is it possible that some of the stories kind of
12 mixed with one another and some of the details are a little
13 off?

14 A: The details are pretty consistent. I wrote down -- I
15 documented exactly what they told me. Obviously, like I said,
16 they were completely distraught and emotional, but their
17 statements were pretty solid.

18 Q: Okay. And once you completed the report, did that
19 conclude your involvement in this case?

20 A: Yes, sir, it did.

21 MR. TUCKER: Thank you. I believe those are all the
22 questions I have.

23 THE COURT: Cross-examination.

24 MR. KRZYSTON: Thank you, Your Honor. May it please the
25 Court. Court's indulgence.

AMBER FLOWERS - CROSS BY MR. KRZYSTON

CROSS-EXAMINATION

1
2 BY MR. KRZYSTON:

3 Q: All right. Thank you. Sorry about that.

4 A: You're good.

5 Q: I about tripped on the way over here. All right. Is it
6 Ms. or Mrs.?

7 A: Ms.

8 Q: Deputy? What would you prefer?

9 A: Anything, but Investigator Flowers or whatever you want
10 to call me.

11 Q: Okay. Investigator, I'm sorry.

12 A: Yeah.

13 Q: I did hear that. Okay, Investigator. All right. So on
14 July 6th of 2019, how long had you been a deputy in this
15 region?

16 A: So I -- on patrol, I was only there seven months. I had
17 graduated the Academy in that December.

18 Q: Okay. So you had graduated that December, had about
19 seven months of working scenes under your belt; correct?

20 A: Correct.

21 Q: Okay. You had been at the courthouse and so you had kind
22 of, you know, gotten your feet under you as a police officer,
23 so to speak?

24 A: Correct.

25 Q: Gotten comfortable wearing the uniform?

AMBER FLOWERS - CROSS BY MR. KRZYSTON

1 A: Uh-huh.

2 Q: Okay. And so when you responded in your capacity as a
3 police officer on the 6th, you were there really as a support
4 person to Investigator Price and really Sgt. Odom; correct?

5 A: Uh-huh.

6 Q: Okay. So basically --

7 THE COURT: Is that a yes? You need to give me a yes or
8 a no, please.

9 THE WITNESS: Yes. Yes, sir.

10 MR. KRZYSTON: Sorry.

11 BY MR. KRZYSTON:

12 Q: And so you were there, again, as a support person to Sgt.
13 Odom, who's your shift supervisor and acting lieutenant at
14 that point in time, and Investigator Price; correct?

15 A: I was the report taker. They -- they don't take reports.
16 Odom, unless, you know, he was the only one there, we are the
17 ones who take the reports.

18 Q: Okay. Now, that's something that y'all have developed as
19 kind of a practice for the sake of clarity; correct?

20 A: Yes.

21 Q: Okay. Because obviously, it would get confusing if you
22 had six officers submitting six different reports; correct?

23 A: Yes.

24 Q: Your idea or the functioning rationale for the Sheriff's
25 Department is keep this thing clean, keep it simple; correct?

AMBER FLOWERS - CROSS BY MR. KRZYSTON

1 A: Yes, sir.

2 Q: Okay. Now, you said you went to the Academy. Talk to me
3 a little bit about just as a road deputy at that point in
4 time, what kind of training you guys got in the Academy?

5 A: The Academy, of course, is your basic. It's your how to
6 write reports, how to write tickets, laws, any -- anything to
7 do with your -- your basic training for Academy.

8 Q: Okay. And so correct me if I'm wrong, but some of these
9 things are classroom-driven-type exercises; right? Like, you
10 know, you go in, you learn the substance of the information.
11 For instance, report writing; correct?

12 A: Report writing, yes.

13 Q: And so they walk you through a classroom module, this is
14 what you do and this is how you write a report; correct?

15 A: Yes.

16 Q: And then part of what the Academy does is it walks you
17 through a practical exercise; correct?

18 A: Yes.

19 Q: Okay. And so in some respects, in some modules you're
20 actually practicing and going through the motions with actors
21 and stand-ins in terms of, like, why you're reporting the
22 information review; correct?

23 A: Yes. It is a very repetitive thing on how to get
24 information and take statements and do reports.

25 Q: Right. And the reason that that is, is because that's a

AMBER FLOWERS - CROSS BY MR. KRZYSTON

1 highly, highly important function of your job as a police
2 officer; correct?

3 A: Correct.

4 Q: Okay. And so at the Academy, how many months or how many
5 hours with the academy?

6 A: We only get 12 weeks.

7 Q: Twelve weeks? You're away from home that whole time?

8 A: Yeah. It's Sunday through Friday.

9 Q: Okay. And so Sunday through Friday, you're without
10 family, without kids, you're focused 100 percent on becoming a
11 good, honest cop; right?

12 A: Yes.

13 Q: Okay. And so, you know, really over these 12 weeks,
14 they're really drilling into you how to function as a police
15 officer, how to capture accurate information, how to write
16 reports, how to interview witnesses; correct?

17 A: Correct.

18 Q: Okay. And so the whole time that they're doing this,
19 they're also evaluating your performance, aren't they?

20 A: Yes.

21 Q: Okay. And the reason that the Criminal Justice Academy
22 evaluates your performance is so that they can kick back
23 information to the Florence County Sheriff's Department;
24 correct?

25 A: Correct.

AMBER FLOWERS - CROSS BY MR. KRZYSTON

1 Q: Okay. And basically, the Sheriff's Department wants to
2 know what it's getting when it buys you as an officer; right?
3 A: Correct.
4 Q: They want to know how you're -- how you're going to
5 perform in the field; right?
6 A: Uh-huh. Correct.
7 Q: Okay. Because at the end of the day, you wear the badge
8 for the sheriff; right?
9 A: Uh-huh. Correct.
10 Q: And the badge has his name on it; right?
11 A: Sheriff?
12 Q: Yeah.
13 A: Yes.
14 Q: And he wants to make sure you go and do a good job and
15 you're not going to mess up anything; right?
16 A: Correct.
17 Q: All right. And so, you know, fresh out of the Academy,
18 seven months out of the Academy, and I'll take that back fresh
19 out of the Academy because I think -- you know, in that seven
20 months, did you have occasion to respond to numerous crime
21 crime -- crime scenes and callouts?
22 A: Yes.
23 Q: Okay.
24 A: I couldn't tell you how many I responded to. I imagine
25 it was a lot.

AMBER FLOWERS - CROSS BY MR. KRZYSTON

1 Q: Okay. That brings up a good point, too. You know, you
2 can't even tell me how many callouts and crime scenes you
3 reported to from December to July of 2019; correct?

4 A: Yes. A lot of experience.

5 Q: A lot. Hundreds?

6 A: I couldn't tell you an exact number. I just know within
7 call volumes they are steady going up. So I imagine it's a --
8 it's a lot of numbers.

9 Q: Okay. Thousands maybe?

10 A: Probably not that much.

11 Q: A lot?

12 A: Yeah, just a lot.

13 Q: Okay. And so if you extrapolate the amount of time that
14 you were called out over December through July -- right? --
15 there are even more instances of callouts from July 2019 to
16 June -- what's today? -- 21st, 2022; right.

17 A: Yes.

18 Q: Hundreds, certainly thousands of cases and callouts and
19 responses; correct?

20 A: Correct.

21 Q: Hundreds, if not thousands, of reports; right?

22 A: Correct.

23 Q: Hundreds, probably thousands of witnesses; correct?

24 A: Correct.

25 Q: All rolling around up in the mind; right?

AMBER FLOWERS - CROSS BY MR. KRZYSTON

1 A: Correct.

2 Q: That's why, again, criminal justice and the Florence
3 County Sheriff's Department emphasizes so much your ability to
4 write reports, your ability to talk to witnesses; correct?

5 A: Uh-huh. Yes, sir.

6 Q: Your ability to accurately capture what the witnesses are
7 saying?

8 A: Yes, sir.

9 Q: Your ability in interacting with those witnesses to calm
10 those witnesses down; right?

11 A: Yes, sir.

12 Q: So that you can get accurate information and give
13 Investigator Price the tools to assess and analyze what
14 happened; right?

15 A: Yes, sir.

16 Q: Okay. All right. And so with that in mind, you respond
17 to [REDACTED] Tall Oaks Drive; correct?

18 A: Yes, sir.

19 Q: And the first thing or the first person that you come
20 into contact with is whom?

21 A: Sgt. Odom.

22 Q: Okay. And Sgt. Odom tells you to secure the crime scene?

23 A: Yes, sir.

24 Q: And by secure the crime scene, what he meant is tape it;
25 correct?

AMBER FLOWERS - CROSS BY MR. KRZYSTON

1 A: Tape it so no one can go into the home where the incident
2 occurred.

3 Q: Okay. Because he had identified as to the best of your
4 knowledge that the home was where the bulk of the criminal
5 activity he thought had occurred; correct?

6 A: Yes, sir.

7 Q: Okay. And so you tape and secure the perimeter; correct?

8 A: Yes, sir.

9 Q: Another deputy ostensibly starts a crime scene log so
10 that we can have an accounting of who's going in and out of
11 the crime scene; right?

12 A: Supposed to. Yes, sir.

13 Q: Okay, but that -- that wasn't your job; right?

14 A: No, it wasn't. Yep.

15 Q: All right. So you secure the perimeter, and then you go
16 to Sgt. Odom; correct?

17 A: Yes, sir.

18 Q: And by this time -- again, we've already established
19 you're a good deputy who, fresh out of the Academy, you know
20 what you're doing. You know how to handle yourself; right?

21 A: Correct.

22 Q: And what we also know is that Sgt. Odom recognized this
23 because he designated you as a report writer; correct?

24 A: Correct.

25 Q: Okay. And so he even had faith in your ability to

AMBER FLOWERS - CROSS BY MR. KRZYSTON

1 accurately capture the details that were in and around this
2 crime scene that the witnesses were providing; correct?

3 A: Yes, sir.

4 Q: Okay. All right. I'm going to --

5 MR. KRZYSTON: Permission to approach, Judge?

6 THE COURT: Yes, sir.

7 MR. KRZYSTON: I'm going to ask that the court reporter
8 mark just for identification purposes this.

9 Just for the record, I have marked for identification
10 purposes only as Defendant's 1 a set of one, two, three --
11 five pages that purport to be an incident report, Your Honor.

12 THE COURT: All right.

13 BY MR. KRZYSTON:

14 Q: Investigator Flowers, would you review those five pages,
15 please?

16 A: This is my report and some other supplements from other
17 officers.

18 Q: Okay. Now, I'm going to hand you what I'm going to mark
19 for ID purposes as Defendant's 2. All right. Now, I'm sorry,
20 but you've also reviewed Defendant's 2. I think that there
21 are two different reports, and I don't want to get them mixed
22 up.

23 A: These are other supplements other investigators or crime
24 scene have done.

25 Q: Okay. So Exhibit 2 is actually not something that you

AMBER FLOWERS - CROSS BY MR. KRZYSTON

1 offered or had any involvement in?

2 A: No, it is not.

3 Q: Okay. All right. Excellent. If you wouldn't mind --

4 A: Do you want both of these?

5 Q: Yes.

6 A: Here you go.

7 Q: All right. Thank you. So now we're kind of at the point

8 -- you looked at this. Fair and accurate copy of your report;

9 correct?

10 A: Yes, sir.

11 Q: All right. Would you like to change anything in your

12 report?

13 A: No, sir.

14 Q: Okay. Everything is accurate to your knowledge?

15 A: Other than my name.

16 Q: Okay. Fair enough. Good call. And so you talked to --

17 on direct, you testified that you talked to Orlando Mendez;

18 correct?

19 A: Yes, sir.

20 Q: Khalid Belin; correct??

21 A: Yes, sir.

22 Q: Stephanie Lucas; correct?

23 A: Yes, sir.

24 Q: A.M. ?

25 A: Yes, sir.

AMBER FLOWERS - CROSS BY MR. KRZYSTON

1 Q: S.M. [REDACTED]; correct?

2 A: Yes, sir.

3 Q: You also talked to some additional people; correct?

4 A: I did.

5 Q: Okay. Those persons were named Jelana Friday?

6 A: Yes, sir.

7 Q: And Latonya Friday?

8 A: Yes, sir.

9 Q: Okay. Now, Jelena and Latonya or Latonya -- excuse me.

10 They lived over at [REDACTED] correct?

11 A: Yes, sir.

12 Q: Okay. And I'm going to refer you to what's been entered

13 as State's 1, and that I'll represent to you is an image of

14 [REDACTED] I think we'd all agree to that?

15 A: Yes, sir.

16 Q: Okay. And so to -- this is a front end -- front on

17 picture of the incident location; correct?

18 A: Correct.

19 Q: Okay. And so if you're looking at this, towards the red

20 vehicle is actually where [REDACTED] was; correct?

21 A: Correct.

22 Q: Okay. And then to the right, we don't exactly know what

23 the numbers are over there because the numbering scheme is

24 kind of weird in this neighborhood; isn't that right?

25 A: Maybe so.

AMBER FLOWERS - CROSS BY MR. KRZYSTON

1 Q: Okay.

2 A: I'm not sure.

3 Q: And so the Fridays in -- in overall context of the crime
4 scene are actually to the left of this red car; correct?

5 A: Correct.

6 Q: That's where their house was; correct?

7 A: Yes, sir.

8 Q: All right. And at the time of the subject incidents --
9 okay? -- the Fridays were actually getting in their car, were
10 they not?

11 A: They were.

12 Q: Okay. And if you'd just review that?

13 A: Okay.

14 Q: Okay. And you were on the crime scene that night;
15 correct?

16 A: Yes, sir, I was.

17 Q: Okay. Fair and accurate representation of the crime
18 scene after you set the perimeter?

19 A: Yes, sir.

20 Q: Okay.

21 MR. KRZYSTON: Madam Court Reporter, would you mark that
22 as Defendant's 3?

23 Your Honor, we'd move in Defendant's 3, a picture of the
24 perimeter.

25 MR. TUCKER: Without objection, Your Honor.

AMBER FLOWERS - CROSS BY MR. KRZYSTON

1 THE COURT: Without objection, so admitted. Defendant'

2 3.

3 (WHEREUPON, Defendant's Exhibit No. 3, photograph, was
4 admitted into evidence.)

5 MR. KRZYSTON: Permission to publish?

6 THE COURT: Yes.

7 MR. KRZYSTON: Thank you.

8 BY MR. KRZYSTON:

9 Q: All right. And so, again, Investigator Flowers, this is
10 a picture of the crime scene, again after you established the
11 perimeter; correct?

12 A: Yes, sir.

13 Q: Okay. And if you look right here, there's actually a
14 vehicle; correct?

15 A: Correct.

16 Q: And so if you look even closer, this head and sheriff's
17 body armor right here, that's you actually, isn't it?

18 A: If you say so. I cannot tell --

19 Q: Okay.

20 A: -- from here.

21 Q: You want to -- I don't want to handle the exhibits --

22 A: You're fine.

23 Q: -- to get a little closer up of a look?

24 A: Yes, it is.

25 Q: Okay. And that's the vehicle that the Fridays were

AMBER FLOWERS - CROSS BY MR. KRZYSTON

- 1 actually getting into, wasn't it?
- 2 A: I do not recall what vehicle they had. I'm sure if that
- 3 is -- they were next door. So, yeah.
- 4 Q: Okay.
- 5 A: I would say that's their vehicle.
- 6 Q: Okay. And so again, that's [REDACTED] no question, that's
- 7 their vehicle, no question?
- 8 A: Yes, sir.
- 9 Q: And you believe that that's the car that they were
- 10 getting into?
- 11 A: Yes, sir.
- 12 Q: Okay. And so what Jelena Friday and Latonya Friday told
- 13 you actually was that they were getting in the car; correct?
- 14 A: Correct.
- 15 Q: They were fixing to leave; right?
- 16 A: Correct.
- 17 Q: They heard a series of gunshot rounds; correct? Boom,
- 18 boom, boom?
- 19 A: Yes, sir.
- 20 Q: Right? They didn't tell you how many; correct?
- 21 A: No, sir, they didn't.
- 22 Q: Okay. But what they did tell you is that immediately
- 23 after the gunshots sounded Orlando Mendez came out; right?
- 24 A: They did mention him, seeing Orlando.
- 25 Q: And Orlando said somebody has been shot, call the police;

AMBER FLOWERS - CROSS BY MR. KRZYSTON

1 correct?

2 A: Yes, sir. That's what they said.

3 Q: Okay. So they didn't see anyone in front of [REDACTED] Tall

4 Oaks; correct?

5 A: They did not tell me that night.

6 Q: Okay. And you had -- from a chronological perspective,

7 you had already talked to Orlando Mendez?

8 A: Correct.

9 Q: You had already talked to Stephanie Lucas?

10 A: Correct.

11 Q: You had already talked to [REDACTED] A.M. [REDACTED]?

12 A: Correct.

13 Q: You had already talked to [REDACTED] S.M. [REDACTED]?

14 A: Correct.

15 Q: You had already talked to Khalid Belin?

16 A: Correct.

17 Q: Okay. And so after this, that's when you encountered the

18 Fridays, Jelana and Latonya; correct?

19 A: Yes, sir.

20 Q: And so after you heard that there's already been a fight,

21 you find out from the Fridays that there doesn't appear to

22 have been a fight; correct?

23 A: They did not tell me they witnessed a fight.

24 Q: And certainly, you were the investigator; correct? And

25 you're schooled up on your practices. You would have

AMBER FLOWERS - CROSS BY MR. KRZYSTON

1 confronted them with that information, hey, we're hearing
2 there might have been some kind of altercation out front, did
3 you see that; right?

4 A: Yes, sir.

5 Q: Okay. Again, they told you no fight?

6 A: They didn't tell me they seen a fight.

7 Q: Okay. All right. Now, I want to go back and kind of
8 talk to you a little bit about the witnesses that you talked
9 to -- okay? -- and in particular Mr. Mendez. Okay? Now, you
10 only ever talked to these witnesses one time; correct?

11 A: Correct.

12 Q: Nobody ordered you to go follow up; correct?

13 A: Yeah. That's Investigator Price's position.

14 Q: Right.

15 A: Not mine.

16 Q: Totally within -- I think we both agree that the policy
17 is that an investigator will follow up; correct?

18 A: Correct.

19 Q: Okay. And so you don't even have the authority if you
20 wanted to to come in and say, hey, you know, this really needs
21 some follow-up investigation; right?

22 A: Correct. I just get the initial statement.

23 Q: Okay. And so you get basically what -- what's the record
24 here established on night one, but you're not allowed to kind
25 of go and do anything additional; right?

AMBER FLOWERS - CROSS BY MR. KRZYSTON

1 A: No, sir, I'm not.

2 Q: Okay. And you're not privy to any of the, like,

3 investigative returns; correct? Like, the other state --

4 like, any other reports that are written by crime scene or any

5 of the other responding deputies; correct?

6 A: No. My only concern is my report.

7 Q: Right. You write your report. It gets kicked upstairs

8 to investigations; correct?

9 A: Correct.

10 Q: Then you go back and you start over; correct?

11 A: Correct.

12 Q: Right? Next scene, next crime, next report; correct?

13 A: Yes, sir.

14 Q: Okay. And so when you talked to Orlando, he told you

15 that he was in the back bedroom when all of this kind of went

16 down; right?

17 A: Yes, sir.

18 Q: Okay. He told you that when he heard the gunshots was

19 the first time that he actually left; correct?

20 A: Left where? The bedroom?

21 Q: Yes.

22 A: Yes, sir.

23 Q: Okay. And in this version of events that he's telling

24 you, he is saying when I came out of the bedroom, Mr. Scipio

25 was walking out the front door and Rico was laying on the

AMBER FLOWERS - CROSS BY MR. KRZYSTON

1 couch; correct?

2 A: Correct.

3 Q: Okay. And so in this version of events, he sees Scipio

4 all but out the front door; correct?

5 A: From what he said.

6 Q: All right. And so in speaking to Mr. Mendez, it's your

7 understanding -- and I'm cutting some of this off, but this is

8 State's 22. Okay? It's your understanding that this actually

9 is the door that Mr. Mendez saw Mr. Scipio supposedly walk out

10 of; correct?

11 A: If that's the front door to their home. I never went

12 inside their home; so I don't know what inside their home

13 looks like.

14 Q: Okay.

15 A: The front door from inside or anything.

16 Q: Fair enough. Okay. And so that kind of clears up my

17 questions about the interior of the home. But so in this

18 version, he's saying Scipio is walking out the door; right?

19 A: Yes, sir.

20 Q: All right. And so despite the fact that there's been a

21 volley of gunshots and we have Mr. Johnson laying dying on the

22 couch, he says that his first reaction is to follow this --

23 this assailant out of the door; correct?

24 A: Yes, sir.

25 Q: Okay. And that on the steps of the porch and the porch

AMBER FLOWERS - CROSS BY MR. KRZYSTON

1 is where he actually decides to engage physically the
2 assailant; correct?

3 A: He said outside. Once they were outside, he engaged in a
4 physical --

5 Q: Okay.

6 A: -- altercation.

7 Q: All right. And so at best, he's on the porch. At worst,
8 he's in the yard confronting the assailant; correct?

9 A: Correct.

10 Q: Okay. And that he's actually in a physical altercation
11 tussling over a gun; correct?

12 A: Correct.

13 Q: All right. Again, being in clear view of what would have
14 been the Fridays; correct?

15 A: Correct.

16 Q: Okay. And so that's his story. And despite this -- this
17 scary set of circumstances, his decision is to engage. That's
18 what he's telling you; right?

19 A: That's what he said he did, yes.

20 Q: Okay. And so he's explaining to you that he's been in a
21 physical altercation and a physical argument; correct?

22 A: Yes, sir.

23 Q: Okay. He was very clear about establishing that, wasn't
24 he?

25 A: Yes, sir.

AMBER FLOWERS - CROSS BY MR. KRZYSTON

1 Q: Okay. And so he -- ultimately, he says that Scipio is
2 unable to get the fire -- or -- excuse me. He is unable to
3 get the firearm from Scipio; correct?

4 A: Yes, sir.

5 Q: And so the way that this altercation -- this physical
6 altercation ultimately comes to a head is he points his
7 firearm at Mr. Scipio and says I'll shoot you too; right?
8 That's what Mr. Scipio says to Mr. Mendez?

9 A: Yes. Mr. Scipio supposedly pointed it at Mr. Orlando and
10 threatened to shoot him too, yes.

11 Q: Okay. And so at that point, now Mr. Mendez is supposedly
12 backing off; correct?

13 A: Correct.

14 Q: Okay. But again, none of this is witnessed by the
15 Fridays; correct?

16 A: They did not state it to me.

17 Q: And again, you would have followed up because, again,
18 from a contextual standpoint, you already know that there's
19 alleged to have been a physical altercation out front; right?

20 A: Yes, sir.

21 Q: Okay. And so, you know, that is kind of what he says and
22 how he says the shooting ends; right?

23 A: Yes, sir.

24 Q: All right. And so you progressed with him in your
25 interview with him and you start to say, well, hey, I

AMBER FLOWERS - CROSS BY MR. KRZYSTON

1 understand what happened now; right. Why would this happen?
2 Right? Because not only part of what you're supposed to
3 establish is what happened, we've got to be able to put that
4 in the context for a jury about why it happened; right?
5 Motive sometimes is an important role in this thing; right?
6 A: Correct.
7 Q: Okay. And so now you go from identification to guilt or
8 innocence; right? To motive in the case; correct?
9 A: Correct.
10 Q: All right. And so, you know, you're looking for a
11 plausible explanation; right?
12 A: Correct.
13 Q: And so at first or in this version, you ask Mr. Mendez
14 why Scipio would do this; right?
15 A: Correct.
16 Q: And so he tells you that, you know, earlier in the day,
17 he, Rico, and Khalid Belin were playing a dice game; correct?
18 A: Correct.
19 Q: All right. And they didn't tell you what dice game;
20 right?
21 A: I did not ask.
22 Q: Okay.
23 A: No, sir.
24 Q: But supposedly, they were playing a game of dice;
25 correct?

AMBER FLOWERS - CROSS BY MR. KRZYSTON

1 A: Yes, sir.

2 Q: Okay. And he also told you that everything was fine
3 until they were trying to leave the location; correct?

4 A: Correct.

5 Q: So nothing came to his memory about an altercation during
6 the dice game?

7 A: No, sir.

8 Q: Okay. Nothing about Rico and Mr. Scipio having some kind
9 of beef before this dice game?

10 A: Nothing he told me about.

11 Q: It's just when it came time for everybody to leave, Mr.
12 Scipio supposedly got angry and started something; correct?

13 A: Yes, sir.

14 Q: Okay. And basically, as they go out or try to leave the
15 Battery Park neighborhood -- right? -- Mr. Scipio attempts to
16 block them; correct?

17 A: Correct. I don't know what neighborhood they were in,
18 but if that's --

19 Q: Okay.

20 A: Whatever, wherever they were, he was trying to block them
21 in.

22 Q: Okay. And in telling you that Mr. Scipio supposedly
23 blocked them from leaving, he told you specifically that Mr.
24 Scipio is alleged to have gotten into Mr. Johnson's -- or in
25 the way of Mr. Johnson's red Camaro; correct?

AMBER FLOWERS - CROSS BY MR. KRZYSTON

1 A: Correct.

2 Q: And he actually told you that Mr. Scipio placed his hands
3 on the hood of the vehicle to prevent it from leaving;
4 correct?

5 A: Correct.

6 Q: Okay. And so that is the reason that the car did not
7 move; correct?

8 A: Correct.

9 Q: Okay. Now, as a deputy on the road -- I'm going to kind
10 of rewind a little bit. Okay? As a deputy on the road,
11 you've had occasion to make plenty of traffic stops; correct?

12 A: Correct. I have made some.

13 Q: Okay. And so one of the things that the Academy teaches
14 you when you conduct a traffic stop -- right? -- is that you
15 want to -- before you engage with the driver on your walk up
16 to the car, you stop and fingerprint the car, don't you?

17 A: Correct.

18 Q: Okay. The reason that you pop your fingerprint on that
19 car is because it establishes that you had visual contact with
20 that car; correct?

21 Q: Correct.

22 A: There's dashcam video in your car; right?

23 A: Correct.

24 Q: It sees you thumb the car?

25 A: Correct.

AMBER FLOWERS - CROSS BY MR. KRZYSTON

1 Q: And then, God forbid, if anything were to happen, they'd
2 be able to go back and at least have some evidence in some
3 sort of investigation; correct?

4 A: Yes, sir.

5 Q: Okay. And so it's well established and even taught to
6 you -- right? -- that if there is a fingerprint on the car,
7 it's lasting evidence; correct?

8 A: For a short period of time, yes.

9 Q: And when you say a short period of time, what we're
10 talking about are environmental conditions affecting the
11 existence of evidence; correct?

12 A: Correct.

13 Q: Rain can delete or -- or have a deleterious effect on it?

14 A: Correct.

15 Q: Heat can have a deleterious effect on it?

16 A: Correct.

17 Q: Okay. But usually -- again, we hope that this never
18 happens with an officer, but if an officer is injured during a
19 traffic stop, there's going to be a monumental response;
20 correct?

21 A: Correct.

22 Q: All hands on deck?

23 A: Yes, sir.

24 Q: Okay. And so the idea is that you get to the subject of
25 whoever owned that car within 12 to 24 hours; correct?

AMBER FLOWERS - CROSS BY MR. KRZYSTON

1 A: Correct.

2 Q: The working rationale is that that fingerprint evidence
3 there could establish that you were actually in contact with
4 that car; correct?

5 A: Correct.

6 MR. TUCKER: Your Honor, I would object to this line of
7 questioning in particular. I don't think that Ms. -- or
8 Investigator Flowers has been qualified as an expert in the
9 field of fingerprint identification or latent prints. So I
10 would just object on that grounds. I'm not sure, but I think
11 what she could testify to would be speculation with regards to
12 whether or not a fingerprint could be used and under what
13 conditions.

14 MR. KRZYSTON: They teach them at the Academy, Judge.
15 Certainly, she's an investigator. She knows how fingerprints
16 work. It's not a new science.

17 THE COURT: Can the lawyers approach a minute, please?

18 MR. KRZYSTON: Certainly, Judge.

19 (WHEREUPON, a bench conference was held off the record,
20 after which the proceedings resumed as follows.)

21 BY MR. KRZYSTON:

22 Q: Okay. All right. And so, you know, moving on a little
23 bit. Okay? My co-counsel brings up an interesting point. I
24 always forget things as a lawyer as I get up here in the heat
25 of the moment, but the Fridays, they didn't not only see this

AMBER FLOWERS - CROSS BY MR. KRZYSTON

1 fight, but they didn't see a second individual at all;
2 correct?
3 A: They did not state it to me.
4 Q: Okay. And again, you would have followed up, given your
5 rigorous attention to detail as a future investigator and a
6 darn good deputy at the time; correct?
7 A: Yes, sir.
8 Q: Okay. All right. And so after you talked to Mr. Mendez,
9 you -- you actually move on to a fellow named Khalid Belin;
10 correct?
11 A: Yes, sir.
12 Q: All right. Now, Mr. Belin is supposedly one of the
13 individuals who, in Orlando's version to you, said that they
14 were playing dice together; correct?
15 A: Correct.
16 Q: Okay. And so when you talked to Mr. Belin, he didn't
17 tell you anything about a dice game, did he?
18 A: No, sir.
19 Q: Okay. And you asked Mr. Belin whether or not he knew of
20 any reason for this to happen; right?
21 A: I did.
22 Q: And he couldn't provide you with a reason; correct?
23 A: Correct.
24 Q: And so he didn't -- he didn't even mention this weird
25 altercation that he was supposedly having with Mr. Scipio not

AMBER FLOWERS - CROSS BY MR. KRZYSTON

1 12 hours prior; correct?

2 A: Correct.

3 Q: Okay. All right. But you didn't stop with Mr. Belin,

4 did you? You actually moved on and you spoke to Stephanie

5 Lucas; correct?

6 A: I did.

7 Q: Okay. And now Ms. Lucas, we've already heard from her.

8 Okay? But she -- again, you're the -- you're the main kind of

9 person that they're interacting with out there; correct?

10 A: Yes, sir.

11 Q: Okay. And Ms. Lucas told you that Rico was shot by Ja

12 Juan; correct?

13 A: Correct.

14 Q: All right. And when you came upon Ms. Lucas, where was

15 she from a physical standpoint?

16 A: At the call?

17 Q: At the scene.

18 A: She had to be moved outside. She wasn't outside when I

19 got there. Odom moved her outside. So she was in the group

20 just staying outside the home.

21 Q: Okay. So she was actually in a group of people standing

22 outside the door?

23 A: They were all made to get outside. So obviously, they

24 were standing in the yard. I don't remember if they were

25 standing together, but they were standing in the yard.

AMBER FLOWERS - CROSS BY MR. KRZYSTON

- 1 Q: Okay. But there was a group of individuals in the yard.
2 That's how you found them?
- 3 A: Everybody who was moved out of the home went into the
4 yard.
- 5 Q: Okay. And so Odom had already talked to this witness;
6 correct?
- 7 A: I don't know if he spoke to her.
- 8 Q: Okay. But he's the one who actually moved them outside
9 the door?
- 10 A: Yes.
- 11 Q: Okay. And in this group, after you're making your way,
12 you make -- you know, you talk to Orlando and you tell him,
13 you know, to go to back of the scene. You talk to the other
14 witness. You tell her to go to the back of the scene. Okay?
15 And now you're on to Ms. Lucas; correct?
- 16 A: Correct.
- 17 Q: Okay. And what Ms. Lucas tells you is that, again, Ja
18 Juan, whose real name is Scipio, was the shooter; correct?
- 19 A: Correct.
- 20 Q: Okay. And so you say, okay, great. Well, where were
21 you? All right? And in this version, she tells you she was
22 inside of the residence in a bedroom when she heard gunshots;
23 correct?
- 24 A: Correct.
- 25 Q: Okay. She was in her back bedroom; correct?

AMBER FLOWERS - CROSS BY MR. KRZYSTON

- 1 A: Correct.
- 2 Q: All right. And then she tells you that when -- when she
3 comes out of the bedroom -- excuse me. I'm -- did I say
4 gunshots or a door knocking? Just from that point --
- 5 A: Yeah. You said gunshots.
- 6 Q: Okay. I meant she is in her bedroom and she hears a door
7 knock; correct?
- 8 A: Correct.
- 9 Q: Okay. And so she comes out of her bedroom, despite the
10 fact that there's somebody in the front of the -- in the
11 house; correct?
- 12 A: Correct.
- 13 Q: And she answers the door; correct?
- 14 A: Correct. She's the homeowner, yes.
- 15 Q: Okay. And at that point, she actually says that she has
16 -- that she engaged with Mr. Scipio; correct?
- 17 A: Correct.
- 18 Q: She actually spoke with him face to face; correct?
- 19 A: Correct.
- 20 Q: Exchanged pleasantries; correct?
- 21 A: Correct.
- 22 Q: Okay. Hey, how you doing; right?
- 23 A: I don't know what she said to him. She just -- she said
24 she opened the door for him.
- 25 Q: Okay. Again -- but she made clear that she engaged with

AMBER FLOWERS - CROSS BY MR. KRZYSTON

1 him --

2 A: Yes.

3 Q: -- from, like, a talking standpoint?

4 A: Yes.

5 Q: Okay. And she told you that she had known Mr. Scipio for

6 years; correct?

7 A: She stated she'd known him for a while, yes.

8 Q: Okay. And that after she let Mr. Scipio -- or opened the

9 door and talked to him, that she went back to her room to sit

10 in her chair; correct?

11 A: Correct.

12 Q: All right. And so she's in a completely different room

13 in this version of events when the shooting happens; correct?

14 A: Correct.

15 Q: Okay. And so supposedly, in this version she hears Mr.

16 Scipio at that point say "yo"; correct?

17 A: Correct.

18 Q: And then she hears a volley of gunshots; correct?

19 A: Yes.

20 Q: Okay. And that is all the information she had to give to

21 you; correct?

22 A: Other than her saying she seen it from where she was in

23 her chair. She seen Rico on the couch.

24 Q: Okay. And again, you noted the bedroom that she was in;

25 right?

AMBER FLOWERS - CROSS BY MR. KRZYSTON

- 1 A: Noted that she was in the bedroom in the room, yes.
- 2 Q: I mean you knew in the residence what bedroom she was
- 3 actually physically located in?
- 4 A: No. I did not go into the residence.
- 5 Q: Okay.
- 6 A: I don't know what bedroom she was in.
- 7 Q: Did you -- did you ask her to describe which bedroom she
- 8 was in?
- 9 A: I did not.
- 10 Q: Okay. Did you confirm or disconfirm whether she could
- 11 actually see the supposed site of the shooting from where she
- 12 was?
- 13 A: I did not.
- 14 Q: Okay. And so that would have been something for
- 15 investigations?
- 16 A: Yes.
- 17 Q: Okay. And so, you know, again, that -- with the
- 18 exception of that, that's all the information she had to give
- 19 to you; correct?
- 20 A: Correct.
- 21 Q: All right. She didn't at any point tell you that there
- 22 was a fight on the front steps, did she?
- 23 A: She said she'd seen them fighting in the yard.
- 24 Q: Okay.
- 25 A: I apologize.

AMBER FLOWERS - CROSS BY MR. KRZYSTON

1 Q: Well, so why wouldn't that have been in your report?

2 A: I believe I did put it in my report that she seen Scipio
3 -- Scipio and Orlando fighting in the yard.

4 Q: Okay. Well, assuming it was in your report, again this
5 would be in the front of the house; correct?

6 A: Correct.

7 Q: In a -- in a place that would be clearly visible by the
8 Fridays?

9 A: If they can see it, yes, sir.

10 Q: Okay. All right.

11 MR. KRZYSTON: Permission to approach?

12 THE COURT: Yes.

13 MR. KRZYSTON: I'm showing the witness, for the record,
14 what's been labeled as ID purposes only as Defendant's 1.

15 BY MR. KRZYSTON:

16 Q: All right. And, Investigator, you would agree with me,
17 again, that this is the report that you adopted earlier;
18 correct?

19 A: Yes, sir.

20 Q: All right. I then made contact with Ms. Stephanie Renee
21 Lucas, who is the owner of the residence where the incident
22 took place?

23 A: Yes.

24 Q: Right? She stated that the victim, Rico, is her little
25 cousin; right?

AMBER FLOWERS - CROSS BY MR. KRZYSTON

1 A: Correct.

2 Q: She stated -- Ms. Lucas stated she was inside her
3 residence in a bedroom when she heard a knock on the door;
4 correct?

5 A: Correct.

6 Q: She said that Rico was in the living room sitting on the
7 couch when she went to the door?

8 A: Correct.

9 Q: She said she opened the front door and seen that it was
10 the -- the suspect, Mr. Scipio, wearing a green shirt, dark
11 pants?

12 A: Correct.

13 Q: Okay. She stated she had known him for years because of
14 Rico and his brother; correct?

15 A: Correct.

16 Q: She stated that Scipio asked for Rico, and she was
17 advised he was sitting on the couch?

18 A: Correct.

19 Q: Okay. After she opened the door, she went back to her
20 room to sit in her chair?

21 A: Correct.

22 Q: Okay. But could see Rico on the couch?

23 A: Correct.

24 Q: All right. This is when she heard Scipio say "yo?"

25 A: Correct.

AMBER FLOWERS - CROSS BY MR. KRZYSTON

1 Q: And seen him approach and discharged a firearm multiple
2 times at Rico?

3 A: Correct.

4 Q: Ms. Lucas stated she was checking on the kids in the room
5 when she came out and seen Mr. -- oh, it is down there at the
6 bottom.

7 A: Yes, sir, it is.

8 Q: Congratulations. Okay. And so they see them fighting in
9 the yard. Okay? But again, these independent witnesses don't
10 see it; correct?

11 A: They did not state it to me.

12 Q: Okay. And again, you followed up multiple times;
13 correct?

14 A: Probably one time I spoke to them. I did not follow it
15 up. That would be investigation's position.

16 Q: Okay. So again -- but you would have prompted them after
17 hearing that, in fact, there was this --

18 MR. TUCKER: Objection. He's asked and answered that
19 question. I believe she's responded in a believable fashion.

20 THE COURT: Finish your question again.

21 MR. KRZYSTON: Okay.

22 BY MR. KRZYSTON:

23 Q: But again, you would have followed up with them after
24 hearing nothing about a fight; correct?

25 A: Either that or told investigations.

AMBER FLOWERS - CROSS BY MR. KRZYSTON

1 Q: Okay. And so next you move on to S.M. ;
2 correct?
3 A: Correct.
4 Q: All right. And S.M. was actually seated at that
5 table; correct?
6 A: What table?
7 Q: The kitchen table?
8 A: She was in the dining room. She didn't tell me she was
9 sitting at the table.
10 Q: Okay. And basically, what she told you is that she
11 basically sees Mr. Scipio walk in and fire; correct?
12 A: Correct.
13 Q: Okay. And you didn't really lean on her or anything like
14 that; correct?
15 A: Correct. I didn't.
16 Q: Again, you are a special or a special victim
17 investigator; right?
18 A: Criminal sexual conduct for children, vulnerable adults.
19 Yes, sir.
20 Q: Okay. And so even at that point in time, you would have
21 had a good demeanor for witnesses who are emotional; correct?
22 A: Correct.
23 Q: Okay. And so, you know, again, you would have been a
24 great person and were actually very well situated to calm
25 these witnesses down?

AMBER FLOWERS - CROSS BY MR. KRZYSTON

1 A: To attempt to, yes, sir.

2 Q: And to get clean information out of them; correct?

3 A: Yes, sir.

4 Q: And you did the best that you could here in this report?

5 A: Correct.

6 Q: Okay. And these reports and these details are accurate
7 and they're what the witnesses told you; correct?

8 A: Correct.

9 Q: Okay.

10 MR. KRZYSTON: I don't have anything further, Judge.

11 Thank you, Investigator.

12 THE WITNESS: Yes, sir.

13 THE COURT: Any redirect?

14 MR. TUCKER: Briefly, Your Honor.

15 REDIRECT EXAMINATION

16 BY MR. TUCKER:

17 Q: Investigator Flowers, Mr. Krzyston asked you about what
18 the Flowers [sic] told you. I want to direct your attention
19 back to what you have there, and I'm looking at -- I believe
20 this would be what they marked as Defense 1. Is that up here?

21 A: I do not have anything.

22 Q: Okay.

23 MR. TUCKER: Do you have that?

24 MR. KRZYSTON: No, I did not take it.

25 BY MR. TUCKER:

AMBER FLOWERS - REDIRECT BY MR. TUCKER

1 Q: Okay. I'll direct your attention down to that bottom
2 paragraph.

3 A: Okay.

4 Q: Which is what you wrote in terms of what the Flowers said
5 to you. Could you read that for the jury, please?

6 A: There was two females. Ms. -- is a Jelana? I don't
7 know.

8 Q: Jelana Friday?

9 A: Yeah. Ms. Friday and her wife, Latonya Friday. They
10 live at [REDACTED] Tall Oaks Drive, which is right next to the
11 incident location. They stated they were outside in their car
12 getting ready to leave the home whenever they heard gunshots.
13 Stated they had seen a male identified as Orlando yell call
14 9-1-1, that someone had been shot.

15 Q: Now, let me stop you there. Now, they didn't say we can
16 clearly see from where we were over into that porch, did they?

17 A: No, sir, they didn't.

18 Q: They didn't say, now, we saw only Orlando Mendez and no
19 one else, did they?

20 A: No, sir, they didn't.

21 Q: They just said we heard gunfire, we were in our car
22 getting ready to leave, we looked up or we looked and then we
23 saw Orlando Mendez, and I don't want to mischaracterize what
24 they said. They stated they seen a male, Orlando, and he
25 yelled call 9-1-1, that someone was shot. That's all they

AMBER FLOWERS - REDIRECT BY MR. TUCKER

1 told you with regards to what they saw; correct?

2 A: Yes, sir.

3 Q: And then, of course, they went on to talk about how they
4 got out and had their child call 9-1-1?

5 A: Yes. I believe their child was there. So they were more
6 concerned about their child being in the environment with the
7 gunshots for the first few minutes and then told him to call
8 9-1-1.

9 Q: Right. I mean, again, that's only natural. So again,
10 they, you know, were looking out for that well-being. So we
11 don't know what they were doing, whether they were ducking,
12 trying to get the child to safety or trying to cover the
13 child, and then at some point looked up and then they saw
14 Orlando. We don't know any of that, do we?

15 A: We don't.

16 Q: All we know is what they told you, which is that they
17 heard gunshots, they stated they seen a male, Orlando, and he
18 yelled call 9-1-1, that someone was shot; correct?

19 A: Yes, sir.

20 Q: Now, Mr. Krzyston asked you about starting out. Now,
21 when you come out of the Academy, they just don't turn you
22 loose on the street, do they?

23 A: No, sir, they don't.

24 Q: Could you explain what a field training officer program
25 is?

AMBER FLOWERS - REDIRECT BY MR. TUCKER

1 A: So we have their books. Each rookie that comes out of
2 the police academy does an extended amount of time with a
3 training officer. As they go through that process, we have to
4 be checked off on certain calls. We go to different calls,
5 shootings, domestics, anything from those to larcenies, and
6 you have to be checked off by your FTO before you're able to
7 get in the car by yourself.

8 Q: And again, the correct title for the Criminal Justice
9 Academy, of course, is Basic Law Enforcement, is it not, when
10 you go through the Academy to begin with?

11 A: It is.

12 Q: Now, with regards to the reports that you generated and
13 after you spoke to the witnesses that we talked about and what
14 Mr. Krzyston asked you about, now, once you were done with
15 your report, you didn't go back around to these individual
16 witnesses and say, you know, here's what I wrote, check it for
17 accuracy and, you know, let me know if there's anything in
18 there I left out or didn't add or is incorrect?

19 A: I did not.

20 Q: Okay. Now, with regards to what you did, you pretty much
21 handed everything you knew over in terms of the investigation
22 to Mr. Price at some point; is that correct?

23 A: Yes, sir.

24 Q: And again, all you knew is what they told you there at
25 the scene?

AMBER FLOWERS - REDIRECT BY MR. TUCKER

1 A: Yes, sir.

2 Q: And again, for my recollection, was the scene chaotic?

3 A: It was, very.

4 Q: Now, were the witnesses that you spoke to distraught?

5 A: They were.

6 Q: Now, Mr. Krzyston asked you about your ability to calm
7 juvenile witnesses down and kind of get them to a point where
8 you can get information out of them. Again, they were still
9 distraught when you talked to them?

10 A: Yes, sir.

11 Q: And they remained distraught the entire time they were
12 giving --

13 MR. KRZYSTON: Object to leading, Judge.

14 Q: -- the statement?

15 A: Yes, sir.

16 THE COURT: Overruled.

17 MR. TUCKER: Those are all questions I have, Your Honor.

18 THE COURT: Any recross?

19 MR. KRZYSTON: Briefly.

20 RECROSS-EXAMINATION

21 BY MR. KRZYSTON:

22 Q: Investigator, it's still the State's responsibility to
23 gather evidence in a crime; correct?

24 A: Correct.

25 Q: State's responsibility to prove beyond a reasonable doubt

AMBER FLOWERS - RECROSS BY MR. KRZYSTON

1 what happened; correct?

2 A: Correct.

3 MR. TUCKER: Your Honor, I would object to that. That's
4 asking beyond the scope.

5 THE COURT: Do you -- any other questions?

6 MR. KRZYSTON: I'm sorry, Judge. No.

7 THE COURT: I'll allow that question. I've told the jury
8 that from the outset.

9 You may step down. Thank you.

10 MR. TUCKER: And, Your Honor, I would ask that
11 Investigator Flowers be released from her subpoena.

12 THE COURT: Any objection?

13 MR. KRZYSTON: Without objection.

14 THE COURT: You're released from your subpoena. You're
15 free to go. Have a nice day.

16 THE WITNESS: Thank you.

17 THE COURT: Call your next witness.

18 MR. TUCKER: Your Honor, at this time the State would
19 call William Bo Myers to the stand.

20 (WHEREUPON, there was a pause in the proceedings until
21 the witness entered the courtroom, after which the
22 proceedings resumed as follows.)

23 THE CLERK: Sir, if you will please place your left hand
24 on the Bible and raise your right hand. Do you swear or
25 affirm the testimony you give in this case to be the truth,

THOMAS WALLACE BO MYERS - DIRECT BY MR. TUCKER

1 the whole truth, and nothing but the truth, so help you God?

2 THE WITNESS: I do.

3 THE CLERK: Please be stated -- please be seated and
4 state your full name for the record.

5 THE WITNESS: My name is Thomas Wallace Myers.

6 THOMAS WALLACE BO MYERS, being
7 first duly sworn, testified as follows:

8 DIRECT EXAMINATION

9 BY MR. TUCKER:

10 Q: Okay. Deputy Coroner Myers, do you go by a first name
11 that most people commonly refer to you as?

12 A: I do.

13 Q: Okay.

14 A: It's Bo.

15 Q: That might explain why I had William instead of the
16 Thomas down. Let's get the obvious out of the way first.
17 Where do you work?

18 A: I work for the Florence County Coroner's Office.

19 Q: And for how long have you worked for there?

20 A: Nearly seven years.

21 Q: And in what capacity are you employed there?

22 A: The deputy coroner.

23 Q: Now, did you have any prior law enforcement experience
24 before going to work at the Coroner's Office?

25 A: I have 12-and-a-half years at the City of Florence Police

THOMAS WALLACE BO MYERS - DIRECT BY MR. TUCKER

1 Department. Most of that time was in the crime scene unit.

2 Q: Now, as a deputy coroner, what are some of your duties
3 and responsibilities?

4 A: Under the Coroner's Office, we're responsible for
5 determining cause and manner of death, in addition to time of
6 death. We work alongside of law enforcement and medical
7 physicians to help determine that in various cases.

8 Q: Now, you mentioned cause and manner of death. Could you
9 explain a little bit about what that is and what that means?

10 A: Sure. Cause would be the mechanism that stops a life,
11 the cessation of the -- basically, it's just what at the point
12 that the person stops living. Manner of death are different
13 classifications that could be a commonly used: natural,
14 suicide, homicide, unable to determine, and accident.

15 Q: Did you have to undergo any kind of special training for
16 your job as a deputy coroner?

17 A: Most was based on my former career in law enforcement.
18 There are continuing education classes, certifications that we
19 undergo, and I've completed numerous of those.

20 Q: Now, do you recall whether or not you were the on-call
21 coroner for the time frame around July the 6th, 2019?

22 A: Yes, I was.

23 Q: Now, do you recall receiving a request for your presence
24 in a capacity as deputy coroner at a local hospital involving
25 the victim in this case, Rico Johnson?

THOMAS WALLACE BO MYERS - DIRECT BY MR. TUCKER

1 A: I do.

2 Q: And do you recall what you did upon receiving that call
3 for assistance?

4 A: Yeah. I was requested to go to McLeod Hospital to the
5 emergency room to examine a shooting victim that had been
6 transported there from EMS.

7 Q: And in terms of what you do as a deputy coroner to assess
8 and progress from there, what, if anything, did you do with
9 regards to Mr. Johnson when you arrived there?

10 A: On this particular time, I recall meeting with an
11 investigator, the -- actually, a crime scene investigator in
12 the ER itself. While I examined the decedent's body, the
13 crime scene investigator photographed. I do recall being
14 numerous gunshot wounds to the mainly upper body.

15 Q: And what did you do after you made your initial
16 assessment there of Mr. Johnson's body?

17 A: At that point, we just maintained communication with
18 investigators to see if there's anything specifically that I
19 need to be aware of or be looking for. I do recall once --
20 once my examination was complete there, I contacted our
21 transport company who removes bodies and secures the bodies
22 for scheduling -- in the meantime for scheduling for
23 autopsies. So they responded to secure that body. I left and
24 went to the scene.

25 Q: Now, that brings an interesting question. Which agency

THOMAS WALLACE BO MYERS - DIRECT BY MR. TUCKER

1 is responsible for requesting an autopsy when there's a
2 homicide implicated in an investigation?

3 A: To request the autopsy?

4 Q: Yes.

5 A: That falls on our responsibility out of our office.

6 Q: And you indicated that that's what you did once you
7 completed your investigation there at the hospital or at least
8 your initial assessment?

9 A: Right. I -- we scheduled the -- I scheduled the autopsy
10 to take place and then made sure that the body was secured to
11 be transported for autopsy.

12 Q: Now, you don't actually -- your office doesn't
13 participate in the autopsy itself, do you?

14 A: That's correct. We do not.

15 Q: Now, do you recall where Mr. Johnson's body was referred
16 to for autopsy?

17 A: We use the Medical University of South Carolina in
18 Charleston, their forensic anthropology or their forensic
19 department.

20 Q: Now, once you completed your initial assessment there at
21 the hospital and made your necessary calls in terms of
22 arranging transportation, did you go to the scene at [REDACTED] Tall
23 Oaks at any point thereafter?

24 A: I did.

25 Q: And what did you learn there?

THOMAS WALLACE BO MYERS - DIRECT BY MR. TUCKER

1 A: I met with the investigators on scene just to get an
2 assessment of the scene. Sometimes we're able to do that,
3 sometimes we're not. It really is a case-by-case basis. This
4 time I was able to -- to do that and just kind of get an
5 understanding of what had taken place and placement of the
6 injuries that I had examined prior.

7 Q: And once the autopsy was completed at MUSC, did you get
8 any sort of notification from them in terms of manner and
9 cause of death with regards to Mr. Johnson?

10 A: Yes, I did. Dr. Thomas Beaver conducted that autopsy,
11 and he communicated with me the day of to advise me of the --
12 the extent of the injuries and have since -- we've since
13 received the report from them. I believe the cause of death
14 was determined to be multiple gunshot wounds and the manner
15 being homicide.

16 Q: And, Deputy Coroner Myers, once that's completed, did you
17 have any further involvement with this particular case, short
18 of your testimony here today, of course?

19 A: No. Completion of my report and filing of same. That's
20 all.

21 MR. TUCKER: Thank you. I believe those are all the
22 questions I have.

23 THE COURT: Mr. Krzyston?

24 MR. KRZYSTON: Thank you, Your Honor.

25 CROSS-EXAMINATION

THOMAS WALLACE BO MYERS - CROSS BY MR. KRZYSTON

1 BY MR. KRZYSTON:

2 Q: All right. Investigator, you had mentioned that before
3 becoming a coroner, you had been in law enforcement; correct?

4 A: Yes, sir.

5 Q: And so for just approximately how long have you been
6 involved as a law enforcement officer here in Florence?

7 A: To date?

8 Q: No. To -- like, before you were a coroner.

9 Q: Twelve-and-a-half years.

10 Q: Okay. And so as -- you were in the Sheriff's Office?

11 A: With the City Police.

12 Q: Okay. City Police. I'm sorry. And so in your capacity
13 as an officer and an investigator for the city, did you have
14 an opportunity to get further education and training in things
15 that -- that face police officers in the day-to-day
16 situations?

17 A: Yes, sir.

18 Q: Okay. One of those things that you, in fact, had the
19 opportunity to get additional education and training on was
20 blood pattern analysis; correct?

21 A: Yes, sir.

22 Q: Okay. And during your tenure as a law enforcement
23 officer, you actually were certified as a blood pattern
24 analyst; correct?

25 A: It was a certification that came with training.

THOMAS WALLACE BO MYERS - CROSS BY MR. KRZYSTON

1 Q: Right. Like, you had to go to the training and do
2 everything, you know, do, like, a whole curriculum to get the
3 certification?

4 A: That's correct. Yes, sir.

5 Q: Probably through the International Association for
6 Identification?

7 A: It was probably under the South Carolina Criminal Justice
8 Academy.

9 Q: Okay.

10 A: Outside of that, it probably wasn't any larger of an
11 agency than that.

12 Q: Okay. So -- but the law enforcement agency, like CALEA I
13 think is it, they would have recognized you as a -- as a blood
14 pattern analyst?

15 A: Should have.

16 Q: Okay.

17 MR. TUCKER: Objection, Your Honor. I think that calls
18 for speculation in terms of what agencies recognize Mr. Myers
19 as a possible expert.

20 MR. KRZYSTON: I'm asking if South Carolina would
21 recognize him as a blood pattern analyst, which I think he's
22 laid sufficient foundation for.

23 THE COURT: I'll overrule the objection.

24 MR. KRZYSTON: Thank you.

25 BY MR. KRZYSTON:

THOMAS WALLACE BO MYERS - CROSS BY MR. KRZYSTON

1 Q: And so you didn't actually process this scene; correct?

2 A: That's correct.

3 Q: All right. So you wouldn't be able to give us an opinion
4 about the -- the blood pattern, the extent that it existed on
5 this scene; correct?

6 A: That is correct.

7 Q: Okay. But you are familiar with blood pattern evidence
8 in general, are you not?

9 A: I am.

10 Q: Talk to me about something called high velocity impact
11 spatter?

12 A: High velocity spatter is very small particles that would
13 emit from -- either from the body from an injury, or from an
14 item that had blood on it from a previous injury that would
15 have been cast on an item. It can also come out as what we
16 would call expiratory. Say if you were to cough, it would be
17 very fine particles like that if you had blood in your -- in
18 your breath.

19 Q: Okay. And so in addition to this expiratory pattern that
20 we just talked about, again, impact patterns suggest that in
21 terms of your shot and how the projectile impacts you, there
22 could be high velocity missing or spatter or pattern
23 distribution as a result of the shot; correct?

24 A: It's possible.

25 Q: Okay. And so certainly that would have been something

THOMAS WALLACE BO MYERS - CROSS BY MR. KRZYSTON

1 that you would have evaluated on potential suspects through
2 your tenure in law enforcement; correct?

3 A: Throughout my career, yes.

4 Q: Yes. Okay. And so some of the things that you would
5 have obtained to evaluate whether there was high velocity
6 impact spatter are clothing; correct?

7 A: Yes.

8 Q: Pictures? Pictures?

9 A: Depends on -- I wouldn't have determined it from the
10 picture.

11 Q: Right. But you wouldn't go and not look at a scene or
12 even look at a scene or look at a set of pictures later and
13 say that's high velocity impact spatter; right? Like, you
14 would -- you would want to do some more science because there
15 are some more rigorous things; correct?

16 A: Correct.

17 Q: Okay. But you could look at it and say, well, we should
18 have processed something for high velocity impact spatter
19 because that could have been it; correct?

20 A: Really depends on the case.

21 Q: Case-by-case basis, but there's certainly a case out
22 there and a set of facts out there where you could look at
23 something and say, yeah, we probably should have processed
24 that; correct?

25 A: Always a good opportunity to Monday morning quarterback.

THOMAS WALLACE BO MYERS - CROSS BY MR. KRZYSTON

1 Yes, sir.

2 Q: Yes, sir. And so I appreciate that, but again, going
3 back to the State's responsibility, it's always the State's
4 responsibility to get evidence, is it not?

5 Q: Yes.

6 A: It's the State's burden to prove the case and what they
7 said happened beyond a reasonable doubt, is it not?

8 A: It is.

9 Q: Okay. And so, you know, looking at stuff like that,
10 again, you have the ability to process and look at things and
11 say, hey, this is or isn't high velocity impact spatter;
12 correct?

13 A: Right.

14 Q: And high velocity impact spatter may implicate somebody
15 as a suspect; correct?

16 A: It depends on where it's placed.

17 Q: Again --

18 MR. TUCKER: Your Honor, I would object to this line of
19 questioning with regard to Mr. Myers. He's here testifying as
20 a deputy coroner in terms of his observations.

21 THE COURT: Will y'all approach, please?

22 (WHEREUPON, a bench conference was held off the record,
23 after which the proceedings resumed as follows.)

24 BY MR. KRZYSTON:

25 Q: All right. And so my question to you was that, you know,

THOMAS WALLACE BO MYERS - CROSS BY MR. KRZYSTON

1 you said a little bit of Monday morning quarterbacking, but
2 regardless of what the term that we use is, it is sometimes
3 possible to look at a picture and say, hey, that could have
4 been high velocity impact spatter; correct?

5 A: Sure.

6 Q: Okay. And again, your -- you can't Tuesday morning
7 quarterback me and go back and say, hey, we should have done
8 this and I can do it by the pictures; correct?

9 A: In this role, I would not have done that.

10 Q: Certainly.

11 MR. KRZYSTON: Thank you. I appreciate your time.

12 THE WITNESS: Thank you.

13 MR. KRZYSTON: Please answer any questions that Mr.
14 Tucker has for you.

15 THE COURT: Mr. Tucker?

16 MR. TUCKER: Thank you.

17 REDIRECT EXAMINATION

18 BY MR. TUCKER:

19 Q: Deputy Coroner Myers, just so that I'm clear, your
20 involvement in this case dealt specifically with your roles
21 and responsibilities as that of deputy coroner; correct?

22 A: Yes, sir.

23 Q: Now, you were not asked to process any evidence in terms
24 of what your prior occupation was in terms of crime scene
25 analysis, were you?

THOMAS WALLACE BO MYERS - REDIRECT BY MR. TUCKER

1 A: No. You're correct.

2 Q: And again, you didn't take any pictures, you didn't do
3 any processing of the scene of the scene?

4 A: Of the scene, no, and normally, as far as photographs,
5 normally I would have photographed the body, but since the
6 crime scene investigator was there at the same time, I relied
7 on his photos of the body while I examined, and that's --
8 that's, again, a case-by-case basis.

9 Q: And so you weren't asked by the Sheriff's Office or
10 anyone else to look at pictures to determine whether or not
11 there was any high-speed blood spatter on it or any kind of --

12 A: No, sir.

13 Q: -- thing like that?

14 A: No, sir.

15 Q: Your involvement was strictly as that of deputy coroner
16 to determine the manner and cause of death in conjunction with
17 the pathologist who performed the autopsy?

18 A: That's correct.

19 MR. TUCKER: That's all the questions I have, Your Honor.

20 RECROSS-EXAMINATION

21 BY MR. KRZYSTON:

22 Q: Had you been asked to review this scene --

23 MR. TUCKER: Your Honor, I would object to that as a
24 hypothetical and speculation. He wasn't asked to --

25 THE COURT: Let him finish his question first and then

THOMAS WALLACE BO MYERS - RECROSS BY MR. KRZYSTON

1 I'll -- if you have an objection, I'll rule on it.

2 BY MR. KRZYSTON:

3 Q: How you been asked, you could have done it, couldn't you
4 have?

5 A: I'd like to think that I could have, but I guess it would
6 depend on what evidence was placed before me.

7 Q: In your role as a coroner, have you ever been qualified
8 as a blood spatter analyst before?

9 A: I believe I have.

10 Q: By this Solicitor's Office; right?

11 MR. TUCKER: Your Honor, I would object. I think he's
12 confusing Deputy Coroner Bo Myers with --

13 THE COURT: Objection sustained.

14 MR. TUCKER: -- the coroner, Keith von Lutcken.

15 THE COURT: Objection sustained.

16 MR. TUCKER: I'm not sure Deputy Coroner Myers --

17 THE COURT: Objection sustained.

18 MR. KRZYSTON: I don't have anything further, Judge.

19 THE COURT: Thank you.

20 Sir, you may step down. Thank you.

21 MR. TUCKER: And, Your Honor, I would ask you if Deputy
22 Coroner Myers could be released from his subpoena.

23 THE COURT: Any objection?

24 MR. KRZYSTON: None, Judge.

25 THE COURT: Sir, you're released from your subpoena.

1 You're free to go. Have a nice day.

2 THE WITNESS: Thank you, Judge.

3 THE COURT: Call your next witness, please.

4 MR. TUCKER: Your Honor, at this time the State would
5 call Khalid Belin to the stand.

6 (WHEREUPON, there was a pause in the proceedings until
7 the witness entered the courtroom, after which the
8 proceedings resumed as follows.)

9 THE CLERK: Sir, if you will please place your left hand
10 on the Bible and raise your right hand. Do you swear or
11 affirm the testimony you give in this case to be the truth,
12 the whole truth, and nothing but the truth, so help you God?

13 THE WITNESS: I do.

14 THE CLERK: Please be seated and state your full name for
15 the record.

16 THE WITNESS: My full name is Khalid Belin.

17 THE COURT: Spell your first name, please, sir.

18 THE WITNESS: K-h-a-l-i-d.

19 THE COURT: All right. If you'll slide up close on those
20 microphones, make sure that everybody in the courtroom can
21 hear you. Okay, Mr. Belin?

22 THE WITNESS: Uh-huh.

23 THE COURT: All right. And --

24 THE WITNESS: Khalid Mushay [ph] Belin.

25 THE COURT: Sir?

KHALID BELIN - DIRECT BY MR. TUCKER

1 THE WITNESS: I was saying my full name.

2 THE COURT: Okay. Thank you, sir.

3 Mr. Tucker?

4 MR. TUCKER: Thank you, Your Honor.

5 KHALID BELIN, being first duly
6 sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY MR. TUCKER:

9 Q: Mr. Belin, where do you live?

10 A: In Johnsonville, South Carolina.

11 Q: And how long have you lived in Johnsonville?

12 A: For about two years now.

13 Q: Now, how long have you lived in Florence County total?

14 A: Since 2012.

15 Q: And where did you live before 2012?

16 A: I was in up north.

17 Q: Now, where do you work?

18 A: At W. Lee Flowers.

19 Q: And how long have you worked there at W. Lee Flowers?

20 A: For about two months.

21 Q: Now, what are some of the other jobs you've had in your
22 career or life?

23 A: Warehouse, basically.

24 Q: Okay. Now, with regards to your connection to this case,
25 at one point did you have some association with the Tall Oaks

KHALID BELIN - DIRECT BY MR. TUCKER

1 Drive area in the neighborhood?

2 A: Yeah, I lived here.

3 Q: And how long did you live there?

4 A: Since 2012, since 2012 up until 2019.

5 Q: Now, were you living in the Tall Oaks Drive area or --

6 A: Yeah.

7 Q: -- on --

8 A: 3134.

9 Q: -- that July the 6th, 2019, time frame?

10 A: Yeah.

11 Q: Now, how do you know the victim in this case, Rico

12 Johnson?

13 A: That's -- he was one of the first people -- one of the

14 first people I met when I moved there.

15 Q: And that was in 2012?

16 A: Yeah.

17 Q: How would you characterize the relationship between the

18 two of you?

19 A: That's -- that was my boy.

20 Q: So when you say that's my boy, I'm assuming that's best

21 friend?

22 A: Yeah.

23 Q: Okay. Now, with regards to Orlando Mendez, how did you

24 know Mr. Mendez?

25 A: I met him through his stepson and Rico, actually.

KHALID BELIN - DIRECT BY MR. TUCKER

- 1 Q: Now, did Mr. Mendez also live in the Tall Oaks area?
- 2 A: Uh-huh.
- 3 Q: And do you know who he was living with at the time when
- 4 he was living over there?
- 5 A: Yeah. His family.
- 6 Q: And who are some of the people in his family? Do you
- 7 recall?
- 8 A: Ms. Stephanie. That's his wife, and A.M., and they call
- 9 her Pebbles, the -- his youngest daughter.
- 10 Q: Would that be S.M. ?
- 11 A: Uh-huh.
- 12 Q: Now, when you --
- 13 THE COURT: Is that a yes?
- 14 Q: Did you say yes?
- 15 A: Yes, yes. Sorry.
- 16 Q: Okay. I think I know what you mean, but I just need you
- 17 to say it for the record. Okay?
- 18 A: Okay.
- 19 Q: Now, with regards to the relationship between Rico and
- 20 Orlando Mendez, did you have an occasion during your
- 21 interaction with the both of them over the years to see how
- 22 they interacted with one another?
- 23 A: Yeah. They was best friends too.
- 24 Q: They were best friends as well?
- 25 A: Yeah.

KHALID BELIN - DIRECT BY MR. TUCKER

1 Q: Would it be fair to say that Rico kind of looked up to
2 Orlando as an older brother type?

3 A: Yeah.

4 Q: Now, I want to draw your attention specifically to the
5 timeframe of that July 4th weekend. Had Rico moved off to
6 Columbia at some point prior to that?

7 A: Uh-huh.

8 Q: Was that a yes?

9 A: Yes, yes, yes.

10 Q: Now, do you know what reason he had for moving to
11 Colombia?

12 A: No.

13 Q: Now, the July 4th weekend of 2019, had Khalid [sic] come
14 back from Columbia with his one-year-old son?

15 A: No.

16 Q: To the area --

17 A: I don't got kids. You just said my name.

18 Q: I'm sorry. Did Rico come back from the Columbia area for
19 that weekend, July the 4th, 2019?

20 A: Yep, yep.

21 Q: Now, at some point during that weekend, did you, he, and
22 Orlando Mendez kind of get together and start hanging out?

23 A: Yes. We hung out all that day.

24 Q: Now, that -- specifically, is that July the 6th, 2019?

25 A: Yep. July the 6th.

KHALID BELIN - DIRECT BY MR. TUCKER

- 1 Q: Now, I want to draw -- you said 2006 -- 2019?
- 2 A: Yeah. No. July 6th, 2019.
- 3 Q: July the 6th. Okay. All right. I want to draw your
- 4 attention to that evening of July the 6th, 2019. Do you
- 5 recall what you, Orlando, and Khalid -- or Rico were doing?
- 6 A: Yeah. We -- we was out and about, you know.
- 7 Q: At some point, did y'all go to a dice game at the house
- 8 in a kind of a neighboring subdivision?
- 9 A: Yes, we did.
- 10 Q: Do you recall the name of that subdivision?
- 11 A: Charlestown or something like that.
- 12 Q: Okay. But it was a neighborhood close to where Tall Oaks
- 13 was located?
- 14 A: Yep.
- 15 Q: And do you recall what y'all guys did when y'all got
- 16 there?
- 17 A: We just hanging out, basically, just hanging out.
- 18 Q: Now, this dice game, was it, like, a big money craps
- 19 game?
- 20 A: No, it wasn't. It wasn't even nothing big. It was a
- 21 couple of dollars and the dice game stopped.
- 22 Q: Now, was this kind of later in the evening? Do you
- 23 recall what time it was?
- 24 A: Yeah. It was -- it was around eight. Yeah, eight.
- 25 Q: Okay. Now, at some point did you see the defendant,

KHALID BELIN - DIRECT BY MR. TUCKER

1 Larry Ja Juan Scipio, there at that dice game?

2 A: Yeah.

3 Q: Now, had you known or did you recognize Mr. Scipio on

4 sight? Had you dealt with him before?

5 A: Yeah.

6 Q: So you knew him when you saw him?

7 A: Yeah.

8 Q: Now, with regards to when you, Orlando, and Rico went to

9 leave, how did y'all -- did y'all go to get in his car?

10 A: Yeah. We was in Rico car.

11 Q: Now, what kind of car was Rico driving?

12 A: A red Camaro, two-door.

13 Q: Now, was -- you said Rico was driving?

14 A: Uh-huh.

15 Q: Where was Orlando inside the car?

16 A: In the passenger seat, and I was in the backseat.

17 Q: You were in the backseat?

18 A: Yes, sir.

19 QL Now, what, if anything, happened when Rico went to pull

20 out of where he was parked there at that dice game?

21 A: Repeat it?

22 Q: What, if anything, happened once Rico started to pull out

23 in the red Camaro to leave?

24 A: Well, what do you mean?

25 Q: Well, did anything happen?

KHALID BELIN - DIRECT BY MR. TUCKER

1 A: No. No argument, no nothing.

2 Q: Right, but I mean, was there some kind of an incident

3 involving Mr. Scipio?

4 A: No. He just came up to the car, and we go politely and

5 ask him to move. He got in the road and Rico bumped him.

6 Q: Now --

7 A: We all were joking.

8 Q: Now, let me make sure I understand you correctly. There

9 was no prior incident --

10 A: No.

11 Q: -- between Mr. Scipio --

12 A: No.

13 Q: -- and Rico?

14 A: No. They ain't even talked.

15 Q: It was only when Mr. Johnson went to leave that --

16 A: Right.

17 Q: -- Mr. Scipio --

18 A: Right.

19 Q: -- walked up? And was he kind of in the way of Mr.

20 Johnson pulling off in the Camaro?

21 A: Yeah.

22 Q: And you indicated that Rico asked him to leave or to

23 move?

24 A: Yeah.

25 Q: And what did Mr. Scipio do when he was asked by Rico to

KHALID BELIN - DIRECT BY MR. TUCKER

1 move?

2 A: He ain't do nothing. He got in the road, and that's when

3 Rico bumped him.

4 Q: Now, when you say bumped, did he kind of inch forward and

5 kind of --

6 A: Yeah. He tapped him a little bit, tapped him.

7 Q: Okay.

8 A: And then we -- and that's when we pulled off.

9 Q: And what did -- did you hear Mr. Scipio say anything

10 after y'all were pulling off or as y'all were pulling off?

11 A: Yeah. He said, all right, N-word, now it's war.

12 Q: Now it's war? Now, where did y'all go once y'all left

13 the area?

14 A: To the gas station.

15 Q: Okay. What did you do at the gas station?

16 A: I got some more beer.

17 Q: Okay.

18 A: And then we went back to Tall Oaks.

19 Q: Okay. When you went back to Tall Oaks, to whose house

20 did you go to?

21 A: To Orlando house.

22 Q: Now, did Orlando live at [REDACTED] Tall Oaks Drive? Was that

23 his actual address?

24 A: Uh-huh. Yeah.

25 Q: Now, when you got there, how much time elapsed from when

KHALID BELIN - DIRECT BY MR. TUCKER

1 that incident occurred with Mr. Scipio and Rico until you
2 arrived back at Mr. Mendez's residence?
3 A: Probably, like, an hour.
4 Q: About an hour?
5 A: Yeah.
6 Q: Could it have been shorter than that?
7 A: Um --
8 Q: Let me ask it another way. You weren't looking at a
9 watch, were you?
10 A: No, I wasn't.
11 Q: Okay. Now, once you arrived there, what, if anything,
12 did you do?
13 A: I was sitting outside on the porch.
14 Q: Did you notice where Mr. Mendez and Mr. Johnson went?
15 A: Yeah, they went in the house.
16 Q: And you -- I'm sorry.
17 A: Orlando went in first, and Mr. Johnson gave me the
18 cigarette, asked me was I coming in. I said, no, I'm going to
19 smoke the cigarette, and then I'll be in.
20 Q: All right. So you were sitting on the porch?
21 A: Right.
22 Q: Now, did anything happen after you were sitting on the
23 porch?
24 A: No.
25 Q: Okay. Did anybody walk up to you as you were sitting on

KHALID BELIN - DIRECT BY MR. TUCKER

1 the porch?

2 A: Mr. Scipio.

3 Q: Now, how much time elapsed from when Rico went inside the

4 residence until Mr. Scipio walked up?

5 A: Like, 3 minutes, 5 minutes, something like that.

6 Q: Now, something like that, could it have been longer than

7 that? Again, you weren't looking at a watch, were you?

8 A: Yeah. It probably been, like, five.

9 Q: Okay. Now, once Mr. Scipio walked up, were you able to

10 recognize him?

11 A: Yeah. He shook my hand.

12 Q: Now, did he appear to you to be the same fellow that

13 you'd encountered at the dice game earlier?

14 A: Yeah.

15 Q: Now, after he shook your hand, did he say anything to

16 you?

17 A: He asked me where was Rico and OT?

18 Q: And what did you tell him?

19 A: I told him they was in Tink house. Make sure you knock

20 before you go in, not thinking that it's about to go down.

21 Q: Okay. Now, when you said OT, to whom are you referring?

22 A: Orlando.

23 Q: Now, you said it's whose house again?

24 A: That's Orlando family house.

25 Q: Okay. And so you asked him to knock before he went in?

KHALID BELIN - DIRECT BY MR. TUCKER

1 A: Yeah.

2 Q: And did you hear him knock on the door?

3 A: Yeah. He knocked and basically he went in, and that's

4 when I heard shots and ran.

5 Q: Now, how long after he went in did you hear shots?

6 A: Like, 3 seconds, 4 seconds.

7 Q: And you're positive it was Mr. Scipio who walked in?

8 A: Yeah.

9 Q: And he's the one who shook your hand?

10 A: Yeah.

11 Q: Do you see Mr. Scipio sitting in the courtroom here

12 today?

13 A: Yeah.

14 Q: Could you point him out, please?

15 A: (Indicating.) Right there.

16 MR. TUCKER: And, Your Honor, I'd like the record to

17 reflect that the witness has identified the defendant, Larry

18 Ja Juan Scipio.

19 THE COURT: So noted for the record.

20 BY MR. TUCKER:

21 Q: Now, when you heard the gunshots, what did you do?

22 A: I ran to the next-door neighbor house, the house sitting

23 on the left, because I was scared. I didn't know what

24 happened. I heard the yelling and when I walked to the door,

25 I seen Mr. Johnson on his knees. I took off and ran to his

KHALID BELIN - DIRECT BY MR. TUCKER

1 father house.

2 Q: Okay. Now, at some point, did you see anybody come out

3 after you ran to the neighbors but before you went to Mr.

4 Johnson's? Did you see anybody come out of the residence?

5 A: No.

6 Q: Were you looking back that way?

7 A: No, I wasn't. I was just running straight.

8 Q: So you went to the neighbor's and waited and then went

9 back?

10 A: No. I went to the neighbor's house after I was running.

11 Then after I heard the yelling from coming from the home,

12 that's when I walked to the front door and saw Rico on his

13 knees, and then I ran down the street.

14 Q: And then you went to his father's house?

15 A: Yeah. Yep.

16 Q: Okay. At some point, did you come back to OT's house?

17 A: Yeah, I did. Yep.

18 Q: And what, if anything, happened then?

19 A: Nothing happened.

20 Q: Did, ultimately, law enforcement talk to you about what

21 you had seen?

22 A: Yeah.

23 Q: And want you to give a statement to law enforcement that

24 evening?

25 A: No, no. They wasn't even really talking to me, to be

KHALID BELIN - DIRECT BY MR. TUCKER

1 honest.

2 Q: Okay. Do you recall talking to one of the deputies about

3 what you saw when she asked you what happened?

4 A: Yeah, I do. Yeah.

5 Q: And you told them what you knew at that point?

6 A: Yeah.

7 Q: Now, with regards to when you came back after you left

8 and went to the neighbors, when you came back, did you talk to

9 Mr. Mendez at any point thereafter?

10 A: No.

11 Q: Okay. Did Mr. Mendez say anything to you ultimately

12 later on that evening about what had happened?

13 A: No, we was just in shock.

14 Q: Okay. After you spoke to the police, did you have any

15 other involvement with this matter in terms of talking back

16 with some of the investigators by way of a follow up

17 investigation?

18 A: No.

19 Q: That was the last time that you spoke to law enforcement?

20 A: Uh-huh.

21 Q: Now, when you say uh-huh, is that a yes?

22 A: Yes, yes.

23 Q: Okay. And again, you're certain that you saw at the dice

24 game and the person that shook your hand that went into the

25 residence is the defendant, Larry Ja Juan Scipio?

KHALID BELIN - CROSS BY MR. KRZYSTON

1 A: Yes.

2 MR. TUCKER: I believe those are all questions I have,
3 Your Honor.

4 THE COURT: Cross-examination.

5 MR. KRZYSTON: Thank you, Judge.

6 CROSS-EXAMINATION

7 BY MR. KRZYSTON:

8 Q: Okay. All right. I just want to make sure I understand
9 before I ask you a couple of questions what you just testified
10 to. Okay? So you were -- after y'all left this dice game --
11 okay? -- there had been basically -- and what time was the
12 dice game?

13 A: It was still daytime basically. Like, I really can't
14 remember the time, but I do remember it was in the daytime.

15 Q: Okay. So --

16 A: Getting close to dark.

17 Q: -- the sun was up?

18 A: It was getting close to dark.

19 Q: Okay. All right. And so, you know, y'all leave the dice
20 game and that's when these words are exchanged; correct?

21 A: Yeah. Yes.

22 Q: Okay. And so, again, describe for me exactly what
23 happened once you three got in that little car.

24 A: Ja Juan came up to the car, and Rico politely asked him
25 to move.

KHALID BELIN - CROSS BY MR. KRZYSTON

1 Q: Okay. And he -- where did he come up to the car?

2 A: On the passenger side.

3 Q: Okay. So he actually came up on the passenger side?

4 A: Yeah.

5 Q: Okay. And so why did Rico ask him to move if he was just

6 by the passenger side?

7 A: Because we was about to go back to Tall Oaks because --

8 Q: Okay.

9 A: -- he was ready to go. Rico asked me -- he said you

10 ready to, and I said, yeah, we can go ahead and leave.

11 Q: Okay. Well, y'all are sitting in the car. So assumedly

12 at some point you all decided --

13 A: No. We wasn't sitting in the car. We was standing up at

14 first.

15 Q: Okay.

16 A: When he asked me was I ready to go, I basically was,

17 like, yeah. That's when we got in the car.

18 Q: Okay.

19 A: That's when he came up to the car.

20 Q: Okay. So was the dice game in the house or out of the

21 house?

22 A: The dice game wasn't even -- it was in the road.

23 Q: Okay.

24 A: In the yard.

25 Q: Okay. So it was outside in the yard?

KHALID BELIN - CROSS BY MR. KRZYSTON

- 1 A: Right.
- 2 Q: Okay. And so you guys were hanging around --
- 3 A: In another neighborhood.
- 4 Q: Right. In another neighborhood, but this cool red
- 5 Mustang, that's what y'all are kind of centered around;
- 6 correct?
- 7 Q: Yeah, basically. Yeah.
- 8 Q: All right. And I'll represent to you that I hunt and
- 9 fish and that after we get through, me and my friends lean on
- 10 the back of the truck and we talk and we tell stories and lie
- 11 about how big the fish was. Okay? Now, is that kind of the
- 12 thing that y'all were doing? Y'all were just leaning on the
- 13 Camaro and talking, you know, just talking about stuff?
- 14 A: No. We was just standing up.
- 15 Q: Just kind of hanging out?
- 16 A: Yeah, that's it.
- 17 Q: Okay. And so y'all decided at that point you were ready
- 18 to leave, and so y'all go ahead and get into the car; correct?
- 19 A: Yes.
- 20 Q: Okay. And at that point, Mr. Scipio approaches the
- 21 passenger side; correct?
- 22 A: Yes.
- 23 Q: And that would be Mr. Orlando's side; correct?
- 24 A: Yes.
- 25 Q: Okay. And so at the time that he approached the

KHALID BELIN - CROSS BY MR. KRZYSTON

1 passenger side now, the doors are already closed, y'all were
2 already fully inside the car?
3 A: Yeah.
4 Q: Okay.
5 A: The car just was off.
6 Q: And so there was no impediment to the car moving forward
7 at that time?
8 A: No.
9 Q: Okay. And so y'all could have just left?
10 A: Basically.
11 Q: Okay. But instead, you guys ask Mr. Scipio allegedly to
12 --
13 A: Because in --
14 Q: -- move back?
15 A: In order for him to move and not get hit, he would have
16 asked him to move. He asked him to move to keep him from
17 getting hit.
18 Q: Oh, okay. So he was just very close to the car?
19 A: Basically, yeah. Right.
20 Q: Okay.
21 A: Yes.
22 Q: Y'all were going?
23 A: Yes.
24 Q: Okay. And so in response to that, your testimony today
25 is that Mr. Scipio then gets in the roadway; correct?

KHALID BELIN - CROSS BY MR. KRZYSTON

1 A: Yes.

2 Q: Okay. In front of the car or behind the car?

3 A: In front of the car.

4 Q: Okay. And that basically at that point Mr. -- Mr.

5 Johnson bumps him; correct?

6 A: He -- he -- yeah.

7 Q: And then he gets out of the way?

8 A: Yes.

9 Q: Okay. And you say that as you pull away, you hear this

10 is war or something like that?

11 A: Yes.

12 Q: Okay. And so were the windows down in the car?

13 A: Yes.

14 Q: Okay. And so you were in the backseat; correct?

15 A: Yes.

16 Q: All right. And the muffler was on; right? I mean,

17 these cars have --

18 A: No.

19 Q: -- pretty good exhaust?

20 A: No.

21 Q: No?

22 A: This car quiet.

23 Q: Okay. This car is quiet. So the windows were down.

24 Everybody in the car clearly could have heard what was said;

25 correct?

KHALID BELIN - CROSS BY MR. KRZYSTON

1 A: Yes.

2 Q: Okay. All right. And so then you all go back to Tall
3 Oaks or --

4 A: No.

5 Q: Excuse me. You go to the gas station?

6 A: Right.

7 Q: Okay. You pick up a couple beers. Okay? And then y'all
8 go back to Tall Oaks?

9 A: Right.

10 Q: Right?

11 A: Yes.

12 Q: Okay. And so after you get back to Tall Oaks, do you go
13 inside the home?

14 A: Orlando and Rico went inside the home. I sat outside
15 smoking a cigarette.

16 Q: Okay. Were you on the steps or on a chair on the porch?

17 A: The front steps on the front porch.

18 Q: Okay. So you were almost kind of blocking the way in on
19 the front steps, like you were seated to one side?

20 A: Yeah, basically.

21 Q: Okay. And so you say about 5 minutes passes and that's
22 when you say that you saw Mr. Scipio walking up; right?

23 A: Yes.

24 Q: Okay. And so y'all talk; correct?

25 A: He asked me a question.

KHALID BELIN - CROSS BY MR. KRZYSTON

1 Q: Yes. So that's talking; right?

2 A: Okay. Yes, yes.

3 Q: So you all talk. He asked if -- what did he ask you?

4 A: Where was Rico and Orlando.

5 Q: Okay. And you said in the place?

6 A: Yes.

7 Q: Okay. And then he asked if he could go in?

8 A: No. I automatically told him. I said make sure you

9 knock before you go in. I already know he's going to be able

10 to come in because he's not a stranger.

11 Q: You already know that he's not going to be able to come

12 in?

13 A: I say I already know that he can come in because he's not

14 no stranger to this household.

15 Q: Got you. But you just tell him to knock out of courtesy?

16 A: Basically, because it's not my house.

17 Q: Fair enough. Okay. And so he knocks; correct?

18 A: Uh-huh.

19 Q: And then you test -- your testimony is that the door

20 opens; correct?

21 A: Right. Yes.

22 Q: Okay. And then he goes in; correct?

23 A: Yes.

24 Q: And then -- then what happened?

25 A: I heard shots.

KHALID BELIN - CROSS BY MR. KRZYSTON

1 Q: Okay.

2 A: I heard six shots.

3 Q: And that's when you ran next door?

4 A: That's when I ran to the neighbor's house. I was hiding.

5 Q: Okay.

6 A: Then I heard everybody yelling. I walked to the front

7 door. I seen my friend on his knees. That's when I ran to my

8 friend's father house.

9 Q: Okay. And so you didn't see anything after the gunshots.

10 You just ran next door because you heard the shots, and you

11 said I need to get out of here real quick?

12 A: Yeah. Yes.

13 Q: Okay. And so there'd be no reason that you told Deputy

14 Jones that you saw Mr. Scipio leaving?

15 A: No.

16 Q: Okay. You're sure about that?

17 A: I only saw him when he entered the house.

18 Q: Okay.

19 MR. KRZYSTON: May I approach, Judge?

20 THE COURT: Yeah.

21 BY MR. KRZYSTON:

22 Q: All right. Mr. Belin, I'm going to show you a document

23 that's marked Defendant's 1, which is Deputy Flowers' or then

24 Deputy Jones' report, now Investigator Flowers' report. This

25 says supplementary incident report up top, does it not?

KHALID BELIN - CROSS BY MR. KRZYSTON

1 A: Uh-huh. Yes.

2 Q: Okay. And then under it is Florence County Sheriff's
3 Office; correct?

4 A: Yes.

5 Q: Okay. And then this second paragraph, read along with
6 me. After contact with Mr. Orlando, I made contact with Mr.
7 Belin. That's what it says; right?

8 A: Yes.

9 Q: Mr. Belin stated he did not see the actual shooting;
10 correct?

11 A: Correct.

12 Q: Okay. And then it says he stated he was at the
13 residence, but right before Mr. Scipio went inside the
14 residence, he went outside to the yard; correct?

15 A: Yes.

16 Q: Okay. He heard gunshots and he saw Mr. Scipio leaving?

17 A: Yes.

18 Q: Okay. Why would the deputy have put that in the report
19 if you didn't tell her?

20 A: I never said that.

21 Q: You never said that?

22 A: Never said that.

23 Q: So Investigator Flowers, then Deputy Jones, lied in her
24 report?

25 A: Had to.

KHALID BELIN - CROSS BY MR. KRZYSTON

1 MR. TUCKER: Objection, Your Honor.

2 THE WITNESS: I never said that, never.

3 THE COURT: Objection sustained.

4 BY MR. KRZYSTON:

5 Q: Okay. So you don't know why the --

6 THE COURT: Hold up a minute. When an objection is made
7 -- when an objection is made, you need to let me rule on the
8 objection before anything is said. Okay? Understood?

9 MR. KRZYSTON: Yes, sir, Judge.

10 THE COURT: All right.

11 BY MR. KRZYSTON:

12 Q: All right. And so you don't know why that would be
13 included in the report?

14 A: No, sir.

15 Q: Okay. All right. Why -- let me ask you this. When --
16 when Deputy Jones asked you why the shooting occurred, you
17 couldn't provide any -- any reason for her; right?

18 A: I still can't.

19 Q: You still can't? Okay. So this altercation had no --
20 supposed altercation --

21 A: There wasn't even an argument.

22 Q: Okay. And so it wasn't -- it wasn't like a serious
23 thing?

24 A: Nothing.

25 MR. KRZYSTON: Nothing further, Judge.

KHALID BELIN - REDIRECT BY MR. TUCKER

1 THE COURT: Any redirect?

2 MR. TUCKER: Briefly, Your Honor.

3 REDIRECT EXAMINATION

4 BY MR. TUCKER:

5 Q: Now, Mr. Belin, when you -- you told the deputy you
6 didn't know why the shooting occurred?

7 A: Right.

8 Q: Is it fair to say you just couldn't just come up with a
9 reason why somebody would do that? Is that what you meant?

10 A: I can't, yes.

11 Q: That's your position still today; right?

12 A: Yes.

13 Q: Now, let me ask you during the day you were with Rico
14 Johnson and Orlando Mendez the entire day pretty much?

15 A: Yes.

16 Q: Did Orlando and Rico get into an argument at any point?

17 A: No, sir. They was friends.

18 Q: They were friends?

19 A: Yes, sir.

20 Q: They didn't have any bad blood as far as you knew?

21 A: No, sir. No, sir.

22 Q: Now, just before you heard the gunfire and before Mr.
23 Scipio walked up, did you hear any kind of an argument between
24 Rico Johnson and Orlando Mendez on the inside?

25 A: No, sir.

KHALID BELIN - REDIRECT BY MR. TUCKER

1 Q: Did you hear any kind of an argument on the inside
2 between anybody?

3 A: No, sir.

4 Q: So it was quiet in there until Mr. Scipio came up, shook
5 your hand, and then went inside the residence; is that right?

6 A: Yes, sir. Yes, sir.

7 MR. TUCKER: I believe those are all the questions I
8 have, Your Honor.

9 MR. KRZYSTON: I don't believe we have any redirect.
10 Thank you, Your Honor.

11 THE COURT: Sir, you may step down. Thank you.

12 MR. TUCKER: And, Your Honor, I would ask if Mr. Belin
13 can be released from his subpoena.

14 THE COURT: Any objection?

15 MR. KRZYSTON: No, sir.

16 THE COURT: Sir, you're released from your subpoena.
17 You're free to go. Have a nice day. Thank you.

18 Can the lawyers approach a minute, please?

19 MR. TUCKER: Yes.

20 (WHEREUPON, a bench conference was held off the record,
21 after which the proceedings resumed as follows.)

22 THE COURT: All right. Ladies and gentlemen of the jury,
23 we're going to take a short break. I'm going to ask you to
24 step to the jury room. Do not discuss the case. I'll get you
25 back out here in just a few minutes. Okay?

26

ORLANDO MENDEZ - DIRECT BY MR. TUCKER

1 the stand.

2 THE CLERK: Sir, if you will please step up to the bench
3 and place your left hand on the Bible and raise your right
4 hand. Raise your right hand. Do you swear or affirm the
5 testimony you give in this case to be the truth, the whole
6 truth, and nothing but the truth, so help you God?

7 THE WITNESS: Yes, I do.

8 THE CLERK: Please be seated and state your full name for
9 the record.

10 THE WITNESS: Well, hello. My name is Orlando Mendez.

11 ORLANDO MENDEZ, being first duly
12 sworn, testified as follows:

13 DIRECT EXAMINATION

14 BY MR. TUCKER:

15 Q: Mr. Mendez, where do you currently live?

16 A: Oh, I live at [REDACTED] Tall Oaks.

17 Q: And that's in Florence County?

18 A: Yes, sir.

19 Q: And how long have you lived there?

20 A: I would say, like, about 17, almost 18 years now.

21 Q: And who do you live there with?

22 A: Well, I live with my fiancée and my two kids.

23 Q: And who's your fiancée again?

24 A: Oh, Stephanie Lucas.

25 Q: And who else lives there with you?

ORLANDO MENDEZ - DIRECT BY MR. TUCKER

- 1 A: My two daughters, which is --
- 2 Q: And what are their names?
- 3 A: A.M. and S.M. .
- 4 Q: How old is A.M. ?
- 5 A: A.M. ? She's 20 years old.
- 6 Q: And how old is S.M. ?
- 7 A: Seventeen.
- 8 Q: Now, with regards to what you do for a living, what is it
- 9 that you currently do in terms of occupation?
- 10 A: Construction.
- 11 Q: Does that require you to travel out of town some?
- 12 A: Yes.
- 13 Q: But your primary residence is there at Tall Oaks?
- 14 A: Yes.
- 15 Q: Is that correct?
- 16 A: Yes, sir.
- 17 Q: Now, with regards to your prior record, Mr. Mendez, I
- 18 want to ask you a couple of questions. Have you ever been
- 19 convicted of a crime?
- 20 A: Yes, I have.
- 21 Q: And where and when was that?
- 22 A: New York.
- 23 Q: And do you recall how long ago that was?
- 24 A: Oh, that was, like, about what? Ten years ago.
- 25 Q: Okay. And do you recall what the conviction was for?

ORLANDO MENDEZ - DIRECT BY MR. TUCKER

1 A: That was a possession of firearm.

2 Q: For what now?

3 A: Possession of a firearm.

4 Q: Okay. And what kind of sentence did you get for that?

5 A: Well, I got a possession or a simple possession.

6 Q: Okay. And did you have to do any jail time for that?

7 A: Yes, I did.

8 Q: How much?

9 A: I did two-and-a-half years.

10 Q: Two-and-a-half years? Now, any other crimes that you

11 were convicted of?

12 A: Like misdemeanors, stuff like that, like possessions.

13 Q: Okay. But the most serious conviction you have is for

14 the possession of a firearm?

15 A: Yeah. That's it.

16 Q: Now, I want to turn your attention to the Tall Oaks area.

17 How would you describe that neighborhood? Is everybody

18 friendly with one another?

19 A: Yeah.

20 Q: How well do you know the Johnson family that lives over

21 on Tall Oaks?

22 A: Well, like, what? About the same time that we lived

23 there, like I say, 18 years, around 18 years.

24 Q: Did you get to know Nathaniel Johnson?

25 A: Who?

ORLANDO MENDEZ - DIRECT BY MR. TUCKER

1 Q: Nathaniel Johnson, Rico's father?

2 A: Yes, I think.

3 Q: Did you get to know Rico Johnson very well?

4 A: Yes, sir.

5 Q: How would you describe your relationship with Rico

6 Johnson?

7 A: Well, he was like a brother to me.

8 Q: Did you also meet Khalid Belin while you were living over

9 on Tall Oaks?

10 A: Yes, I have.

11 Q: And how would you describe your relationship with him?

12 A: Well, you know, he's a right decent kid and stuff.

13 Q: Did the three of y'all hang out together or before 2019?

14 A: Yes.

15 Q: Now, with regards to the defendant, Larry Ja Juan Scipio,

16 had you ever seen him over in the Tall Oaks area before?

17 A: Yeah, you know, a couple of times.

18 Q: Were you able to recognize him when you saw him?

19 A: Yes.

20 Q: Okay. Now, I want to direct your attention to the

21 weekend of July the 4th, 2019.

22 A: Uh-huh.

23 Q: Do you recall what you were doing on that weekend?

24 A: Well, we was -- well, Mr. Johnson, he was at my house and

25 stuff. You know what I'm saying?

ORLANDO MENDEZ - DIRECT BY MR. TUCKER

1 Q: Now, had Mr. Johnson moved to Columbia shortly before the
2 July 4th weekend in 2019?
3 A: I'm not too sure.
4 Q: Okay. Was he staying with his father that weekend, as
5 far as you knew?
6 A: Yeah, he was -- you know what I'm saying? -- back and
7 forth.
8 Q: Okay. When you say back and forth, back and forth to
9 where?
10 A: To his house to Columbia.
11 Q: To Columbia?
12 A: Yes.
13 Q: So he was staying in Columbia some?
14 A: Uh-huh.
15 Q: And you were aware of that?
16 A: Yeah.
17 Q: Okay. Now, with regards to that Sunday, July the 6th, I
18 want to draw your attention to that specifically. Were you,
19 Khalid Belin, and Rico Johnson together that day?
20 A: Yes, sir.
21 Q: And were y'all in Rico's car?
22 A: Yes, sir.
23 Q: What kind of car did he own?
24 A: That was a red Camaro.
25 Q: Now, at some point later that evening, did you, Rico, and

ORLANDO MENDEZ - DIRECT BY MR. TUCKER

1 Khalid find yourself at a dice game in a neighborhood that was
2 close to Tall Oaks?
3 A: Yes, sir.
4 Q: And do you recall the name of the neighborhood?
5 A: Well, it goes by CT, I believe.
6 Q: Okay. Now, again, this was kind of close to where you
7 lived on Tall Oaks?
8 A: Yeah.
9 Q: Now, the dice game itself, where was it being conducted?
10 A: That was on CT.
11 Q: Okay. But was it in a house or was it somewhere else?
12 A: It was in a driveway.
13 Q: In the driveway?
14 A: Yeah.
15 Q: Now, again, I asked Mr. Belin was this, like, a big money
16 game, a lot of \$100 bills floating around on the --
17 A: No.
18 Q: Okay.
19 A: No.
20 Q: Would you consider it to be, like, a small wager, kind of
21 a nickel and dime kind of thing?
22 A: Yeah. Like I say, nickels and dimes.
23 Q: Okay. Now, at some point during the dice game, did the
24 defendant, Larry Ja Juan Scipio, show up?
25 A: Yes, sir.

ORLANDO MENDEZ - DIRECT BY MR. TUCKER

1 Q: Now, at some point after he shows up, do you, Rico, and
2 Khalid leave or attempt to leave the location?

3 A: Well, you know what I'm saying? We had left after the
4 game was done.

5 Q: The game was already done --

6 A: Yeah.

7 Q: -- when you got ready to leave? Do you recall what time
8 of the evening this was?

9 A: I'd say it was between 7, 8, 9 o'clock, around there.

10 Q: Okay. Was it still light outside?

11 A: Not -- it was getting dark.

12 Q: It was getting dark?

13 A: Yeah. It was getting dark.

14 Q: And that's when the dice game broke up?

15 A: Yes, sir.

16 Q: Was that a yes?

17 A: Yes, sir.

18 Q: Okay. Now, once the dice game broke up, what did you do?

19 A: Well, we got in the car, and we started backing up.

20 Q: Now, when you say got in the car, whose car did you get
21 into?

22 A: That was Rico car.

23 Q: Now, who was driving?

24 A: Rico.

25 Q: And where were you sitting?

ORLANDO MENDEZ - DIRECT BY MR. TUCKER

1 A: Passenger.

2 Q: And where was Mr. Belin sitting?

3 A: In the back.

4 Q: Now, you said that the car started to back up. What

5 happened next?

6 A: Well, as we was backing up and stuff, what the -- well,

7 Scipio comes up getting in front of the car.

8 Q: Now when you say Scipio, you're referring to the

9 defendant?

10 A: Yes.

11 Q: And he was in front of the car, you said?

12 A: Uh-huh.

13 Q: And then -- was that a yes?

14 A: Yes.

15 Q: What happened after he got in front of the car?

16 A: Well, you know, so Rico was telling him to, you know, get

17 out the way, we got to go.

18 Q: And what, if anything, did Mr. Scipio do?

19 A: Well, he's not doing nothing. He's just playing around,

20 you know, in front of the car.

21 Q: Okay. Do you recall how many times Rico asked Mr. Scipio

22 to move?

23 A: Like, about two or three times.

24 Q: And did Mr. Scipio move?

25 A: No, he didn't.

ORLANDO MENDEZ - DIRECT BY MR. TUCKER

1 Q: What happened after that?

2 A: Well, with the last one -- you know what I'm saying? You

3 know, he got pushed with the car, you know, a little, not hard

4 enough. I'm talking about barely to, you know, move this

5 tissue if you ask me.

6 Q: Okay. What happened then?

7 A: Then after that, after he pushed him and stuff, he got

8 out the way. You know what I mean? And then that's when he,

9 you know, said that remark after we was leaving, talking about

10 it's war now.

11 Q: Okay. Let me back up and make sure I understood you

12 correctly. Once Rico nudged Mr. Scipio with the car, he got

13 out of the way?

14 A: Yeah.

15 Q: And at that point, you heard Mr. Scipio say?

16 A: It's war now.

17 Q: It's war now?

18 A: Yes, sir.

19 Q: Now, at that point, what did you, Rico, and Mr. Belin do?

20 A: Well, we kept going. We went to the store.

21 Q: Now, when you say store?

22 A: To the gas station.

23 Q: And what did you do at the store?

24 A: So we went to the gas station, and we picked up something

25 to drink.

ORLANDO MENDEZ - DIRECT BY MR. TUCKER

- 1 Q: All right. Now, when you say something to drink?
- 2 A: It was, you know, six pack of beers.
- 3 Q: Okay. Now, once you left the store, where did you go?
- 4 A: We went back to my house.
- 5 Q: Now, your house at [REDACTED] Tall Oaks?
- 6 A: [REDACTED] Tall Oaks.
- 7 Q: Now, by this time, had it gotten dark?
- 8 A: Yeah.
- 9 Q: Now -- and I know you weren't wearing a watch, but do you
- 10 know about how much time elapsed from when you left the dice
- 11 game until you arrived back home at [REDACTED]
- 12 A: I would say, like, around 45 minutes around or an hour,
- 13 around there.
- 14 Q: Okay.
- 15 A: Not exactly, but, you know, around that range.
- 16 Q: I gotcha. Now, when you pulled up to your residence, did
- 17 you go inside?
- 18 A: Yes, I did.
- 19 Q: Who else went inside?
- 20 A: Rico went in that house with me.
- 21 Q: And Mr. Belin? Khalid? Where did he stay?
- 22 A: Oh, he stood -- you know what I'm saying? -- in the
- 23 porch. You know, he sat in the chair.
- 24 Q: Okay. So he's just sitting outside on the porch?
- 25 A: Uh-huh.

ORLANDO MENDEZ - DIRECT BY MR. TUCKER

1 Q: All right. Now, what did you do when you went inside?

2 A: Well, when I went inside, I went straight to my room.

3 Q: Now, did you notice what Mr. Johnson did? Rico?

4 A: Oh, he went into the couch.

5 Q: Okay. And I'll show you what's been marked -- first, I

6 want to show you State's 1, and do you recognize that?

7 A: Yeah. That's my house.

8 Q: That's your house?

9 A: Yes, sir.

10 Q: And you can kind of see the fender of a car there. Is

11 that Rico's car?

12 A: Yeah. That's Rico car.

13 Q: And I want to show you what's been entered into evidence

14 as State's 2. Is that just a better closer shot of Rico's

15 car?

16 A: Yeah. That's Rico car.

17 Q: Whose car is on the other side?

18 A: Well, that's Stephanie, my fiancée, car.

19 Q: Okay. Now, I want to show you what's been entered into

20 evidence as State's 6. Now, I'm going to point. When you say

21 Rico went and sat in the couch, is this the couch that Rico

22 sat on?

23 A: Yeah. That's -- yeah. That's the couch right there

24 where you got your finger at.

25 Q: Okay. All right. Now, the room that you went into you

ORLANDO MENDEZ - DIRECT BY MR. TUCKER

- 1 said was your bedroom; correct?
- 2 A: Yes, sir.
- 3 Q: Okay. I want to show you what's been entered into
4 evidence as State's 16. Now, your bedroom, is it back over in
5 this direction?
- 6 A: Yeah, in that direction.
- 7 Q: All right. And in fact, your fiancée testified that this
8 is, in fact, the bathroom?
- 9 A: Yeah. That's a bathroom.
- 10 Q: And so your bedroom would be back that way?
- 11 A: Correct.
- 12 Q: Okay. Now, was there anybody in the bedroom there when
13 you got -- when you went inside?
- 14 A: Well, I believe my fiancée was there.
- 15 Q: Okay.
- 16 A: Which is Stephanie. She was already in the room.
- 17 Q: All right. Now, do you recall where your daughter A.M.
18 was?
- 19 A: She was in the table. I had gave her a call to come to
20 the room.
- 21 Q: Okay. Now I'm going to show you what's been entered into
22 evidence as State's 6. Now, when you say she was sitting at
23 the table, was this the table to which you're referring?
- 24 A: Yeah. Correct
- 25 Q: All right. Do you know who was at the table with her?

ORLANDO MENDEZ - DIRECT BY MR. TUCKER

- 1 A: My youngest daughter, which is S.M. .
- 2 Q: Okay. Were there anybody else in or around the table
- 3 area?
- 4 A: Yes. My step grandson and Rico's son was in the -- you
- 5 know, in the table.
- 6 Q: And how old are these children?
- 7 A: Well, at that, you know, time, they was, like, about two
- 8 years old.
- 9 Q: Okay.
- 10 A: Around there.
- 11 Q: They were small; is that fair to say?
- 12 A: Yeah. They was small, yeah.
- 13 Q: Okay. Now, with regards to when you went inside the
- 14 house and you went into the bedroom, at some point thereafter
- 15 did you become aware that somebody had come into your house?
- 16 A: Well, I heard a knock.
- 17 Q: All right. And what, if anything, happened after you
- 18 heard the knock?
- 19 A: Well, after I heard the knock and stuff, you know, I
- 20 mean, next thing you know, I just heard some shots.
- 21 Q: Now, just prior to hearing the knock, who was in the
- 22 bedroom with you at that time?
- 23 A: Oh, my oldest daughter.
- 24 Q: Now, when you say oldest daughter, to whom are you
- 25 referring?

ORLANDO MENDEZ - DIRECT BY MR. TUCKER

1 A: That would be A.M.

2 Q: A.M.?

3 A: A.M., yeah.

4 Q: Now, do you know where your youngest daughter was at this

5 point?

6 A: She was still at the table.

7 Q: She was still at the table?

8 A: Yeah. She was still at the table.

9 Q: And do you know where your fiancée, Stephanie, was at

10 that point?

11 A: She was in the room.

12 Q: She was in?

13 A: Yeah, she was in the room.

14 Q: When you say room, which one?

15 A: In the back room.

16 Q: The bedroom?

17 A: In the bedroom.

18 Q: Okay.

19 A: Our room.

20 Q: Okay. Now, when -- the knock on the door, who got up and

21 answered the door?

22 A: That's when my fiancée, Stephanie Lucas, went to the

23 door.

24 Q: Okay. So she was in the bedroom, heard the knock, got

25 up, and went to answer the door?

ORLANDO MENDEZ - DIRECT BY MR. TUCKER

- 1 A: Yeah. She -- correct.
- 2 Q: And then, as you had just testified to, it was shortly
- 3 thereafter that you heard gunshots?
- 4 A: Yeah. Heard some gunshots.
- 5 Q: Now, again, you weren't wearing a watch, but do you
- 6 recall how much time elapsed from when you heard the knock
- 7 until you heard the gunfire?
- 8 A: I would say like about -- say, like, three, four, five
- 9 minutes the most I would say.
- 10 Q: Okay. Could it have been a little shorter time than
- 11 that?
- 12 A: Yeah, could have.
- 13 Q: Okay.
- 14 A: Yeah. Could have.
- 15 Q: Again, you weren't wearing a watch, were you?
- 16 A: Yeah. I wasn't wearing a watch.
- 17 Q: Now, after you heard the gunfire, what, if anything, did
- 18 you do?
- 19 A: Well, as soon as I heard, I ran towards the -- towards
- 20 the living room.
- 21 Q: Now, again, I believe you testified that A.M. was in that
- 22 bedroom with you at this point?
- 23 A: Yeah. A.M. was in -- you know, she was still in the
- 24 bedroom.
- 25 Q: So you left there and went where?

ORLANDO MENDEZ - DIRECT BY MR. TUCKER

- 1 A: Went towards the living room.
- 2 Q: Okay. Now, when you got to the living room, what, if
- 3 anything, did you see?
- 4 A: Well, I seen Scipio on his way out the door.
- 5 Q: Now, when you say Scipio, are you referring to the
- 6 defendant?
- 7 A: Yeah, the defendant.
- 8 Q: Now, when you say he was heading towards the door?
- 9 A: He was -- you know what I'm saying? -- like, half his
- 10 body was already -- you know what I'm saying? -- out the
- 11 door.
- 12 Q: Now, did you see anything in either hand?
- 13 A: Well, being as he was facing towards going outside, you
- 14 know, I mean, I could see his back going out.
- 15 Q: Okay. And what did you do then?
- 16 A: So as soon as I see that, I jump -- you know what I'm
- 17 saying? -- over his back.
- 18 Q: Okay.
- 19 A: So as soon as --
- 20 Q: And then what happened?
- 21 A: So as soon as I, you know, jump on his back -- you know
- 22 what I'm saying? -- I seen that he, you know, had something in
- 23 his hand.
- 24 Q: Now --
- 25 A: So I -- you know what I'm saying? When she asked me, it

ORLANDO MENDEZ - DIRECT BY MR. TUCKER

1 was the gun that, you know, he had used.

2 Q: Okay.

3 A: So I came up with my -- you know what I'm saying? I had

4 grabbed a hold of the -- of what he had in his hand trying to

5 snatch it from him because we were over there tussling.

6 Q: Okay. How would you describe the lighting conditions in

7 the living room and the bedroom just before the knock on the

8 door? Was it well lit?

9 A: Repeat that again?

10 Q: How would you describe the lighting conditions of your

11 house just before you heard the door knock? Was it well lit?

12 A: Yeah. It was well lit.

13 Q: Now, once you're on and you're tussling with Mr. Scipio,

14 did this occur in the front yard or was it on the front porch?

15 A: In the front porch.

16 Q: Now, at some point you indicated that you tried to grab

17 hold of what he had in his hand?

18 A: Yeah, what he had in his hand.

19 Q: What he had in his hand?

20 A: Yeah.

21 Q: Were you able to determine what that was?

22 A: Well, you know what I'm saying? It feel like a gun.

23 Q: It felt like a gun?

24 A: Yeah.

25 Q: Now, at some point, how did that tussle end?

ORLANDO MENDEZ - DIRECT BY MR. TUCKER

1 A: Well, you know what I'm saying? He had the best because
2 he was, like, over me and stuff. So he, you know, ended up
3 snatching it from me. You know, snatching it because, you
4 know, both of us had a hand on stuff. So he came and he
5 snatched it. Then after that, he pointed it at me.

6 Q: And did he say anything to you?

7 A: He said that he -- you know what I'm saying? He don't
8 want to shoot me too.

9 Q: Right. And at that point, what, if anything, happened?

10 A: Well, after -- what was that again?

11 Q: Once he pointed the gun at you and said I don't want to
12 shoot you too, what, if anything, did he do?

13 A: Well, actually, you know what I'm saying? I told him --
14 you know what I'm saying? He had it. Then he took running
15 towards the back of the trailer.

16 Q: Okay. Now, when you say he went running towards the back
17 around, he went down the steps and towards the back of your
18 house?

19 A: Correct.

20 Q: Okay. And what did you do?

21 A: I ran back into the house.

22 Q: You ran back inside the house?

23 A: Yeah.

24 Q: And what was going on at that point?

25 A: You know what I'm saying? To checking on Rico and stuff.

ORLANDO MENDEZ - DIRECT BY MR. TUCKER

1 After that, my neighbors came and I told them to call the
2 ambulance, call the police and stuff.

3 Q: Okay. Now, when you went back in and checked on Rico,
4 what, if anything, did you observe?

5 A: Well, that he was already on the couch.

6 Q: All right.

7 A: You know what I mean? Facing down.

8 Q: Could you tell he'd been injured?

9 A: Yeah.

10 Q: Now, once the neighbors showed up, you told them to call
11 9-1-1?

12 A: That's right.

13 Q: And what did you do then?

14 A: Well, after that, I jumped on -- on the truck that was
15 outside.

16 Q: Okay.

17 A: And I went looking for him at his house.

18 Q: Okay. Did you know where Mr. Scipio lived?

19 A: Correct. Yeah, I do.

20 Q: How far away did he live from where you were?

21 A: Say, like, about on car, like, about five minutes.

22 Q: Okay.

23 A: Ten minutes.

24 Q: Now, were you able to locate Mr. Scipio?

25 A: No.

ORLANDO MENDEZ - DIRECT BY MR. TUCKER

- 1 Q: And what did you do then?
- 2 A: Well, once I got to his house, I seen -- I believe it was
3 his mom and somebody else.
- 4 Q: Okay. Now, without going into what was said between you
5 and the mom, at this point did you --
- 6 A: I asked -- I asked them, you know, where was, you know,
7 Scipio at.
- 8 Q: Now, again, not going into what she said in response, but
9 what did you do after you left Mr. Scipio's house?
- 10 A: Went back to the house.
- 11 Q: You went back to your house?
- 12 A: Yeah, went to my house.
- 13 Q: How much time did all of this take?
- 14 A: Well, I would say from -- you know, from where I left the
15 house to -- I would say, like, about ten minutes.
- 16 Q: Okay.
- 17 A: Fifteen minutes most.
- 18 Q: So when you got back, had police and EMS arrived at this
19 point?
- 20 A: Yeah. They was at the house already.
- 21 Q: And did you talk to them in terms of what happened?
- 22 A: Yeah.
- 23 Q: Now, the individual that you tussled with there on your
24 porch and the one that you saw leaving your house, do you see
25 that individual in the courtroom?

ORLANDO MENDEZ - DIRECT BY MR. TUCKER

1 A: Yes, I do.

2 Q: And would you point him out, please?

3 A: (Indicating.)

4 Q: Okay.

5 A: Right there.

6 MR. TUCKER: Your Honor, I'd like the record to reflect

7 that the witness has identified the defendant, Larry Ja Juan

8 Scipio.

9 THE COURT: So noted for the record.

10 BY MR. TUCKER:

11 Q: Now, Mr. Mendez, I need to ask you did you and Rico have

12 any problems?

13 A: No.

14 Q: Did you have any arguments with him that day?

15 A: No.

16 Q: Now, did you have any firearms in your house that day?

17 A: No.

18 Q: Did you have any firearms in your house the day before?

19 A: No.

20 Q: Now, with regards to what happened at the dice game,

21 pretty much that was the individual that later came to your

22 house? You are positive?

23 A: Yes, sir, I'm positive.

24 Q: And the individual that was there at the dice game that

25 Rico had the encounter with and the one who came to your house

ORLANDO MENDEZ - DIRECT BY MR. TUCKER

1 is Larry Ja Juan Scipio?

2 A: Yes, sir.

3 Q: How positive are you?

4 A: I was a thousand percent, a thousand.

5 Q: Okay.

6 MR. TUCKER: I believe those are all the questions I
7 have, Your Honor.

8 MR. KRZYSTON: Thank you, Judge.

9 CROSS-EXAMINATION

10 BY MR. KRZYSTON:

11 Q: All right. Mr. Mendez, I just kind of want to go over a
12 little bit about what you just testified to and then ask you a
13 couple of questions. Okay? First, you said you -- you
14 actually live at [REDACTED] Tall Oaks?

15 A: Yeah.

16 Q: You sleep there? That's where you and your kids live
17 there?

18 A: Yes, sir.

19 Q: Okay. Your fiancée lives there?

20 A: Yes, sir.

21 Q: Okay. And y'all are like regular husband and wife,
22 fiancée, just like everybody else?

23 A: Yeah.

24 Q: Okay. And so when this happened -- okay? -- after the
25 dice game, you come back to [REDACTED] correct?

ORLANDO MENDEZ - CROSS BY MR. KRZYSTON

- 1 A: We went to the store --
- 2 Q: I'm sorry.
- 3 A: -- after the dice game.
- 4 Q: Yeah, yeah, yeah. After the dice game, you go to the gas
5 station; correct?
- 6 A: Yeah. Correct.
- 7 Q: Okay. And you pick up some beers and stuff there?
- 8 A: Uh-huh.
- 9 Q: Okay. And then you go back at [REDACTED]
- 10 A: That's right.
- 11 Q: Okay. Now, when you were at the dice game, there was no
12 trouble or anything during the course of the dice game;
13 correct?
- 14 A: Correct.
- 15 Q: There were no words?
- 16 A: Correct.
- 17 Q: No threats?
- 18 A: Correct.
- 19 Q: No altercations?
- 20 A: Correct.
- 21 Q: Okay. And in fact, it wasn't until y'all got ready to
22 leave that there was even anything that could even be
23 considered an issue; correct?
- 24 A: Correct.
- 25 Q: Okay. And that thing that could be considered an issue

ORLANDO MENDEZ - CROSS BY MR. KRZYSTON

- 1 was that Mr. Scipio got in front of Rico's car; correct?
- 2 A: Correct.
- 3 Q: Not inside, not behind, directly in front?
- 4 A: Correct.
- 5 Q: And Mr. Scipio was horsing around?
- 6 A: That's right.
- 7 Q: Okay. And I mean, where did y'all have to go that night?
- 8 Y'all were just going back to the house; right?
- 9 A: I said to the store.
- 10 Q: Well, but ultimately you went back to the house; correct?
- 11 A: After we went to the store.
- 12 Q: Yeah. And so, I mean, did you have work that night?
- 13 A: Well, you know what I'm saying? I was on my way out of
- 14 town the next day.
- 15 Q: Okay. So you didn't have work until the next day?
- 16 A: Yeah.
- 17 Q: Do you know if Rico had any work that night?
- 18 A: It was nighttime. It was Saturday night.
- 19 Q: Well, I mean, people can work security. They can work at
- 20 a gas station. They can work at a video store. I mean,
- 21 there's a million jobs you can do at night; right?
- 22 A: Okay, okay.
- 23 Q: And so you're not aware of whether or not Rico had any
- 24 work? You don't think he did?
- 25 A: I don't think so.

ORLANDO MENDEZ - CROSS BY MR. KRZYSTON

1 Q: And y'all had been drinking all day, like --

2 A: Not drinking all day.

3 Q: Not drinking all day?

4 A: No. We wasn't drinking all day.

5 Q: Okay. How much were y'all drinking?

6 A: Well, I'd say, like, when we got the six pack -- you know

7 what I'm saying? -- I would say. like, about a beer and a

8 half.

9 Q: Okay. Was -- did Rico drink a beer and a half or did you

10 drink a beer and a half?

11 A: Well, I drunk a beer and a half. If you ask me, he

12 didn't drink all his beer out of one beer.

13 Q: Okay. Rico only had one beer?

14 A: He ain't drink all his beer out of one beer.

15 Q: He did not drink all his beer out of one beer?

16 A: Yeah.

17 Q: So less than one beer?

18 A: Yeah, I would say.

19 Q: Okay. Is this a deuce deuce, like tall boy?

20 A: It was a regular 12 ounce.

21 Q: Regular 12 ounce?

22 A: Yeah.

23 Q: Okay. Budweiser?

24 A: Corona.

25 Q: Corona? Glass? Bottle?

ORLANDO MENDEZ - CROSS BY MR. KRZYSTON

1 A: Glass.

2 Q: Was it glass or --

3 A: Yeah, it was glass. Glass.

4 Q: Okay. All right. I'm just asking questions.

5 A: Oh, yeah. No. I'm answering your questions.

6 Q: I just want to make sure we get the details.

7 A: I'm answering your questions right.

8 Q: Okay.

9 A: All right.

10 Q: I just want to make sure we get the details right.

11 A: Okay.

12 Q: Okay? And so he drank less than 12 ounces of beer?

13 A: Well, if you ask me.

14 Q: Okay. I'm asking you.

15 A: Yeah.

16 Q: Okay. And you had been with him all day; correct?

17 A: Yeah.

18 Q: Okay. And so you would have seen him drink additional

19 alcohol if he had drank it?

20 A: Yeah.

21 Q: Okay. And so, again, y'all weren't in any kind of hurry

22 to leave the dice game; correct?

23 A: Uh-huh. That's right.

24 Q: And so Mr. Scipio was supposedly horsing around in front

25 of the car; correct?

ORLANDO MENDEZ - CROSS BY MR. KRZYSTON

1 A: Correct.

2 Q: Did this anger Rico?

3 A: What you mean anger Rico? It wasn't no --

4 Q: Was he mad?

5 A: It wasn't no -- as in it wasn't no argument or nothing.

6 So why would he be mad?

7 Q: Well, that's what I'm asking you. Did the horsing around

8 in front of his car make Rico mad?

9 A: We just talked -- we just talked to him like adults. You

10 know what I mean? We were saying we got to go.

11 Q: Okay.

12 A: Can you please -- you know what I'm saying? -- get out --

13 you know what I'm saying? -- from in front of the car.

14 Q: Okay. And so there weren't -- he wasn't angry?

15 A: Well, no.

16 Q: Okay.

17 A: Why would he -- why would he be angry and stuff, and

18 there wasn't no arguing. It was nothing going on at the dice

19 game.

20 Q: Again, I'm just asking you. He wasn't angry?

21 A: I'm saying that was the question you asked me. Why would

22 he be angry? For what?

23 Q: You were there, Mr. Mendez. I was asking --

24 A: Exactly. But, you know, why he would be mad? For what?

25 You know, if we're telling somebody to get out in front of the

ORLANDO MENDEZ - CROSS BY MR. KRZYSTON

1 car?

2 Q: Okay. So y'all weren't mad?

3 A: Right. We wasn't.

4 Q: You never --

5 A: It wasn't cursing --

6 THE COURT: Hold on a minute now. Hold on, hold on, hold

7 on, hold on, hold on. I can't have both of you talking at the

8 same time. Okay? Let him finish his response. Likewise,

9 please let him finish his question. Okay?

10 THE WITNESS: All right.

11 THE COURT: Go ahead.

12 THE WITNESS: All right.

13 BY MR. KRZYSTON:

14 Q: So he wasn't?

15 A: No.

16 Q: Okay. And so he then proceeds to push Mr. Scipio out of

17 the way?

18 A: Yeah.

19 Q: Okay. And he didn't get out of the car; right?

20 A: No.

21 Q: He pushed Mr. Scipio with a car?

22 A: Yeah.

23 Q: That's what you're saying?

24 A: Listen, I've been hit by cars before.

25 Q: You've been hit by a car?

ORLANDO MENDEZ - CROSS BY MR. KRZYSTON

- 1 A: Yeah. I've been hit by a car before.
- 2 Q: Okay.
- 3 A: All right. You know what I'm saying? That right there
- 4 was just a push.
- 5 Q: Okay.
- 6 A: Just a push. Like -- like, if I'm pushing this box like
- 7 this, like a push. It wasn't like hitting him. He didn't hit
- 8 him with the car.
- 9 Q: Okay.
- 10 A: It was a push.
- 11 Q: Okay.
- 12 A: I was in the car.
- 13 Q: Okay. So he used the car as an instrument and he -- or a
- 14 -- not a ram or a -- maybe a bulldozer. He pushed him, just
- 15 pushed him?
- 16 A: Like, get out the way. We're trying to -- you know what
- 17 I'm saying? We're trying to leave.
- 18 Q: Okay. And so after that, that's when y'all went to the
- 19 gas station; right?
- 20 A: Correct.
- 21 Q: And then back to [REDACTED]
- 22 A: Correct.
- 23 Q: Okay. And so when you get to [REDACTED] you pull into --
- 24 you're in Rico's car?
- 25 A: Uh-huh.

ORLANDO MENDEZ - CROSS BY MR. KRZYSTON

1 Q: That's the red --

2 A: Camaro.

3 Q: -- Camaro. Okay. And did -- and I'm sorry. I should

4 have asked this before, but before when he was being pushed,

5 were -- were Mr. Scipio's hands in contact with the hood?

6 A: No.

7 Q: No?

8 A: Huh-uh.

9 Q: Okay. You're in the front seat; correct?

10 A: The front seat.

11 Q: Nothing obstructing your vision; correct?

12 A: Well, you know what I'm saying? Well, nothing. It's

13 clear.

14 Q: It's clear? Is that what you're saying?

15 A: Yeah, my vision is clear -- you know what I'm saying? --

16 what Scipio --

17 Q: Okay.

18 A: -- was doing, you know, in front of the car.

19 Q: Okay.

20 A: Which he -- no, he ain't had his hands in the hood. What

21 he was doing, he was sitting on the hood. Like, you know what

22 I'm saying? Like, sitting around.

23 Q: With his rear?

24 A: Yeah.

25 Q: Okay. Never touched it with his hands?

ORLANDO MENDEZ - CROSS BY MR. KRZYSTON

- 1 A: Never touched it, no.
- 2 Q: Okay. All right. And so I'm sorry, but we're fast
- 3 forwarding back to [REDACTED] Okay? Now, you get out of the car;
- 4 correct?
- 5 A: Correct.
- 6 Q: Rico gets out of the car; correct?
- 7 A: Correct.
- 8 Q: Khalid Belin worms his way from the back seat; correct?
- 9 A: Correct. Uh-huh.
- 10 Q: And you go in the house; correct?
- 11 A: We go in the house. Me and Rico go in the house.
- 12 Q: Correct. Rico then goes in the house; right?
- 13 A: Correct.
- 14 Q: All right. And Mr. Belin stays on the porch?
- 15 A: Correct.
- 16 Q: All right. Do you know if he was sitting in a chair or
- 17 on the steps?
- 18 A: In the chair.
- 19 Q: He was in a chair?
- 20 A: Uh-huh.
- 21 Q: Okay. So he was sitting in a chair on the porch?
- 22 A: Yeah.
- 23 Q: Okay. And you'd agree with me that from the porch to
- 24 your next-door neighbor at [REDACTED] there's a clear view, like,
- 25 you can see your neighbors; correct?

ORLANDO MENDEZ - CROSS BY MR. KRZYSTON

- 1 A: Well, from the front. Not from the back.
- 2 Q: Right. From the front?
- 3 A: Yeah.
- 4 Q: Okay. And so if you're at the front of your house and
- 5 you look right, you see [REDACTED] correct?
- 6 A: Correct.
- 7 Q: Okay. And so there's nothing that obstructs the
- 8 viewpoint from your front porch to [REDACTED]
- 9 A: [REDACTED]
- 10 Q: Yeah. Your neighbors.
- 11 A: Yeah.
- 12 Q: Okay.
- 13 A: You can see it from porch to porch.
- 14 Q: Okay. And so at that point, you then go back to your
- 15 bedroom; correct?
- 16 A: Well, no. We go straight into the bedroom.
- 17 Q: Okay.
- 18 A: As soon as we come -- you know, as soon as I come into
- 19 the house, we go straight into the bedroom. I go straight
- 20 into the bedroom.
- 21 Q: Okay. And so you would go to the right is your bedroom;
- 22 correct?
- 23 A: Yeah. Correct.
- 24 Q: And then before you get there though, you see Rico sit
- 25 down; correct?

ORLANDO MENDEZ - CROSS BY MR. KRZYSTON

- 1 A: He was already -- you know what I'm saying? Actually, he
2 sat down at the same time because we came -- both of us came
3 into the house at the same time.
- 4 Q: Okay.
- 5 A: He went into the couch, and I went to the room.
- 6 Q: All right. And when he sat on the couch, he sat upright?
- 7 A: What you mean he sat upright?
- 8 Q: I mean he was sitting in the couch like this, sitting?
- 9 A: I wasn't paying attention how he sat down. You know, he
10 came into the house.
- 11 Q: He sat down?
- 12 Q: Well, he sat down. Like, you know what I mean? He's
13 sitting in the chair. Like, I wasn't supposed to -- I'm
14 supposed to be seeing how --
- 15 A: I mean was he laying on his stomach?
- 16 A: He was sitting down.
- 17 Q: Like I am right now?
- 18 A: Yeah.
- 19 Q: Like I am right now?
- 20 A: Basically, like you are right now.
- 21 Q: Okay.
- 22 A: Yes.
- 23 Q: So just like this?
- 24 A: Yes. Sitting down.
- 25 Q: Okay. And you -- at that point, after you see him sit

ORLANDO MENDEZ - CROSS BY MR. KRZYSTON

1 like I just sat in a chair straight up, you go to your
2 bedroom?
3 A: Correct.
4 Q: All right. Now, you called your daughter back there;
5 correct?
6 A: Correct.
7 Q: And your wife? Did you say that she was already back
8 there?
9 A: Yeah.
10 Q: Okay. And so what were you all doing? Just watching TV?
11 A: Hanging out. I mean, I just -- I came into the house.
12 She was watching T.V.
13 Q: Okay. And then what did you do?
14 A: I sat. You know what I'm saying? I sat on the corner of
15 the bed because I just had came in the house.
16 Q: Okay. Were you all talking? Were you watching T.V.?
17 I mean, what were y'all doing?
18 A: Well, like -- like I say, I just came into the house.
19 She was watching T.V. Hey, how you doing, what you doing, and
20 stuff like that --
21 Q: Okay.
22 A: -- I was saying.
23 Q: Okay.
24 A: Okay.
25 Q: So you were just basically talking, making nice?

ORLANDO MENDEZ - CROSS BY MR. KRZYSTON

1 A: Yeah.

2 Q: Okay. Checking on everybody's day; right?

3 A: Yeah.

4 Q: Okay. Do you remember what she was watching?

5 A: No.

6 Q: On TV? Judge Judy? I mean, CNN?

7 A: No.

8 Q: You don't remember?

9 A: Huh-uh. No, I didn't.

10 Q: Okay. You don't?

11 A: No, I don't.

12 Q: Okay. And at some point, you hear a knock at the door;

13 correct?

14 A: Correct.

15 Q: All right. And that knock prompts Stephanie to go to the

16 front of the house; correct?

17 A: Correct.

18 Q: Your wife?

19 A: Correct.

20 Q: Okay. And then you say at some point you hear a volley

21 of gunshots; correct?

22 A: Correct.

23 Q: Okay. And that as you go out of the room, you see Rico

24 sat there shot; correct?

25 A: Correct.

ORLANDO MENDEZ - CROSS BY MR. KRZYSTON

- 1 Q: And then you see the back of who you think is Mr. Scipio;
2 correct?
- 3 A: Which I know it was Scipio. It's not -- you know what
4 I'm saying? -- that I think it was Scipio. It was Scipio.
- 5 Q: Okay. I mean, you just saw somebody's back at that
6 point; correct?
- 7 A: Yeah, I did.
- 8 Q: Okay. I mean, it's not like you were looking at him eye
9 to eye. It was like somebody's back as they're walking out
10 the door; correct?
- 11 A: All right.
- 12 Q: Right?
- 13 A: Okay. Okay.
- 14 Q: So, ultimately, you say it was Mr. Scipio; right?
- 15 A: Yeah.
- 16 Q: Okay. And you actually engage who you say is Mr. Scipio
17 in a physical altercation; correct?
- 18 A: Correct.
- 19 Q: Y'all tussle?
- 20 A: Correct.
- 21 Q: Interlock?
- 22 A: Correct.
- 23 Q: Okay. You grabbed him? He grabbed you?
- 24 A: Correct.
- 25 Q: Okay. And you struggle over the firearm or what you

ORLANDO MENDEZ - CROSS BY MR. KRZYSTON

1 think was the firearm immediately?

2 A: Correct.

3 Q: Okay. Your hands on it?

4 A: Well, it's over here if you ask me.

5 Q: Right. But, like, both of y'all's hands --

6 A: Uh-huh.

7 Q: -- are interlocked on the firearm?

8 A: Correct.

9 Q: Okay. And so how long does this struggle last?

10 A: I would say a couple of seconds, if you ask me.

11 Q: Okay. Like, 15 seconds?

12 A: Well, I'm not a timekeeper, but I can't tell you exactly

13 what -- how many times, you know, what time or --

14 Q: Okay. Let's do this. All right? In a second, I'm going

15 to stop talking, and you tell me how long. Okay? So go.

16 A: Well, I don't know. You know what I'm saying? No, like,

17 your whole question is stuff like about what I got to do about

18 -- you know what I'm saying? -- how much time I was talking

19 and how much time I wasn't talking.

20 Q: So is this the struggle still going or --

21 A: You know what I mean? Like I said, it took a couple of

22 seconds.

23 Q: Okay. And so let's try that again. Okay? I'm going to

24 tell you go and you tell me when the struggle stops in your

25 memory. Okay? So wait for it. Go.

ORLANDO MENDEZ - CROSS BY MR. KRZYSTON

- 1 A: I would say about right -- no, go ahead.
- 2 Q: Right now?
- 3 A: Yeah, you can say.
- 4 Q: Okay. So about 15 seconds?
- 5 A: Yeah.
- 6 Q: Okay. Let the record reflect I think it's somewhere
- 7 between 13 and 15 seconds. And so that's how long this
- 8 physical altercation lasts; correct?
- 9 A: Correct.
- 10 Q: All right. You touch his skin, he touches yours; right?
- 11 A: You can say that.
- 12 Q: Okay. And ultimately, this is something that you tell
- 13 police; correct?
- 14 A: Correct.
- 15 Q: Okay. And as a result, the police want to take
- 16 photographs of you; correct?
- 17 A: Correct.
- 18 MR. KRZYSTON: May I approach the witness, Judge?
- 19 THE COURT: Yes.
- 20 BY MR. KRZYSTON:
- 21 Q: All right. Mr. Mendez, won't you flip through these
- 22 pictures for me and tell me if you recognize the fellow in
- 23 there?
- 24 A: Yes. You know, those are my hand.
- 25 Q: Okay. So that's you?

ORLANDO MENDEZ - CROSS BY MR. KRZYSTON

1 A: Yeah.

2 Q: In these pictures?

3 A: Uh-huh.

4 Q: Okay. Can I get those back from you? Do they fairly

5 and accurately depict you as you were at the time that the

6 police came out to the scene?

7 A: Yeah.

8 Q: Okay.

9 MR. KRZYSTON: Let me mark these just for a second. Yes,

10 ma'am. Thank you.

11 BY MR. KRZYSTON:

12 Q: All right. And so you talked to Deputy -- then Deputy

13 Jones; correct?

14 A: I talked to somebody. I don't know exactly who it was.

15 Q: The nice lady in the -- is that orange or I don't know

16 what shirt color that is, but somewhere between orange and

17 brown?

18 A: Like I say, I know I talked to somebody.

19 Q: Okay. So you don't remember who you talked to?

20 A: No.

21 Q: Okay. But you told them what happened; right?

22 A: Exactly.

23 Q: All right. And as a result, somebody took pictures of

24 you; correct?

25 A: Uh-huh.

ORLANDO MENDEZ - CROSS BY MR. KRZYSTON

1 Q: And you just looked at some of these pictures; right?

2 A: Right.

3 Q: And so that's --

4 THE COURT: You need to answer yes or no, sir.

5 THE WITNESS: Yes, sir.

6 THE COURT: Thank you.

7 THE WITNESS: Okay.

8 BY MR. KRZYSTON:

9 Q: Okay. And so this, which has been marked as Defense 4,
10 that's a picture of your hands; correct?

11 A: Correct.

12 THE COURT: What exhibit is that?

13 MR. KRZYSTON: Defense 4, Your Honor.

14 THE COURT: Thank you. Hold on a minute. Take that off
15 of there.

16 MR. KRZYSTON: Yes, sir.

17 THE COURT: These haven't been introduced into evidence
18 yet.

19 MR. KRZYSTON: Oh, I'm sorry. We're moving these. We
20 would ask that these be moved in evidence.

21 MR. TUCKER: And I have no objections, Your Honor. He
22 showed them to me before.

23 MR. KRZYSTON: I'm sorry.

24 THE COURT: All right. What numbers are they again?

25 MR. KRZYSTON: 4, 5, 6, 7, 8.

ORLANDO MENDEZ - CROSS BY MR. KRZYSTON

1 THE COURT: All right. Without objection, so admitted.
2 (WHEREUPON, Defendant's Exhibits No. 4, 5, 6, 7, and 8,
3 photographs, were admitted into evidence.)

4 BY MR. KRZYSTON:

5 Q: And so, again, that's Defendant's 4; correct?

6 A: Uh-huh. Correct.

7 Q: Those were the clothes that you were wearing during the
8 altercation; correct?

9 A: Correct.

10 Q: Okay. You didn't change clothes at any point in time;
11 correct?

12 A: No, I didn't.

13 Q: Okay. These are pictures -- this is Defense 5, another
14 picture of the soles of your hands; correct?

15 A: Correct.

16 Q: All right. Defense 6. This is actually a close up of
17 your hand; correct?

18 A: Correct.

19 Q: All right. All right. And this right here that I'm
20 pointing at, that appears to be some scrape and blood;
21 correct?

22 A: Uh-huh.

23 Q: And that appears to be a fingernail?

24 A: Yeah.

25 Q: Okay. And so you had -- like, your fingernails were

ORLANDO MENDEZ - CROSS BY MR. KRZYSTON

1 longer, if you will? Like, mine are pretty short. Like, they
2 don't overhang. So yours had some maybe overhang?

3 A: Well, you know what I'm saying? The middle one -- you
4 know what I'm saying -- that's the way my finger is.

5 Q: Okay.

6 A: Yeah.

7 Q: But -- and so you definitely struggled with this hand
8 with Mr. Scipio; right?

9 A: Uh-huh.

10 Q: Okay. All right. That's just another -- Defense 7 is
11 another close-up of the fingernail and the index finger?

12 A: Uh-huh.

13 Q: You'd agree with me; right?

14 A: Yeah.

15 Q: And then, just lastly Defense 8, that's another picture
16 of your hands as they appeared?

17 A: Correct.

18 Q: Maybe a little tattoo and your shirt and pants; correct?

19 A: Correct.

20 Q: Okay. Again, you can see visibly on your left hand
21 fingernails present from this angle as well; correct?

22 A: Correct.

23 Q: Okay. All right. Now, after you took pictures, you were
24 permitted to leave; correct?

25 A: Or leave?

ORLANDO MENDEZ - CROSS BY MR. KRZYSTON

1 Q: Yeah, like leave the scene?

2 A: Well, the scene was at my house. I couldn't leave.

3 Q: But did you -- did the police allow you to stay there

4 that night?

5 A: Well, that's where we live at.

6 Q: Okay. I didn't know if they were processing the scene

7 for several hours that required you to go someplace else.

8 A: Well, you know what I'm saying? Like, whatever they did

9 -- you know what I'm saying? -- they did as we was, you know,

10 staying outside and stuff.

11 Q: Okay. And so if you had to guess, all told how long from

12 gunshots to then clearing your house did it take?

13 A: Well, a couple of hours.

14 Q: A couple of hours?

15 A: Yeah.

16 Q: And so by some -- and again, I'm not going to hold you to

17 it, but sometime, two, three in the morning, you're back in

18 the house?

19 A: Well, I don't recall what time it was, but I know it was

20 a couple of hours that it took.

21 Q: Okay. So sometime early morning you're back in the

22 house?

23 A: Well, I can't remember that. No, I can't remember that.

24 Q: Okay.

25 A: Yeah.

ORLANDO MENDEZ - CROSS BY MR. KRZYSTON

1 Q: All right. Well, it didn't take a day; right?

2 A: Well, it took a couple of hours. That's not a day.

3 Q: Okay. And so, again, after that, they don't collect

4 anything. They just take pictures and let you go; correct?

5 Like, off of your person?

6 A: Yeah. Correct.

7 Q: Okay. And so after that were you ever contacted by

8 Investigator Price again?

9 A: Well, I believe -- you know what I'm saying? Like, we

10 talked with -- you know what I'm saying? -- a lot of people

11 and stuff. Like, we exactly can't remember who that was.

12 Q: Okay.

13 A: You know what I mean? But, you know, more people came

14 and talked to us.

15 Q: Okay. When did more people come talk to you?

16 A: Well, after I believe the next day, they had came to the

17 house, something like that. And I'm -- I can't remember. You

18 know what I'm saying? It wasn't exactly that, but I know

19 after. You know what I'm saying? After everything happened,

20 they came back and talked to us about, you know, what was

21 going on.

22 Q: Okay. And so is your testimony that police actually came

23 back and talked to you after they cleared the scene?

24 A: Well, I ain't say police came after they cleared. Just

25 to keep updated what was going on.

ORLANDO MENDEZ - CROSS BY MR. KRZYSTON

1 Q: Gotcha. So perhaps like some victim notification that
2 court is happening or something like that?

3 A: Yeah. Like, I would say something like that. Like, when
4 -- you know what I'm saying? -- the victim went to the
5 hospital and stuff like -- you know what I mean? They always
6 keep, you know, saying, like, stuff like that. You know what
7 I mean?

8 Q: Okay. So they were just keeping you updated with the
9 status of the case; correct?

10 A: Correct.

11 Q: They weren't engaging you about the details of the case;
12 correct?

13 A: Correct.

14 Q: They weren't talking to you about your statements or any
15 of the other statements; correct?

16 A: Correct.

17 Q: They weren't asking to get entry back into the house or
18 into the backyard or your property at all; correct?

19 A: Well, they was already -- you know, they was already
20 doing that.

21 Q: Right. They already did that, but they never came back;
22 correct?

23 A: No, not that I remember.

24 Q: They didn't take your cell phone or anything like that;
25 correct?

ORLANDO MENDEZ - CROSS BY MR. KRZYSTON

- 1 A: No. They didn't take my cell phone.
- 2 Q: Okay. And they didn't take your wife's cell phone;
3 correct?
- 4 A: No, they didn't.
- 5 Q: Okay. And so after you were permitted to go back in your
6 house, really other than victim notification, there wasn't
7 really any additional information that you relayed to either
8 the police or to the solicitors; correct?
- 9 A: Correct.
- 10 Q: Okay.
- 11 MR. KRZYSTON: Court's indulgence.
- 12 BY MR. KRZYSTON:
- 13 Q: Let me ask you this. On direct you were asked about
14 having a firearm in your residence?
- 15 A: Uh-huh.
- 16 Q: Okay.
- 17 A: Correct.
- 18 Q: Your testimony was that you didn't have a firearm; right?
- 19 A: I didn't have one. Correct.
- 20 Q: In fact, it would be a crime for you to possess a
21 firearm?
- 22 A: Correct.
- 23 Q: As evidenced by your prior conviction?
- 24 A: Correct.
- 25 Q: All right. And so there were no firearms; correct?

ORLANDO MENDEZ - CROSS BY MR. KRZYSTON

1 A: Correct.

2 Q: Okay.

3 MR. KRZYSTON: Thank you, Judge. No further.

4 MR. TUCKER: Just a few things briefly on redirect, Your
5 Honor.

6 THE COURT: Yes, sir.

7 REDIRECT EXAMINATION

8 BY MR. TUCKER:

9 Q: Now, Mr. Mendez, Mr. Krzyston asked you about why you
10 left when you left the dice game. Is it your testimony that
11 you left the dice game pretty much because it was over?
12 Correct?

13 A: Correct.

14 Q: I wanted to ask you about -- you mentioned -- or Mr.
15 Krzyston asked you about whether or not Mr. Scipio placed his
16 hands on the hood on the front of the car of Rico's car --

17 A: Correct.

18 Q: -- as y'all were leaving, and you indicated that he kind
19 of put his -- I'll use derriere for lack of a better term.

20 A: Yeah. Correct.

21 Q: But his backside there. So it was some body part of Mr.
22 Scipio that made contact with the front of Mr. Johnson's car;
23 is that right?

24 A: Yeah. Correct.

25 Q: Okay. Now, with regards to Khalid Belin, you indicated

ORLANDO MENDEZ - REDIRECT BY MR. TUCKER

1 that on your testimony that he was sitting in the chair on the
2 porch after you went in?

3 A: Correct.

4 Q: Now, is it possible that Mr. Belin could have gotten up
5 from the chair and went and sat down on the chair or the steps
6 without you knowing it?

7 MR. KRZYSTON: Objection. Asked and answered.

8 A: Yeah. Could be.

9 THE COURT: Overruled.

10 BY MR. TUCKER:

11 Q: Now, with regards to the condition of your hands, you
12 indicated that you do construction work; correct?

13 A: Correct.

14 Q: Okay. Was that what you were doing up until that weekend
15 in terms of a living?

16 A: Correct.

17 Q: And was that what you were doing after this thing
18 happened that following week?

19 A: Correct.

20 Q: Now, with regards to your fingernail that was broken and
21 all that, is it possible that you could have broken that
22 during the course of your work using your hands in
23 construction?

24 A: Yeah. Correct.

25 Q: And so, again, your hands look like that, I would

ORLANDO MENDEZ - REDIRECT BY MR. TUCKER

1 imagine, most of the time, and anybody takes pictures about
2 any time?

3 A: Correct.

4 MR. TUCKER: Those are all questions I have, Your Honor.

5 THE COURT: Any recross?

6 MR. KRZYSTON: No, sir, Judge.

7 THE COURT: Sir, you may step down. Thank you.

8 THE WITNESS: Okay.

9 MR. TUCKER: And, Your Honor, I would ask if Mr. Mendez
10 could be released from his subpoena.

11 THE COURT: Any objection?

12 MR. KRZYSTON: No, sir.

13 MR. TUCKER: And, Your Honor, could we approach?

14 THE COURT: Sir, you're released from your subpoena.
15 You're free to go. Have a nice day.

16 THE WITNESS: Thank you.

17 (WHEREUPON, a bench conference was held off the record,
18 after which the proceedings resumed as follows.)

19 THE COURT: All right. Ladies and gentlemen, what we're
20 going to do at this point, we're going to break for the rest
21 of the day. I'm going to let you go home for the evening.
22 I'm going to ask that you be back here tomorrow morning at
23 9:30, back here tomorrow morning at 9:30, and we'll resume the
24 trial of this case as promptly at that time as possible.

25 As I've said throughout, do not discuss this case at all

LEIGH MANLEY - DIRECT BY MR. TUCKER

1 you all wait back there. There were some things we had to
2 hammer out before we could get started this morning. So I
3 apologize for that. Thank you for your patience. Okay?

4 At this time, I'll recognize the State. Call your next
5 witness, please.

6 MR. TUCKER: Thank you, Your Honor. May it please the
7 Court. At this time the State would call Officer Leigh Manley
8 to the stand.

9 THE CLERK: Sir, if you will please place your left hand
10 on the Bible and raise your right hand. Do you swear or
11 affirm the testimony you give in this case to be the truth,
12 the whole truth, and nothing but the truth, so help you God?

13 THE WITNESS: Yes.

14 THE CLERK: Please be seated and state your full name for
15 the record.

16 THE WITNESS: I'm Officer Leigh Manley.

17 LEIGH MANLEY, being first duly
18 sworn, testified as follows:

19 DIRECT EXAMINATION

20 BY MR. TUCKER:

21 Q: And, Officer Manley, although the uniform gives it away,
22 I'm going to ask anyway. Where do you work?

23 A: Florence City Police Department.

24 Q: And how long have you worked with the Florence City
25 Police Department?

LEIGH MANLEY - DIRECT BY MR. TUCKER

1 A: Just over four years.

2 Q: And in what capacity are you currently employed there?

3 A: I'm a patrolman, patrol officer.

4 Q: And did you have any prior law enforcement experience

5 before coming to work at Florence?

6 A: Yes.

7 Q: And where was that?

8 A: Darlington Correctional Facility.

9 Q: And how long were you there?

10 A: Roughly six months.

11 Q: Okay. Now, Officer Manley, I'm going to direct your

12 attention to July the 8th, 2019. Were you employed with the

13 Florence Police Department at that time?

14 A: Yes.

15 Q: As a patrol officer?

16 A: Yes.

17 Q: Now, I want to further direct your attention specifically

18 to the evening. Did you receive a call for service or a

19 request for service somewhere between Jarrett Street and Pine

20 Street in reference to a possible burglary?

21 A: Yes.

22 Q: And did you respond?

23 A: I did.

24 Q: And what did you find when you got there?

25 A: I found Mr. Scipio on the back porch.

LEIGH MANLEY - DIRECT BY MR. TUCKER

1 Q: Of that residence?

2 A: Yes.

3 Q: And when you say, Mr. Scipio, were you able to fully

4 identify this individual?

5 A: Yes. It was Larry Scipio, Jr.

6 Q: Okay. And with regards to the complaint, it came as a

7 burglary, but I believe it was later determined that the house

8 actually belonged to a family member; is that correct?

9 A: That is.

10 Q: And so he wasn't charged with anything in that regard;

11 correct?

12 A: No.

13 Q: And with regards to what you did, did you run him through

14 what is commonly referred to as NCIC?

15 A: Yes. We had our central dispatch do it.

16 Q: And what, if anything, popped back when you ran that

17 through?

18 A: It came back that he had a warrant for murder with

19 Florence County.

20 Q: Now, at that point, did you notify the Florence County

21 Sheriff's Office that you had Mr. Scipio in custody?

22 A: Yes.

23 Q: And did they send personnel out to assume custody of Mr.

24 Scipio?

25 A: Yes.

LEIGH MANLEY - DIRECT BY MR. TUCKER

1 Q: And did that pretty much end your involvement with this
2 matter?

3 A: Yes, sir.

4 Q: And you didn't have any involvement in the events that
5 gave rise to Mr. Scipio being charged initially; is that
6 correct?

7 A: That is correct.

8 MR. TUCKER: I believe those are all the questions I
9 have, Your Honor.

10 MR. SHARPE: Your Honor, at this time we'd like to renew
11 our prior objection to this testimony.

12 THE COURT: All right. So noted.

13 MR. SHARPE: And we don't have any questions for this
14 witness, Your Honor.

15 THE COURT: Sir, you can step down. Thank you.

16 THE WITNESS: Thank you.

17 MR. TUCKER: Your Honor, I would ask if Officer Manley
18 could be released from his subpoena.

19 THE COURT: Any objections?

20 MR. SHARPE: No objection, Your Honor.

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

23 THE WITNESS: Thank you, Your Honor.

24 THE COURT: Next witness?

25 MR. TUCKER: Thank you, Your Honor. May it please the

1 Court. Your Honor, at this time we would call Chase McDaniel
2 from the Sheriff's Office, and he is the witness that we have
3 to do by WebEx.

4 THE COURT: Okay.

5 MR. TUCKER: So this would be in terms of trying to get
6 that arranged.

7 THE COURT: All right.

8 All right. Ladies and gentlemen of the jury, I'm going
9 to have to send you back out for a few minutes. I apologize
10 for that. We have a witness that's going to testify via
11 WebEx. If you're familiar with that, it will be video
12 testimony. This individual, due to some health issues, could
13 not be here, and that's why we're doing it via WebEx. A
14 couple of things, technical issues that we need to hammer out
15 before we start that testimony.

16 So I'm going to send you back to the jury room. I'll get
17 you back out here as quickly as I can. Please do not discuss
18 the case. I'll get you back out here in just a few minutes.
19 Thank you.

20 (WHEREUPON, the jury exited the courtroom at 10:02 a.m.)

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

23 MR. TUCKER: And, Judge, I don't know if this helps, but
24 I'm thinking even after we move them in, when I show them and
25 have him explain those, we want the jury to see them anyway in

CHASE MCDANIEL - DIRECT BY MR. TUCKER

1 MR. TUCKER: And, Your Honor, at this time the State would
2 call Chase McDaniel with the Florence County Sheriff's Office.

3 THE COURT: All right. Madam Clerk?

4 THE CLERK: Mr. McDaniel, please raise your right hand.
5 Do you swear or affirm the testimony you give in this case to
6 be the truth, the whole truth, and nothing but the truth, so
7 help you God?

8 THE WITNESS: Yes, ma'am.

9 THE CLERK: Please state your full name for the record.

10 THE WITNESS: Chase D. McDaniel.

11 CHASE MCDANIEL, being first duly
12 sworn, testified as follows:

13 DIRECT EXAMINATION

14 BY MR. TUCKER:

15 Q: And, Mr. McDaniel, where are you presently employed?

16 A: At the Florence County Sheriff's Office.

17 Q: And how long have you been with the Florence County
18 Sheriff's Office?

19 A: For about 18 years.

20 Q: Now, in what capacity are you currently employed with
21 them?

22 A: As a criminal investigator at this time.

23 Q: Now, what other previous positions that you held there at
24 the Sheriff's Office?

25 A: Forensic technician.

CHASE MCDANIEL - DIRECT BY MR. TUCKER

1 Q: And how long were you a forensic technician with the
2 Sheriff's Office?

3 A: For about four years.

4 Q: And do you recall what years you were the forensic
5 technician there?

6 A: From 2019 until 2021.

7 Q: Okay. What sort of --

8 A: I'm sorry, 2017 to 2021.

9 Q: Okay. Now, what sort of duties and responsibilities are
10 associated with the job of forensic technician?

11 A: Most of the time we end up responding to calls and
12 collecting evidence and gathering information from the
13 investigators and assisting them with what they do on a case.

14 Q: And could you explain what an on-call forensic technician
15 is?

16 A: We usually go on call for a week at a time, and during
17 that time when you're on call, you're only on call for 24
18 hours unless there's major incidents where forensic services
19 are needed. We respond to the scene wherever they call you to
20 go.

21 Q: Now, if again I heard you correctly, you were a forensic
22 technician from 2017 until 2021; is that correct?

23 A: Yes, sir.

24 Q: So you would have been a forensic technician on or about
25 July the 6th of 2019; is that right?

CHASE MCDANIEL - DIRECT BY MR. TUCKER

1 A: Yes, sir.

2 Q: Now, I want to direct your attention specifically to the
3 evening around 10:30 of July the 6th, 2019. Were you the on-
4 call investigator at that time?

5 A: Yes, sir.

6 Q: Do you recall being requested to become involved in your
7 capacity as a forensic technician in a possible shooting
8 stemming from an incident that occurred at [REDACTED] Tall Oaks
9 Drive in Florence?

10 A: Yes, sir.

11 Q: And do you recall what you did, if anything, once you
12 were notified to respond?

13 A: Yes, sir.

14 Q: And could you tell us what that was, please?

15 A: When I received the call, I responded to McLeod Hospital.
16 I was told that there was a victim that had been shot.

17 We didn't know at the time whether he was still alive or if
18 they were deceased, but I was told to respond to the hospital
19 to document injuries and look into the incident itself at the
20 hospital.

21 Q: Now, when you arrived at the hospital, were you
22 ultimately directed to the room in which the victim was
23 located?

24 A: Yes, sir.

25 Q: And were you ultimately able to get an identity on the

CHASE MCDANIEL - DIRECT BY MR. TUCKER

1 victim at this time in your investigation?

2 A: Yes, sir.

3 Q: And who was the victim?

4 A: Mr. Rico Johnson.

5 Q: Was Mr. Johnson deceased at the time that you entered the

6 room?

7 A: Yes, sir.

8 Q: Was anybody in there with you besides yourself and the

9 body of Rico Johnson?

10 A: Yes, sir. The -- the assistant coroner, Bo Myers.

11 Q: Okay. And what, if anything, did you do in terms of

12 observing Mr. -- or recording Mr. Johnson's injuries when you

13 got into the room?

14 A: I assisted the coroner with documenting the injuries that

15 we observed on Mr. Johnson's body.

16 Q: And do you recall what those injuries were?

17 A: Yes, sir.

18 Q: And what were they?

19 A: In looking at my report, I believe, the coroner and I

20 examined several gunshot wounds on the victim's body, the

21 gunshot wounds that were located -- we found a location on his

22 left shoulder area, the left arm pit, left under arm area,

23 left hand area near his pinkie, and also in the victim's back,

24 and two of which were located near the left side of his back,

25 and there were also three circular orifices on his right side

CHASE MCDANIEL - DIRECT BY MR. TUCKER

1 of his back, if you will.

2 Q: And again, these circular orifices, as you described,
3 were consistent with a gunshot wound?

4 A: Yes, sir.

5 Q: Now, once you were done there documenting everything in
6 terms of the injuries to Mr. Johnson, did you ultimately
7 respond to the scene there at [REDACTED] Tall Oaks?

8 A: Yes, sir.

9 Q: And when you got there, do you recall if there were any
10 other FCSO Sheriff's Office personnel there as well?

11 A: Yes, sir. There were several of those.

12 Q: Okay. And what did you do when you first arrived?

13 A: When I first arrived, I just started to document the
14 scene as it was when I found it. Officer Amber Jones had an
15 individual that was supposedly involved in an altercation with
16 the suspect, and I took photographs of him.

17 Q: Okay.

18 A: His hands.

19 Q: And, Investigator McDaniel, I am going to show you what
20 has been entered into evidence.

21 MR. TUCKER: Photographs, State's 29 through 70, Your
22 Honor.

23 THE COURT: All right.

24 MR. TUCKER: And permission to publish these to the jury.

25 THE COURT: All right. The authenticity of those

CHASE MCDANIEL - DIRECT BY MR. TUCKER

1 photographs been stipulated to by defense counsel; correct?

2 MR. KRZYSTON: They have, Your Honor.

3 THE COURT: All right. 29 through 70; is that correct?

4 MR. TUCKER: Yes, Your Honor.

5 THE COURT: All right. Yes, sir. You may do so.

6 (WHEREUPON, State's Exhibits No. 29 through 70,

7 photographs, were admitted into evidence.)

8 MR. TUCKER: Okay.

9 BY MR. TUCKER:

10 Q: And, Mr. McDaniel, can you see the photo that I'm holding
11 up?

12 A: Yes, sir.

13 Q: Now, is that the individual that you took photos of in
14 terms of you were told that there was a possible altercation
15 between himself and the suspect?

16 A: Yes, sir. I took that photograph.

17 Q: And did you ultimately identify this individual as
18 Orlando Mendez?

19 A: Yes, sir.

20 Q: Okay.

21 MR. TUCKER: And this is for the record, Your Honor,
22 State's 53.

23 THE COURT: All right.

24 BY MR. TUCKER:

25 Q: And I'm going to show you now, Investigator McDaniel,

CHASE MCDANIEL - DIRECT BY MR. TUCKER

1 what's been marked as State's 54. Is that another photo of
2 Mr. Mendez that you took in this sequence?

3 A: Yes, sir.

4 Q: All right. And showing State's 55, and what are we
5 looking at in this photo?

6 A: That's another photograph of Mr. Mendez's hands.

7 Q: Okay. And State's 56, what are we looking at in this
8 photo?

9 A: That's just a -- that's a closer photograph of his hands.

10 Q: Okay. And you focused on the hands. Did it appear that
11 he had some injuries or some cuts or something like abrasions
12 on his hands?

13 A: Yes, sir.

14 Q: Now, were you told by Mr. Mendez or anybody else that he
15 was a construction worker for a living?

16 A: Not that I'm aware of.

17 Q: Okay. All right. Now, once you took the photos of Mr.
18 Mendez and documented that, what, if anything, did you do at
19 that point?

20 A: I started taking just overall photographs of the -- of
21 the scene itself.

22 Q: Okay. Now, are you familiar with the term "walkthrough"
23 as it applies to forensic technician responsibilities?

24 A: Yes, sir.

25 Q: And could you explain what those are or what a

CHASE MCDANIEL - DIRECT BY MR. TUCKER

1 walkthrough is for the jury?

2 A: A walkthrough is pretty much just walking through the
3 scene and actually identifying where exactly the crime scene
4 is at the location, walking through and seeing what evidence
5 we need to gather that's associated with the incident.

6 Q: Okay. Now, did you document this by way of a diagram or
7 photographs?

8 A: Photographs.

9 Q: Okay. And in fact, I've shown you some already of some
10 that you took up, Mr. Mendez; correct? All right.

11 A: Yes, sir.

12 Q: And when you started your, for want of a better
13 description, a photographic documentation of the crime scene,
14 did you start outside and kind of work your way in, or how did
15 you approach it?

16 A: I started outside and just took photographs of the scene
17 as it was when I arrived.

18 Q: Okay. And then, ultimately, did you progress to the
19 inside of the residence?

20 A: Yes, sir.

21 Q: And when you got inside the residence when you were doing
22 your walkthrough, did you notice or observe anything that kind
23 of stuck out to you in terms of possible evidentiary value?

24 A: Yes, sir. Several items.

25 Q: Okay. And do you recall what those were?

CHASE MCDANIEL - DIRECT BY MR. TUCKER

1 A: A bloody -- there was a bloody T-shirt, shell casings,
2 and I also noticed another -- a shoe that was similar to the
3 shoe that the victim had on at the hospital. Those were some
4 of the items.

5 Q: Okay. And, Investigator McDaniel, I'm going to show you
6 what's been admitted into evidence already, the first of which
7 is going to be State's 57. Is this a photo of the bloody
8 shirt that you found in the crime scene?

9 A: Yes, sir.

10 Q: Okay. And we now look at State's 58. Is this a close-up
11 photo or what appears to be a close-up photo of a part of the
12 T-shirt as well?

13 A: Yes, sir.

14 Q: And what are we looking at specifically or what drew your
15 attention to this particular area of the T-shirt to photograph
16 it?

17 A: The bullet hole in the shirt.

18 Q: Okay. And State's 57, is that kind of a closer photo or
19 a different photo of another bullet hole?

20 A: Yes, sir.

21 Q: State's 60?

22 A: Yes, sir. That's another one.

23 Q: State's 61, and what are we looking at there?

24 A: Yes, sir. That's another bullet hole.

25 Q: And State's 62, is that just a kind of a distant --

CHASE MCDANIEL - DIRECT BY MR. TUCKER

1 A: Yes, sir. It would be an overview of the shirt as I was
2 trying to put it back together.

3 Q: And State's 63.

4 A: Yes, sir. That's another one.

5 Q: State's 64?

6 A: Yes, sir.

7 Q: State's 65?

8 A: Yes, sir.

9 Q: State's 66.

10 A: Yes, sir.

11 Q: State's 67?

12 A: Yes, sir.

13 Q: Now, in this photo, it appears to be in the hole a piece
14 of projectile. Was that what drew your attention to this
15 particular aspect of the shirt?

16 A: Yes, sir. It was just holding on to that particular
17 section of the shirt, and I took a photograph of it.

18 Q: Okay. Now, after you identify certain pieces of evidence
19 or possible pieces of evidence for evidentiary value in your
20 walkthrough, what, if anything, do you do in terms of trying
21 to come back? Do you place some sort of an evidence marker or
22 some sort of flag or something like that close to the piece of
23 evidence?

24 A: Yes, sir. That's what we usually -- we put the evidence
25 markers out just to show that this is a very particular piece

CHASE MCDANIEL - DIRECT BY MR. TUCKER

1 of evidence that we're going to gather and go back and gather
2 that and photograph it.

3 Q: Okay. And I want to show you what's been marked,
4 starting with State's 30. Now, is this one such photo with
5 the evidence placards as you described?

6 A: Yes, sir. That's a -- that's a photograph of the couch
7 that was inside the living room in that residence.

8 Q: Okay. And what are evidence placards 8 and 10
9 representing in this photo or what are they near in terms of
10 what drew your attention?

11 A: Let me look at my report and see exactly what they drew
12 the visual. Evidence marker 8 was a part of a .380 auto spent
13 shell casing, and marker 10 was a part of a .380 auto spent
14 shell casing.

15 Q: Okay. And State's 31, is that a closer view of that same
16 shell casing that you just described?

17 A: Yes, sir. That's just a closeup of it.

18 Q: And State's 32?

19 A: Yes, sir. That's a closeup picture of it.

20 Q: Now, I'm going to show you what's been entered into
21 evidence as State's 33 and I'm going to have to hold this one
22 up a little closer so you can see. And do those appear to be
23 evidence placards on the back of the couch?

24 A: Yes, sir.

25 Q: Okay. And State's 34?

CHASE MCDANIEL - DIRECT BY MR. TUCKER

- 1 A: Yes, sir. That's a close-up picture of it.
- 2 Q: Okay. And from your report, can you tell what these
3 evidence placards are near in terms of items of evidence?
- 4 A: Marker -- placard number 12 is a Hornady .380 auto spent
5 shell casing, and number 13 is another Hornady .380 auto spent
6 shall casing as well.
- 7 Q: Okay. And I believe 35 is just a closer picture of that,
8 those two same shell casings?
- 9 A: Yes, sir.
- 10 Q: As well as 36. Now, I'm going to show you what's been
11 marked as State's and entered into evidence as 29. There is
12 another evidence placard down at the other end of the -- what
13 appears to be a couch, number 7. From your report --
- 14 A: Number 7?
- 15 Q: -- can you tell what that particular piece of evidence
16 is?
- 17 A: Number 7 was a possible hole in the couch from something
18 entering into the armrest.
- 19 Q: Okay. If you'll pardon me just one second. Now I want
20 to show you what's been marked as State's 46, and I want to
21 draw your attention specifically to evidence placard 3. Do
22 you recall -- and if you could refer to your report -- what
23 evidence or placard 3 represents in terms of possible item of
24 evidence?
- 25 A: Marker 3 was a Hornady .380 auto spent shell casing found

CHASE MCDANIEL - DIRECT BY MR. TUCKER

1 on or near the living room couch.

2 Q: Okay. And I want to show you State's 47, and it looks
3 like evidence placards 1, 2, and 6 are in this photo. Can you
4 tell what those are in terms of possible items of interest
5 from an evidentiary standpoint?

6 A: Yes, sir. Marker 1 was a right foot tennis shoe, which
7 matched the tennis shoe from the victim at the hospital.
8 Marker 2 is another Hornady .380 auto spent shell casing found
9 on the living room floor in front of the couch, and I believe
10 you said number 6, which was a -- marker 6 was a silver black
11 iPhone.

12 Q: Okay. And if I'm trying to keep a running count in my
13 head, but I believe those now are six .380 Hornady auto shell
14 casings that you have documented at this point?

15 A: I believe so, yes, sir.

16 Q: Okay. And this is State's 48, and it is just a closer-up
17 photo of the one we just saw; is that correct?

18 A: Yes, sir. That's correct.

19 Q: Okay. And I believe this is just a side view of that
20 same couch?

21 A: Yes, sir.

22 Q: All right. And that was State's 49. Now I want to show
23 you State's 50, and that appears to be -- I would describe it
24 as kind of an ottoman or a footstool?

25 A: Yes.

CHASE MCDANIEL - DIRECT BY MR. TUCKER

1 Q: And it looks like evidence placards 5 and 9. What items
2 there did you note? And I believe there's --

3 A: From --

4 Q: I'm sorry.

5 A: Marker -- marker 5 was a swab of blood from the floor, a
6 swab from on the couch, and a swab from the blood spot and
7 from the couch. Marker 9 was a bloody towel located on the
8 living room ottoman.

9 Q: Okay. Now, at this point were you told that that is
10 where Mr. Johnson was shot was on that particular couch and in
11 this particular area was where he was before EMS took him
12 away?

13 A: Right. Yes, sir. That's what was explained to me that
14 the victim was on or near the couch, but he wasn't there when
15 I got there. He'd already left with EMS.

16 Q: Now, I think this is just a different or closer photo,
17 and this is State's 51 of those same items; is that correct?

18 A: Yes, sir.

19 Q: And I believe State's 52, again, is just a different view
20 of items 5 and 4; is that correct?

21 A: Yes, sir.

22 Q: Okay. Now, I had asked a little earlier, Investigator
23 McDaniel, about documenting the scene outside. You took
24 photos out there as well, did you not?

25 A: Yes.

CHASE MCDANIEL - DIRECT BY MR. TUCKER

1 Q: Okay. I want to show you what's been marked State's 38,
2 and is that a -- kind of a front view of the porch of [REDACTED]
3 Tall Oaks?
4 A: Yes, sir, it is.
5 Q: Okay. And I want to show you now what's been marked
6 State's 37.
7 A: Yes, sir.
8 Q: Is that a side view of that same residence?
9 A: Yes, sir. I believe that is the backyard area at the
10 side of the house.
11 Q: Okay. And State's 39?
12 A: Yes, sir.
13 Q: State's 40, is that just another view of the back area of
14 [REDACTED] Tall Oaks?
15 A: Yes, sir. That's the back area of the residence.
16 Q: All right. And State's 41?
17 A: Yes, sir.
18 Q: Is that the back of the residence there?
19 A: Yes, sir. That's the -- that's the back of the
20 residence. Yes, sir.
21 Q: It appears to be kind of a storage building there?
22 A: Yes, sir.
23 Q: And I'm showing you State's 42 at this point.
24 A: Yes, sir. That's the front part of the house where we
25 had the crime scene tape roping it off.

CHASE MCDANIEL - DIRECT BY MR. TUCKER

1 Q: Okay. And it just appears to be from a different angle;
2 is that correct?

3 A: Yes, sir.

4 Q: Okay. Now, Investigator McDaniel, once you identified
5 these items that you placed the evidence placards near and
6 photographed them, what, if anything, did you do with those
7 particular pieces of evidence?

8 A: I gathered the -- the evidence and logged it into
9 evidence at the Sheriff's Office.

10 Q: Okay. Now, that would include the six Hornady shell
11 casings?

12 A: Yes, sir.

13 Q: The bloody shirt?

14 A: Yes, sir.

15 Q: And the other items that you had photographed there as
16 well?

17 A: Yes, sir.

18 Q: Okay. Could you explain when you took them to the
19 Sheriff's Office and logged them into evidence what that
20 entails and what that means?

21 A: We fill out a form just listing all of the evidence that
22 we gathered and where we gathered it from, and then we turn it
23 into the evidence locker for the evidence technicians team to
24 log into the computer.

25 Q: Now, once you log them in, do they stay there in the

CHASE MCDANIEL - DIRECT BY MR. TUCKER

1 evidence room until they are taken elsewhere?

2 A: You know, we then -- we then get with the investigator
3 and figure out what items need to go off to SLED and do a SLED
4 report to send items off to be analyzed.

5 Q: Now, does that typically involve you transporting those
6 items to SLED or it could be anybody in forensics doing that?

7 A: Typically, it's the evidence technicians that transport
8 those items to SLED and pick them up.

9 Q: Okay. When Mr. Scipio was arrested on July the 8th and
10 processed into the Florence County Detention Center, did you
11 go over to the detention center to recover any items of
12 clothing from him to take back to evidence? Do you recall?

13 A: No, sir.

14 Q: Okay.

15 A: I didn't recover anything from him.

16 Q: Okay. And once you logged those pieces of evidence into
17 the Sheriff's Office and processed all the photographs, did
18 that pretty much conclude your involvement in this case?

19 A: Yes, sir.

20 MR. TUCKER: Thank you. I don't believe I have any
21 further questions, Your Honor.

22 MR. KRZYSTON: Court's indulgence, Your Honor.

23 THE COURT: Yes, sir.

24 CROSS-EXAMINATION

25 BY MR. KRZYSTON:

CHASE MCDANIEL - CROSS BY MR. KRZYSTON

1 Q: Good morning, Investigator McDaniel. How are -- excuse
2 me. McDaniel. How are you this morning?

3 A: I'm doing well, sir. How are you?

4 Q: Good. Certainly hope you are on the mend, and I
5 appreciate you working with us to get in front of the jury
6 today.

7 A: Yes, sir.

8 MR. KRZYSTON: I'm going to in a moment show you what has
9 been marked as Defendant's 9 through 15, but before I do so, I
10 would offer those items into evidence.

11 MR. TUCKER: Without objection from the State, Your
12 Honor. I've had an opportunity to look at those.

13 THE COURT: 9 through 15?

14 MR. KRZYSTON: Yes, sir.

15 THE COURT: Have they been marked already?

16 MR. KRZYSTON: Yes, sir.

17 THE COURT: All right. Very well. So admitted into
18 evidence without objection.

19 (WHEREUPON, Defendant's Exhibits No. 9 through 15,
20 photographs, were admitted into evidence.)

21 MR. KRZYSTON: And just for clarification, they are --
22 they have -- the authenticity of these documents has been
23 stipulated to by the State.

24 THE COURT: Is that correct, Mr. Tucker?

25 MR. TUCKER: That is correct, Your Honor.

CHASE MCDANIEL - CROSS BY MR. KRZYSTON

1 THE COURT: Very well. You may proceed.

2 MR. KRZYSTON: All right. Thank you.

3 BY MR. KRZYSTON:

4 Q: Investigator McDaniel, I'm going to show you what's been
5 marked and entered as State's [sic] Exhibit 9. Are you --
6 does this photograph look familiar to you?

7 A: Yes, sir.

8 Q: Is this a photograph that you actually took?

9 A: Yes, sir.

10 Q: Okay.

11 MR. KRZYSTON: I think it's probably trivial at this
12 point, but, Your Honor, permission to publish these
13 photographs to the jury.

14 THE COURT: Yes, sir.

15 MR. KRZYSTON: Okay.

16 BY MR. KRZYSTON:

17 Q: I'm going to hand this to the jury in a moment, but I
18 want to draw your attention to the lighting in the kitchen
19 area. Do you see that there is a vast difference between the
20 lighting in the kitchen area and the lighting in this back
21 room?

22 A: Yes.

23 Q: Okay. And so you would agree with me that the -- the
24 reason that the kitchen is so well lit is because you have an
25 attachment on your camera that provides lighting so that you

CHASE MCDANIEL - CROSS BY MR. KRZYSTON

1 can take pictures with the proper amount of focus and
2 lighting; correct?

3 A: Yes.

4 Q: Okay. And so to describe the lighting situation in this
5 back room, you would not describe that as well lit, would you?

6 A: No. That's not where we're focusing the camera at that
7 particular time. It was just focused on that front area where
8 I took the picture.

9 Q: Okay. But you would agree with me that the lighting
10 conditions in that back room are accurately captured in this
11 picture; correct?

12 A: That's correct.

13 Q: Okay. All right. Now I'm showing you Defendant's No.
14 10, and this is also a picture from the kitchen of [REDACTED]
15 correct?

16 A: Yes, sir.

17 Q: Okay. And this is actually another point of view. The
18 -- Defendant's 9 was looking into the area, I guess the living
19 room area, for lack of a better term; correct?

20 A: Right.

21 Q: It actually depicted what would be the pathway to the
22 front door of the residence at [REDACTED] correct?

23 A: That's correct.

24 Q: Okay. And so what this picture depicts is actually the
25 dining room, which would have been straight back from the

CHASE MCDANIEL - CROSS BY MR. KRZYSTON

1 front door?

2 A: That's correct.

3 Q: Okay. And again, I noticed that in this picture there
4 seems to be a light on in the kitchen. Is that something that
5 you would have done or is that something that would have been
6 left in the state that you found it?

7 MR. TUCKER: Objection, Your Honor. I think that calls
8 for speculation on Mr. McDaniel's part. I think all he can
9 testify to is the conditions when he was there.

10 MR. KRZYSTON: Well, I think he certainly knows whether
11 he turned the light in the kitchen on or not.

12 THE COURT: I'll allow that.

13 BY MR. KRZYSTON:

14 A: If that's your question, no, I did not turn the light on
15 in the kitchen.

16 Q: Okay. And so I probably should have done this a little
17 bit before, but you don't alter the scene; correct?

18 A: No, sir.

19 Q: Your goal and your job is to capture the scene as it
20 appears on your arrival; correct?

21 A: That's correct.

22 Q: Okay. And so if I ask questions like that, you know,
23 again, I'm just trying to get down to the bottom of, like, has
24 this been altered by anybody, and it sounds like it hasn't
25 been; is that correct?

CHASE MCDANIEL - CROSS BY MR. KRZYSTON

- 1 A: That's correct.
- 2 Q: Okay. And so, again, you would agree with me that in the
3 top of this picture -- and I'm going to try to get it a little
4 closer. You see that fan right there just beyond the kitchen
5 light?
- 6 A: Yes.
- 7 Q: Okay. You would agree with me that those lights are not
8 illuminated?
- 9 A: That's correct.
- 10 Q: You would also agree with me that there is a doorway, but
11 that there are walls in between the dining room and the
12 kitchen; correct?
- 13 A: That's correct.
- 14 Q: Okay. You wouldn't describe the -- the dining room as
15 being well illuminated, would you?
- 16 A: No, it's not.
- 17 Q: And in fact, in this picture it appears dark; correct?
- 18 A: That's correct.
- 19 Q: Okay. And again, the -- the focus of this picture is the
20 kitchen, and so your flash attachment has provided additional
21 illumination into the kitchen; correct?
- 22 A: That's correct.
- 23 Q: Okay. Thank you. All right. And so now that we've gone
24 over that a little bit, I'm going to rewind and, you know,
25 when you get on a crime scene, your first job, like you said,

CHASE MCDANIEL - CROSS BY MR. KRZYSTON

1 is to do a walkthrough; correct?

2 A: That's correct.

3 Q: And you go at the crime scene to the point that's

4 furthest out in terms of where you find a piece of evidence;

5 correct?

6 A: That's correct.

7 Q: And you start documenting and basically creating a map

8 and a visual record of everything in the crime scene; correct?

9 A: Correct.

10 Q: And so you start your pictures on the exterior of the

11 home; correct?

12 A: Yes, sir.

13 Q: And you walk around and take pictures of 360 degrees of

14 the subject location?

15 A: Yes, sir.

16 Q: And in fact, you did so in this case too?

17 A: Yes, sir.

18 Q: And at some point, as you progress through what I'm going

19 to call the layers of the crime scene from outside crime scene

20 to inside crime scene, you get to the threshold of the door;

21 am I right?

22 A: That's correct.

23 Q: Okay. And then you go inside; correct?

24 A: That's correct.

25 Q: Okay. And I've done this kind of backwards. I started

CHASE MCDANIEL - CROSS BY MR. KRZYSTON

1 inside the house, and perhaps I should have started outside
2 the house, but humor me and I apologize for doing it
3 backwards. But Defendant's No. 11 is just such a picture from
4 the threshold; correct?

5 A: That's correct.

6 Q: Okay. And again, I'm not going to belabor the point, but
7 you don't alter the the status of the crime scene. This would
8 be how the crime scene or the interior crime scene appeared at
9 the time that you arrived?

10 A: Yes, sir.

11 Q: Okay. Again, I'm going to draw your attention to the
12 ceiling fan in the house. This is another ceiling or appears
13 to be another ceiling fan. You would agree with me?

14 A: It's a ceiling fan I see, yeah.

15 Q: Okay. Well, you notice that there's this dividing wall
16 right here. It looks like maybe a load-bearing joist?

17 A: Right.

18 Q: And you would agree with me that beyond that load-bearing
19 joist that there is actually the dining room?

20 A: Right. Yes, sir.

21 Q: And so you would agree with me that the entrance from the
22 kitchen to the dining room is behind this load-bearing joist?

23 A: Yes.

24 Q: Okay. And you would note that that fan, again, is in
25 front of that load-bearing joist?

CHASE MCDANIEL - CROSS BY MR. KRZYSTON

1 A: Yes.

2 Q: Okay. You would also agree with me that this light on
3 this fan is also off?

4 A: Yes.

5 Q: Okay. And you would agree with me that the interior of
6 this scene is not well lit?

7 A: That's correct.

8 Q: Okay. And again, you've taken a picture from the
9 threshold looking in, and so this picture of the interior is
10 the most accurate image of the lighting conditions inside the
11 residence at the time of the crime, to the best of your
12 knowledge?

13 A: At the time when I arrived on the scene, that's what it
14 was like.

15 Q: Okay. And again, the reason that this door is
16 illuminated so well is because your flash has basically
17 captured it and the camera has focused on it; correct?

18 A: That's correct.

19 Q: Okay. All right. Continuing with my backwards walk out
20 of the crime scene, I am going to direct your attention to
21 what's been marked and entered as Defendant's 12. This is a
22 picture of the exterior of the crime scene from the area at
23 the foot of the steps leading into [REDACTED] correct?

24 A: That's correct.

25 Q: You would agree with me that you see a perimeter of crime

CHASE MCDANIEL - CROSS BY MR. KRZYSTON

1 scene tape established?

2 A: Yes, sir.

3 Q: You would also agree with me that right here to the left,
4 what's the left side of the photograph, maybe what shows up on
5 your right side, but you see a vehicle right here; correct?

6 A: That's correct.

7 Q: Okay. And there -- good to go? And so you would agree
8 with me that -- that the -- that absent this crime scene tape,
9 there's no impediment to visualizing what would be in the area
10 of the foot of the stairs; correct?

11 A: That's correct.

12 Q: Okay. By extension, the porch area is directly behind
13 you; is that right?

14 A: That's correct.

15 Q: Okay. And you would also agree with me that there is no
16 visual impediment to seeing from this car to the front steps?

17 A: That's correct.

18 Q: Okay.

19 THE COURT: Sir, I need you to -- Mr. McDaniel, I need
20 you to speak up a little bit. Okay? Please, sir.

21 BY MR. KRZYSTON:

22 Q: All right. I'm going to show you what's been marked and
23 entered as Defendant's 13. This is another picture from the
24 same area; correct?

25 A: Yes, sir.

CHASE MCDANIEL - CROSS BY MR. KRZYSTON

1 Q: Okay. Again, this one captures -- basically, what you do
2 is you go to a position at the foot of the stairs and take a
3 picture here, take a picture here, take a picture here, take a
4 picture here, and do that for almost 360 degrees; is that
5 correct?

6 A: Yes, sir. That's correct.

7 Q: Okay. The point in you doing that is so that you can
8 provide the jury and investigators initially with accurate
9 information about where and what the crime scene consists of?

10 A: That's correct.

11 Q: You would agree with me that you can visualize crime
12 scene perimeter tape right there?

13 A: Yes, sir.

14 Q: You would agree with me that there is a group of people,
15 one of whom appears to be Orlando Mendez, standing by this
16 car; correct?

17 A: That's correct.

18 Q: Okay. And you would, again, agree with me that there's
19 no visual impediment, no line-of-sight issue from this vehicle
20 to either the area directly below the porch or the porch
21 itself?

22 A: That's correct.

23 Q: Okay. This is what's been marked as Defendant's 14, and
24 it shows a clip of the red Camaro; correct?

25 A: Yes, sir.

CHASE MCDANIEL - CROSS BY MR. KRZYSTON

1 Q: And so, again, this picture also shows Mr. Mendez, again
2 at this vehicle; correct?

3 A: Yes, sir.

4 Q: Okay. Is it your understanding that this vehicle belongs
5 to Jelana and Latonya Friday?

6 A: I'm -- I am not aware of that.

7 Q: Okay. You don't know whose actual car this is, but I
8 mean, obviously, you agree it's a car?

9 A: Yeah. It's a car, yeah.

10 Q: Okay. And you agree with me that that's Mr. Mendez?

11 A: Correct.

12 Q: Okay. And again, you agree no impediment to observing
13 what would have occurred either on the porch or in the area
14 directly in front of the porch or below the porch?

15 A: Yes, sir.

16 Q: Okay. I want to do one follow-up question before I get
17 to my last picture. This again is Defendant's 12, and it
18 shows the gap between the crime scene, which is [REDACTED] Tall
19 Oaks, and [REDACTED] Tall Oaks; correct?

20 A: That's correct.

21 Q: All right. You would agree with me that, again, no
22 visual impediment; correct?

23 A: That's correct.

24 Q: And so anything that -- you know, anything that runs in
25 between the houses or any person or animal that goes in

CHASE MCDANIEL - CROSS BY MR. KRZYSTON

1 between the houses would be clearly observable from the
2 vantage point of the vehicle?

3 A: Sure. Yeah.

4 Q: Okay. And again, I apologize. I somehow got these out
5 of order and didn't catch it when I was numbering it. That's
6 probably why lawyers ought not number their own pictures, but
7 this is Defendant's 15, and do you recognize this as a picture
8 in the kitchen of [REDACTED] Tall Oaks?

9 A: I cannot see the picture very well.

10 Q: Okay. Does it -- is it better if I do this?

11 A: It has some glare on it, and I can't see very much.

12 Q: Okay. Well, let's try this. This is what's been entered
13 as Defendant's 9. You would agree with me that this depicts
14 the kitchen; correct?

15 A: Yes, sir.

16 Q: Okay. You would agree with me that on the walls within
17 the kitchen is this patterned wallpaper; correct?

18 A: That's correct.

19 Q: You would agree with me that the entirety of the kitchen
20 has this wallpaper in it?

21 A: I cannot recollect.

22 Q: Okay.

23 A: But it might. That particular area does have the pattern
24 on the wall.

25 Q: Okay. And so I'm going to now direct your attention back

CHASE MCDANIEL - CROSS BY MR. KRZYSTON

1 to Defendant's 15 and I'm going to ask you again, do you see
2 this pattern of wallpaper that we talked about in Defendant's
3 9?

4 A: Yes, I do see that pattern of wallpaper.

5 Q: Okay. This picture -- and I think part of what you're
6 having difficulty with is there's not a lot of visualization
7 ability to this picture. It's hard to see?

8 A: Right.

9 Q: Okay. The reason that it's hard to see is because your
10 flash didn't engage; correct?

11 A: That's correct.

12 Q: Okay. And so this is just a simple photograph which
13 depicts the lighting conditions in the area that we believe to
14 be the kitchen; correct?

15 A: Yes, sir.

16 Q: Okay. Again, this is one of those dumb questions that
17 lawyers ask, but you would agree with me that these conditions
18 are not well lit?

19 A: That's correct.

20 Q: Okay. Hard to see?

21 A: That's correct.

22 Q: Okay.

23 MR. KRZYSTON: Court's indulgence.

24 All right. Investigator McDaniel, I wish you a speedy
25 recovery. I thank you for your time today. Please answer any

CHASE MCDANIEL - REDIRECT BY MR. TUCKER

1 questions that Mr. Tucker has.

2 THE WITNESS: Thank you so much.

3 MR. KRZYSTON: Tender the witness.

4 THE COURT: Mr. Tucker?

5 MR. TUCKER: I'm going to show these just in case the
6 jurors need to look at those while I'm handing them up.

7 REDIRECT EXAMINATION

8 BY MR. TUCKER:

9 Q: Now, Investigator McDaniel, Mr. Krzyston asked you about
10 the lighting conditions inside [REDACTED] Tall Oaks when you got
11 there. Do you recall that?

12 A: Yes, sir.

13 Q: Now, you don't know what the lighting conditions were
14 inside [REDACTED] Tall Oaks when the actual incident itself
15 occurred, do you?

16 A: No, sir, I don't.

17 Q: It's possible somebody could have turned lights off,
18 isn't it?

19 A: Yeah, that's quite possible.

20 Q: Possible some people could have turned the lights on.
21 There's just no way to know what they were prior to your
22 arrival. You can only testify as to what you saw when you got
23 there; correct?

24 A: That's correct.

25 Q: Now, with regards to the term well lit, the conditions

CHASE MCDANIEL - REDIRECT BY MR. TUCKER

1 weren't well lit enough for you to take a photograph to
2 capture all the detail; is that correct?

3 A: Yes, sir.

4 Q: But were you still able to move around inside [REDACTED] Tall
5 Oaks?

6 A: Yes, sir.

7 Q: Could you see?

8 A: Yes, sir.

9 Q: Could you make out faces if someone was standing next to
10 you or, you know, 10, 15 feet from you inside the residence?

11 A: Yes, sir.

12 Q: So well-lit is kind of a term relative in terms of what
13 you were doing it wasn't well-lit, but again, you could see
14 what was going on and you could kind of navigate inside; is
15 that correct?

16 A: That's correct.

17 Q: Okay. Now -- and again, was it your understanding that
18 this incident took place in the kitchen or in that living room
19 area where you were taking the photos and had the evidence
20 placards?

21 A: Well, from looking at the scene, it appears that all of
22 the evidence and the incident took place in the living area.

23 Q: Okay.

24 A: Now, during my walkthrough, I continued through those
25 rooms.

CHASE MCDANIEL - REDIRECT BY MR. TUCKER

1 Q: Okay. And if you'll beg -- just a second. Now, I'm
2 going to show you what's been entered into evidence as
3 Defendant's 9. Now, that's the living room area; correct?

4 A: That's correct.

5 Q: All right. And you can make out things on the wall,
6 things on the floor. There's that lamp that's lit right
7 there; correct?

8 A: That's correct.

9 Q: And that's assuming that the overhead light was not on or
10 when you -- when the incident actually occurred. It was off
11 when you got there; is that correct?

12 A: Yes.

13 Q: Okay. But you can see well enough in the living room to
14 make out details even from the kitchen of things on the wall;
15 is that correct?

16 A: I mean, I can. I can see, you know, that the light is on
17 in there, but I can't see, you know, details of everything in
18 there --

19 Q: But you can see the --

20 A: -- on the wall.

21 Q: Yeah. You can see items on the wall and items on the
22 floor and everything around it, can't you?

23 A: Right.

24 Q: All right. And I want to show you State's 11. Now, this
25 is the entry as you're coming in to [REDACTED] Tall Oaks, and that's

CHASE MCDANIEL - REDIRECT BY MR. TUCKER

1 the living room before you start taking pictures or that's
2 when you took that picture?

3 A: Yes, sir.

4 Q: All right. And again, you can see detail all the way
5 back to that back wall to the kitchen, can't you, with this
6 photo?

7 A: Yes, sir.

8 MR. TUCKER: Thank you. I believe those are all the
9 questions I have, Your Honor.

10 MR. KRZYSTON: Briefly. I'll just take those too.

11 RECROSS-EXAMINATION

12 BY MR. KRZYSTON:

13 Q: Back to Defendant's 11, you'd agree with me that there's
14 a contrast of light to darkness here; correct?

15 A: Yes, sir.

16 Q: Pretty irrefutable that the flash is adding lighting to
17 that condition, correct?

18 A: That's correct.

19 Q: Okay. It's also dark inside again; correct?

20 A: Yes, sir.

21 Q: You'd agree with me that it's easier to see when there is
22 more light inside than when there is less; correct?

23 A: It just depends on the individual. I mean it is dark and
24 the flash made it lighter, but, you know.

25 Q: But in general, in terms of observing the condition and

CHASE MCDANIEL - RECROSS BY MR. KRZYSTON

1 people and space, you would agree that it is easier to
2 perceive things visually when there is more light than when
3 there is less?

4 A: That's correct.

5 MR. KRZYSTON: Thank you. Nothing further, Judge. Oh, I
6 do actually have one more.

7 BY MR. KRZYSTON:

8 Q: Investigator McDaniel, you have -- these aren't all the
9 pictures that you have taken in this case; correct?

10 A: No, sir.

11 Q: Okay. We actually only viewed a fraction of those
12 pictures; correct?

13 A: That is correct.

14 Q: Some 300 odd photographs; correct?

15 A: Yes, sir.

16 Q: A lot of them capture the same things, but you took a
17 complete visual map of the entire residence; right?

18 A: Yes, sir.

19 MR. RKZYSTON: Thank you. No further, Judge.

20 THE COURT: All right. That'll conclude Officer
21 McDaniel's testimony. While we shut all of this down and get
22 back to where we were before we did the visual testimony, I'm
23 going to let you step to the jury room. Do not discuss the
24 case. I'll get you back out here in just a minute. Okay?

25 (WHEREUPON, the jury exited the courtroom at 11:05 a.m.)

MATTHEW LEE - DIRECT BY MR. TUCKER

1 MR. TUCKER: Yes, sir.

2 THE COURT: Or 1:15, thereabouts.

3 MR. TUCKER: That'll be fine.

4 (WHEREUPON, the jury entered the courtroom at 11:25 a.m.)

5 THE COURT: All right. We have all the jurors back.

6 We're ready to proceed.

7 At this time I'll recognize the State. Call your next
8 witness, please.

9 MR. TUCKER: Thank you, Your Honor. At this time the
10 State would call Matthew Lee to the stand.

11 THE CLERK: Sir, if you will please place your left hand
12 on the Bible and raise your right hand. Do you swear or
13 affirm the testimony you give in this case to be the truth,
14 the whole truth, and nothing but the truth, so help you God?

15 THE WITNESS: I do.

16 THE CLERK: Please be seated and state your full name for
17 the record.

18 THE WITNESS: Matthew Patrick Lee.

19 MATTHEW LEE, being first duly
20 sworn, testified as follows:

21 DIRECT EXAMINATION

22 BY MR. TUCKER:

23 Q: And, Deputy Lee, where are you presently employed?

24 A: Florence County Sheriff's Office.

25 Q: And in what capacity?

MATTHEW LEE - DIRECT BY MR. TUCKER

1 A: Evidence tech.

2 Q: And how long have you been with the Florence County
3 Sheriff's Office total?

4 A: Total? Nine years.

5 Q: And how long of that has been served as an evidence
6 custodian?

7 A: Approximately four.

8 Q: Now, if my math is correct, that would have put you
9 working as an evidence custodian on or about the July
10 timeframe of 2019?

11 A: Yes, sir.

12 Q: Now, just so I'm clear about your duties and
13 responsibilities, what are they in terms of evidence
14 custodian?

15 A: We keep -- we store the evidence, keep the chain of
16 custody. You know, if somebody comes to get it, sign it out,
17 sign it back in, take it to if it needs to be tested.

18 Q: Now, when you say take it to where it needs to be tested,
19 does that include the SLED crime lab in Columbia?

20 A: Yeah, SLED.

21 Q: Now, with regards to actually going out and participating
22 in crime scene processing, you don't do any of that at this
23 point in your career?

24 A: No, sir.

25 Q: Now, I want to direct your attention to the facts of this

MATTHEW LEE - DIRECT BY MR. TUCKER

1 particular case. Do you recall first going to Charleston to
2 pick up some projectiles after the autopsy of the victim in
3 this case, Rico Johnson?

4 A: Yes, sir.

5 Q: Okay. I need you to speak up just a little bit.

6 A: Okay. Yes, sir.

7 Q: And what did you do with those projectiles once you
8 picked those up from Charleston?

9 A: They come back to the detention center.

10 Q: Yes, sir.

11 A: And we file it in evidence.

12 Q: Now, when you say detention center, is that where the --

13 A: The evidence room at the Sheriff's Department.

14 Q: Okay. I need you to lean in just a little closer to that
15 mic and speak up just a little bit. Okay?

16 A: Yes. Okay.

17 Q: All right. Now, once you logged them into evidence, they
18 stayed there until ultimately you transported them and other
19 items of evidence to SLED for processing?

20 A: Yes, sir.

21 Q: Okay.

22 MR. TUCKER: And may I approach, Your Honor?

23 THE COURT: Yes.

24 MR. TUCKER: And first I want to get these marked for
25 identification purposes at this point.

MATTHEW LEE - DIRECT BY MR. TUCKER

1 BY MR. TUCKER:

2 Q: And just for identification purposes, Deputy Lee, what
3 I'm showing you is for identification purposes State's 71,
4 which appears to be victim's bloody shirt, and it looks like
5 it was collected by Chase McDaniel and logged into evidence;
6 is that correct?

7 A: Yes, sir.

8 Q: I'm showing you for identification purposes only State's
9 72, which appears to be bullets that you collected from
10 Charleston after the autopsy; is that correct?

11 A: Yes, sir.

12 Q: Okay. And State's 73, which is spent shell casings
13 collected by Investigator Chase at the crime scene and, again,
14 logged into evidence there at the Sheriff's Office; is that
15 correct?

16 A: Yes, sir.

17 Q: And these are the items, in addition to other things,
18 that you took to SLED for processing in connection with this
19 case?

20 A: Yes, sir.

21 Q: Now, other than going to pick up evidence in Charleston
22 and then taking these things to SLED for processing, did you
23 have any additional involvement in this case at all?

24 A: No, sir.

25 Q: Okay.

MATTHEW LEE - CROSS BY MR. KRZYSTON

1 MR. TUCKER: I believe those are all the questions I
2 have, Your Honor.

3 THE COURT: Cross-examination.

4 MR. KRZYSTON: Thank you.

5 CROSS-EXAMINATION

6 BY MR. KRZYSTON:

7 Q: Investigator Lee, in addition to Items 5, 6, 7, 8, 9, 10,
8 24 through 30, Item 4, and it looks like Item 3, you also took
9 other things to SLED; correct?

10 A: Yes, sir.

11 Q: Other items in evidence; correct?

12 A: It is possible.

13 Q: Okay. Do you have a report or something?

14 A: I do not.

15 Q: Okay. All right. I'm going to draw your attention to
16 this document, if I might approach. It's a Florence County
17 Sheriff's Office report, is it not?

18 A: Yes. It's an evidence sheet.

19 Q: Okay. And so an evidence sheet is something that tracks
20 the movement of evidence once it is within the custody of law
21 enforcement; correct?

22 A: Yes, sir.

23 Q: And you'd agree with me that this sheet tracks the
24 movement of Items 31, 32, 33, and 34; correct?

25 A: Yes, sir.

MATTHEW LEE - CROSS BY MR. KRZYSTON

1 Q: And you'd agree with me that 31 through 34 were items of
2 clothing, specifically Item 33 is a white T-shirt; correct?

3 A: Yes, sir.

4 Q: You would agree with me that Item 33 was seized from Mr.
5 Scipio at his arrest; correct?

6 A: Yes, sir.

7 Q: You would agree with me that the seizure is completed by
8 what appears to be Ben Price; correct?

9 A: Yes, sir.

10 Q: And that Ben Price submitted that item to you; correct?

11 A: Yes, sir.

12 Q: Okay. And then it also looks like it was stored and
13 y'all held on to it for a while and looks like it may have
14 eventually come in and out of evidence; correct?

15 A: Yes, sir.

16 Q: Okay. And again, once evidence is within y'all's
17 control, the only reason that you'd really be taking it out of
18 your evidence storeroom would be for forensic testing at the
19 State crime lab?

20 A: Yes.

21 Q: Okay. All right.

22 MR. KRZYSTON: Thank you. Nothing further, Judge.

23 MR. TUCKER: Nothing on redirect, Your Honor.

24 THE COURT: Sir, you may step down. Thank you.

25 MR. TUCKER: And, Your Honor, I would ask if Deputy Lee

1 could be released from his subpoena.

2 MR. KRZYSTON: No objection.

3 THE COURT: All right. Sir, you're released from your
4 subpoena. You're free to go. Have a nice day. Thank you.

5 All right. Ladies and gentlemen, I've been advised that
6 the next witness may be lengthy. Rather than take the chance
7 of running into your lunch hour or beyond your lunch hour, I'm
8 going to let you go to lunch right now. I'm going to ask you
9 to be back here at 1:15, at 1:15, and we'll resume the trial
10 of this case at that time.

11 As I've said throughout, do not discuss the case, do not
12 do any independent investigation. As I said, you're to decide
13 this case based solely upon the evidence and testimony
14 presented during the course of this trial.

15 You all have a nice lunch. I'll see you back at 1:15.
16 Thank you.

17 (WHEREUPON, the jury exited the courtroom at 11:33 a.m.)

18 THE COURT: All right. Anything further from the State
19 at this time?

20 MR. TUCKER: Nothing, Your Honor.

21 THE COURT: Defense counsel?

22 MR. KRZYSTON: No, sir, Judge.

23 THE COURT: All right, 1:15.

24 MR. KRZYSTON: Thank you.

25 (WHEREUPON, there was a break in the proceedings from

1 11:43 a.m. until 1:13 p.m., after which the proceedings
2 resumed as follows.)

3 THE COURT: All right. Anything from the State before I
4 bring the jury out?

5 MR. TUCKER: No, Your Honor.

6 THE COURT: Defense counsel?

7 MR. SHARPE: No, Judge.

8 THE COURT: Bring me the jury, please.

9 THE BAILIFF: All right.

10 (WHEREUPON, the jury entered the courtroom at 1:15 p.m.)

11 THE COURT: Hope you all had a nice lunch and are ready
12 to proceed here this afternoon.

13 At this time I'll recognize the State. Call your next
14 witness, please.

15 MR. TUCKER: Thank you, Your Honor. At this time the
16 State would call Investigator Ben Price to the stand.

17 THE COURT: Sir, if you'd place your left hand on the
18 Bible, raise your right hand. Do you swear to tell the truth,
19 the whole truth, and nothing but the truth, so help you God?

20 THE WITNESS: I do.

21 THE COURT: Have a seat. Sir, state your full name for
22 the record, please.

23 THE WITNESS: Robert Benjamin Price.

24 BEN PRICE, being first duly
25 sworn, testified as follows:

BEN PRICE - DIRECT BY MR. TUCKER

DIRECT EXAMINATION

1
2 BY MR. TUCKER:

3 Q: And, Investigator Price, where do you work?

4 A: The Florence County Sheriff's Office.

5 Q: And my referring to you as investigator may have given it
6 away, but in what capacity do you work there at the Sheriff's
7 Office?

8 A: I am in the Criminal Investigations Bureau.

9 Q: And how long have you been with the Florence County
10 Sheriff's Office total?

11 A: Since 2008.

12 Q: And how long have you been an investigator?

13 A: Since 2012.

14 Q: Now, where did you start when you first began employment
15 with the Sheriff's Office?

16 A: I was a patrol deputy assigned to the patrol division.

17 Q: Now, in terms of an investigator, what are some of your
18 duties and responsibilities that you have to discharge as an
19 investigator?

20 A: Our main responsibility is we are -- we're assigned cases
21 on a daily basis from month to month. We follow up on those
22 cases, contact victims, and try to find resolution to those
23 cases. Along with that duty, we're also on call for one week
24 approximately every 8 to 9 weeks, depending on staffing and
25 any other, you know, sickness between the other investigators.

BEN PRICE - DIRECT BY MR. TUCKER

1 So like I said, that's for one week roughly eight or nine
2 weeks.

3 Q: Now, you mentioned on-call investigator. I want to
4 direct your attention specifically to the July 6th, 2019, time
5 frame. Were you the on-call investigator during that time?

6 A: Yes, I was.

7 Q: And do you recall receiving a request to respond to a
8 shooting incident at [REDACTED] Tall Oaks Drive in Florence?

9 A: Yes, I do.

10 Q: And was this in Florence County?

11 A: Yes, it was.

12 Q: I want to show you --

13 MR. TUCKER: If I may approach, Your Honor?

14 THE COURT: Yes, sir.

15 BY MR. TUCKER:

16 Q: -- what's been marked as State's 28, and let me first ask
17 you -- I'm going to turn it this way first so you can see it
18 -- if you recognize it?

19 A: Yes, I do.

20 Q: How do you recognize it?

21 A: That is the -- the neighborhood commonly known as Tall
22 Oaks.

23 Q: Okay.

24 MR. TUCKER: And, Your Honor, at this time the State
25 would move State's 28 into evidence.

BEN PRICE - DIRECT BY MR. TUCKER

1 THE COURT: Any objection?

2 MR. SHARPE: No objection.

3 THE COURT: Without objection, so admitted.

4 (WHEREUPON, State's Exhibit No. 28, large overhead photo
5 map, was admitted into evidence.)

6 MR. TUCKER: And, Your Honor, if I could have permission
7 to publish to the jury?

8 THE COURT: Yes, sir.

9 BY MR. TUCKER:

10 Q: I'm going to turn it this way, Investigator Price, so the
11 jury can see. And if you could from where you are -- if you
12 have to step down briefly, but could you show me on Tall Oaks
13 Drive where [REDACTED] was located?

14 A: Yes. It's -- (indicating).

15 Q: Okay. And are you familiar with [REDACTED] Tall Oaks?

16 A: Yes.

17 Q: Okay. And where is that?

18 A: That is next door.

19 Q: And you were present yesterday during the testimony, were
20 you not?

21 A: Yes.

22 Q: And at [REDACTED] do you recall in your investigation who
23 actually lived at that address at that time?

24 A: It was the Fridays.

25 Q: Thank you. Now, the initial report, I believe, was to

BEN PRICE - DIRECT BY MR. TUCKER

1 [REDACTED] was it not?

2 A: Yes, that's correct.

3 Q: Okay. And when you got on scene, what, if anything, did
4 you do to try to establish where the incident location
5 actually was?

6 A: The actual incident location was at [REDACTED] Tall Oaks Drive.
7 The initial call came out from 9-1-1 at [REDACTED] So the report
8 -- the initial report will reflect that because that's what
9 our dispatch unit puts into the CAD system, and so it auto
10 populates into the report the initial call.

11 Q: But you were able to establish very early in this
12 investigative stage that the actual incident location was in
13 fact [REDACTED] Tall Oaks?

14 A: That's correct.

15 Q: Okay. What were some of your priorities as an
16 investigator when you arrived on scene that night?

17 A: Upon arriving on scene, the first thing that I'm to do is
18 I'm to notify my supervisors that there has been an incident
19 and that I am there. Beyond that, I'm to call crime scene,
20 make sure that crime scene is there, and make sure the other
21 authorities -- in this instance was to make sure the deputy
22 coroner was notified.

23 Once I am out of my vehicle, I could see in this instance
24 that the -- the crime scene was already taped off. So it was
25 secured. I did not have to worry about that. And then my

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1 next priority would be to find the supervisor that was on
2 scene. In this case, it would have been Sgt. Odom to make
3 contact with him to find out what information they had up
4 until this point.

5 Q: And how would you describe the scene in general?

6 A: Overall, it was pretty chaotic. There were a lot of
7 deputies' cars. The scene was encapsulated with crime scene
8 tape. There were a number of people in the area. I wouldn't
9 say they were all populated in one group, but you could see
10 lots of people in the area. So I would -- I would say overall
11 pretty chaotic.

12 Q: Now, after conferring with Sgt. Odom, I believe you
13 indicated, was there anybody else in terms of Sheriff's Office
14 personnel with whom you spoke?

15 A: Yes. I spoke with now Investigator Flowers. She was
16 there on scene.

17 Q: And what were you able to learn after speaking to both
18 her and Sgt. Odom in terms of what happened?

19 A: By speaking with Sgt. Odom, he advised when he got there,
20 he got there with EMS. That they had found there was a
21 subject on the -- in the couch area of the living room. EMS
22 went in. By the time that I had gotten there, that person had
23 been removed. That's who I later found to be Rico Johnson.

24 In speaking with Investigator Flowers at the time, she
25 had stated that before I had arrived, she had talked to

BEN PRICE - DIRECT BY MR. TUCKER

1 several people already, gotten some statements from those
2 folks. So I went over with her what information that she had
3 gotten and decided who I wanted to go talk to at that point.

4 Q: Now, were the people that you wanted to speak to at that
5 particular moment, were they the homeowners of [REDACTED]

6 A: They were.

7 Q: And were you able to identify them at this point?

8 A: Yes, I was.

9 Q: And who were they?

10 A: They were Stephanie Lucas and also Orlando Mendez.

11 Q: Do you recall to whom you spoke first?

12 A: I spoke to Mr. Orlando Mendez first.

13 Q: And what was he able to tell you in terms of information?

14 A: He stated that this -- I guess, this incident started
15 earlier in the day. Him and two of his really good friends,
16 they were at a dice game. And at that dice game, there was
17 another individual that was there with them. Upon leaving the
18 dice game, they'd come back to this residence, [REDACTED] Tall Oaks,
19 which is where Mendez resides, and it led up to the events to
20 ultimately where Mr. Johnson was shot.

21 Q: Now, with regards to what Mr. Mendez told you happened,
22 did he indicate he had actually seen the shooting inside the
23 residence?

24 A: No. He'd stated he did not actually see the gunfire
25 inside the residence. He was in a back room.

BEN PRICE - DIRECT BY MR. TUCKER

1 Q: And what did he tell you he did after he heard the
2 gunfire?

3 A: He ran out of the back room towards where the gunshots
4 were, where he -- he thought they were, and that's where he
5 saw the suspect leaving the residence and there was a
6 confrontation there briefly before the suspect ran away.

7 Q: Now, was he able to identify this suspect to you at this
8 moment?

9 A: Yes, he was.

10 Q: And what name did he give you in terms of the suspect?

11 A: He gave me the name Ja Juan, and that's really all that
12 he had. That's what he said that they called him, but he knew
13 him by the name of Ja Juan.

14 Q: Now, did he indicate that he knew this Ja Juan?

15 A: He did. He said he knew him from the neighborhood.

16 Q: And did he indicate that this Ja Juan was the same Ja
17 Juan that they'd had the encounter with earlier at the dice
18 game?

19 A: Yes. That's correct.

20 Q: Now, after speaking to Mr. Mendez, did you turn your
21 attention to the other homeowner, Ms. Lucas?

22 A: Yes, I did.

23 Q: And what were you able to learn from her?

24 A: That she was inside of the residence. She heard a knock
25 at the door, and when she heard the knock at the door, she

BEN PRICE - DIRECT BY MR. TUCKER

1 came to the door. Upon answering the door, the suspect, Ja
2 Juan -- and she also gave the last name Scipio -- came by her.
3 She said that he started shooting as she was walking back
4 toward her room. And as she was going back toward the room,
5 she did not see Mr. Johnson get up and try to have a
6 confrontation, but after the shots were fired, then that's
7 really -- and she was very hysterical. So she didn't have a
8 whole lot to say beyond that.

9 Q: And so that I'm clear, she indicated that she heard the
10 knock on the door and when she opened it, she recognized the
11 person there as Ja Juan?

12 A: Yes.

13 Q: Now, was she also able to provide a last name to Ja Juan
14 at some point during this conversation with her?

15 A: Yes. She -- she was able to add Scipio to Ja Juan.

16 Q: So by this point, you have a physical description of the
17 suspect?

18 A: From Mendez and her, yes.

19 Q: Now, were this -- these descriptions consistent with one
20 another?

21 A: They were.

22 Q: Now, you have a consistent description and now you have
23 both a name, Ja Juan, and a last name, Scipio; is that right?

24 A: That's correct.

25 Q: Now, let me ask you, in terms of Mr. Mendez, as well as

BEN PRICE - DIRECT BY MR. TUCKER

1 Ms. Lucas, how would you describe their demeanor when you
2 arrived on scene and while you were dealing with them?

3 A: They were both very emotional. They were distraught.
4 They were not -- they were not calm. So they were -- the best
5 word would be very emotional.

6 Q: Did both witnesses indicate their relationship to the
7 victim, Rico Johnson?

8 A: They said that they knew him very well. I think Ms.
9 Stephanie, she had described him as almost like family.

10 Q: Now, when you say Ms. Stephanie, you're referring to
11 Stephanie Lucas?

12 A: I am. I apologize.

13 Q: That's okay. And after you spoke to both Mr. Mendez and
14 Ms. Lucas, what, if anything, did you do next?

15 A: Well, during the physical description part, they were
16 able to tell me that he was also -- he was a black male. He
17 was tall and heavysset. That he had dreads. They weren't very
18 long, but they were dreads. And so I had a physical
19 description, as well as the middle name and last name.

20 Q: Now, in addition to this information, were you also given
21 a possible address at which Ja Juan Scipio lived?

22 A: Yes.

23 Q: Now, with the information that you had at this point, as
24 well as the physical address of this suspect, were you
25 ultimately able to progress to the point where you were able

BEN PRICE - DIRECT BY MR. TUCKER

1 to develop a full name of the suspect that you were looking
2 for?

3 A: Yes, I was.

4 Q: And what was that name?

5 A: Larry Ja Juan Scipio, Jr.

6 Q: Okay. Now, after you were able to develop a full name
7 and after you spoke to both Mr. Mendez and Ms. Lucas and got
8 the address, as well as the physical description, what, if
9 anything, did you do at this point?

10 A: We tried and attempted to make contact with the suspect,
11 Mr. Scipio, at his residence, and we were unable to do so.

12 Q: Okay. Did you attempt to locate Mr. Scipio at other
13 places around Florence County?

14 A: Yes. That night we did.

15 Q: And we were able to find him?

16 A: We were not.

17 Q: Now, you were made aware of other witnesses who were in
18 the home when this incident occurred as well, were you not?

19 A: Yes, I was.

20 Q: And do you recall who those were?

21 A: Yes. There were the two juveniles that belong to
22 Stephanie Lucas and Orlando Mendez, and that was S.M.
23 and A.M. A.M. was very, very shaken up, and
24 she was in a back bedroom. She did not see the shooting. The
25 other juvenile victim I was made aware of by Investigator

BEN PRICE - DIRECT BY MR. TUCKER

1 Flowers, and that would be [S.M.]. She spoke to [S.M.].
2 [S.M.]. I attempted to speak to [S.M.]. She was very
3 upset, very distraught. She had already given a statement to
4 Ms. Flowers, so I did not feel the need to upset her any
5 further at that time.

6 There were also two other people that were in the house.
7 There was the grandmother and then I believe he was an uncle,
8 and they were in a back part of the house and I had gotten
9 word that they had not seen anything. They heard gunshots,
10 but they didn't know anything beyond hearing gunshots.

11 Q: Now, after you were aware that Investigator Flowers now
12 had spoken to both [S.M.] and [S.M.] -- or I'm
13 sorry -- [A.M.], were you able to kind of develop a --
14 kind of a full picture of what took place that night at this
15 point?

16 A: I was.

17 Q: Now, at any point during your investigation up to this
18 point, did you consider Orlando Mendez to be a suspect in this
19 matter?

20 A: I did not.

21 Q: How would you describe his level of cooperation with
22 regards to your investigation and to your questioning?

23 A: He was very cooperative. He -- he wanted to speak with
24 me. He did not try to dodge me. He didn't try to stay away
25 from me when I was wanting to ask him questions. He wanted to

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1 give his version of what happened that evening.

2 Q: Now, with regards to the Fridays who lived at [REDACTED] did
3 you speak with them that evening?

4 A: I did not.

5 Q: In terms of what your understanding of where the Fridays
6 were when the shots took place, with regards to how they
7 described it to Investigator Flowers, were you at least aware
8 of what they told her?

9 A: I was.

10 Q: Now, again, from what we heard yesterday, I want to ask
11 you is it consistent with what you were told that night, but
12 the Fridays were, I think, in the process of trying to get
13 into a car?

14 A: That's correct.

15 Q: And that they heard gunfire?

16 A: That's correct.

17 Q: And at some point, they saw Orlando Mendez, who said,
18 somebody's been shot, call 9-1-1?

19 A: That's correct.

20 Q: And that was the extent of the statement that they made
21 to Detective Flowers; is that correct?

22 A: That's right. They didn't offer anything further.

23 Q: Okay. Now, with regards to --

24 MR. TUCKER: I want to approach, if I may, Your Honor.

25 THE COURT: Yes, sir.

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1 MR. TUCKER: If I can beg the Court's indulgence for just
2 a second, I want to turn on the overhead here.

3 BY MR. TUCKER:

4 Q: You were present this morning when crime scene
5 investigator, now Investigator Chase McDaniel, testified about
6 the pictures he took of Mr. Mendez?

7 A: I was.

8 Q: And I want to show you what's been entered into State --
9 or evidence as State's 54, and were you able to see these
10 pictures at some point during your investigation?

11 A: Yes.

12 Q: Now, did you direct a crime scene investigator, at that
13 time McDaniel, to take photos of Mr. Mendez?

14 A: Not directly, no, I did not.

15 Q: Okay. Now, with regards to him being a suspect, with
16 regards to taking photos in your experience as an investigator
17 or the crime scene investigator is just told to photograph as
18 much as they can?

19 A: Yes. Usually when they show up, they start taking
20 pictures of everything that they can possibly take pictures
21 of.

22 Q: Okay. Did your investigation reveal at some point that
23 Mr. Mendez's occupation was that of a construction worker?

24 A: Yes. At some point I was able to find that out.

25 Q: Okay. Now, also, I want to go back to the interior of

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1 [REDACTED] I'm going to first show you what's been entered into
2 evidence as State's 5. And first I ask you at some point
3 after you were speaking to witnesses, did you yourself go into
4 the interior of the crime scene?

5 A: Yes, I did.

6 Q: Okay. And what State's 5 -- is that pretty much how it
7 appeared to you when you made entry?

8 A: Yes. It appears consistent with what it --

9 Q: Okay. And I --

10 A: -- was that evening.

11 Q: Okay. And I know Mr. McDaniel testified that it was --
12 he had -- was using a camera and the flash bulb that lit it
13 up. Did you have any difficulty as you went inside the scene
14 moving around?

15 A: No, I did not.

16 Q: Okay. Next, I'll show you what's been marked and entered
17 in as State's 6, and was your understanding that Mr. Johnson
18 was somehow or somewhere over in this area where my finger is
19 at in terms of when he was shot?

20 A: That he was on the couch area, but farther to the left.

21 Q: Farther to this way?

22 A: Yes, sir.

23 Q: Okay. And again, while you were in the crime scene, did
24 other Sheriff's Office personnel come in there as well?

25 A: Investigator McDaniel was in there, and Deputy Coroner Bo

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1 Myers was inside the residence.

2 Q: Now, did you have any trouble making out their features
3 and recognizing them, given the lighting conditions as they
4 existed when you were in there?

5 A: No, I did not.

6 Q: And of course, you don't know what the lighting
7 conditions were at exactly the moment the incident occurred,
8 do you?

9 A: No, I do not.

10 Q: Okay. But you were there within minutes of this
11 occurring?

12 A: It was under an hour.

13 Q: Okay.

14 A: It was minutes, yes.

15 Q: When you were there, did you have any trouble moving
16 around, identifying people that were there inside the
17 residence with you?

18 A: No, sir.

19 Q: Okay. With regards to your investigation, did it reveal
20 that there was a struggle ever between Rico Johnson and the
21 defendant at the time of the shooting there at [REDACTED] Tall Oaks?

22 A: No. There was never a statement given that there was a
23 struggle between the victim and the defendant.

24 Q: Now, did your investigation reveal whether there was ever
25 a problem between Orlando Mendez and Rico Johnson?

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1 A: No, absolutely not.

2 Q: And I believe you characterized what your investigation
3 revealed as the nature of their relationship was very
4 familial?

5 A: Yes. They were very close is the way it was described to
6 me.

7 Q: Now, ultimately, at some point you were made aware that
8 Mr. Scipio was taken into custody; is that correct?

9 A: That's correct.

10 Q: Do you recall how you were notified that Mr. Scipio had
11 been taken into custody?

12 A: I was notified by central dispatch that the City of
13 Florence Police Department had taken him into custody on our
14 outstanding warrant.

15 Q: Now, did you yourself respond out to the incident
16 location where Mr. Scipio had been arrested?

17 A: I did.

18 Q: And when you saw Mr. Scipio, was that the person that you
19 were looking for actively for an open murder charge?

20 A: Yes, it was.

21 Q: And how would you describe Mr. Scipio's physical
22 appearance in terms of what the description of the defendant
23 was as given to you by the eyewitnesses on the 6th?

24 A: He was a black male, tall, taller than myself, heavysset,
25 and he did have dreadlocks in his hair. I considered them to

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1 be shorter than shoulder length.

2 Q: Okay. Now, also, I want to ask you when I was looking at
3 some of the photos and showing you Mr. Mendez, there was a
4 couple of red spots on his shirt and on his shorts. Did Mr.
5 Mendez ever indicate that he had gone back into the residence
6 after the shooting to check on Mr. Johnson?

7 A: Yes. After he went back after the -- the scuffle, and he
8 did indicate that he went back inside to see if Mr. Johnson
9 was okay.

10 Q: Now, again, he indicated that he was a construction
11 worker by trade?

12 A: Yes.

13 Q: And so, again, I want to ask you again was Mr. Mendez a
14 suspect in your investigation at this point?

15 A: No. He still was not.

16 Q: And was his T-shirt seized or was his shorts seized and
17 processed for evidence?

18 A: No, they were not.

19 Q: And why not?

20 A: He was not a suspect. Every statement that we had,
21 everything that led up to this point did not lead us to
22 believe that Mr. Mendez was a suspect.

23 Q: Now, with regards to the broken fingernails and the
24 photos of his hands, again, were his hands processed any
25 further than being photographed?

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1 A: They were not.

2 Q: And why not?

3 A: There would have not been anything that would have been
4 on them since he was not a suspect.

5 MR. KRZYSTON: Objection, Your Honor. Speculate.

6 THE COURT: Restate your question.

7 BY MR. TUCKER:

8 Q: With regards to the finger, were there any further
9 processing because he wasn't a suspect?

10 A: There was no further processing.

11 Q: Okay.

12 MR. TUCKER: I beg the Court's indulgence for just a
13 second.

14 I wanted to ask you just a few more questions.

15 BY MR. TUCKER:

16 Q: Investigator Price, after you obtained the arrest warrant
17 from Mr. Scipio, did you, in fact, get a search warrant for
18 his residence?

19 A: Yes, on Cobblestone Street.

20 Q: And did you execute that search warrant?

21 A: We did.

22 Q: Were you able to find anything?

23 A: We did not.

24 Q: And let me ask you another question. The night of the
25 incident, were you able to search the Mendez home at [REDACTED] Tall

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1 Oaks Drive?

2 A: We did.

3 Q: And did you find anything by way of guns or firearms
4 there?

5 A: We did not.

6 Q: Now, I think in your report, you noted that the residence
7 was searched at [REDACTED] and let me get this exactly right.
8 Shell casings and no gun that was consistent with a .380
9 caliber was found. Let me ask you specifically, were there
10 any guns found?

11 A: No. There were no guns found, period.

12 Q: Any ammunition?

13 A: No.

14 Q: Any holsters?

15 A: No.

16 Q: Anything associated with firearms found?

17 A: There was not.

18 MR. TUCKER: I believe those all the questions I have,
19 Your Honor.

20 THE COURT: Cross examination.

21 MR. SHARPE: Your Honor, I believe we might have a matter
22 of law we might need to take up.

23 THE COURT: All right.

24 All right. Ladies and gentlemen, I have to ask you to
25 step to the jury room. Do not discuss the case at all. I'll

1 get you back out here as quickly as possible.

2 (WHEREUPON, the jury exited the courtroom at 1:39 p.m.)

3 THE COURT: Yes, sir.

4 MR. SHARPE: Thank you, Your Honor. Judge, we have -- we
5 have two things that we wanted to address on cross. However,
6 we wanted to essentially ask for permission instead of
7 forgiveness before we try to get into them so we could respect
8 the Court's ruling on these issues.

9 The first one would be regarding some Facebook pictures
10 of the victim. Basically, we believe that there -- that there
11 could be character evidence based on the State's opening
12 statement where they indicated that, and I quote, Rico Johnson
13 wasn't doing dangerous things, he was not involved in
14 nefarious behavior, things like things of that nature,
15 basically indicating that there would be no reason anybody
16 would want to kill Mr. Johnson besides Mr. Scipio.

17 Your Honor, these -- these -- these Facebook pictures
18 certainly paint Mr. Rico Johnson in a light that he is very
19 comfortable with pointing and presenting firearms. One of the
20 quotes down at the bottom of the -- one of these pictures,
21 that would be something that Mr. Johnson wrote on his
22 Facebook, and I quote, thug until my death date, N-word.

23 We believe that based on the State indicating that there
24 is no nefarious activity, he doesn't do dangerous things, that
25 that opened the door to his character, and we believe that we

1 would like to use that to impeach the quality of the
2 investigation of this case.

3 MR. TUCKER: And, Your Honor, if I can respond to it
4 briefly, in terms of my opening statement I believe my exact
5 quote was he wasn't hanging out with dangerous people, he
6 wasn't doing dangerous things, and he certainly wasn't
7 involved in dangerous activities, and that was at the time of
8 his death.

9 And certainly, the opening statement is not evidence.
10 His Honor has instructed the jury to that regard. So I don't
11 think I've opened anything by way of an opening statement by
12 my phrasing or characterizing of the theory of the State's
13 case.

14 Particularly, also I was not furnished these Facebook
15 photos. I was not told that they were going to be part of the
16 defense and, certainly, you know, again, there's no
17 foundation. There's no way to know. There's no way to verify
18 the authenticity of it. So I would object on those grounds
19 alone.

20 But certainly, I don't think that this is anything but an
21 attempt to mischaracterize or to demonize the victim in this
22 case. There was no evidence whatsoever that he was armed that
23 night. There was no evidence whatsoever that's been presented
24 thus far that has anything to do with the pictures depicted in
25 here, and we think it's being offered wholly to try to paint

1 the victim in a negative light and, again, we would object on
2 those grounds as well. We don't think that there's any
3 probative value here whatsoever.

4 MR. SHARPE: And, Your Honor, we would just say that
5 opening statement is very ambiguous to his character, which we
6 say would open the door up. You know, our defense is, is that
7 Mr. Scipio wasn't the shooter, and so this is to show that
8 there's other people that maybe could have problems with Mr.
9 Johnson. And to say that he doesn't hang out with dangerous
10 people after we've already established that Mr. Mendez has
11 done time in the penitentiary for gun violations kind of
12 contradicts that there's no -- that he didn't hang out with
13 dangerous people.

14 THE COURT: Can I see what you're talking about right
15 now?

16 MR. KRZYSTON: They're right there on the bench, Your
17 Honor, labeled for identification purposes as State's -- or
18 Defendant's 17 through, I think, 19.

19 MR. TUCKER: And, Your Honor, I would add that these
20 photos lack context. They don't have a date. We don't know
21 when they were taken. We don't know what the circumstances
22 were surrounding the photos. So, again, I would object on
23 those grounds as well.

24 MR. SHARPE: And, Your Honor, I'll just say, if you -- if
25 you look at these pictures, he has his fingers on the triggers

1 in these pictures, which anybody who knows anything about guns
2 knows that that's very dangerous. And furthermore, this
3 picture within the shirt off, it's hard to see, but he has two
4 pistols in his hands and he also has two more pistols in his
5 waistband.

6 MR. TUCKER: And, Your Honor, I would -- not to keep
7 belaboring the point, but we have no way of knowing that these
8 are actually firearms. They could be airsoft pistols. They
9 could be just about anything.

10 Again, so I think that without some kind of foundation,
11 without some kind of context, again, I think these photos lack
12 any kind of evidentiary and probative value whatsoever. I
13 think that they're being offered just to inflame the jury or
14 to try to mischaracterize or portray the victim in a negative
15 way.

16 MR. SHARPE: Certainly, Your Honor, we would say that the
17 -- it would be the State's job to determine whether these are
18 airsoft guns or real guns.

19 MR. TUCKER: Well --

20 MR. SHARPE: They look pretty real to me, Judge.

21 MR. TUCKER: I don't think it's the State's job when the
22 defense brings the photos in two minutes before they seek to
23 introduce them and show them to the jury. That's why, again,
24 having shown them to us right before they get ready to use
25 them gives the State no opportunity to do any kind of

1 investigation into the context of the photos.

2 MR. SHARPE: And again, Judge, we're using these to
3 impeach the investigation to show that they did not
4 investigate any further where they could have determined --
5 potentially determined any alternative people.

6 MR. TUCKER: Well, Judge, I think they could ask that
7 question. I think they could ask whether they looked into Mr.
8 Johnson's background or his character without actually showing
9 photos of this type.

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

12 THE COURT: All right. Well, first of all, let me say
13 this. Mr. Sharpe, I appreciate you bringing this to the
14 Court's --

15 MR. SHARPE: Absolutely, Your Honor.

16 THE COURT: -- attention --

17 MR. SHARPE: I felt like that might be the better way.

18 THE COURT: -- outside the presence of the jury.

19 However, I do not believe based upon my review of 404,
20 Rule 404(a)(2), that they would be admissible in this case,
21 even in light of what you assert here. There is no evidence
22 in the record of the victim at the time of this shooting was
23 engaged in any unlawful conduct, that he was engaged in
24 possession of a firearm or firearms.

25 There is no -- in looking at these photographs -- and

1 maybe there is some evidence out there that I'm just not aware
2 of as to when these photographs were taken, but it's not
3 unlawful to possess a firearm unless you're unlawfully
4 prohibited from possessing such. It's not unlawful or illegal
5 to have your photograph taken with firearms. Maybe he was
6 prohibited from possessing. I don't know. Y'all probably
7 know that more than I do right now, but -- but I just don't
8 believe under the rules that they would be admissible, but
9 your -- I guess your objection to such as noted.

10 MR. SHARPE: Thank you, Your Honor.

11 THE COURT: And they'll be made part of the Court's --
12 Court's exhibits.

13 (WHEREUPON, Defendant's Exhibits No. 17, 18, and 19,
14 photographs, were marked for ID only.)

15 MR. SHARPE: Thank you, Judge.

16 THE COURT: Okay.

17 MR. SHARPE: Thank you for hearing us.

18 THE COURT: Yes.

19 MR. SHARPE: The second issue, Your Honor, is we have --
20 in the defendant's property at the jail, which Mr. Price --
21 I'm sorry -- Investigator Price goes to the jail to get the
22 defendant's shirt to run tests on, and one of the other things
23 that's in his property is a credit card. We would like to use
24 this to cross-examine him on the extent of his investigation
25 in that he could have gotten this credit card and run the

1 transactions.

2 We have the transactions. There's a transaction that
3 occurred about 15 minutes away that occurred in close temporal
4 proximity to the incident. We're not offering it as an alibi
5 because an alibi is to prove it's impossible, impossibility.

6 THE COURT: Right.

7 MR. SHARPE: This is more to show that had they run this,
8 got this credit card, run the transactions, they could have
9 seen this transaction and furthered their investigation, maybe
10 pulled some camera footage from these gas stations, getting
11 any witness statements, things of that nature.

12 Certainly, we think that it makes the probability that
13 Mr. Scipio committed the crime less probable, but as I said,
14 it would not be submitted as an alibi. We would not be asking
15 the Court to give a -- give the jury an alibi charge. Like I
16 said, it does not prove that it's impossible. From our
17 research, it looks like that alibi says it is impossible.

18 So we aren't saying that, but again, before I cross
19 Investigator Price on that, I wanted to touch base with you,
20 Your Honor, so that we didn't end up crossing some bridge that
21 was going to collapse this whole situation.

22 MR. TUCKER: And, Your Honor, I would object to that.
23 Again, if they have it, if they've run it, they could have
24 given that to the State. It's tantamount to an alibi witness.
25 You can call it what you want, but I mean, it's almost

1 tantamount to an alibi defense. They're saying if he was 15
2 minutes away in temporal, it would have been improbable that
3 he would have been two places at one time. Now, had they
4 provided that to us, we could have gone out and we could have
5 measured the distance between walking between there.

6 And again, there's any number of ways that we could have
7 verified whether this was possible or impossible or improbable
8 or probable, but certainly, being at this particular point in
9 time and they've been in possession of it for at least prior
10 to the trial or start of the trial, we could have done those
11 things. But that's the very nature of an alibi defense is
12 that you give the State an opportunity to check the background
13 or the veracity of things.

14 It may not be that he's got -- he has another person to
15 vouch for him where he was, but it's tantamount to that,
16 whether you give an alibi defense or not. What they're
17 suggesting by the introduction of this cross-examining
18 Investigator Price is Mr. Scipio couldn't be two places at one
19 time, however improbable, but not impossible, but that's
20 certainly what it raises.

21 And not giving the State an opportunity to verify where
22 it is, the distance, and other things certainly puts the State
23 at a terrible disadvantage. And again, that's the reason why
24 there's got to be notice of an alibi defense, even though they
25 don't want to call it an alibi defense.

1 MR. SHARPE: Your Honor, their -- the allegation is is
2 that our client ran into this cut-through that's in the woods,
3 and so it's certainly not our job for them to complete their
4 investigation with. Again, we would not be trying to admit
5 the document in as evidence. It would just be used for
6 identification to cross-examine Investigator Price to show
7 that, hey, there is some more digging we should have been
8 doing here.

9 Certainly, they did walk through the woods to look for
10 the -- for the firearm, which they were unsuccessful. So
11 technically they did walk the pathway that they say that our
12 client would have taken to get from the incident location back
13 to his house.

14 THE COURT: Let me ask you this, Mr. Tucker. Mr. Sharpe
15 says this credit card was in the possession of the Florence
16 County Sheriff's Office as the defendant's property at the
17 jail. I mean, what prohibited the sheriffs from looking into
18 that?

19 MR. TUCKER: Well, nothing, Your Honor, but again, I
20 think that he could ask. I think it's an appropriate line of
21 questioning. Could you have gotten it? Could you have run
22 it? But again, this is different in that it was used at a
23 location.

24 THE COURT: It doesn't necessarily mean that he used it.

25 MR. TUCKER: Well -- and I know, but again, it raises the

1 inference at least that he was in two places at one time. If
2 the credit card was on him two days after this thing occurred,
3 certainly it raises the inference that it was him who used it.

4 THE COURT: I mean, from what Mr. Sharpe is telling me,
5 that it wasn't at the exact -- or the time that this murder
6 alleged -- or this murder took place, but was within, you
7 know, say, 15 minutes from there. It's not that he was at two
8 places at one time. That's not what they're arguing.

9 MR. TUCKER: Well, it's close to that, Your Honor.

10 THE COURT: Well --

11 MR. TUCKER: Again --

12 THE COURT: Close only counts in horseshoes, doesn't it?

13 MR. TUCKER: Well, here I question the timing of it, Your
14 Honor. Again, if they had possession of this receipt,
15 certainly I can promise you that if the State had choose or
16 chosen to introduce something at this late stage of the game,
17 I guarantee you there'd be a different response from the
18 defense. I question their timing in presenting it now. They
19 had it in their possession. They could have said, hey, this
20 is something that we plan to go into, like an alibi defense.

21 THE COURT: Did the State serve written request upon the
22 defense for alibi?

23 MR. TUCKER: Yeah, in terms of how we respond to Rule 5.
24 When we respond to Rule 5, we now ask for reciprocal Rule 5
25 and any alibi motions or insanity motions in our standard

1 boilerplate language when we respond.

2 THE COURT: They're not asserting that it's an alibi.

3 MR. SHARPE: We're not, Your Honor.

4 MR. TUCKER: But it's extremely close to it, Your Honor,
5 and I think that, you know, again, it's akin to it. And this
6 is alleging that he couldn't be two places at one time or at
7 least that's the inference that it draws. And again, the
8 notice thing is what bothers me in terms of if they had let us
9 know, we could verify the distance, walk it to see whether or
10 not it's impossible for him to have been there or how close it
11 was.

12 THE COURT: Do we need to break for this afternoon for
13 y'all to go check it out?

14 MR. TUCKER: Excuse me, sir?

15 THE COURT: Do you want us to break this afternoon for
16 y'all to go check it out?

17 MR. TUCKER: That would be fine with me. I mean, at
18 least that gives me an opportunity to verify this in terms of
19 the information. But certainly, I think, you know, without
20 the ability to check the veracity of it, certainly that leaves
21 the State in a disadvantaged position.

22 THE COURT: Who's to say that Mr. Scipio didn't get in a
23 car with somebody after this, if he did this incident, get in
24 a car and go there? I don't know.

25 MR. SHARPE: Exactly, Your Honor, and like I said, again,

1 we're not -- we're not putting it in for an alibi. It sounds
2 like the State is essentially trying to dictate what our
3 defense is.

4 MR. TUCKER: No, I don't think that's what I'm trying to
5 do at all, Your Honor.

6 THE COURT: All right. Let me think about it for a
7 minute.

8 MR. SHARPE: Thank you, Judge.

9 THE COURT: Sir, you can step down. Do not discuss your
10 testimony. When I come back in, I'll bring you back up here.

11 THE WITNESS: Yes, sir.

12 (WHEREUPON, there was a break in the proceedings from
13 2:01 p.m. until 2:13 p.m., after which the proceedings
14 resumed as follows.)

15 THE COURT: All right. We're back on the record.

16 I've had a chance to go back and more thoroughly look at
17 Rule 5 of the Rules of Criminal Procedure. I do believe that
18 this is a document that certainly should have been produced in
19 the discovery process. This is not a situation of information
20 not subject to disclosure under the rule. Under Rule 5(b)(1),
21 (b)(2) failure to comply with a request -- let me back up.

22 Under (b)(1)(A), the defendant on request of the
23 prosecution shall permit the prosecution to inspect and copy
24 books, papers, documents, photographs, tangible objects or
25 copies of portions thereof which are within possession,

1 custody, or control of the defendant and which the defendant
2 intends to introduce as evidence in chief at the trial. That
3 pertains to the information subject to disclosure.

4 Failure to comply. If at any time during the course of
5 the proceedings it is brought to the attention of the Court
6 that the parties failed to comply with this rule, the Court
7 may order such party to permit the discovery or inspection,
8 grant a continuance, or prohibit a party from introducing
9 evidence not disclosed, or it may enter such other order as it
10 deems just under the circumstances.

11 So what I am going to do is we're going to break for the
12 balance of the day for the State -- for that information to be
13 turned over to the State, the State to look into it as they
14 deem appropriate. We'll reconvene tomorrow morning at 9:30.

15 MR. TUCKER: Yes, sir. Thank you, Your Honor.

16 MR. SHARPE: Thank you, Your Honor.

17 THE COURT: Investigator Price, I'm going to have you sit
18 back up here and I'm going to bring jury back out and I'm
19 going to release them for the day, and then my instructions to
20 you will be that you're not discuss the case or your testimony
21 with anyone during our break. Okay?

22 All right. Bring me the jury, please.

23 THE BAILIFF: Yes, sir.

24 (WHEREUPON, the jury entered the courtroom at 2:16 p.m.)

25 THE COURT: All right. We have all the jurors back.

1 Ladies and gentlemen -- Mr. Foreman and ladies and
2 gentlemen of the jury, sorry to keep you back there waiting.
3 What I'm getting ready to do is I'm going to have to release
4 you for the balance of the day. There's a legal issue that's
5 come up that's going to necessitate some additional work here.
6 So I'm going to release you for the balance of the day.

7 And I apologize. I'm going to ask you to be back here
8 tomorrow morning at 9:30. Do not discuss this case. Do not
9 do any independent investigation. As I told you from the
10 outset, you're to decide this case based solely upon the
11 evidence and testimony presented in this courtroom.

12 Again, I apologize to you all. I hope you all have a
13 nice evening. I'll see you tomorrow morning at 9:30.

14 (WHEREUPON, the jury exited the courtroom at 2:17 p.m.)

15 THE COURT: All right. Investigator, you may step down.
16 My instructions that I gave to you prior to the jury coming
17 back in remain in place. Okay?

18 THE WITNESS: Yes, sir.

19 MR. TUCKER: And, Your Honor, briefly, before you step
20 off the bench, I'm looking at what Mr. Sharpe handed to me in
21 terms of the credit card statement.

22 The first concern I have, it doesn't have any credit card
23 account number information. It's just a pic or a paper that's
24 got Comdata typed across the top of it. Now, in the body, it
25 does say Larry Scipio at some point through here, but it

1 doesn't have any -- what credit card, what company, or
2 anything like that in terms of -- again, I spoke to Mr. Sharpe
3 about laying a foundation for it, and he indicated he's not
4 offering it as evidence but as impeachment material.

5 Another concern I have is the dates and the times that
6 he's referring to just says Shell Food Mart. It doesn't give
7 an address or anything like that. I would ask if there's any
8 other identifying information that they have in terms of which
9 particular Shell food store or Food Mart it is in Florence.

10 THE COURT: All right. I'll order that be the case.

11 MR. SHARPE: Your Honor, we -- we just Googled the
12 different Shell Food Marts. That's how we tried to figure out
13 where they were.

14 MR. TUCKER: But again, it doesn't -- just it doesn't say
15 which one he went to. It just says Shell Food Mart Florence.

16 MR. SHARPE: And we were not -- and we weren't going to
17 use it for the truth of the matter asserted, just for
18 impeachment purposes.

19 MR. TUCKER: But my concern, Your Honor, is we're trying
20 to verify a distance and time to figure out whether or not
21 it's possible for him to have made it from the crime scene to
22 this particular food market, but all it says is Shell Food
23 Mart Florence. Without any --

24 THE COURT: What time was the transaction?

25 MR. TUCKER: The transaction was --

1 MR. SHARPE: 10:52.

2 MR. TUCKER: Yeah. There's one at 10:53 --

3 MR. SHARPE: 10:26.

4 MR. TUCKER: -- 10:52.

5 THE COURT: Hold on a minute. Now, I can't -- I asked
6 Mr. Tucker a question. Let him respond and then -- because
7 he's holding the document in his hand, if you need to add
8 anything. I just can't have both of you talking at the same
9 time. Okay?

10 MR. TUCKER: Yes, sir. It says 10:52, 10:54, I believe
11 -- let me make sure my glasses are right. Yeah, 10:52, 10:53,
12 10:54 are the three in question, but again, it just says Shell
13 Food Mart for location. It doesn't say which store number.
14 It doesn't say which address in Florence. It doesn't say
15 anything other than Shell Food Mart Florence.

16 THE COURT: Anything in response, Mr. Sharpe?

17 MR. SHARPE: Your Honor, again, just -- and I apologize
18 for, you know, having this brought in. However, Your Honor,
19 we -- we were not -- basically, the reason we had not
20 disclosed this is because we felt that the rule said that we'd
21 have to give over whatever we were going to use in our case in
22 chief, which in our opinion, the case in chief would be what
23 we presented after the State rested, which we're not planning
24 on presenting anything, which is essentially why we didn't
25 disclose it.

1 We can't verify where exactly this location was. We just
2 Googled and found the three that existed in the Florence area
3 and went from there. Again, not presenting an alibi defense.

4 MR. TUCKER: Your Honor, Mr. White, while we were sitting
5 here and on Ms. Love's phone pulled up at least 20 Shell Mart
6 food stores in Florence. Again, there's no way to know.

7 Now, there are other locations on there, for instance,
8 that gives store number, gives actual addresses, but on these
9 particular three, it just says Shell Food Mart. We are left
10 to assume that it's the closest one to the incident location,
11 but that is just an assumption given that the scope of how
12 many there are.

13 It puts the State in a terrible position of having to
14 figure out which one he may or may not have went to and
15 whether or not it would have been within that 15-minute window
16 from when the crime occurred to if he were walking on foot or
17 whether he got in a car. But again, without the store
18 location or the store address, there's no way for the State to
19 properly verify this information.

20 MR. SHARPE: Your Honor, essentially, that's exactly why
21 we want to present it as impeachment evidence, because at the
22 time of the incident, this is something that they could have
23 developed had they --

24 THE COURT: I understand. I understand.

25 MR. SHARPE: In identifying the card, there's only one

1 card in his property.

2 MR. KRZYSTON: And, Your Honor, just for clarity, I'll go
3 ahead and mark and ask that be entered.

4 (WHEREUPON, the credit card transaction list was marked
5 as Court's Exhibit No. 3.)

6 THE COURT: Hand me the list, please.

7 MR. KRZYSTON: I believe the clerk has it, Judge.

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

10 THE COURT: You know, I do have -- as I sit here and look
11 at this document, which is marked as Court's Exhibit No. 3, I
12 mean, I have some concerns about defense counsel's ability to
13 cross-examine as it relates to this because there's no
14 identifying information whatsoever relating to the credit card
15 that was in custody, his credit card number.

16 You know, I think you could certainly ask Investigator
17 Price if there was a credit card in his property, if he ran
18 any transaction history to determine whether or not there were
19 any transactions or attempted transactions during or in close
20 proximity to that time, and I think based upon what I've heard
21 here today, the answer to that question is no. Okay?

22 MR. SHARPE: Right.

23 THE COURT: But to pin down and say that there was a
24 transaction on this particular day at this particular time at
25 a Shell Food Mart, when there's not any more information to

1 glean to the accuracy of whether or not it was his credit card
2 I think would be improper.

3 MR. SHARPE: And certainly, we understood the issue,
4 which was why we weren't trying to admit it into evidence.

5 THE COURT: Well -- and I appreciate that, but like I
6 said, based upon my review of the document, based upon there
7 not being any identifying information as to the credit card
8 number, the credit card owner, I don't think it would be
9 proper to go to specifics on this document as it relates to
10 that.

11 MR. SHARPE: Fair enough.

12 THE COURT: All right?

13 MR. KRZYSTON: Judge, if I could just briefly be heard,
14 if you would not mind.

15 THE COURT: I mean --

16 MR. KRZYSTON: Yes, I know.

17 THE COURT: One of you -- I mean, I'm not going to sit
18 here and let both of you argue the same issue. It's kind of
19 like on --

20 MR. SHARPE: Yeah. If you look at the very first row of
21 the document, it says the -- yeah, it says --

22 THE COURT: It says payment to Larry Scipio.

23 MR. SHARPE: Right.

24 THE COURT: Okay. I see that.

25 MR. SHARPE: We do understand the ruling though, Your

1 Honor.

2 THE COURT: But I don't think it goes any further than
3 that. For all I know, it could have been a payment from
4 somebody else to Larry Scipio, I guess.

5 MR. SHARPE: Right.

6 THE COURT: I mean, I don't mean to cut you off, but I
7 don't let two lawyers examine or cross-examine a witness.

8 MR. SHARPE: Your Honor, certainly, we understand, you
9 know.

10 THE COURT: It's just not -- that's just not proper under
11 the rules. I'll give you an opportunity to consult if you
12 want to or if you need to, which y'all did, but I don't want
13 to -- I don't let the State do it. I don't want two argues
14 arguing at the same -- two lawyers arguing the same issue.
15 Okay?

16 MR. SHARPE: Absolutely, Your Honor.

17 THE COURT: All right. Anything else?

18 MR. TUCKER: Nothing from the State, Your Honor.

19 THE COURT: All right. We'll stand down until 9:30 in
20 the morning.

21 MR. TUCKER: Thank you, Your Honor.

22 (WHEREUPON, the proceedings adjourned for the day at 2:39
23 p.m.)

24 JUNE 23, 2022

25 (WHEREUPON, the proceedings resumed at 9:32 a.m.)

1 THE COURT: All right. Anything from the State before I
2 bring the jury back out?

3 MR. TUCKER: No, Your Honor.

4 THE COURT: Defense counsel?

5 MR. SHARPE: Nothing, Judge.

6 THE COURT: All right. Yesterday before we broke,
7 Investigator Price, I advised you not to discuss this case
8 with anyone or discuss your testimony. Did you comply with
9 this Court's orders?

10 THE WITNESS: Yes, sir, I did.

11 THE COURT: All right. Very well.

12 All right. Bring me the jury, please, sir.

13 THE BAILIFF: Yes, sir.

14 (WHEREUPON, the jury entered the courtroom at 9:34 a.m.)

15 THE COURT: All right. Mr. Foreman and ladies and
16 gentlemen of the jury, I hope you all had a nice evening
17 yesterday and are ready to proceed here today. When we broke
18 yesterday, we were getting ready for cross-examination by
19 defense counsel. Therefore, we'll proceed with that at this
20 time.

21 Mr. Sharpe?

22 MR. SHARPE: Thank you, Your Honor. May it please the
23 Court.

24 THE COURT: Yes, sir.

25 CROSS-EXAMINATION

BEN PRICE - CROSS BY MR. SHARPE

1 BY MR. SHARPE:

2 Q: Good morning, Investigator Price.

3 A: Good morning.

4 Q: All right. Investigator Price, you're the lead

5 investigator on this case; correct?

6 A: That's correct.

7 Q: So it'd be fair to say the bucks theoretically stop with

8 you in this case; correct?

9 A: In some certain circumstances, yes.

10 Q: Like, you'd -- you'd be in charge of pointing people in

11 the directions to do things that you thought would be

12 necessary for the investigation; correct?

13 A: Usually, that's what the lead investigator does.

14 Q: Now, the night of this incident, you got to -- well, so

15 basically, you could tell people, subordinates, to go

16 interview witnesses, collect evidence; right?

17 A: Yes. We can advise to -- to go do things. They wouldn't

18 necessarily be considered subordinates. Myself, as an

19 investigator, I'm my own rank, so to speak. The scene

20 supervisor would still be the patrol supervisor. So it may go

21 through him, but it doesn't necessarily mean that they're

22 subordinates.

23 Q: Right. But -- and that was a bad term to use, but

24 essentially, they're there to assist you with the

25 investigation?

BEN PRICE - CROSS BY MR. SHARPE

- 1 A: Yes, sir. That's correct.
- 2 Q: And then -- and then, furthermore, you would -- you would
- 3 essentially be the person that decided, you know, what, if
- 4 anything, would get scientific analysis done or that would be
- 5 sent to SLED; right?
- 6 A: I would say yes and no. You know, I'm not a -- I'm not a
- 7 scientist. So it would be discussed amongst me and my
- 8 supervisors, and that decision would be made after the fact of
- 9 what got sent.
- 10 Q: Gotcha. But if you thought something needed to have DNA
- 11 analysis or some scientific analysis run that SLED provides,
- 12 you would be able to send that to SLED?
- 13 A: I would be able to request it. Whether or not SLED
- 14 complied, then that would be another story, but I would be
- 15 able to request.
- 16 Q: And in this case, there were some things sent to SLED;
- 17 correct?
- 18 A: That's correct.
- 19 Q: And basically, when things are sent to SLED, you have
- 20 your own case number and it gets kind of confusing because
- 21 when SLED gets it, they create their own case number; correct?
- 22 A: That's my understanding.
- 23 Q: And in this case, SLED's case number would be L19-12294;
- 24 correct?
- 25 A: Can you give me a second to --

BEN PRICE - CROSS BY MR. SHARPE

1 Q: Absolutely, please.

2 A: -- verify that?

3 Q: Please.

4 A: Because I do not have that memorized.

5 Q: I can understand that. If you need me to repeat it --

6 A: Can you repeat that one time?

7 Q: Absolutely. L19-12294.

8 A: That's correct.

9 Q: Gotcha. And so basically, the night of the incident you

10 get to the scene and, when you get to the scene, you basically

11 get caught up on everything that's occurred so far?

12 A: Yes.

13 Q: Correct?

14 A: Yes.

15 Q: And so that would be speaking with Sgt. Odom, speaking

16 with Investigator Flowers, anybody else that was on the scene

17 like that; right?

18 A: Yes. That would be correct.

19 Q: Now, when you got to the scene, you spoke with Orlando

20 Mendez and, essentially, you almost immediately cleared him as

21 a suspect; is that right?

22 A: I wouldn't say it was almost immediately, but there was

23 no indication that he was a suspect during that time.

24 Q: And there are some things -- there's some tools in your

25 toolbox that you could have used to help corroborate Orlando

BEN PRICE - CROSS BY MR. SHARPE

1 Mendez's story, to corroborate clearing him as a suspect;
2 right?

3 A: In the way of gathering other statements, yes.

4 Q: Right. And so some of the things that you could have
5 done is is you could have taken his cell phone and extracted
6 information from it; right?

7 A: I think that's speculation. I -- I may could have, but
8 at the time that we didn't see any need to take his cell
9 phone.

10 Q: Right. And then another thing you could have done is, is
11 you could have taken his clothes and you could have run
12 gunshot residue analysis or run it for DNA to see if there was
13 any blood or anything minuscule that your eyes couldn't see;
14 right?

15 A: That's a possibility. However, again, whenever speaking
16 with everyone, speaking with everyone that was on scene, there
17 was no indication that Orlando Mendez was a suspect.

18 Q: And another -- another thing that you could have done
19 would have been -- routinely when there's a struggle and a
20 crime is committed, you take nail scrapings and you can get
21 potentially DNA from the suspect; correct?

22 A: I'm sure that's a possibility.

23 Q: You -- in fact, here there was nail scrapings taken from
24 the victim, but they were sent to SLED. However, you told
25 SLED that you didn't think they needed to be run because there

BEN PRICE - CROSS BY MR. SHARPE

1 was no indication that there was a struggle between the victim
2 and the subject; right?

3 A: There was no indication between -- I'm sorry. Let me
4 repeat that. There was no indication that there was a
5 struggle between the victim and the suspect.

6 Q: Right. And so that would mean there's really no need to
7 run the nail scrapings on that because there was no physical
8 interaction or no alleged physical interaction that would
9 require that; right?

10 A: That's correct.

11 Q: However, there was an allegation that Orlando Mendez got
12 into a physical altercation with the subject, which the nail
13 scrapings could have been taken and maybe could have
14 corroborated who the DNA belonged to that was under those
15 fingernails that would match the subject; right?

16 A: I'm sorry. Are you --

17 Q: I'm sorry.

18 A: Are you saying -- I don't want to --

19 Q: I apologize. I confused that question. Orlando Mendez
20 was in a physical altercation with the subject; right?

21 A: Yes.

22 Q: And from the pictures that we saw, he's got pretty long
23 fingernails; correct?

24 A: Yes. It appears so.

25 Q: So, theoretically, that would be something that you could

BEN PRICE - CROSS BY MR. SHARPE

1 scrape his nails, run DNA and, theoretically, that DNA should
2 come back to Larry Scipio; right?

3 A: However, earlier in the day, it was alleged that there
4 was a dice game between everyone. At that time they could
5 have shaken hands. They could have had physical contact at
6 that time. So there was no indication that that would have
7 changed from the point of the incident to the point of when
8 that happened earlier in that exchange.

9 Q: And nobody said any of that happened though; right? We
10 haven't had any testimony that Orlando Mendez was shaking
11 hands with a bunch of people; right?

12 A: No. I'm just assuming.

13 Q: And -- but also, that would be something that the SLED
14 lab could figure out or you could say, oh, man, we can't
15 figure it out, there's too much DNA; right? There's too many
16 different DNA from different sources?

17 A: I don't think they would be able to figure that out. A
18 time frame I think would be outside of the question of -- I
19 think they could just say yes or no, but not a time frame.

20 Q: Some of the -- some of the other things that you could
21 have done would be -- well, after you -- basically --
22 essentially, after -- after you closed the scene down, after
23 you've been caught up to speed, there's not much more
24 investigating. After you determined that Larry Scipio was the
25 subject, there wasn't too much more investigating that you had

BEN PRICE - CROSS BY MR. SHARPE

1 done after leaving the scene; correct?

2 A: Actually, there was. Our investigation turned to trying
3 to locate the subject. He was considered an armed and
4 dangerous subject at that time. So our investigation turned
5 to finding him. So I think that would be unfair to say that
6 the investigation was closed at that time.

7 Q: Well -- well, furthermore, you would have -- you would
8 have gone -- been able to go back to your office. You had all
9 these digital pictures that you could have reviewed. You
10 could have zoomed in and looked for evidence to further the
11 investigation; right?

12 A: Sure.

13 Q: Reviewed copies of any of the reports, see if there's
14 anything else you thought you might need to follow up on?

15 A: Sure.

16 Q: One -- one thing that investigators routinely use if
17 they're trying to put a subject at a location is they try to
18 get their cell phone data and see what towers they're pinging
19 off of because a cell phone essentially will tell us -- tell
20 you where somebody's located; right? Or at least where the
21 phone is?

22 A: In a general area.

23 Q: Right. You didn't do that here, though; right?

24 A: If -- well, part of the problem was, is we did not know
25 Mr. Scipio's phone number, and there was no indication that he

BEN PRICE - CROSS BY MR. SHARPE

1 had a cell phone with him.

2 Q: Right. But you could have determined that had you looked
3 into it?

4 A: Possibly. Also, the other part of the problem would have
5 been Mr. Scipio lives a very short distance away from the
6 incident location. So the tower that his cell phone would
7 have come back to, even if he were at his residence, would
8 have still shown the same tower.

9 Q: Right. But that would have confirmed he was in the area?

10 A: It could have. It could not have.

11 Q: Now, after Mr. Scipio was taken into custody, there's
12 property that was taken from Mr. Scipio that was at the -- in
13 his property and his belongings at the jail; right?

14 A: He would have had belongings, yes.

15 Q: And one -- one of those was -- that you could have helped
16 to use to further your investigation would have been a credit
17 card that he had in his -- in his possession, and you could
18 have run his credit card transactions, got a search warrant
19 for his credit card transactions to see if there is anywhere
20 else that he was in a, you know, close proximity physicality-
21 wise or time-wise to the incident location; right?

22 A: I don't recall everything that was in Mr. Scipio's
23 property when he was taken in to the jail. I know there was a
24 white T-shirt that we took from him.

25 Q: If I show you his property inventory, would that help

BEN PRICE - CROSS BY MR. SHARPE

1 refresh your memory?

2 A: If it's in there, I'll --

3 Q: Do you need to see it?

4 A: Yes, I would need to look at it.

5 MR. SHARPE: May I approach the witness, Your Honor?

6 THE COURT: Yes. Yes, sir.

7 BY MR. SHARPE:

8 Q: As you can see here, you agree with me that this says the
9 jail property inventory and receipt?

10 A: Yes.

11 Q: And it is property received from Scipio, comma, Larry Ja
12 Juan, Jr.; right?

13 A: Yes.

14 Q: And a couple lines down it says credit card; correct?

15 A: Yes.

16 Q: And had you been able to -- if you'd run this, that
17 transaction log, and you'd seen that he was somewhere or that
18 the card had been used, you could have furthered your
19 investigation based on that; right?

20 A: Depending on what kind of transaction card that it is. I
21 don't know what kind of transaction card that it is. Some
22 banks have detailed information, some don't. If I did not
23 take it that evening, then I may have determined that I didn't
24 feel it was a very good possibility that it would have been
25 usable.

BEN PRICE - CROSS BY MR. SHARPE

1 Q: Right. But, however, had you seen a transaction in close
2 proximity, you could have maybe gone to that location and
3 tried to pull some video, maybe interviewed any witnesses, and
4 that could have helped further the investigation; right?

5 A: Possibly. Again, that card would have been taken from
6 Mr. Scipio two days, 48 hours plus later. There was no
7 indication that there was a transaction card involved during
8 the dice game. There was no indication that there was a
9 transaction card involved during the course of the murder. So
10 I -- I think that's a bit speculative.

11 Q: But the investigation that -- you're in charge of the
12 investigation; right? You're -- the State has the burden and
13 it's better to have more evidence than less evidence; right?

14 A: Yes.

15 Q: Now, one -- one item that you did go and take, as you
16 said, was his shirt, and that was the shirt that you believed
17 that he was wearing at the time of the incident; right?

18 A: That's not correct, no.

19 Q: That's not correct? Okay. Do you remember speaking with
20 the -- so you sent the -- as we -- as we discussed earlier,
21 when you send something to SLED, it gets kind of confusing
22 because you have your item number and then they create their
23 own completely different item number; right?

24 A: Correct.

25 Q: So here in this case, the shirt that you got --

BEN PRICE - CROSS BY MR. SHARPE

1 MR. SHARPE: May I approach the witness again?

2 THE COURT: Yes, sir.

3 BY MR. SHARPE:

4 Q: You would agree with me that this is the evidence log

5 sheet that you filled out when you went and got his shirt out

6 of his property at the jail?

7 A: Yes, that's correct.

8 Q: And you would agree with me that that's marked as Item

9 Number 33?

10 A: Yes.

11 Q: And that's your Item Number 33; correct?

12 A: Yes.

13 Q: And then when it got the SLED, SLED assigned it Item

14 Number 22; correct?

15 A: That I'd have to look.

16 Q: All right. Give me a second. I'll show you. Do you

17 agree with me this says SLED Laboratory Forensic Services

18 Request?

19 A: Yes.

20 Q: And in this column, it says SLED Item Number Lab Only?

21 A: Yes.

22 Q: In this column it says Agency Item Number?

23 A: Yes, that's correct.

24 Q: And the agency item number would be your item number;

25 right?

BEN PRICE - CROSS BY MR. SHARPE

1 A: I believe so.

2 Q: Okay. Turn to this page and you see the agency item
3 number is 33?

4 A: Yes.

5 Q: And the SLED item number lab only is 22; correct?

6 A: That's correct.

7 Q: So that would be the same item; right?

8 A: Yes.

9 Q: Now, do you recall a conversation that you had with a
10 SLED analyst, Sarah Zapata, on March 21st, 2022, at 10:14
11 a.m., where you told her that you believe SLED Item Number 22
12 is the shirt the suspect was wearing and that it should have
13 some blood spatter from when the victim was shot?

14 A: We did have a conversation. I think there was some
15 confusion whenever we had the conversation because the shirt
16 that he was alleged to have had on was a green T-shirt, and
17 the shirt that he had then was a white T-shirt. So I think we
18 got that ironed out, but there was some confusion at that
19 time.

20 Q: Now, there's nothing that -- in Sarah Zapata's notes that
21 say anything about any confusion; right?

22 A: I can't testify to what she would think.

23 Q: Now, you would agree with me that this says South
24 Carolina Law Enforcement Division Narrative, SLED Lab Number,
25 that same lab number we just discussed?

BEN PRICE - CROSS BY MR. SHARPE

- 1 A: No.
- 2 Q: L19-12294.
- 3 A: That's correct.
- 4 Q: Which is this case?
- 5 A: Yes.
- 6 Q: And it says Investigator Price believes our Item 22 is
- 7 the shirt the suspect was wearing and that it should have some
- 8 blood spatter from when the victim was shot. Now, I could be
- 9 mistaken, but I don't see anywhere in here where it says that
- 10 might be or there's some confusion about that. It says that
- 11 you -- that you were pretty sure that that was the shirt.
- 12 A: It doesn't say that I'm pretty sure. It just says that
- 13 that's what I believe.
- 14 Q: Right. And then after the tests were run on that shirt,
- 15 there was no blood on it; correct?
- 16 A: It's my understanding there was no blood on that shirt.
- 17 Q: Right. And so after you found out there was no blood on
- 18 that shirt, is that when you decided that you didn't think it
- 19 was the shirt he was wearing?
- 20 A: I don't believe so.
- 21 Q: Okay. Because from July 8th, 2019, up at least until
- 22 March 21st, 2022, you believed that that was the shirt he was
- 23 wearing?
- 24 A: I was under the understanding it was a green shirt.
- 25 Q: Which had you not believed that that was the shirt he was

BEN PRICE - CROSS BY MR. SHARPE

1 wearing, there wouldn't have been much of a reason to test it
2 for blood spatter?

3 A: Well, I mean, it could have been an undershirt. There's
4 -- I don't know. It's not a green shirt though.

5 Q: But you were the one that went and got the shirt from
6 him. You were the one who sent it to SLED for testing because
7 you were the one that believed that was the shirt he was
8 wearing?

9 A: I believe that he had on a green shirt. That was the
10 shirt described to me by witnesses.

11 MR. SHARPE: I beg the Court's indulgence.

12 THE COURT: Yes, sir.

13 MR. SHARPE: No further questions. Thank you,
14 Investigator.

15 THE WITNESS: Yes, sir.

16 MR. KRZYSTON: Judge, we would have a quick matter of
17 law, I promise.

18 (WHEREUPON, a bench conference was held off the record,
19 after which the proceedings resumed as follows.)

20 MR. KRZYSTON: Permission to approach?

21 THE COURT: Yes, sir.

22 MR. KRZYSTON: Your Honor, as we discussed, at this time
23 we are moving what has been marked for identification purposes
24 as Defendant's 20, which is a copy of the South Carolina Law
25 Enforcement Division's Serology Analysis, which is basically

BEN PRICE - CROSS BY MR. SHARPE

1 their analysis of the Item 22/33 T-shirt that was just
2 discussed in direct -- or excuse me -- cross examination. It
3 is a copy of the report which the State stipulates to its
4 authenticity.

5 THE COURT: What number is it again?

6 MR. KRZYSTON: This would be Defendant's 21 [sic].

7 THE COURT: All right. Defendant's Exhibit, which has
8 been marked for identification only at this point, is it being
9 moved into evidence?

10 MR. KRZYSTON: Yes, sir. We would offer that for
11 evidence.

12 THE COURT: Once it's moved in, what number is it?
13 Defense Exhibit?

14 THE COURT REPORTER: 20.

15 THE COURT: All right. It's still 20.

16 All right. Ladies and gentlemen, the State, as well as
17 the defense, has stipulated that the serology report that I
18 hold in my hand here, which will be marked as Defense Exhibit
19 No. 20, has stipulated to the authenticity of this document,
20 as well as to the fact that there was no blood evidence
21 retrieved from the white T-shirt that was discussed here
22 during cross-examination.

23 All right. Pursuant to what I've said to the jury, any
24 objection or exception from the State?

25 MR. TUCKER: No, Your Honor.

BEN PRICE - REDIRECT BY MR. TUCKER

1 THE COURT: Defense counsel?

2 MR. KRZYSTON: Certainly not, Judge.

3 (WHEREUPON, Defendant's Exhibit No. 20, serology report,
4 was admitted into evidence.)

5 THE COURT: All right. Redirect?

6 MR. TUCKER: Briefly, Your Honor.

7 REDIRECT EXAMINATION

8 BY MR. TUCKER:

9 Q: Investigator Price, Mr. Sharpe asked you about cell phone
10 data. Do you recall?

11 A: Yes, I do.

12 MR. TUCKER: And, Your Honor, if I may approach?

13 THE COURT: Yes, sir.

14 BY MR. TUCKER:

15 Q: Now, Investigator Price, I want to make sure I understand
16 your answer. I'm going to show you what's been marked State's
17 28. If you recall yesterday, I believe this is the map of the
18 Tall Oaks area; correct?

19 A: Yes, sir.

20 Q: And I may need you to step down and come over here.

21 MR. TUCKER: With the Court's permission?

22 THE COURT: Yes, sir.

23 MR. TUCKER: Come around.

24 BY MR. TUCKER:

25 Q: And there was testimony, I believe, either yesterday or

BEN PRICE - REDIRECT BY MR. TUCKER

1 Tuesday about the cut in terms of it being a location, kind of
2 a pathway in this area. Do you know where that is located?

3 A: Yes, sir. Again, this is the incident location here.
4 The cut or pathway is that from the roadway that goes back
5 this way.

6 Q: Okay. We've established that Mr. Scipio, I believe,
7 lived on Cobblestone at the time of the incident; is that
8 correct?

9 A: That's correct.

10 Q: And in which direction would Cobblestone, the
11 neighborhood in which he lived, be in relationship to Tall
12 Oaks here?

13 A: It is in this area here.

14 Q: Now, in reference to the cell phone data that Mr. Sharpe
15 asked you about, you indicated that if you had cell phone data
16 location because he lived close by, it wouldn't have been
17 useful in the investigation to establish his location. What
18 did you mean by that?

19 A: Cell phone data by tower is not GPS coordinates. It's
20 not where your phone or exactly where you're at. It gives you
21 a tower location. So the tower, for instance, it's not just
22 this residence. It gives a range of where the phone or device
23 could be, not an exact location.

24 Q: Okay. So again, if you'd have had that information, it
25 wouldn't specifically have said he's at -- I'm just going to

BEN PRICE - REDIRECT BY MR. TUCKER

1 make up something to describe it. It's not that kind of data,
2 is it?

3 A: No, sir.

4 Q: Okay. You can return to your seat.

5 Now, I want to make sure we're clear on a couple of other
6 points. Now, on the evening of July the 6th, 2019, when you
7 arrived and at all times during your investigation that
8 evening, were you given the name of any other suspect besides
9 that of Larry Ja Juan Scipio?

10 A: No, I was not.

11 Q: Did you speak to anyone that indicated there was anyone
12 else involved in terms of being a suspect involved in the
13 shooting of Rico Johnson in terms of name other than Larry Ja
14 Juan Scipio?

15 A: No.

16 Q: Now, Mr. Sharpe asked you about the shirt. What was your
17 understanding of -- based on the description of the
18 eyewitnesses there, what was your understanding of the shirt
19 that Mr. Scipio had on in terms of description?

20 A: The eyewitnesses that we spoke with that evening gave the
21 description of a green T-shirt.

22 Q: And by way of recollection, what was the color of the
23 T-shirt that he had on when he was arrested and you took
24 custody of him two days later?

25 A: It was a white T-shirt.

BEN PRICE - REDIRECT BY MR. TUCKER

1 Q: With regards to proximity, we're talking 48 hours after
2 July the 6th on July the 8th when he was arrested?

3 A: Yes, sir. It was in the evening hours of July the 8th.

4 Q: Now, it was sent to SLED. Mr. Sharpe asked you about a
5 -- you believing it was the shirt he was wearing the night of
6 the incident. There was this conversation, I believe, he
7 referenced that you had with a SLED analyst about you
8 believing it was the shirt and wanting it processed for
9 possible blood evidence. Was that your recollection when he
10 asked you about the conversation? What do you recall?

11 A: I don't remember the exact conversation. I remember
12 talking to Ms. Zapata on the telephone, but I don't -- I don't
13 recollect telling her exactly that it's -- that is the shirt
14 that he would have had on during the shooting.

15 Q: Now, again, sometimes in an investigation, you're just
16 trying to rule some things out if you have it in front of you
17 in terms of possible evidence?

18 A: Yes, sir.

19 Q: Now, with the nail scrapings and things like that, at any
20 point during your investigation on July the 6th or any day
21 thereafter, did you consider Orlando Mendez a suspect?

22 A: No, he was not considered a suspect.

23 Q: Why not?

24 A: Every eyewitness that we had pointed in the direction of
25 Larry Scipio. No one gave any statement or testimony that

BEN PRICE - RECROSS BY MR. SHARPE

1 there was -- that Orlando Mendez had any action in this other
2 than the confrontation at the end.

3 MR. TUCKER: I believe those are all the questions I
4 have, Your Honor.

5 THE COURT: All right. Any recross?

6 MR. SHARPE: Briefly, Your Honor.

7 RECROSS-EXAMINATION

8 BY MR. SHARPE:

9 Q: Investigator Price, isn't it true that there are certain
10 apps on cell phones that contain GPS location, like Facebook,
11 Snapchat, things of that nature? They can show you basically
12 exactly where somebody is; right?

13 A: If -- if the app -- well, let me -- let me back up.
14 First off, in order to get that information, you would have to
15 unlock the cellular device. You would have to be able to get
16 in through the device first, which we didn't have that
17 information from the suspect.

18 Q: Can you do a Cellebrite extraction?

19 A: If I had the device, which I do not.

20 Q: Now, also, had you run the cell phone device, the
21 triangulation, and you'd seen that he was not in the area,
22 that could have helped you further your investigation; right?

23 A: Again, if I had a device or if I had the proper cell
24 phone number to do that search.

25 Q: You could have easily gotten his cell phone number;

BEN PRICE - RECROSS BY MR. SHARPE

1 right?

2 A: According to his mother, she did not know his cell phone
3 number.

4 Q: Well, you could have gotten it from somewhere, but either
5 way. Now, you -- Mr. Tucker just basically stated that he was
6 arrested approximately 48 hours later, but it was a lot less
7 than that; right?

8 Q: It was the evening hours of the 8th. This occurred the
9 evening hours of the 6th.

10 Q: And it was -- actually, he was arrested on -- at 12:41 on
11 July 8th, which is shortly after midnight, which is not the
12 evening hours. It's just the beginning of the day.

13 A: I remembered it.

14 Q: Do you want me to show you the booking report?

15 A: I remembered it being the evening hours of the 8th. I'm
16 sorry if it's --

17 Q: So the incident happened on July 6th at 10 -- it was
18 approximately 10:26 p.m. So there's really only one day that
19 had passed between the time he was arrested.

20 A: Okay. That -- I apologize then. I thought it was the
21 two days later. I apologize.

22 Q: And --

23 MR. SHARPE: May I approach the witness, Your Honor?

24 THE COURT: Yes, sir.

25 BY MR. SHARPE:

BEN PRICE - RECROSS BY MR. SHARPE

1 Q: Do you recognize this?

2 A: It appears to be a screenshot of a mapping application on
3 a cellular device.

4 Q: Fair and accurate depiction of the incident location and
5 the residence of Larry Scipio?

6 MR. TUCKER: Your Honor, if I could see that? I haven't
7 been shown that.

8 MR. SHARPE: Apologies, Your Honor. Sorry about that.
9 BY MR. SHARPE:

10 Q: Fair and accurate depiction of an overhead view of the
11 incident location and the defendant's home?

12 A: Yes. I don't know when this was taken, but yeah, it's
13 roughly accurate.

14 MR. SHARPE: Your Honor, at this time we'd move to have
15 this admitted into evidence as, I believe, Defense 21.

16 THE COURT: Any objection?

17 MR. TUCKER: Without objection, Your Honor.

18 THE COURT: Without objection, so admitted.

19 (WHEREUPON, Defendant's Exhibit No. 21, photograph, was
20 admitted into evidence.)

21 BY MR. SHARPE:

22 Q: Now, Investigator Price, you would agree with me that
23 this is basically a more expanded overhead view of this same
24 area; correct?

25 A: Yes. It shows a little bit more to the north.

BEN PRICE - RECROSS BY MR. SHARPE

1 Q: Right.

2 A: If you could move it down just a little bit on the
3 projector.

4 Q: Sorry about that.

5 A: Yes, sir.

6 Q: All right. So, essentially, this is approximately the
7 incident location?

8 A: Yes, sir. That's correct.

9 Q: I didn't point it out too good.

10 A: Yeah.

11 Q: And then this would be the cut that you're talking of,
12 the cut through that you're talking about; right?

13 A: Yes, sir.

14 Q: And then this would be the defendant's house?

15 A: Yes, sir. I believe so.

16 MR. SHARPE: I beg the Court's indulgence.

17 BY MR. SHARPE:

18 Q: And during your investigation, at some point in your
19 investigation, y'all walked through the cut-through looking
20 for guns, clothing, anything associated with the crime, but
21 you found nothing; correct?

22 A: That's correct.

23 MR. SHARPE: No further questions. Thank you,
24 Investigator.

25 THE WITNESS: Yes, sir.

MEGAN FLETCHER - DIRECT BY MR. TUCKER

1 THE COURT: Sir, you may step down. Thank you.

2 THE WITNESS: Thank you, Judge.

3 THE COURT: Call your next witness.

4 MR. TUCKER: Thank you, Honor. At this time the State
5 would call Megan Fletcher to the stand.

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

8 THE CLERK: Ma'am, will you please place your left hand
9 on the Bible and raise your right hand? Do you swear or
10 affirm the testimony you give in this case to be the truth,
11 the whole truth, and nothing but the truth, so help you God?

12 THE WITNESS: I do.

13 THE CLERK: Please be seated and state your full name for
14 the record.

15 THE WITNESS: My name is Megan Fletcher, F-l-e-t-c-h-e-r.

16 MEGAN FLETCHER, being first duly
17 sworn, testified as follows:

18 DIRECT EXAMINATION

19 BY MR. TUCKER:

20 Q: And, Ms. Fletcher, where are you employed?

21 A: I'm employed by the South Carolina Law Enforcement
22 Division in the Forensic Services Laboratory in the trace
23 evidence department.

24 Q: And how long have you been employed with SLED?

25 A: About 14-and-a-half years.

MEGAN FLETCHER - DIRECT BY MR. TUCKER

1 Q: Now, in what capacity? You mentioned trace evidence,
2 but in what -- what's your official title there at SLED, I
3 should ask?

4 A: I'm a forensic scientist.

5 Q: Now, with regards to what you do at trace, what exactly
6 are your functions there?

7 A: So for trace evidence, there's a bunch of different
8 disciplines, really. There's gunshot primer residue. There's
9 fire debris, paint, fibers, glass, explosives, pressure
10 sensitive tapes, bank dye analysis, general unknowns. There's
11 so many different types of analysis, but I do perform analyses
12 in every single one of the ones that we are certified to do
13 analysis in. So that includes doing the analysis, writing
14 reports, reviewing reports of others.

15 Q: And what kind of educational background do you possess?

16 A: I have my bachelor's degree from Chatham College in
17 biochemistry and English. I also have my master's degree from
18 Marshall University in forensic science, emphasizing in
19 computer forensics and forensic chemistry.

20 Q: And what kind of training have you received with regards
21 to your current duties and other duties there at SLED in the
22 14 years that you've been there?

23 A: So for every discipline that we perform analysis in, I
24 received specialized training. So for gunshot primer residue,
25 for instance, I received a year-long training program that

MEGAN FLETCHER - DIRECT BY MR. TUCKER

1 consisted of written, practical, and oral examinations. I was
2 working under court-qualified analysts, where I had to perform
3 analyses on practice samples. I worked on actual case samples
4 under that analyst. I also completed a mock trial at the end
5 of that training.

6 Q: Now, any idea how many different analyses you've done
7 over the years in your capacity there?

8 A: Actually gunshot residue alone, it's over 2,000.

9 Q: We'll leave it at that. Have you ever been qualified as
10 an expert in the state of South Carolina?

11 A: Yes, sir, I have.

12 Q: In what field?

13 A: Trace evidence, gunshot primer residue, fire debris,
14 paint, fibers, glass.

15 MR. TUCKER: Your Honor, at this time, I would move Ms.
16 Fletcher as an expert in the field of trace analysis or trace
17 evidence analysis.

18 THE COURT: Any objection?

19 MR. KRZYSTON: No, sir.

20 THE COURT: All right. Ladies and gentlemen, before we
21 proceed with any further testimony from this witness, let me
22 tell you that normally a person cannot give opinion testimony.
23 Normally, when a person testifies, they must testify as to
24 what they either saw, heard, or sensed by smell or something
25 of that nature. However, there's an exception under our

MEGAN FLETCHER - DIRECT BY MR. TUCKER

1 rules. When someone is qualified because of education or
2 experience, those individuals are permitted to give their
3 opinion in certain areas if the Court qualifies them that way.

4 This particular witness is being qualified in the area of
5 trace evidence analysis to give opinion testimony in that
6 area. Now, that does not mean that you must accept the
7 opinion, but it is evidence for you to use in any way that you
8 see fit and give it the weight and credibility that you
9 believe is appropriate.

10 You may continue, Mr. Tucker.

11 MR. TUCKER: Thank you, Your Honor.

12 BY MR. TUCKER:

13 Q: Ms. Fletcher, how does evidence come to the SLED lab in
14 Columbia where you work for analysis?

15 A: So gunshot primer residue -- or I'm sorry. Evidence in
16 general is submitted to our laboratory by individual agencies,
17 local agencies like sheriff's offices, local police
18 departments.

19 Q: Now, you mentioned sheriff's offices. Is the Florence
20 County Sheriff's Office one such agency that brings evidence
21 to your lab?

22 A: Yes, sir, it is.

23 Q: And could you explain the process for us in terms of when
24 evidence arrives how it's logged in and how it moves through
25 your agency from there?

MEGAN FLETCHER - DIRECT BY MR. TUCKER

1 A: So a sheriff's office or an agency will either drop off
2 evidence in a locker system or submit it directly to an
3 evidence technician in the evidence control department. They
4 will then assign it a laboratory identification number. It
5 starts with an L, and then it's followed by the year.

6 So for this year, it will be L22, and then dash and then
7 five sequential numbers after that. So each single case
8 that's submitted to the laboratory receives a unique case
9 number, and then every single item that's submitted within
10 that case receives a unique item number for that case. It's
11 then stored in the evidence control department until the
12 individual analysts or departments are able to pick up that
13 evidence from that -- from the evidence control department.

14 Q: Now, with regards to this specific case, you were working
15 for SLED in the trace evidence department on or about July of
16 2019; is that correct?

17 A: That's correct, sir.

18 Q: And that would have continued all the way up through
19 December of 2000 and -- or all the way to present; is that
20 correct?

21 A: That's correct, sir.

22 Q: All right. Now, with regards to this particular case, I
23 want to direct your attention to Lab Number 19-12294. Were
24 you assigned to process a shirt that was noted Item 2 as an
25 item submitted as bloody white T-shirt, TM-4.

MEGAN FLETCHER - DIRECT BY MR. TUCKER

1 A: May I refer to my report?

2 Q: Yes. And my next question is you did prepare a report in
3 connection with your involvement?

4 A: I did. I did prepare a report as -- as much as I was
5 involved in this case, yes.

6 Q: Okay.

7 A: And I was involved in SLED Lab L19-12294, and Item Number
8 2 was assigned to the trace evidence department.

9 Q: Okay.

10 MR. TUCKER: May I approach, Your Honor?

11 THE COURT: Yes.

12 BY MR. TUCKER:

13 Q: And, Ms. Fletcher, I'm going to show you what's been
14 marked for identification purposes only as the State's 71 and
15 ask if that's the bloody shirt that you were asked to analyze.
16 And I'm hoping that we don't have to pull it out for that, but
17 is there anything on top of the bag that would indicate that
18 this is the shirt?

19 A: There is a lab number in the -- on the left-hand side
20 that matches our lab number of L19-12294.

21 Q: Okay.

22 MR. TUCKER: Your Honor, at this time the State would
23 move 71 into evidence.

24 THE COURT: Any objection?

25 MR. KRZYSTON: If I could just see it? Is it GSR kit?

MEGAN FLETCHER - DIRECT BY MR. TUCKER

1 MR. TUCKER: This is the shirt that you asked about.

2 MR. KRZYSTON: No objection, Your Honor.

3 THE COURT: All right.

4 MR. TUCKER: And --

5 THE COURT: So admitted without objection.

6 (WHEREUPON, State's Exhibit No. 71, shirt in bag, was
7 admitted into evidence.)

8 BY MR. TUCKER:

9 Q: All right. And, Ms. Fletcher, I am going to -- rather
10 than pull the shirt out, I'm going to show you some photos to
11 see if you might recognize the shirt. I ask you to look at
12 the photos so we don't need to pull the shirt out. You should
13 be able to testify based on the photos. And I'm showing you
14 what's been moved into evidence as State's 57 through 67 and
15 just ask if you would look at those and see if that appears to
16 be the shirt that you were asked to analyze.

17 A: So in this particular case, I never received the
18 evidence. I never opened up the evidence.

19 Q: And we'll get to that. So you never saw the shirt
20 itself?

21 A: No, sir, I did not.

22 Q: And that solves things or clears things up a little bit.
23 That might be just go right to ask you then. The big question
24 is why not?

25 A: So in this -- in this case, the bloody T-shirt is from

MEGAN FLETCHER - DIRECT BY MR. TUCKER

1 the victim who has sustained a gunshot wound, and SLED trace
2 evidence laboratory does not perform any analysis of gunshot
3 residue or gunshot primer residue on clothing from a victim
4 who has sustained a gunshot wound. And the reason for this is
5 that gunshot primer residue, which is specific to the primer
6 component of a cartridge.

7 So when it's -- when a bullet is fired from a gun,
8 gunshot primer residue will follow the track of the bullet and
9 it will go towards the target. In this case, it would follow
10 towards the victim, and so we would expect to find gunshot
11 primer residue on the clothing of a victim and so we do not
12 analyze victim's clothing for gunshot primer residue.

13 Q: So when you were made aware of this and you realized that
14 was the case in this particular -- or with this particular
15 piece of evidence, you just sent it back to the agency with no
16 analysis performed; is that correct?

17 A: That's correct. I did issue a report to inform them that
18 we would not be performing an analysis in this case as well.

19 Q: Okay. And you have your report in front of you; correct?

20 A: I do, sir.

21 Q: Okay.

22 MR. TUCKER: All right. I believe those are all the
23 questions I have, Your Honor.

24 THE COURT: Cross-examination.

25 MR. KRZYSTON: Thank you, Your Honor. May it please the

MEGAN FLETCHER - CROSS BY MR. KRZYSTON

1 Court.

2 CROSS-EXAMINATION

3 BY MR. KRZYSTON:

4 Q: Investigator, you know, kind of cutting through the
5 mustard, you just testified that the reason you didn't analyze
6 the shirt or the victim's shirt was because he was the victim
7 of a gunshot wound; correct?

8 A: That's correct, sir.

9 Q: And so it's not really probative because, obviously, he
10 was in a proximity to a gun that fired at him?

11 A: Correct.

12 Q: Okay. And so, by extension, really what gunshot residue
13 in some cases or in this case can establish is proximity to
14 the shooting; correct?

15 A: Gunshot residue may establish proximity. However, it
16 cannot distinguish how far away somebody is.

17 Q: Right. So you can't determine if you're within one foot
18 or three feet, but you're in general vicinity if you have GSR
19 powder generally on you?

20 A: Yes, sir. Three feet to either side, three feet behind,
21 and then up to 60 feet in front.

22 Q: Okay. And so, again, the big, I guess, goal with GSR is,
23 again, to establish proximity for -- for suspects generally;
24 correct?

25 A: Correct. It's just to establish whether it's on a person

MEGAN FLETCHER - CROSS BY MR. KRZYSTON

1 or not. It can say that somebody either discharged a firearm,
2 was in the vicinity to the discharge of a firearm, or touched
3 an object that has gunshot primer residue on it.

4 Q: Okay. And if somebody touched an object which had
5 gunshot primer on it, you would expect that to be on their
6 hands; correct?

7 A: Typically, yes.

8 Q: And so, typically, the way that you would receive and
9 analyze touch-based gunshot primer is through what's called a
10 GSR kit or a gunshot residue kit; correct?

11 A: We do receive gunshot residue kits on a routine basis for
12 the analysis of gunshot primer residue, yes.

13 Q: Okay. And this is going to be a gross simplification
14 because yours truly is really not a scientist, but basically,
15 is it a fancy cotton swab that is swabbed on the questioned
16 person's hands to determine and to gather whatever material is
17 on that hand?

18 A: It's actually not a swab.

19 Q: Okay.

20 A: So it's a particle lift.

21 Q: Okay.

22 A: And it looks like a stamp, but it has a sticky surface on
23 it. So it's just adhesive. It has a sticker on the surface,
24 and how it's applied to somebody's hand is that it's dabbed
25 over somebody's entire hand front and back.

MEGAN FLETCHER - CROSS BY MR. KRZYSTON

1 Q: Okay. And so these particle lifts, those are things that
2 primary agencies have ready access to; correct?

3 A: They should.

4 Q: Okay. I mean, GSR is not a new science; correct?

5 A: No, sir, it's not.

6 Q: Well-established science investigators have known about
7 for years?

8 A: Yes, sir.

9 Q: In fact, you've been a SLED analyst doing this for -- did
10 you say 14 years?

11 A: Yes, sir.

12 Q: Okay. I want to talk to you briefly about your report.
13 It looks like -- well, let me ask you this. SLED is an
14 accredited ASCLD lab; correct?

15 A: We are accredited under ANAB, not ASCLD.

16 Q: Okay. I'm sorry.

17 A: That's okay.

18 Q: SLED's lab changed to ANAB, didn't it?

19 A: Yes, sir, it did.

20 Q: Okay. All right. And so ANAB is an independent
21 accrediting agency; correct?

22 A: Yes, sir, it is.

23 Q: All right. And the purpose of an independent accrediting
24 agency is to give the -- or demonstrate independence from the
25 law enforcement's investigative front; right? It's the

MEGAN FLETCHER - CROSS BY MR. KRZYSTON

1 standard upon which you act?

2 A: So really the purpose of the accreditation is there are a
3 number of standards that we have to comply with under ISO
4 17025, and those are standards for testing laboratories, not
5 just forensic laboratories, but all types of testing
6 laboratories, all types of chemistry laboratories or
7 calibration laboratories. And then we also have a set of
8 supplemental standards under ANAB, which provide more specific
9 standards for forensic testing laboratories.

10 So we have these standards and then we have to base our
11 quality manuals and our protocols off of those standards in
12 order to comply with those. The accrediting body ANAB then
13 comes in behind us and makes sure that not only do our
14 protocols meet those standards and follow those standards, but
15 that we're actually doing what we say we're doing.

16 Q: And so the whole purpose of that is so that you don't and
17 the state crime lab doesn't become just kind of a rubber stamp
18 for primary investigating; correct? You're a higher,
19 basically, criteria that they have to match and why?

20 A: We have our own set of standards that have nothing to do
21 with other agencies.

22 Q: Okay. And as part of those standards and agencies and
23 all that, you know, rigmarole, all that stuff governs how you
24 write a lab report; correct?

25 A: Correct.

MEGAN FLETCHER - CROSS BY MR. KRZYSTON

1 Q: Okay. And one of the things that you're required to do
2 is issue -- when you issue a report is put a date on the lab
3 report; right?

4 A: That's correct.

5 Q: All right. The date of this report is December 30th of
6 2021; correct?

7 A: That's correct.

8 Q: That would have been the date that you issued the report
9 and communicated it back to the primary requesting agency, in
10 this case the Florence County Sheriff's Office; correct?

11 A: That is the date that the report was issued and sent on
12 iLab, which is the electronic communications portal,
13 basically, that allows the Sheriff's Department to access the
14 report.

15 Q: Okay. And dumb lawyer question, but December 30th, 2021,
16 is before March something, 2022; right?

17 A: Correct.

18 Q: Okay.

19 MR. KRZYSTON: Court's indulgence.

20 That's all the questions I have for you right now.

21 Please answer anything else Mr. Tucker has.

22 THE WITNESS: Yes, sir.

23 THE COURT: Any redirect?

24 MR. TUCKER: Briefly, Your Honor.

25 REDIRECT EXAMINATION

MEGAN FLETCHER - REDIRECT BY MR. TUCKER

1 BY MR. TUCKER:

2 Q: Ms. Fletcher, how volatile is gunshot residue?

3 A: Volatile?

4 Q: In terms of if someone had it on their hands, how long
5 would one expect to be able to run a GSR test and be positive,
6 I guess?

7 A: So gunshot primer residue will last on a living person's
8 hands up to six hours and really is more like four to six
9 hours, and that's because the activity that they are
10 undergoing on a routine basis. In fact, SLED has a policy of
11 not testing a gunshot residue kit collected beyond six hours.

12 Within that first zero to four hours, as soon as you put
13 the gun down after shooting it, you might put your hands in
14 your pockets, you might touch other objects. So you are
15 actively removing and transferring those gunshot residue
16 particles from your hands to other objects. It's also very
17 easily removed by washing your hands.

18 Q: Could you explain the theory of transference with regard
19 specifically to GSR?

20 A: So gunshot primer residue can be transferred from the gun
21 to your hands. It can be transferred from your hands to
22 another object. So if you touched maybe a steering wheel, you
23 could also touch a steering wheel that has gunshot primer
24 residue on it from somebody else and transfer it onto your
25 hands.

MEGAN FLETCHER - REDIRECT BY MR. TUCKER

1 Q: So if someone were struggling with another who had just
2 fired a handgun or, in fact, still had the handgun in their
3 hand and they were to grab in a struggle for the gun, the
4 person who had grabbed the person with a gun could conceivably
5 have GSR on his hands, having never fired the actual weapon;
6 is that correct?

7 A: That is a possibility, yes, sir.

8 MR. TUCKER: Thank you. I believe that's all I have,
9 Your Honor.

10 THE WITNESS: Yes, sir.

11 RECROSS-EXAMINATION

12 BY MR. KRZYSTON:

13 Q: We just talked about the kind of window for gunshot
14 residue, zero to six hours. More preferable to get the
15 particle lift done closer in time to the incident than further
16 away from the time; correct?

17 A: Correct.

18 Q: And when you do the particle lift, as you just
19 demonstrated, you're basically taking a sticky item thing and
20 putting it on the hands; correct?

21 A: Correct.

22 Q: All right. You can also use a particle lift on clothing;
23 correct?

24 A: That's correct.

25 Q: Okay. But when you do the GSR analysis, you're not just

MEGAN FLETCHER - RECROSS BY MR. KRZYSTON

1 looking whether it's there or not, you're actually looking at
2 how many particles are there; correct?

3 A: To some extent, yes.

4 Q: Okay.

5 A: So if we're talking about clothing, is that --

6 Q: Well, I'm thinking what I'm asking is when you get a
7 medium or a sample, you're also looking at volume GSR in
8 addition to forensics?

9 A: So we are looking at presence, but we do not always
10 analyze the entire lift. We confirm a certain number that
11 gives us a good idea of what's on the lift, but the number of
12 particles doesn't indicate whether it was simple transfer
13 versus being in the vicinity versus discharge. So we do not
14 use quantitation or counting as one of our tests really.

15 Q: Okay. But again, you would agree with me that the whole
16 theory behind this six-hour window is that there is more from
17 a quantitative and qualitative standpoint, more evidence
18 closer in time to -- to the shooting than further away?

19 A: Yes. Studies have shown that when you take a particle
20 lift immediately after a shooting, you have significantly more
21 gunshot primer residue on your hands than after two hours,
22 say.

23 Q: Okay. And so you also agree with me though that when you
24 shoot a gun, you're going to have significantly more gunshot
25 powder than if you got gunshot powder on your hand just as a

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1 result of transfer?

2 A: As a result of transfer, that is correct.

3 Q: Okay.

4 MR. KRZYSTON: Thank you. No further questions, Judge.

5 THE COURT: You may step down.

6 MR. TUCKER: And, Your Honor, I would ask if Ms. Fletcher
7 could be released from her subpoena.

8 THE COURT: Any objection?

9 MR. KRZYSTON: No objection.

10 THE COURT: Ma'am, you may step down. You're released
11 from your subpoena. You're free to go. Have a nice day.

12 THE WITNESS: Thank you.

13 MR. TUCKER: And, Your Honor, may we approach at sidebar?

14 THE COURT: Yes.

15 (WHEREUPON, a bench conference was held off the record,
16 after which the proceedings resumed as follows.)

17 THE COURT: All right. Ladies and gentlemen, what we're
18 going to do at this point is I'm going to give you a short
19 break. I'm going to ask you to step to the jury room. Do not
20 discuss the case at all. I'll get you back out here as
21 quickly as possible. You all are free to go to the jury room.

22 (WHEREUPON, the jury exited the courtroom at 10:28 a.m.)

23 THE COURT: All right. Mr. Tucker?

24 MR. TUCKER: I'm sorry?

25 MR. KRZYSTON: I didn't say anything.

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1 MR. TUCKER: Okay. Your Honor, at this time the State
2 would call Paul Greer to the stand.

3 THE COURT: All right. Sir, if you'd come around to be
4 sworn, please.

5 THE CLERK: Please place your left hand on the Bible and
6 raise your right hand. Do you swear or affirm the testimony
7 you give in this case to be the truth, the whole truth, and
8 nothing but the truth, so help you God?

9 THE WITNESS: I do.

10 THE CLERK: Please be seated and state your full name for
11 the record.

12 THE WITNESS: My name is Paul Greer, G-r-e-e-r.

13 PAUL GREER, being first duly
14 sworn, testified as follows:

15 PROFFERED DIRECT EXAMINATION

16 BY MR. TUCKER:

17 Q: Mr. Greer, where do you work?

18 A: I'm employed at the South Carolina Law Enforcement
19 Division, which is commonly known as SLED.

20 Q: And how long have you been employed by SLED?

21 A: Approximately eight-and-a-half years.

22 Q: And in what capacity are you currently employed?

23 A: I'm a forensic scientist in the forensic services
24 laboratory, specifically in the firearms department.

25 Q: Now, do you do -- what sort of things do you do in the

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1 firearms department, I guess I should ask?

2 A: Sure. My duties in the firearms department include the
3 examination of firearms and firearms related evidence, tool
4 marks and tool mark related evidence, conducting serial number
5 restorations, destruction of weapons for various agencies
6 across the state of South Carolina, and also conducting
7 general rifling characteristics exams on fired projectiles.

8 Q: And when you said fired projectiles, does that also
9 include shell casings?

10 A: The fired projectiles would be specifically the bullet
11 that we conduct those GRC or general rifling characteristics
12 exams on.

13 Q: Okay. Do you also perform examinations on spent shell
14 casings?

15 A: Yes, sir, I do.

16 Q: Okay. Now, what is your educational background?

17 A: I received a Bachelors of Science in Biological Sciences
18 from the University of South Carolina. Upon my employment at
19 SLED, I've also completed the SLED firearm and tool mark
20 course of instruction. This is an apprenticeship-style
21 training program that's conducted under the supervision of
22 other court-qualified examiners.

23 During that time of training, it was approximately three
24 years or so. I conducted many microscopic comparisons, I
25 assisted other examiners prep their cases for court and for

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1 trial, and I also completed multiple written and practical
2 examinations. At the conclusion of my training program, I was
3 given a multi-part, comprehensive final exam that included
4 some mock casework. I successfully completed this exam and
5 was able to begin casework on my own.

6 Q: Any idea how many tests or analysis or analyses you've
7 performed for SLED in your current capacity with regards to
8 firearms and firearm identification?

9 A: At this point, comparisons would be in the thousands.

10 Q: Okay.

11 A: Yes, sir.

12 Q: Do you belong to any sort of professional associations?

13 A: Yes, sir. I'm a member of the Association of Firearm and
14 Tool Mark Examiners, which is known as AFTE.

15 Q: And how long have you been a member of that particular
16 association?

17 A: I've been a provisional member for several years, and
18 that turns into a regular member. I would have to check my
19 SLQ for when that transition period happened to become a
20 regular member, but I would say at least approximately five
21 years.

22 Q: Now, is there any kind of process to become a provisional
23 member than a permanent or a regular member?

24 A: There is a process that requires applications,
25 recommendations from other AFTE members as well to be promoted

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1 to a regular member in the association.

2 Q: So you can't just apply, pay a fee, and then presto,
3 you're a member?

4 A: That's correct.

5 Q: Okay. Now, with regards to SLED, is SLED also an
6 accredited agency?

7 A: SLED is accredited. The agency itself is CALEA
8 accredited and the laboratory is CALEA and ANAB accredited
9 with ISO 17025.

10 Q: Now, could you explain a little bit about what that means
11 in the accreditation in terms of what you do and what you --

12 A: Sure.

13 Q: -- have to do in terms of regulations?

14 A: Sure. The accreditation of the laboratory ensures that
15 we are functioning as a laboratory in the same aspect as other
16 laboratories across the nation and worldwide. I mean it
17 ensures that we're meeting proper quality standards. It
18 ensures that our evidence is traveling throughout the
19 laboratory in an efficient manner that upholds the integrity
20 of the evidence and that we're issuing a quality product at
21 the end of the day.

22 Q: And have you ever been qualified as an expert in any
23 field in the state of South Carolina for court purposes?

24 A: Yes, sir, I have.

25 Q: And how many times?

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- 1 A: Approximately 16 times.
- 2 Q: And in what specific field?
- 3 A: Usually firearms identification.
- 4 Q: Now, let me ask you also, with regards to your testimony
5 here today, what does it concern?
- 6 A: I was given evidence, fired cartridge cases and fired
7 bullets, from the Florence County Sheriff's Office to examine.
- 8 Q: Now, would the average layperson, without the benefit of
9 your education, training, and experience, be able to perform
10 that test or the examinations that you did?
- 11 A: No, they would not.
- 12 Q: Now, with regards to what your testimony would be, do you
13 believe that it would assist the jury or the trier of fact
14 with regards to understanding how shell casings can be
15 identified and how projectiles can be identified as possibly
16 coming from a common weapon?
- 17 A: Yes, sir.
- 18 Q: Now, with regards to your techniques and your theories
19 that you use to arrive at your conclusions, are those peer
20 reviewed?
- 21 A: Yes, sir. Everything in the firearms department at SLED
22 goes through a hundred -- 100 percent micro verification
23 process. This means that another court-qualified examiner
24 will examine our evidence after we've reached a conclusion,
25 reach their own independent conclusion, and that conclusion

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1 will be signed off on, as well as the report and the case file
2 that is generated throughout the process of the examination
3 that goes -- undergoes a technical and administrative review
4 as well.

5 Q: Okay. So there are lots of eyes on what you turn out in
6 terms of conclusions. Would that be fair to say?

7 A: Yes, sir.

8 Q: Now, with regards to the particular techniques and
9 theories that you employ with regards to what you do at SLED,
10 are they common within the SLED firearms examination
11 department? In other words, do other examiners do the same
12 thing that you do with regards to examinations?

13 A: Yes, sir. We all follow the same firearms protocol and
14 conduct our comparisons in the same manner.

15 Q: Now, as far as you know, are there other labs like SLED
16 that use the same theories and techniques that you employ?

17 A: Yes, sir, there are.

18 Q: Okay. Now, with regards to how you examine, let's say,
19 the shell casings first, how do you begin your examination?

20 A: When I receive evidence to begin my examination, I would
21 document and check that it's appropriately packaged and sealed
22 when I received it. In the firearms department, we have
23 specific departmental worksheets that we would document this
24 information on, and we'd also take photographs of the
25 evidence.

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1 I would open the evidence, check for any foreign material
2 that may be present and preserve that material, and then I'll
3 begin the examination of the cartridge case. I would document
4 any information, to include the head stamp, the caliber, the
5 construction of that cartridge case, and the characteristics
6 on that cartridge case as well, all in those departmental
7 worksheets.

8 Q: Now, when you determine that there's been a match in
9 terms of shell casings that are fired from the same weapon,
10 you mentioned characteristics on the shell casing, or is that
11 what you're comparing from one to the other?

12 A: Yes, sir. When we're looking at those cartridge cases,
13 we're looking at tiny, microscopic striations or impressions
14 that can be found on multiple areas of that fired cartridge
15 case, and we're comparing that on a comparison microscope,
16 which is essentially two microscopes joined together through
17 an optical bridge that we're able to look at the two items at
18 one time and look at those fine details under high
19 magnification.

20 Q: Now, when you determine that there is a match, what are
21 you basing that match on? This identification that you just
22 described or this process?

23 A: Yes. So based on our training and experience, we look at
24 thousands of cartridge cases and bullets throughout our
25 career, throughout our training. So we are trained to look at

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1 those known matches and those known non-matches, to look at
2 the agreement or the disagreement that may be there present on
3 those cartridge cases or those fired bullets. We also follow
4 other policies and procedures on how to dictate that agreement
5 and how to interpret that agreement, but it's based on years
6 of experience and training in this process.

7 Q: Any idea what the error rate is with how -- you
8 particularly in terms of examinations that you've performed?

9 A: I personally do not have a calculated error rate.

10 Q: Now, is that true for the other examiners in your
11 department as well?

12 A: Yes, sir. We do not have a calculated error rate in SLED
13 for individual examiners or for the department as a whole.

14 Q: Now, are you aware that -- is that the case for these
15 other labs that you mentioned that employ the same policies,
16 techniques, and practices there at SLED?

17 A: I am unsure if they have a calculated error rate. There
18 are studies that have been conducted for years, multiple
19 studies that have calculated an error rate for our field and
20 for these purposes, but I'm unaware of other labs and their
21 procedures.

22 Q: Now, are you confident that other examiners at SLED would
23 have reached the same conclusions you would have with regards
24 to these shell casings?

25 A: Yes, sir. And in fact, as we stated earlier, everything

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1 is 100 percent micro verified. So in this case, another
2 court-qualified examiner has examined the evidence and reached
3 the same conclusions that I reached in this case.

4 Q: Now, with regards to how you perform your comparisons and
5 the conclusions that you reach there from, would you say that
6 it's more subjective or objective or more objective than
7 subjective.

8 A: Firearms identification can be classified as both. We
9 are taking measurements of the weight, the caliber, to
10 determine the measurements of the diameter of that bullet.
11 But ultimately, the opinions that we render in those
12 conclusions are subjective based on some of those objective
13 findings that we have examined.

14 Q: Now, with regards to the projectiles, we talked about the
15 shell casings, how do you handle those and how do you analyze
16 those?

17 A: I'm sorry. Can you repeat the question?

18 Q: Yeah. We talked about shell casings and making
19 microscopic comparisons between the two. Do you analyze
20 projectiles in much the same fashion?

21 A: Yes, sir. In much of the same fashion, I would examine
22 the packaging, make sure it's properly sealed, document
23 through photography and also on the departmental worksheets
24 any of those characteristics of the projectile, to include the
25 caliber, the weight, the measurements, the number of lands and

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1 grooves and rifling that are exhibited on that projectile.

2 MR. TUCKER: Your Honor, if I may approach?

3 THE COURT: Yes, sir.

4 BY MR. TUCKER:

5 Q: Mr. Greer, I'm going to show you what's been marked as
6 State's 73 and 72 and ask first if you recognize them?

7 A: Okay. Yes, sir. I do recognize State's Exhibit 72.
8 It's SLED Lab Number L19-12294, Container B. I mean, it's
9 still sealed with my initials and seal date.

10 Q: Okay. And those would be the projectiles that we just
11 spoke of?

12 A: Yes, sir. This would contain the projectiles that were
13 submitted in this case.

14 Q: Okay. And could you look at Item 73 -- State's 73, and
15 let me first ask you if you can identify it?

16 A: Yes, sir. This State's Exhibit 73 is L19 -- SLED Lab
17 Number L19-12294, Container C, and it is also still sealed
18 with my initials and seal date.

19 Q: Okay. And if you could put that back there? I want to
20 refer you to -- when you do your examinations, do you
21 ultimately prepare a report?

22 A: Yes, sir, I do.

23 Q: And did you do that in this particular case?

24 A: Yes, sir, I did.

25 Q: And let me also ask you, with regards to your

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1 examinations of those items that we just referenced, did you
2 employ the same techniques and the policies and protocols that
3 we discussed up to this point in examining those two items?

4 A: Yes, sir, I did.

5 Q: Okay. And when I say items, I mean all of the shell
6 casings and the projectiles as well.

7 A: Yes, sir, I did.

8 Q: Okay. Now, I want to refer you to your report. And
9 again, we heard from Ms. Fletcher a little while ago. She
10 indicated that when items come in, they're assigned individual
11 SLED lab numbers. Is that correct?

12 A: Yes, sir. Every case that enters the lab, it receives a
13 SLED lab number that's unique to the lab itself.

14 Q: Okay. And with regards to this particular case, was the
15 SLED lab number L19-12294?

16 A: That's correct.

17 Q: And what were the results that you reached after you
18 examined the shell casings, as well as the projectiles?

19 A: Sure. All of the cartridge cases, the fired cartridge
20 cases, as you're referring to, those were all fired .380 auto
21 caliber cartridge cases, and it was determined that those were
22 all fired by the same firearm.

23 Q: And with regards to the other material that you examined?

24 A: The fired bullets?

25 Q: Yes, sir.

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1 A: The fired bullets, most of them were what we would
2 consider in the laboratory as a fired bullet. The item --
3 SLED Item 19 was a fired bullet, and it also consisted of one
4 piece of lead. SLED Items 3, 16 through 18, and the Item 19
5 fired bullet, and Item 21 were all most consistent with being
6 .380 auto caliber. Due to the damage and size of the Item 19
7 piece of lead, the caliber could not be determined, and also
8 it was unsuitable for identification with other firearms
9 related evidence, as there were no marks of value found on
10 that item. As far as SLED Items 3, 16 through 18, the Item 19
11 fired bullet, and Item 21, it was concluded that those items
12 were all fired by the same firearm.

13 Q: Now, were the results that you reached with regards to
14 your examination of these items peer reviewed?

15 A: Yes, sir, they were.

16 Q: And as far as you know, were there any problems with your
17 work by the ones that reviewed your conclusions?

18 A: No, sir. The other court-qualified examiner examined
19 this evidence and signed off on my conclusions.

20 Q: Okay.

21 MR. TUCKER: I believe those are all the questions I
22 have, Your Honor.

23 PROFFERED CROSS-EXAMINATION

24 BY MR. KRZYSTON:

25 Q: Investigator Greer, my name is Steve Krzyston. I'm one

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1 of the defense attorneys in the case. How are you this
2 morning?

3 A: I'm fine, thank you. How are you?

4 Q: Good. You know, I'm not going to belabor what's going on
5 here. You would admittedly agree with me that this is -- or
6 your identification of projectiles and casings in this matter
7 are basically subjective identification; correct?

8 A: Yes, sir. The conclusions that we reach are subjective
9 in nature.

10 Q: Okay. And when you said or were asked about the policies
11 and procedures that inform when you can make an agreement,
12 what is the standard for saying that item 1 and item 2 were
13 fired by the same device?

14 A: Yes, sir. So in training, we began looking at many fired
15 cartridge cases and fired projectiles, some that we know that
16 are fired from the same firearm because we actually test fire
17 those. We start studying that agreement that is exhibited on
18 those fired projectiles or cartridge cases in looking at what
19 a sufficient agreement may be.

20 And we studied many, many, many cartridge cases and
21 projectiles throughout our training, and we also look at
22 things that we know have been fired by different firearms that
23 are very similar, in fact, maybe to what we have fired, and
24 see if there's any agreement between those that would be our
25 known non-matches. And we look at that to see what agreement

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1 may be there or what disagreement may be there and start to
2 determine what that looks like.

3 Ultimately, at the end of the day, we -- we do rely on
4 our opinion of the matter, but there's years of training and
5 experience that goes into that. Throughout our training, we
6 also participate in various studies, so to include our
7 consecutively manufactured barrels and slides.

8 So I participated in several of those practicals where
9 we've looked at that information, and that would kind of
10 represent a worst-case scenario. So if those slides or those
11 barrels were consecutively manufactured one after another, we
12 would expect to see agreement there because that tool is
13 creating those marks on that side of that barrel right after
14 one another, and that tool may not be changing that much.

15 And I've participated in several of those studies, and I
16 was able to achieve all the correct answers. I was able to
17 differentiate between those barrels and those slides and which
18 cartridge case came from each one. So we've looked at many
19 things, many comparisons, and we also rely on our AFTE theory
20 of identification to help guide us to what that sufficient
21 agreement may be as well.

22 But it's through all of that training and experience and
23 looking at that and looking at consecutive manufactured
24 materials and what those cartridge cases and bullets look like
25 after they've traveled through there that we build up that

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1 knowledge of what would be sufficient agreement.

2 Q: Okay. And so basically, again, I appreciate all that,
3 but what I want to boil it down to is that, you know, once you
4 reach sufficient agreement, that's when you can make an
5 identification. Is that what I'm understanding?

6 A: Yes, sir. Once we determine that there's sufficient
7 agreement on those two items, we would be able to issue a
8 conclusion of that they were fired from the same firearm.

9 Q: Okay. Can you articulate for this Court what sufficient
10 agreement is from an objective standpoint?

11 A: At SLED, we use a process of pattern matching. We do not
12 use a form of line counting. So I cannot put a statistical
13 number, but again, just years of training and experience,
14 looking at these materials under high magnification, looking
15 at all the totality of those lines and marks on the evidence
16 in multiple areas of the cartridge case and bullets. And I'm
17 looking at that agreement and understanding what each of those
18 lines means under that high magnification.

19 Q: Okay. And again though, you've just testified that those
20 things you do are subjective in nature; correct?

21 A: Those conclusions, yes, based on --

22 Q: Okay.

23 A: -- years of training and experience.

24 Q: And so I'll repeat my question.

25 THE COURT: Hold on a minute. Let him finish his answer.

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1 MR. KRZYSTON: I'm sorry.

2 THE COURT: Go ahead, sir.

3 BY MR. KRZYSTON:

4 A: Those -- those conclusions could be or are subjective in
5 nature but based on the years of training and experience
6 looking at those microscopic markings.

7 Q: Okay. And so I'll ask you one more time. Can you
8 articulate for this Court an objective definition of what
9 sufficient agreement is?

10 A: No, sir. Like I said, we only use pattern matching. We
11 do not put a number to our agreement where we're counting
12 lines. That is not a method that is used at SLED, and pattern
13 matching is common across all firearms examiners. That is the
14 common practice --

15 Q: Okay. And --

16 A: -- across the nation.

17 Q: I'm sorry. I did not mean to interrupt you.

18 A: Uh-huh.

19 Q: Are you finished?

20 A: Yes, sir.

21 Q: Okay. And so if I'm understanding you correctly,
22 throughout the field of firearms examination, there is no
23 objective standard of as to what sufficient agreement is.
24 There's no, like you say, line counting. It is 100 percent
25 subjective in nature?

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1 A: There area -- there is a method of line counting, but
2 that is not utilized by SLED and is not the common practice
3 across firearms examiners, but when we're talking about that
4 sufficient agreement, no, there's not a number I can put with
5 it. It's just based on looking at those, the agreement that
6 is there, and the quantity and quality of the agreement that
7 we see based on looking at years of known matches and known
8 non-matches.

9 Q: Okay. All right. I want to draw your attention to your
10 report briefly under Item 21. There are several results that
11 concern Items 3, 16 through 19, and 21.

12 A: Yes, sir.

13 Q: You got that in front of you?

14 A: Yes, sir, I do.

15 Q: Okay. One of the conclusions that you've drawn on this
16 specifically -- and I'm going to quote it here -- based on
17 their observable physical characteristics -- excuse me --
18 characteristics, Items 3, 16 through 18, the Item 19 fired
19 bullet, and Item 21 were most consistent with bullets loaded
20 into some .380 auto caliber cartridge. Is that -- that's your
21 finding, your results?

22 A: Yes, sir.

23 Q: Your reported conclusion? How do you arrive at that?

24 A: So to arrive at that, we do multiple things. And with
25 these bullets, some of them were damaged as they had traveled

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1 to their target and were recovered. First, we would examine
2 it just overall, look at the physical characteristics of it,
3 examine what type of projectile it is, its -- its
4 construction. I'm looking at its overall measurement. So we
5 would weigh that bullet to determine its grain weight, and
6 also we would measure the diameter to determine what specific
7 caliber it may be.

8 Based on all that information, we arrive at a conclusion
9 of the caliber. In this case, based on our weight and our
10 diameter, we are -- I would say these are most -- these
11 bullets were most consistent with being .380 auto caliber.

12 Q: Okay. The subject items, again, those being 3, 16
13 through 18, Item 19 fired bullet, and Item 21, what was the
14 diameter of those projectiles?

15 A: Each of those fired bullets, the diameter was between
16 351/1000 and 360/1000 for -- for all of those. They all fell
17 within that range.

18 Q: Okay.

19 A: That's 351/1000 of an inch. I'm sorry.

20 Q: Okay. And so in addition to diameter, you also weighed
21 the subject items?

22 A: That's correct.

23 Q: Okay. And what were the weight ranges, if you will, or
24 the range of weights?

25 A: Yes, sir. Item 3 weighed 87 grains; Item 16, 88.4; Item

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1 17, 90.2; Item 18, 83.8; Item 19, fired bullet, 76.4; and Item
2 21, 86.6.

3 Q: Okay. And was there any other objective physical
4 characteristics of the projectiles that you relied upon to
5 determine that they were most consistent with being loaded
6 into a .380 auto caliber?

7 A: Those were the only measurements that were taking or
8 taken to determine the caliber other than just looking at
9 their overall characteristics, what they looked to be
10 consistent with based on what I've seen and experienced in
11 training and throughout my case work. That's how we arrived
12 at that conclusion, coupled with those -- those measurements.

13 Q: Okay. Can -- did you compare any tool marks or any other
14 type of mark or any type of comparison from the -- the
15 projectiles to the casings?

16 A: No, sir.

17 Q: Okay. By virtue of your experience and training as a
18 firearms examiner, you're also familiar with a common caliber
19 firearm named the 9-millimeter firearm, are you not?

20 A: Yes, sir.

21 Q: Okay. For me and for this Court, can you articulate what
22 the typical diameter of the 9-millimeter projectile is?

23 A: Sure. Typically, with a 9-millimeter Luger caliber
24 projectile, we would consider it to be somewhere in the same
25 range of six .380s, around 355/1000 of an inch. However, the

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1 9-millimeter Luger caliber bullet would have an overall longer
2 profile or characteristic, and also we would expect it to
3 weigh a little more than a .380 auto.

4 Q: And that's because the manufacturers of the projectiles
5 typically have a higher grain weight to the bullets that they
6 are putting into the 9-millimeter cartridge; correct?

7 A: Yes, sir. That 9-millimeter Luger caliber bullet would
8 typically be a little longer than a .380. So it would account
9 for more weight than a .380 auto.

10 Q: Okay. And you'd agree with me that the subject items
11 that you reviewed were all impacted projectiles; correct?

12 A: Yes, sir. They did sustain -- sustain some damage.

13 Q: Okay. And so it is impossible for you to tell whether
14 they sustained damage and lost pieces or particles of the
15 projectile; correct?

16 A: I'm sorry. Can you repeat the question?

17 Q: And so it is impossible for you to tell if the
18 projectiles that you reviewed contained their whole original
19 appearance and weight; correct?

20 A: Yes, sir. It's possible that they were missing some of
21 the material that they originally had before it struck the
22 target. However, based on bullets I have examined in the
23 past, it did not appear that it would have lost enough to --
24 in my opinion, to warrant that it would be a 9-millimeter
25 Luger caliber. Also taking into its construction and the

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1 length of that projectile, it was more consistent with being
2 .380, but it did more than likely some of them lose some
3 material. But I can't say for certain because I didn't see
4 the projectile before.

5 Q: Okay. And so I want to go back to error rate. You don't
6 publish or calculate an error rate in your lab; correct?

7 A: No, sir, we do not.

8 Q: But you recognize that in all forensic science there is
9 an inherent error rate?

10 A: There are studies that publish an error rate, yes, sir,
11 for firearms dentification.

12 Q: In those studies that you referred to, those error rates
13 vary drastically; correct?

14 A: Most of the error rates that I've seen issued for
15 firearms identification is around the 1 percent mark.

16 Q: Okay. And so the last little bit of information I want
17 to ask you about is the AFTE organization, which provides your
18 accreditation or certification. Are there any -- what is AFTE
19 or who is -- who makes up AFTE? Who's a -- who are members of
20 AFTE?

21 A: Okay. AFTE is comprised of firearm and tool marks
22 examiners across the nation and also worldwide. It's an
23 international -- international organization that's kind of
24 like a professional organization for us as examiners to
25 collaborate with, share new techniques, and learn and gain

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1 knowledge from.

2 Q: Okay. And so if I'm understanding you correctly, it's
3 all forensic scientists that are basically employed by crime
4 labs and police agencies; correct?

5 A: There are technicians that are in AFTE as support. Those
6 could be manufacturers from primer and ammunition facilities.
7 I do believe there are also members from scientific
8 organizations that are members that assist AFTE in their
9 mission. And there's also, I believe, folks that aren't
10 associated with crime labs that run private forensic
11 laboratories and that are invested into the science as well.

12 Q: And so -- but again though, those people by virtue would
13 have had to have been at some point firearms examiners,
14 because there's no private need outside of criminal defense;
15 correct?

16 A: It's possible, unless they may be from some of those
17 manufacturing facilities or from some of the scientific
18 groups.

19 Q: Okay. The last question I have for you is that you would
20 acknowledge that a .380 projectile could be fired through a
21 9-millimeter or a 9-millimeter projectile possibly fired
22 through a .380?

23 A: It would be possible that a 9-millimeter -- or excuse me
24 -- that a .380 could be fired from a 9-millimeter. I have
25 seen that happen. I have actually done that. I would not

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1 expect a 9-millimeter Luger to be fired from a .380, but that
2 would be dependent upon the firearm before I can make that
3 conclusion.

4 Q: All right.

5 MR. KRZYSTON: Thank you.

6 THE WITNESS: Yes, sir.

7 MR. KRZYSTON: Appreciate your time.

8 THE WITNESS: Thank you so much.

9 THE COURT: Mr. Tucker, anything else?

10 MR. TUCKER: Nothing, Your Honor.

11 MR. KRZYSTON: Your Honor, I would just -- again, I think
12 that we will enter an objection on this evidence. I think
13 probably you would prefer that I articulate that now as
14 opposed to in court.

15 Judge, our objection to this evidence is that there's no
16 objective standard upon which an identification is made. And
17 so, you know, throughout the field and throughout this
18 laboratory and even this examiner admits that, you know, two
19 different examiners essentially can look at the same piece of
20 evidence and come to a different conclusion.

21 These types of objections and the type of objection that
22 I have been making have been memorialized in numerous
23 scientific reports, including the 2009 National Academy of
24 Sciences report, the 2016 Presidential Cast of Scientific
25 Advisors reports. All of those reports and all of the

1 academic and scientific commentators in the field say that
2 this lacks objectivity, that there is no calculated error
3 rate, that the error rates can vary from as low as 1 percent
4 to as high as I believe, 4 to 12 percent, depending upon the
5 studies.

6 This is exactly the type of quasi-scientific testimony
7 that really isn't objective and has a huge danger of -- of
8 misleading the jury and creating an unfair amount of
9 prejudice. We would suggest that under 403, under 702, that
10 the danger of unfair prejudice is substantially --
11 substantially outweighs the probative value of this evidence
12 and would ask that the evidence be, you know, excluded from
13 being able to be presented to the jury.

14 THE COURT: Mr. Tucker?

15 MR. TUCKER: Your Honor, I think Mr. Greer was fairly
16 clear in how he employs the standards and protocols that are
17 accredited or in an accredited lab. He belongs to a
18 professional association. He has the education and experience
19 requisite for an expert in the field of this type. He also
20 indicated that his results are peer reviewed there at slab or
21 at SLED. SLED employs the same protocols in regards to
22 firearms examination as other labs.

23 And again, he did mention that, yes, there is some
24 subjectivity involved here, but again, it's based on years of
25 training, years of experience. And again, he's not just

1 looking at it and drawing a conclusion based on a hunch.

2 Now -- and again, with regards to projectiles, he's not
3 saying that they are exactly a .380. I believe what Mr. Greer
4 will testify to is that based on his experience and education
5 and training and again his comparisons, it's most consistent
6 with. And again, he did answer Mr. Krzyston when he
7 articulated why he believes these are the closest to a .380
8 than it would be a 9-millimeter based on length and the grain
9 and the weight.

10 And again, he mentioned that -- I believe -- I'm not sure
11 if he said 4 percent, but I believe he said he is familiar
12 with studies that show the error rate on labs that employ it,
13 and he testified that not every lab does that. SLED does not,
14 and he's familiar with other labs that do not as well,
15 although some do, but he testified that he was aware of one
16 that -- of labs that had error rates as high as 1 percent.

17 But again, I believe that Mr. Greer possesses the
18 training, education, and experience that satisfies both
19 *Daubert* and 702, and I believe its probative value certainly
20 under a 403 analysis outweighs any prejudicial effect.

21 THE COURT: All right.

22 MR. KRZYSTON: Your Honor, my esteemed colleague notes
23 that there is some subjectivity. I would note for the Court
24 that it is purely subjective. There is no objective standard
25 upon which an identification can be made.

1 Furthermore, Judge, the results in the reported
2 conclusions here travel far beyond most consistent with,
3 specifically with regard to these breech marks on the other
4 items that are reported in this report. They are reported as
5 a match.

6 And so to the extent that the Court does not conclude
7 that this evidence should be shielded from the jury, we would
8 ask that the language in the report be conveyed to the jury as
9 most consistent with, as opposed to a match.

10 MR. TUCKER: And I want to make sure I'm clear with
11 regards to what Mr. Krzyston is asking. I believe he did
12 indicate that based on his comparison of the shell casings, he
13 is able to say that that's a match and that one gun fired all
14 of the shell casings. I believe he uses the most consistent
15 with language with regards to the projectile. Is that
16 correct?

17 MR. KRZYSTON: That's correct, but I'm also taking issue
18 with the match language because I don't think the scientific
19 rigor is there to support match. There's no indication that
20 they acknowledge that there's error. There's no indication
21 that there's an objective determination that they are, in
22 fact, a match. Not even DNA is sure, not even a DNA report.
23 DNA reports indicate error rates.

24 THE COURT: Anything else?

25 MR. TUCKER: Just, Your Honor, with regards to that

1 objective standard, I believe Mr. Greer testified that some
2 use line counting. I believe SLED and the accrediting agency
3 to which SLED belongs uses, I believe -- and I don't want to
4 mischaracterize it, but like pattern analysis.

5 Is that correct, Mr. Greer?

6 THE WITNESS: Yes, sir.

7 MR. TUCKER: At any rate, they use that. And again,
8 that, I believe, is employing some subjectivity there, but
9 again, it is peer reviewed, it is checked. And again, I
10 believe that, again, it passes muster for *Daubert* and 702.
11 And again, I do believe its probative value outweighs its
12 prejudicial effect.

13 THE COURT: All right. Based upon what I've heard here
14 today, I believe the State has certainly presented a factual
15 and scientific foundation for this witness's testimony. The
16 State has presented a complete factual scientific basis for
17 the admission of such testimony. It is certainly scientific
18 testimony under 702. I do believe that the evidence would
19 certainly assist the trier of fact.

20 I think without question this witness is qualified as an
21 expert based upon his education, training, and experience. I
22 believe that the underlying science here is reliable, and
23 while there is -- there has been some testimony as to error
24 rate, the process and procedure is peer reviewed. It was peer
25 reviewed in this case as well.

1 The Court believes that the probative value of such
2 testimony is not outweighed by any prejudicial effect. At
3 this time, the Court would, therefore, allow it, but your
4 objection is so noted for the record.

5 MR. KRZYSTON: Thank you, Your Honor. And just for
6 housekeeping purposes, when we renew our objection,
7 chronologically when would you prefer that we renew?

8 THE COURT: You can renew it when -- I guess, when the
9 State qualifies him as an expert in front of this jury.

10 MR. KRZYSTON: Certainly. Thank you.

11 THE COURT: Okay.

12 All right. Sir, I'm going to let you step down for a few
13 minutes. Do not discuss your testimony. When we come back,
14 we'll bring the jury in. The State will call you as a
15 witness.

16 THE WITNESS: Okay.

17 THE COURT: You'll come back up here. While you're under
18 oath now, I'll have the clerk swear you again.

19 THE WITNESS: Okay. Thank you.

20 THE COURT: We'll stand down a few minutes.

21 MR. TUCKER: Thank you, Your Honor.

22 (WHEREUPON, there was a break in the proceedings from
23 11:05 until 11:14, after which the proceedings resumed as
24 follows.)

25 THE COURT: All right. Anything from the State before I

1 bring the jury back out?

2 MR. TUCKER: No, Your Honor.

3 THE COURT: Defense counsel?

4 MR. KRZYSTON: No, sir, Judge.

5 THE COURT: Let me say this, and I don't know if you all
6 -- when my clerk asked me a minute ago why I was grimacing, it
7 has nothing to do with any testimony or questions that you all
8 are asking, if you all have noticed it.

9 I am hurting up here. As most of you know, I coach
10 baseball. I've coached for a long time, but I hit at practice
11 last night a lot of infield, and my back is feeling it today.
12 And so every time I sit down or turn a certain way, you may
13 see a grimace on my face. I don't know if you all have
14 noticed that or not.

15 I hope the jury hadn't noticed it and would think that I
16 was grimacing at anything you all are doing, but I wanted to
17 say that in case you all had noticed it and had a concern
18 about it. It's nothing that the attorneys or witnesses are
19 doing in any way, shape, or form. Okay?

20 MR. SHARPE: Well, hopefully the boys got better last
21 night.

22 THE COURT: We'll find out tonight. After Tuesday night,
23 I couldn't hit enough yesterday.

24 Could you get the jury, please, sir?

25 THE BAILIFF: Yes, sir.

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1 (WHEREUPON, the jury entered the courtroom at 11:17 a.m.)

2 THE COURT: All right. We have all the jurors back in
3 the courtroom.

4 The State is recognized. Call your next witness, please.

5 MR. TUCKER: Thank you, Your Honor. May it please the
6 Court. At this time the State would call Paul Greer to the
7 stand.

8 THE COURT: Sir, if you'd come around to be sworn,
9 please, sir.

10 THE CLERK: Sir, will you please place your left hand on
11 the Bible and raise your right hand. Do you swear or affirm
12 the testimony you give in this case to be the truth, the whole
13 truth, and nothing but the truth, so help you God?

14 THE WITNESS: I do.

15 THE CLERK: Please be seated and state your full name for
16 the record.

17 THE WITNESS: My name is Paul Greer, G-r-e-e-r.

18 PAUL GREER, being first duly
19 sworn, testified as follows:

20 DIRECT EXAMINATION

21 BY MR. TUCKER:

22 Q: And, Mr. Greer, where do you presently work?

23 A: I'm employed at the South Carolina Law Enforcement
24 Division, which is commonly known as SLED.

25 Q: And how long have you been employed by SLED?

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1 A: I've been employed at SLED for approximately eight-and-a-
2 half years.

3 Q: And in what capacity are you currently employed there?

4 A: I'm a forensic scientist in the forensic services
5 laboratory.

6 Q: Now, do you work in any one particular department within
7 the forensic sciences laboratory?

8 A: Yes, sir. Specifically in the firearms department.

9 Q: Now, what are your -- let me first ask, what does a
10 firearms examiner do there at SLED?

11 A: Sure. My main job as a firearms examiner is to examine
12 fired ammunition components. That would be a fired cartridge
13 case or a fired projectile in order to determine if they were
14 fired by a specific firearm. Some of my job duties include at
15 SLED the examination of those firearms and firearms related
16 evidence, also tools and tool mark related evidence.

17 I conduct serial number restorations on those firearms
18 when the numbers have been obliterated. I perform
19 destructions of weapons from agencies all across the state of
20 South Carolina, and I also conduct general rifling
21 characteristics exams, and that's an exam on a fired
22 projectile in order to determine its rifling, its caliber, and
23 generate a list of possible guns that could have fired that
24 item.

25 Q: And what is your educational background?

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1 A: Sure. I received a Bachelors of Science in -- excuse me.
2 I received a Bachelor of Science in Biological Sciences from
3 the University of South Carolina. Upon my employment at SLED,
4 I also completed our SLED in-house course of instruction
5 program. This is an apprenticeship-style training program
6 that's conducted under the supervision of other court-
7 qualified examiners.

8 During this time, it was about three years or so I spent
9 with other examiners helping them prep their cases for court.
10 I'm conducting many microscopic comparisons and examinations
11 during that time, and I was also given multiple written and
12 practical examinations to complete. After that period of
13 training was over, I was given a comprehensive final exam that
14 included some mock casework. I successfully completed that
15 casework and that exam and was able to begin casework on my
16 own at the time.

17 Q: Any idea how many different examinations and comparisons
18 you've done in your experience there at SLED?

19 A: No, sir. It would be hundreds of exams and thousands of
20 comparisons at this point.

21 Q: And are you a member of any sort of professional
22 associations in connection with your employment?

23 A: Sure. I'm a member of the Association of Firearm and
24 Tool Mark Examiners, which is known as AFTE, and that's a
25 professional organization for forensic scientists in the field

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1 of firearm and tool mark to join and collaborate with and
2 where we also have support from other manufacturers or
3 scientific groups.

4 Q: Have you ever been qualified as an expert in any court
5 here in South Carolina?

6 A: Yes, sir, I have.

7 Q: About how many times?

8 A: Sixteen times.

9 Q: And in what particular field?

10 A: In firearms identification.

11 MR. TUCKER: Your Honor, at this time the State would
12 move Paul Greer as an expert in the field of firearms
13 examination.

14 MR. KRZYSTON: We renew our prior.

15 THE COURT: So noted for the record.

16 Ladies and gentlemen, I previously gave you a charge or
17 an instruction as it relates to expert testimony. That same
18 particular charge applies to this witness as well, who is
19 being qualified as an expert in the area of firearms
20 examination and identification.

21 He will be allowed to give opinion testimony in that
22 area. As I told you before, that does not mean that you must
23 accept the opinion, but it's evidence for you to use and
24 analyze or give the weight and credibility that you believe is
25 appropriate. All right?

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1 You may continue.

2 MR. TUCKER: Thank you, Your Honor.

3 BY MR. TUCKER:

4 Q: Mr. Greer, how does evidence arrive at SLED for you to
5 conduct an examination or a comparison for?

6 A: Sure. Evidence is submitted to the SLED laboratory
7 through our evidence control department. The local agency, in
8 this case the Florence County Sheriff's Office, submitted or
9 will submit evidence into our evidence control room where it's
10 assigned a unique SLED lab number and also item numbers.

11 That evidence is given assignment so that it can be
12 distributed -- distributed throughout the laboratory in the
13 appropriate manner. For the firearms evidence in this case, I
14 received the evidence from evidence control and took it to my
15 office, where it was stored until it was time to be examined.

16 Q: Now, you mentioned individual SLED lab numbers. Was the
17 lab number in this particular case L19-12294?

18 A: That's correct.

19 Q: Now, specifically drawing your attention to those items,
20 what were they?

21 A: The items that were submitted in SLED Lab Number L19-
22 12294 were fired cartridge cases and fired bullets and also
23 one piece of lead.

24 Q: Now, how do you begin your examination when you get a
25 piece of evidence like that, as in this case?

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1 A: Sure. When I receive evidence such as this in a case, I
2 will begin by documenting and verifying that the packages that
3 they're received in are sealed, so to verify that nothing has
4 been tampered with since it left the last department or since
5 it had been submitted to the laboratory. I -- I document that
6 through photography and also on our appropriate departmental
7 worksheets. We document all that packaging and start to look
8 for any foreign or trace material that should be collected or
9 preserved.

10 After documenting that, I would then for the cartridge
11 cases start to examine the characteristics on that, determine
12 the construction of those cartridge cases. And a cartridge
13 case is that small piece of ammunition that's cylinder shaped
14 that holds the bullet. Examine that for the construction of
15 it, for the head stamp, the -- what brand of manufacturer. So
16 you hear Federal, Hornady, Spear, those type names, and also
17 for the caliber that's designated on the head stamp. I would
18 also look at it to determine what the characteristics are as
19 far as the microscopic markings that I'll be looking for for
20 comparison later on.

21 For the bullets, I do something very similar. I would
22 examine them, one for the packaging and also for foreign
23 material, but also start to document some of the construction
24 of that bullet. What's the bullet shape? How many lands and
25 grooves? What's the rifling? It's the rifling on the bullet

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1 that gives it the spin to go down a barrel. Also, just --
2 just the overall construction, the weight of the bullet and
3 the diameter of the bullet to help me arrive at a caliber of
4 what that bullet may be.

5 Q: And did you do that in this particular case with these
6 particular pieces of evidence?

7 A: Yes, sir, I did.

8 MR. TUCKER: And if I may approach, Your Honor?

9 THE COURT: Yes, sir.

10 BY MR. TUCKER:

11 Q: And, Investigator Greer, I'm going to show you what's
12 been marked for identification purposes as State's 72 and
13 State's 73. Beginning with State's 72, I'm going to first ask
14 if you recognize it?

15 A: Yes, sir, I do.

16 Q: And how do you recognize it?

17 A: This is a heat-sealed pouch, as we refer to at SLED. It
18 is marked with a SLED sticker with the SLED lab number L19-
19 12294, Container B. I do recognize this container, as it has
20 my initials when I conducted the examination, and it's also
21 seal still -- excuse me -- still sealed, and I know that
22 because I see my initials and my seal date of when I completed
23 the examination.

24 Q: Okay. And what specifically are the items of evidence in
25 that particular pouch?

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1 A: Sure. This Container B contains the fired projectiles
2 that were submitted. So the SLED Items 4 -- excuse me -- SLED
3 Item 3, 16 through 19, and 21.

4 Q: Okay. And if I can ask you to take a look at State's 73
5 and ask you if you recognize it?

6 A: Sure. Yes, sir. This is another heat-sealed pouch. It
7 has SLED Lab Number L19-12294, Container C. This also has my
8 initials from the examination and my seal date from when I
9 sealed it, and it has not been tampered with, but this
10 contains the fired .380 auto caliber cartridge cases that were
11 submitted in this case.

12 Q: Thank you.

13 MR. TUCKER: And, Your Honor, at this time the State
14 would move State's 72 and 73 into evidence.

15 MR. KRZYSTON: We'd just renew our prior objection.

16 THE COURT: So noted for the record.

17 (WHEREUPON, State's Exhibit No. 72, fired bullets, and
18 State's Exhibit No. 73, fired cartridge cases, were
19 admitted into evidence.)

20 BY MR. TUCKER:

21 Q: Mr. Greer, beginning with State's 72 first, how did you
22 begin your examination of those items?

23 A: Yes, sir. So State's Exhibit 72 contained the fired
24 projectiles. I would have documented, again, the packaging,
25 make sure it was sealed and not been tampered with, and began

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1 filling out those departmental worksheets, documenting the --
2 the weight of those bullets, the diameter of those bullets,
3 determining a caliber that they were most consistent with.
4 Also documenting the jacket material and projectile type of
5 each of those items.

6 I also would have looked at them physically and/or
7 microscopically to determine the rifling that was exhibited.
8 The rifling on a bullet -- and a bullet is the projectile that
9 travels to a target. The rifling is what's inside the barrel
10 of a firearm that gives that bullet the spin and twist. In
11 this case, those -- these projectiles had six lands and
12 grooves on them and they had a right twist, and they were what
13 we refer to in the firearms world as conventionally type
14 rifling. That's just a type of rifling that's used by
15 manufacturers of those firearms.

16 I would have completed all of that, and then I would have
17 determined that they all shared the same class
18 characteristics. In this case, each of these projectiles, the
19 SLED Item 3, as well as SLED Item 16, 17, 18, SLED Item 19,
20 the fired bullet specifically, and Item 21 share those same
21 class characteristics. So I continued on in my examination.

22 I then would microscopically compare these bullets. I
23 mean, we do that on a fancy microscope. It's called a
24 comparison microscope where it's -- we are able to look at two
25 items at one time through the use of an ocular bridge. So if

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1 you think about your microscopes that you might have used in
2 school in a lab, it's just two of those connected together,
3 and I look through a pair of binoculars to look at these tiny
4 scratches and striations that are in the rifling and the lands
5 and grooves that are on these bullets since they've been
6 fired. I compare those to see if they are the same
7 measurements and also to look at those individual
8 characteristics of those scratches to determine what my
9 conclusion may be.

10 Q: And in your expert opinion, what were your conclusions
11 when you completed your examination of these items?

12 A: Yes, sir. My conclusions, SLED Items 3, 16 through 18,
13 and the Item 19 fired bullet, as well as Item 21 were most
14 consistent with being .380 auto caliber. Due to the damage
15 and size of Item 19, a piece of lead, it was just a small,
16 small fragment, the caliber of it could not be determined, and
17 it was also unsuitable for any further identification. So I
18 did not compare it with those other fired bullets.

19 In regards to the other bullets, SLED Item 3, 16 through
20 18, the Item 19 fired bullet, and Item 21, it was concluded
21 that each of those fired bullets were fired by the same
22 firearm and they may be suitable for identification with other
23 firearms related evidence.

24 Q: Now, you mentioned the most consistent with. Why
25 couldn't you tell specifically what caliber it was positively?

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1 A: Based on our training and experience, looking at hundreds
2 and thousands of these projectiles, coupled with the
3 measurements that I took during my examination. So the weight
4 of those bullets and the diameter of those projectiles, I was
5 able to arrive that these were most consistent with .380 auto
6 caliber as opposed to another caliber.

7 Q: Is it due to sometimes when a bullet strikes something,
8 it loses a piece of itself or parts of itself?

9 A: Yes, sir. Sometimes when these bullets are fired, they
10 do strike a target that may cause the bullet to be damaged.
11 It could lose some of its weight or a piece of the jacket.
12 Any part of it may fall off or separate from the bullet as
13 it's traveling to its target or hits the target.

14 Q: Could you tell if these projectiles were fired from the
15 same weapon or could you draw any conclusions there from?

16 A: Yes, sir. Several of those fired bullets, that was SLED
17 Items, 3, 16 through 18, the Item 19 fired bullet, and Item 21
18 had all been fired from the same firearm.

19 Q: Okay. I want to turn your attention now to the shell
20 casings. I believe that will be State's 73.

21 A: Yes, sir.

22 Q: And how did you begin your examination of those
23 particular items?

24 A: Similar to the bullets, documenting the packaging, making
25 sure it was sealed, and also looking for any foreign material

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1 that needs to be preserved. I documented that through
2 photography and through our bench notes -- bench notes with
3 the departmental worksheets. I then began to look at the
4 characteristics and the information on those cartridge cases.
5 That could include the head stamp information.

6 In this case, each of these fired cartridge cases that
7 were submitted all had the head stamp of Hornady, and they
8 were head stamped with .380 auto caliber. The construction of
9 them were brass, and you can see kind of through this heat-
10 sealed pouch that brass color of the cartridge case, and they
11 had a nickel primer, which is the primer where the firing pin
12 strikes.

13 From there, I would look at them microscopically,
14 determine if they all have the same class characteristics, and
15 in this case they did. So I continue my examination on the
16 comparison microscope. I looked at those tiny scratches on
17 the primer, and we're looking at high magnification when we
18 look at these small scratches because you can't really see
19 them well with the naked eye. Looking at those impressions
20 and scratches and was able to arrive at a conclusion.

21 Q: And what conclusion was that based on your expert
22 opinion?

23 A: It was determined that each of those fired cartridge
24 cases, SLED Items 4 through 9, had been fired from the same
25 firearm, and they were suitable for identification with other

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1 firearms related evidence.

2 Q: And I believe you mentioned it already, but just in case,
3 these were also .380 shell casings?

4 A: Yes, sir. These were head stamped .380 auto caliber.

5 Q: And again, the projectiles, I believe, in your expert
6 opinion, were most consistent with a .380 caliber, except for
7 that one that was damaged.

8 A: Yes, sir. That's correct.

9 Q: And were you able to determine that the same weapon fired
10 all of the shell casings was responsible for that?

11 A: I'm sorry. Can you repeat the question?

12 Q: Yeah. I'm sure I messed that up. Let me ask again.

13 Were you able to determine that the same gun was responsible
14 for firing all of the shell casings, like with the
15 projectiles?

16 A: Yes, sir. The same firearm fired all of the cartridge
17 cases.

18 Q: Now, were you able to determine that the same weapon
19 fired both the shell casings and the projectiles?

20 A: No, sir. I was unable to determine that, and there is no
21 policy at SLED or procedure in order to conduct that
22 comparison. In order to know that the fired cartridge cases
23 and the fired bullets or projectiles came from the same
24 firearm, we would need the firearm.

25 Q: So if I could, I just want to make sure I'm understanding

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1 you. You can state that the same weapon fired all of the
2 shell casings; correct?

3 A: That's correct.

4 Q: And the same weapon fired the projectiles?

5 A: Yes, sir. With the exception of the Item 19, piece of
6 land.

7 Q: That was too damaged to make a comparison from?

8 A: That's correct.

9 Q: Okay.

10 MR. TUCKER: I believe those are all the questions I
11 have, Your Honor.

12 THE COURT: Mr. Krzyston?

13 MR. KRZYSTON: Thank you.

14 CROSS-EXAMINATION

15 BY MR. KRZYSTON:

16 Q: All right. Investigator Greer, I appreciate you coming
17 up here and all that testimony. None of that tells us who
18 fired the gun; correct?

19 A: No, sir. I do not know the details of the case.

20 MR. KRZYSTON: Thank you. No further questions.

21 THE COURT: Sir, you may -- well any redirect?

22 MR. TUCKER: Nothing on redirect, Your Honor.

23 THE COURT: Sir, you may step down. Thank you.

24 THE WITNESS: Thank you.

25 MR. TUCKER: And, Your Honor, I would ask if Mr. Greer

DR. THOMAS BEAVER - DIRECT BY MR. TUCKER

1 DR. THOMAS BEAVER, being first
2 duly sworn, testified as follows:

3 DIRECT EXAMINATION

4 BY MR. TUCKER:

5 Q: And, Dr. Beaver, where are you employed?

6 A: I'm employed at the Medical University of South Carolina,
7 and that's in Charleston.

8 Q: And how long have you been employed by the Medical
9 University?

10 A: I started there in June of 2018.

11 Q: Okay. And in what capacity are you currently employed?

12 A: I'm a clinical associate professor and a forensic
13 pathologist.

14 Q: Now, what is your educational background?

15 A: I have an undergraduate degree from the University of
16 California. I have a medical degree from St. George's
17 University School of Medicine. I completed a five-year
18 training program in anatomic and clinical pathology at the
19 University of Colorado, and I completed a fellowship in
20 forensic pathology at the Denver County Coroner's Office.

21 Q: Are you certified in any particular medical fields?

22 A: Yes, sir. I am certified in anatomic pathology, clinical
23 pathology, and forensic pathology.

24 Q: Any idea how many autopsies you've performed in your
25 career?

DR. THOMAS BEAVER - DIRECT BY MR. TUCKER

1 A: I think it's -- I don't keep a count daily, but I think
2 it's probably close to 20,000.

3 Q: And have you ever been qualified as an expert in a court
4 in South Carolina?

5 A: Yes, sir, I have.

6 Q: How many times?

7 A: Oh, I think probably six or seven. I don't keep a count
8 of that either.

9 Q: Okay. And in what field?

10 A: In forensic pathology.

11 MR. TUCKER: Your Honor, at this time the State would
12 offer Dr. Beaver as an expert in the field of forensic
13 pathology.

14 MR. KRZYSTON: No objection, Your Honor.

15 THE COURT: All right. Ladies and gentlemen, as it
16 relates to this individual who has been qualified as an expert
17 in the field of forensic pathology, my prior charge to you
18 with regards to expert testimony applies here as well. Okay?

19 MR. TUCKER: Thank you, Your Honor.

20 BY MR. TUCKER:

21 Q: Doctor, could you explain what a forensic pathologist
22 does?

23 A: Yes, sir. A forensic pathologist is a physician who has
24 been specifically trained to determine the cause, manner, and
25 mechanism of death in cases of sudden and unexpected death.

DR. THOMAS BEAVER - DIRECT BY MR. TUCKER

1 Q: Now, when you say cause and manner and mechanism of
2 death, to what are you referring?

3 A: So the cause of death is the condition that causes the
4 terminal -- the termination of life. So it might be, say,
5 cardiovascular disease, hypertension. It might be a brain
6 tumor. Those are causes of death. Gunshot wound, stab wound,
7 those are things that cause death.

8 The mechanism of death is that thing that the cause
9 starts. So let's say it's a stab wound and you bleed
10 internally and the loss of blood is what causes the death.
11 The loss of blood is the mechanism of the death.

12 And then the manner of death, we are left with five
13 words, and these are for purposes of the death certificate and
14 they have definitions for forensic pathologists that are not
15 the same as the legal definitions, but our five words are
16 accident, suicide, homicide, natural, and undetermined.

17 So we always leave ourselves a little wiggle room.
18 Undetermined is that. Otherwise, it's -- it's accident, as if
19 you crash your car. Homicide is if someone kills you.
20 Suicide is if death at your own hands. And homicide manner of
21 death, it's the actual definition is death at the hands of
22 another. It's designed to be intent neutral; so there is no
23 intent in this. And then, of course, natural is natural
24 diseases like heart disease, hypertension, diabetes, things
25 like that, pneumonia. And then undetermined we would use

DR. THOMAS BEAVER - DIRECT BY MR. TUCKER

1 rarely. We try to avoid that use of that, and it's for cases
2 where maybe we don't recover much of the body or -- or maybe
3 only a bone, and we can't really tell what happened.

4 Q: I understand. How are cases referred to your office for
5 autopsy?

6 A: Yes, sir. The Medical University of South Carolina does
7 autopsies for, oh, about half the state. Many coroners -- and
8 I don't remember the last count and it changes, but there's a
9 lot of them. They -- the coroners -- each county has a
10 coroner, and they send the cases to MUSC and we do them at the
11 facility in Charleston.

12 Q: Now, is the Florence County Coroner's Office one such
13 agency that refers cases to you?

14 A: Yes, sir.

15 Q: Now, I want to direct your attention to the facts and
16 particulars of this particular case. With regards to the body
17 of Rico Johnson, was it one of the cases referred to your
18 office by the Florence County Coroner?

19 A: Yes, sir.

20 Q: And when an autopsy is performed on a body that's
21 referred to you, is it given a specific number so you can keep
22 track of everything?

23 A: Yes, sir. We have a unique identifier we assign.
24 Sometimes we don't know the person. We don't have them
25 identified when they arrive. So that's a process that may

DR. THOMAS BEAVER - DIRECT BY MR. TUCKER

1 take some time. In this case, he was identified, and we gave
2 him, as we do everyone that comes in, a unique identifier.

3 Q: Now, do you recall the particular autopsy number that was
4 assigned to Mr. Johnson's case?

5 A: Yes, sir. It's FA19-576.

6 Q: Okay. And you said that you identified the body, and
7 what was the identity of the body that you performed the
8 autopsy on?

9 A: So he came in with a form that's filled out by the
10 coroner, and it's a burial transit form. That is the
11 identification that we use. We don't have any independent
12 means from the coroner to identify the body. So I don't get a
13 driver's license where I could do a visual comparison. All I
14 get is the body with the burial transit and labeling on the
15 body, like identification bracelet.

16 Q: And did you review those forms of identification to
17 determine who the person was?

18 A: Yes, sir, I did. And we document all of this with
19 photographs. So the body bag, as it's labeled, is
20 photographed when it arrives, and then we photograph every
21 step of the way through the autopsy.

22 Q: And the body that was assigned for FA19-576, that was the
23 body of Rico Johnson?

24 A: Yes, sir.

25 Q: Now, Doctor, when you are performing your autopsy,

DR. THOMAS BEAVER - DIRECT BY MR. TUCKER

1 subsequently do you prepare -- prepare a report?

2 A: Yes, sir, I do.

3 Q: And as part of that report, do you also do a diagram that
4 kind of depicts where the injuries or observations are on the
5 body on the form?

6 A: It's not really part of the report. The diagram is just
7 notes that I make at the time of autopsy so that I have enough
8 recollection to be able to write the report later.

9 Q: Okay. And so that -- so the facts and particulars of one
10 case don't bleed into another?

11 A: Correct.

12 Q: You use the diagram?

13 A: Correct. And so that I can make sure that when I'm
14 writing the report, I have everything that I noted at the time
15 of autopsy.

16 MR. TUCKER: Your Honor, may I approach?

17 THE COURT: Yes, sir.

18 BY MR. TUCKER:

19 Q: Doctor, I'm going to hand you for identification purposes
20 what's been marked State's 74, and I'm going to first ask if
21 you recognize it?

22 A: Yes, sir, I do. This is the autopsy report on Rico
23 Johnson.

24 Q: Okay. And I'm also going to hand you State's 75. I'm
25 also going to ask if you recognize it as well?

DR. THOMAS BEAVER - DIRECT BY MR. TUCKER

1 A: Yes, sir. This is a drawing that I -- with my notes.

2 MR. TUCKER: And, Your Honor, at this point the State
3 would move State's 74 and 75 into evidence.

4 MR. KRZYSTON: Just quickly?

5 MR. TUCKER: Sure.

6 MR. KRZYSTON: Without objection.

7 THE COURT: So admitted without objection.

8 (WHEREUPON, State's Exhibit No. 74, autopsy report, and
9 State's Exhibit No. 75, autopsy diagram, were admitted
10 into evidence.)

11 BY MR. TUCKER:

12 Q: And, Doctor, do you have a copy of this report in front
13 of you, as well as the diagram?

14 A: Yes, sir, I do.

15 Q: Okay. And let me ask you, Doctor, when you begin your
16 autopsy, how is it initiated?

17 A: So it starts with the -- the -- opening the body bag,
18 transferring the body to the table, do an external
19 examination, looking for where the body is described
20 externally, height, weight, color, eye color, hair color, hair
21 length, teeth, all kinds of things.

22 And then I also have a section where I go back. I start
23 at the head. I move to the foot again. I do scars and
24 identifying marks. I'm looking for tattoos and things that
25 might be used to identify them, and these are all photographed

DR. THOMAS BEAVER - DIRECT BY MR. TUCKER

1 as well. And this is kind of an archaic thing in this day of
2 DNA to use scars or tattoos to identify someone, as is rare.
3 Then -- but I'm old school, so that's what I do.

4 Then the third thing, I go from head to toe again, and
5 this time I'm looking for evidence of therapy, anything that
6 was done to try to resuscitate him, breathing tube, IVs,
7 things like that. Then I start at the head, and I move to the
8 foot again. This time it's evidence of injury, and now I'm
9 looking for any kind of injuries that he might have,
10 abrasions, contusions, lacerations, gunshot wounds, stab
11 wounds, anything that might be of injury. That's the external
12 exam.

13 Then we do radiographs. So we take X-rays. And so we
14 are now -- our X-rays -- we don't X-ray the entire body. We
15 focus that on areas where there are injuries. So we're
16 looking for the bullets if there is a gunshot wound case, and
17 so we'll take X-rays.

18 Then we do -- then we proceed to the internal exam.
19 Here, we make a standard incision on the chest and abdomen.
20 It allows us to access all the body cavities, all the organs,
21 and the organs are systematically removed, dissected,
22 biopsied, and then returned to the body. And then we do the
23 same thing for the head. We make an incision behind the ears,
24 move the scalp forward, open the skull, remove the brain,
25 weigh it, biopsy it, and then it's returned to the body as

DR. THOMAS BEAVER - DIRECT BY MR. TUCKER

1 well.

2 Q: Okay. And, Doctor, turning your attention back to the
3 external examination.

4 A: Yes, sir.

5 Q: You mentioned external injuries or evidence of external
6 injuries. When you did your external observations or
7 examination, did you notice any on Mr. Johnson?

8 A: Yes, sir. I noticed multiple gunshot wounds.

9 Q: And turning your attention to the report that's been
10 entered into evidence as 74, you noticed a -- beginning, I
11 believe it's on -- halfway down page 1, gunshot wound number
12 one. You define or characterize that as an entrance wound?

13 A: Yes, sir. So this wound is on the back of the left
14 shoulder, and I'm for record indicating with my finger the
15 back of my own left shoulder.

16 MR. TUCKER: And, Your Honor, I would also ask for
17 permission to publish State's 75 to the jury, which is the
18 graph or the diagram.

19 THE COURT: All right.

20 MR. TUCKER: If I can focus.

21 BY MR. TUCKER:

22 Q: And, Doctor, on the diagram that's appearing on the
23 screen in front of you, hopefully, and in the jury box as
24 well, could you kind of -- is the first injury on the left
25 side of the left diagram or the right?

DR. THOMAS BEAVER - DIRECT BY MR. TUCKER

1 A: First, I apologize for the crude nature of these notes.
2 So they're just scribbles that I make, and I never expect them
3 to be in court.

4 Q: As long as you can understand them and explain them,
5 that's all we're concerned about.

6 A: I'll try to do this.

7 Q: Okay.

8 A: So we are seeing a front and back representation. The
9 back representation can be confusing. So I've written a
10 little R and circled it and a little L and circled it. So
11 that's the left side and the right side when you're looking at
12 the back of the person, their right arm, their left arm.

13 Q: Okay.

14 A: So -- but gunshot wound number one is not marked on the
15 back because it's really more on the side. So you can see
16 when we're looking at the front portion of the body, there is
17 a little line that goes to the left shoulder, and it says GSW,
18 and it says number one entrance.

19 Q: And, Doctor, I'm going to take the tip of my pen and
20 point here. Is that --

21 A: Yes.

22 Q: -- the GSW to which you're referring?

23 A: Yes. And the line is supposed to tell me that it goes --
24 it's kind of on the posterior aspect of that shoulder.

25 Q: Okay. Now, with regards to that, you noticed that the --

DR. THOMAS BEAVER - DIRECT BY MR. TUCKER

1 or denoted that the path of the wound, the bullet passes
2 through the skin, subcutaneous tissue, and musculature of the
3 left upper arm. Is that how the bullet traveled once it
4 entered the body?

5 A: Yes, sir. So the bullet is traveling from left to --
6 from back to front and left to right, and it goes -- it
7 actually goes through the shoulder and exits the body in the
8 armpit, and then it reenters the chest, goes through the left
9 lung, through the right lung, and we recovered the projectile
10 from the pleural cavity on the right side.

11 Q: Okay. Drawing your attention to gunshot wound two, you
12 also characterize it as an entrance wound present on the left
13 lateral mid back?

14 A: Yes. So this one we called it -- so I have sticky
15 letters that are on a paper. They're preprinted. They've got
16 a little scale. They're designed just for this purpose.

17 Q: Okay.

18 A: And I can peel them and stick them on the body and then
19 we can take a photograph.

20 Q: Okay.

21 A: So these have all been -- so these -- these letters refer
22 to things that are -- are in photographs, and so it helps us
23 keep them straight. If we were to look at a photograph, what
24 wound is what.

25 Q: Okay.

DR. THOMAS BEAVER - DIRECT BY MR. TUCKER

1 A: So there's not a continuity in the alphabet because on a
2 previous case I already used some of the letters, but I don't
3 want to waste -- be wasteful with this printed thing that we
4 buy. So I just picked it up at F.

5 Q: Gotcha.

6 A: So if you're wondering why there's no A, B or C, that's
7 why.

8 Q: Okay. And of the letters of gunshot wound number two,
9 which side, front or back, and which letter?

10 A: So we're looking at letter F, and it's going to be on the
11 back on the left side.

12 Q: Okay. Letter F?

13 A: Right there, yes.

14 Q: Okay.

15 A: And this is my eyeball approximation of where the wound
16 is when I'm looking at the body, but the photograph would be
17 the definitive thing if you wanted to know exactly where the
18 wound is.

19 Q: Okay.

20 A: I do measure from two points, usually from the heel to
21 the wound and then from the midline to the wound. So we will
22 -- we have those measurements to use also.

23 Q: Okay. And in terms of path of wound here, the bullet
24 passes through the skin, subcutaneous tissue, musculature of
25 the left back, and that's the wound or path of wound with

DR. THOMAS BEAVER - DIRECT BY MR. TUCKER

1 regards to gunshot wound number two; is that correct?

2 A: Correct.

3 Q: Can you touch on that?

4 A: Yes, and it passes through the left lung as well and

5 through the spleen. So the spleen is kind of located in this

6 area, but more towards the back. So this bullet actually goes

7 through the spleen, through the diaphragm, and then through

8 the lung.

9 Q: Okay. So somewhere in this ballpark?

10 A: More down a little bit. The spleen is more -- like, can

11 you go down and towards the head or towards the left side of

12 the body and towards the head?

13 Q: Okay.

14 A: Wrong side.

15 Q: This way?

16 A: Yes. There. Back.

17 Q: This area?

18 A: A little bit. Yeah, we'll call it. That's close enough.

19 Q: Okay. And with regards to gunshot wound three, you

20 denote that that's an entrance wound as well, and that's left

21 mid back, G. So that would be this particular wound?

22 A: Right. And these are all entrance wounds, all kind of

23 together on the back. You can see the letters and the marks.

24 So yeah, that's -- and G is the same and G -- G goes into the

25 spine, and we recovered it from the thoracic spine.

DR. THOMAS BEAVER - DIRECT BY MR. TUCKER

1 Q: Now, what effects on the body at this point in your
2 expert medical opinion would those projectiles have had
3 regarding F and G?

4 A: So these bullets passed through the lungs, and when I
5 examined the inside of the body, I found 1200 milliliters of
6 blood in the left chest cavity. I think it's the left. Let
7 me make sure, 1200 I measured. We haven't come to it yet.
8 Yeah, 1200 milliliters in the right pleural cavity. So on the
9 right side, 1200 milliliters, and 800 milliliters on the left
10 side. And that's -- that's enough blood to be a life-
11 threatening internal hemorrhage.

12 Q: Okay. Now, with regards to gunshot wound four, you
13 characterize it as an entrance wound as well, and that's
14 designated by the letter H. So that would be this particular
15 --

16 A: Yes.

17 Q: -- wound there? And with regards to it, when it entered
18 the body, what happened?

19 A: That one -- let's see. Let me look at this. Yes. So
20 that -- that passed through the back and anteriorly until it
21 lodged in the lumbar spine, where we subsequently recovered
22 it. So it's another one that lodged in the spine.

23 Q: Okay.

24 A: And it's going -- this one is going from right to left.
25 So a little bit different angle to it than the other two.

DR. THOMAS BEAVER - DIRECT BY MR. TUCKER

1 Q: Okay. Directing your attention to gunshot wound five,
2 entrance wound present in the right scapula area, and that
3 would be somewhere in this kind of area?

4 A: Yes. Yeah. So yes, exactly. That's it.

5 Q: Okay. And gunshot wound six, entrance wound as you
6 characterized it in your report, present on the right lower
7 back. I'm assuming that would be somewhere here?

8 A: Yes. Yeah. Yes, that's it.

9 Q: Okay. And gunshot wound seven present on the medial left
10 hand. So that would be this particular --

11 A: Yes. I think it's more like if you're looking at the
12 back of the body, yeah, that's where I made the mark. So --

13 Q: Okay. Right there?

14 A: Yes. And that bullet we did end up recovering from the
15 wrist. And when I wrote the report, I put five projectiles
16 recovered, and I had forgotten totally about the one that we
17 recovered from the wrist. So we actually recovered six in
18 total.

19 Q: Okay.

20 A: And again, all the projectiles are photographed. We
21 remove them from the body, we clean them up a little bit, and
22 then we label them as to their location and designation, and
23 then we photograph them.

24 Q: Now, in your expert medical opinion and to a reasonable
25 degree of medical certainty, is it your opinion that Mr.

DR. THOMAS BEAVER - DIRECT BY MR. TUCKER

1 Johnson was shot a total of six times?

2 A: Yes.

3 Q: Now, with regards to the -- you've got these gunshot
4 wounds labeled one through seven. That doesn't necessarily
5 mean that's the order in which you think he was shot, is it?

6 A: No, sir. I just -- I have to number. I generally go --
7 my habit is to go from the head to the foot and work my way
8 down the body, and that's kind of how this works and that's
9 why things are in that order. And I have to designate it
10 somehow. I have to say -- I have to make some kind of
11 designation for the bullets.

12 Q: Okay.

13 A: For the wounds.

14 Q: Now, with regards to looking at the number of wounds and
15 the location on the body, would it be possible for a person
16 who was sitting -- and I'm going to still stand. Just pretend
17 I'm sitting, but if a person who approaches to this person's
18 left, raises a gun and begins to fire, and a person raised
19 their left hand, and as they were turning away from the
20 gunfire, would that be consistent with your findings in terms
21 of the wound to the shoulder and then to the wrist and then to
22 the back?

23 A: Yes.

24 Q: And then if a person were sitting and were shot that
25 number of times, particularly in the spine, would just kind of

DR. THOMAS BEAVER - DIRECT BY MR. TUCKER

1 fall onto wherever the area was they were sitting?

2 A: Yes. They have to present the back side to the shooter
3 because some of the bullets are entering on the back side. So
4 if the first one is here in the shoulder and the person turns
5 away, then that would -- that would be consistent.

6 Q: Okay. Now, Doctor, you mentioned the projectiles and you
7 indicated y'all were able to recover the projectiles from the
8 body?

9 A: Yes, sir.

10 Q: And did -- were those ultimately turned over to law
11 enforcement?

12 A: Yes, sir.

13 Q: Okay. Now, with regards to manner and cause of death, in
14 your expert medical opinion and to a reasonable degree of
15 medical certainty, do you have one with regards to manner and
16 cause of death as it relates to Mr. Johnson?

17 A: Yes, sir. The cause would be multiple gunshot wounds and
18 the manner is homicide.

19 MR. TUCKER: Thank you. I believe those are all the
20 questions I have of Dr. Beaver, Your Honor.

21 THE COURT: Cross examination.

22 MR. KRZYSTON: Thank you, Your Honor. May it please the
23 Court.

24 CROSS-EXAMINATION

25 BY MR. KRZYSTON:

DR. THOMAS BEAVER - CROSS BY MR. KRZYSTON

1 Q: Doctor, did I hear that you said you went to St George's?
2 A: Yes, sir, I did.
3 Q: In Grenada?
4 A: Yes, sir, I did.
5 Q: All right. Out of curiosity, what year did you graduate?
6 A: 1986.
7 Q: Interesting. Okay. My dad went to Grenada, graduated in
8 '81. So that's why I asked.
9 A: I was there in '83, if that's the -- that's probably the
10 thing you're asking about.
11 Q: Yes. Yes. Okay. So I've just got a couple of questions
12 for you about this thing.
13 You know, from a trajectory standpoint, you know, Mr.
14 Tucker just asked you could he have been sitting down and --
15 and could he have the hiked his arm up; right? So my
16 question is, as long as the shooter is from the left side,
17 there is an invariable number of positions that Mr. Johnson
18 could have been in when he sustained the fatal wound so long
19 as he presented his back to the assailant; correct?
20 A: I have trouble with the invariable number.
21 Q: Okay.
22 A: As I said before, he has to present -- the wounds of
23 entry are on the back side of the body, the plane of his back.
24 So he has to present that to the shooter. In other words, we
25 could -- invariable would mean he could -- he couldn't -- it

DR. THOMAS BEAVER - CROSS BY MR. KRZYSTON

1 would be -- he could face any position, any way, but he can't.
2 He can't face front. It can't be like you and me because if
3 it's like you and me, then how does he get entrance wounds on
4 the back?
5 Q: Right.
6 A: These are, like, right on the back.
7 Q: Okay.
8 A: So -- so he has to be in some position and you can
9 construct whatever hypothetical you want, but he has to be in
10 some position where he's presenting this aspect of his body to
11 the shooter.
12 Q: Okay. And so you would rule out then a position from the
13 shooter -- well, I'm going to give you a portion of it, but if
14 you were sitting and I was broadside on or even to your left
15 side, front or front wise, again, I have to get to your
16 posterior aspect?
17 A: Yeah.
18 Q: Correct?
19 A: At least for that first shot to the -- if we're thinking
20 the first one was in the shoulder because it's right here. So
21 he could do it, but you could not.
22 Q: Okay. So he could shoot, but this way --
23 A: In my seated position now. Yes.
24 Q: -- could not?
25 A: Correct.

DR. THOMAS BEAVER - REDIRECT BY MR. TUCKER

1 MR. KRZYSTON: Thank you. No further.

2 THE COURT: Any redirect?

3 MR. TUCKER: Just briefly.

4 REDIRECT EXAMINATION

5 BY MR. TUCKER:

6 Q: And, Doctor, following up that question, if a person
7 where Mr. Krzyston was standing pointed a gun where Mr.
8 Johnson's wound was on the shoulder, Mr. Johnson saw it and
9 then turned, would that explain the wound there?

10 A: Certainly. And this happens in a blink of an eye. So
11 it's -- it's very -- it's possible, yes.

12 Q: Okay.

13 MR. TUCKER: Thank you. That's all I have.

14 RECROSS-EXAMINATION

15 BY MR. KRZYSTON:

16 Q: Possible, but not certain?

17 A: I wouldn't say certain for any of this as far as --
18 except, you know, within the physics that's involved where you
19 have to have the back facing the shoot -- the gun, but other
20 than that, I can't tell you certainty of any of this.

21 MR. KRZYSTON: Thank you, Doctor.

22 THE COURT: Thank you, Doctor. You may step down.

23 MR. TUCKER: And, Your Honor, I would ask if Dr. Beaver
24 could be released from his subpoena.

25 THE COURT: Any objection?

A.M. - DIRECT BY MR. TUCKER

1 MR. KRZYSTON: No, sir.

2 THE COURT: Doctor, you're released from your subpoena.

3 THE WITNESS: Thank you, Your Honor.

4 THE COURT: You're free to go. Have a nice day.

5 THE WITNESS: Thank you.

6 THE COURT: All right. Call your next witness, please.

7 MR. TUCKER: Thank you, Your Honor. Your Honor, at this
8 time the State would call A.M. to the stand.

9 (WHEREUPON, there was a pause in the proceedings until
10 the witness entered the courtroom, after which the
11 proceedings resumed as follows.)

12 THE CLERK: Ma'am, if you will please go up to the stand,
13 place your left hand on the Bible, and raise your right hand.
14 Do you swear or affirm the testimony you give in this case to
15 be the truth, the whole truth, and nothing but the truth, so
16 help you God?

17 THE WITNESS: Yes.

18 THE CLERK: Please be seated and state your full name for
19 the record.

20 THE WITNESS: My name is A.M.

21 A.M., being first duly
22 sworn, testified as follows:

23 DIRECT EXAMINATION

24 BY MR. TUCKER:

25 Q: And do you mind if I call you A.M.?

A.M.

- DIRECT BY MR. TUCKER

- 1 A: Yes.
- 2 Q: A.M., how old are you?
- 3 A: I'm 20 years old.
- 4 Q: And where do you live?
- 5 A: I live at A.M. Tall Oaks Drive.
- 6 Q: And how long have you lived there?
- 7 A: About 17 -- 18 years.
- 8 Q: And with whom do you live at that address?
- 9 A: My mom.
- 10 Q: And your mom? Who is that?
- 11 A: Stephanie Lucas.
- 12 Q: Does anyone else live there in addition with you in
- 13 addition to your mom?
- 14 A: Yes. My uncle.
- 15 Q: And?
- 16 A: My dad.
- 17 Q: Your dad? Who's your dad?
- 18 A: Orlando Mendez.
- 19 Q: And do you have a younger sister that lives there with
- 20 you as well?
- 21 A: I do. S.M. .
- 22 Q: And anybody else that lives there other than the ones you
- 23 just mentioned?
- 24 A: No, not now.
- 25 Q: Okay. Now, you said you've lived there for about 17

A.M.

- DIRECT BY MR. TUCKER

1 years?

2 A: Yes.

3 Q: So that means that you would have been living there on or
4 about July the 6th of 2019?

5 A: Yes.

6 Q: And how old would you have been on that day?

7 A: About 17. Yeah.

8 Q: Now, those people that you just mentioned, were they
9 living there with you at [REDACTED] Tall Oaks Drive on that date?

10 A: Yes.

11 Q: And I want to direct your attention specifically to the
12 evening of July the 6th, 2016 [sic]. Now, I want to first ask
13 you, do you know Rico Johnson?

14 A: I do.

15 Q: And how did you know Rico Johnson?

16 A: He is my godbrother.

17 Q: I'm sorry?

18 A: He is my godbrother.

19 Q: You refer to him as your godbrother?

20 A: Uh-huh.

21 Q: So it's fair to say that you knew him fairly well?

22 A: Yes.

23 Q: And approximately how long had you known Mr. Johnson up
24 until July the 6th of 2019?

25 A: All my life.

A.M. [REDACTED] - DIRECT BY MR. TUCKER

- 1 Q: Now, did he -- was he a frequent guest in your home?
- 2 A: Yes.
- 3 Q: Particularly on July the 6th, had Rico Johnson moved away
- 4 from the Florence area prior to that date?
- 5 A: He was staying in Columbia at the time.
- 6 Q: Do you know with your own knowledge why Mr. Johnson was
- 7 staying in Columbia some?
- 8 A: I believe school, work.
- 9 Q: Okay.
- 10 A: Uh-huh.
- 11 Q: This particular weekend, which would have been the 4th of
- 12 July weekend leading up to July the 6th, was Mr. Johnson back
- 13 in town in the Tall Oaks area?
- 14 A: Yes.
- 15 Q: And what kind of car did Mr. Johnson drive, if you know?
- 16 A: He drove a red Camaro.
- 17 Q: Now, did Mr. Johnson also have a one-year-old son about
- 18 that time?
- 19 A: He did.
- 20 Q: And did Mr. Johnson frequently bring the one-year-old son
- 21 with him when he would come to your address at [REDACTED] Tall Oaks?
- 22 A: Yes.
- 23 Q: Now, again, I want to direct your attention specifically
- 24 to around the 10:15, 10:20 time frame on July the 6th, 2019.
- 25 Do you recall where you were?

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- 1 A: Yes. I was at home.
- 2 Q: And when you say home, that's at [REDACTED] Tall Oaks?
- 3 A: [REDACTED] Tall Oaks.
- 4 Q: And who was there with you at that time?
- 5 A: My sister, my mom, my dad, and Rico.
- 6 Q: Okay. Now, you mentioned that your uncle lived there at
- 7 [REDACTED] Tall Oaks?
- 8 A: During the time, yes.
- 9 Q: Did your grandmother live there as well at that time?
- 10 A: Yes. Mary Hayes.
- 11 Q: And where did they stay in relationship to where you
- 12 would have been staying in the home in terms of which side of
- 13 the house they lived on?
- 14 A: When you're going into the house, they were staying on
- 15 the left side of the house.
- 16 Q: Okay. Now, you mentioned that your dad -- that's Orlando
- 17 Mendez; correct?
- 18 A: Uh-huh.
- 19 Q: Had your father -- this would have been around the 10
- 20 o'clock p.m. timeframe. Did he come back into the residence
- 21 at that time on July the 6th?
- 22 A: Yes. He came in that evening.
- 23 Q: And did Rico Johnson come in with him?
- 24 A: He did.
- 25 Q: Now, when they came in, did you notice where they went

A.M. - DIRECT BY MR. TUCKER

1 when they entered the home in terms of where they went inside
2 the house itself?

3 A: When they came back home, Rico went into the living room,
4 which is right when you walk in, to sit on the couch, and my
5 dad went into the back room where my mom's bedroom is.

6 Q: Okay. Now, the back room in relationship to where your
7 grandmother and your uncle --

8 A: Uh-huh.

9 Q: -- were sleeping in terms of their rooms, where was your
10 mom and dad's room?

11 A: Theirs is on the right side of the house.

12 Q: Okay. And I'm going to show you a few pictures just so I
13 can make sure we're clear on a couple of things. I want to
14 show you what's been moved into evidence already as State's 1.
15 If you can make that out on your screen, what is that we're
16 looking at?

17 A: That's the residence that I stay at, [REDACTED] Tall Oaks
18 Drive.

19 Q: Okay. And I want to show you what has been entered into
20 evidence as State' 6, and what are we looking at in that
21 photo?

22 A: That is my living room.

23 Q: Okay. So that would be just as we're coming through the
24 front door?

25 A: Yes. As you walk in.

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1 Q: Okay. Now, when you indicated earlier in your testimony
2 that Rico Johnson came in and went to the living room, did he
3 go in any -- or was he sitting in any particular chair or
4 position?

5 A: Yes. He was sitting in the black sofa, and he was
6 sitting right there in the corner.

7 Q: Okay. Would that be -- if you can look at the tip of my
8 pen, if you can see it?

9 A: Uh-huh.

10 Q: Is this the general area in which Mr. Johnson was
11 sitting?

12 A: Yes.

13 Q: Okay. Now, you mentioned that your mom and dad's room is
14 on -- so if we were coming up this way -- and I'll show you
15 another picture here in a minute that has a little better
16 angle.

17 A: Uh-huh.

18 Q: Would your mom and dad's room be back in this direction?

19 A: It is.

20 Q: Okay. And this may be a little better picture here.
21 I'm going to show you what has been moved into evidence as
22 State's 15. And again, if you could see where my pen is
23 pointing, would your mom and dad's room be back this way?

24 A: It is.

25 Q: Okay. And I believe that is the bathroom based on what

A.M. - DIRECT BY MR. TUCKER

1 we've heard earlier in terms of testimony; is that correct?

2 A: Yes.

3 Q: Okay. All right. Now, I want to go back to State's 6.

4 Now, after your dad and Mr. Johnson came in and your dad went
5 to the bedroom, when they came in, where were you?

6 A: When they came in, I was sitting at the dining table.

7 Q: Okay. Now, again, I'm going to point back in this
8 direction with the tip of my pen. Which of these two chairs
9 were you sitting in initially?

10 A: Okay. It would be this one.

11 Q: This one?

12 A: Yes.

13 Q: Okay. And where was your sister, S.M. ?

14 A: She was standing. Well, she was sitting in the chair
15 that was, like, when you first walked in. Her back is towards
16 the front door.

17 Q: Okay. So that would be -- bear with me just a moment.
18 I'm showing you what's been entered into evidence as State's
19 11. Would that be this particular chair?

20 A: The --

21 Q: Which would be the front door coming in?

22 A: Yeah. When you come in, at the dining table. She was at
23 the dining table with me.

24 Q: Okay.

25 A: Uh-huh.

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- 1 Q: Let's go back to this one. So that would be one of these
2 chairs over here then?
- 3 A: Yeah.
- 4 Q: Okay. Now I'm with you. Okay. What were you and your
5 sister doing at the dining room table?
- 6 A: We were feeding our nephews, [REDACTED] and [REDACTED], the two
7 one-year-olds who was there at the time.
- 8 Q: Okay. Was one of the small children you just mentioned
9 the son of Rico Johnson?
- 10 A: It was.
- 11 Q: And the other one, I believe, was your --
- 12 A: Brother's son. Uh-huh.
- 13 Q: Okay. All right. Now, at some point, did you get up
14 from the table and start to walk towards your parents' room?
- 15 A: I did.
- 16 Q: And did anything happen subsequently in terms of someone
17 coming to the door?
- 18 A: Yeah. There was a knock at the door.
- 19 Q: Okay.
- 20 A: And once there was a knock at the door, at the same time
21 I began walking towards the back.
- 22 Q: Okay. Now, let me ask this before we get much further.
23 What were the lighting conditions inside the living room and
24 kitchen area of your home on that evening at this time?
- 25 A: It was very bright in there.

A.M. - DIRECT BY MR. TUCKER

1 Q: Okay. You could see everybody?

2 A: Everybody, yeah.

3 Q: I mean, you could see your way to walk?

4 A: Fairly, yeah.

5 Q: And you mentioned that, I believe, you and your sister
6 were feeding two small children?

7 A: Yes.

8 Q: So you could see well enough to do that?

9 A: Yes.

10 Q: Okay. Now, once that knock at the door occurred, what,
11 if anything, happened?

12 A: After there was a knock at the door, Ja Juan walked in.

13 Q: Now, when you say --

14 MR. KRZYSTON: I'm going to object, Your Honor. I need
15 to approach.

16 (WHEREUPON, a bench conference was held off the record,
17 after which the proceedings resumed as follows.)

18 BY MR. TUCKER:

19 Q: Okay. Amya, I had just asked you and you said there was
20 a knock at the door and Ja Juan came in?

21 A: Correct.

22 Q: Now, Ja Juan. Do you know Ja Juan's full name?

23 A: Yeah. Ja Juan Scipio.

24 Q: Okay. Do you see the person that you refer to as Ja Juan
25 in the courtroom here today?

A.M. DIRECT BY MR. TUCKER

1 A: I do.

2 Q: Could you point him out, please?

3 A: Yeah. Right there. (Indicating.)

4 MR. TUCKER: If the record could reflect that the witness
5 has identified the defendant, Larry Ja Juan Scipio, Jr.

6 THE COURT: So noted.

7 BY MR. TUCKER:

8 Q: Now, when Mr. Scipio came in, what, if anything, happened
9 next?

10 A: After he came in the door, I walked, proceeded back to
11 the bedroom where my parents were.

12 Q: Okay.

13 A: Because my dad had called my name for me to come back
14 there. And when I was in the hallway -- well, not the
15 hallway, but the doorway where my parents' bedroom is --

16 Q: Okay.

17 A: From that point where I was standing at, I can see the
18 living room and the bedroom at the same time and, like, I can
19 hear the -- not arguing because it was just an exchange of,
20 like, two or three words.

21 Q: Okay. When you say they, to whom are you referring?

22 A: Rico and Ja Juan.

23 Q: Now, where was Rico at this time?

24 A: He was still sitting on the couch.

25 Q: So he was still sitting on the couch? And again, I'm

A.M. - DIRECT BY MR. TUCKER

- 1 going to point back over in this direction. This area here on
2 the couch?
- 3 A: Yes.
- 4 Q: Okay. Where was Mr. Scipio standing?
- 5 A: He was standing -- like, do you see the carpet?
- 6 Q: Right here?
- 7 A: Yes.
- 8 Q: Okay. So he was standing right about this area?
- 9 A: Yes, but more closer to the ottoman.
- 10 Q: Okay. This way?
- 11 A: Yes.
- 12 Q: Okay. Now, you indicated that you heard a couple of
13 words. Were you able to make out what those words were?
- 14 A: I did. He -- Ja Juan was telling Rico to come outside,
15 and Rico was just telling him to move, and that was, like,
16 basically it.
- 17 Q: Okay. And what, if anything, happened after that?
- 18 A: There was the gunshots.
- 19 Q: Now, when you say gunshots, were you able to count how
20 many there were?
- 21 A: Yeah, six.
- 22 Q: Six?
- 23 A: Uh-huh.
- 24 Q: And when you -- did you look back at that point when you
25 heard the gunfire?

A.M. - DIRECT BY MR. TUCKER

1 A: I didn't look back. I kind of ran and jumped, like, on
2 my mom's bed. And when I heard my sister screaming -- because
3 at first I didn't think that's what it was. I thought it was,
4 like, some fireworks or something, but when I heard my sister
5 screaming, that's what made us run back into the room.

6 Q: Okay. Now, let me go back before we go any further.
7 With regards to when you got up, now, where was your sister
8 sitting when you heard the knock on the door? You indicated
9 earlier, I believe, she was here or you were here --

10 A: Uh-huh.

11 Q: -- and then she was in this chair?

12 A: Yeah. As soon as I got up from the chair that I was
13 sitting in, she had sat in the chair that I was sitting in.

14 Q: Okay. So when you got up to move, your sister moved from
15 this chair to the chair that you were sitting in, this one?

16 A: Yes.

17 Q: Okay. Now, after you heard the gunfire and you heard
18 your sister scream and you jumped on your mom and dad's bed,
19 what, if anything, happened after that?

20 A: After that, when we got to the living room, I had seen
21 Rico on the couch, and me and my dad and my mom -- we had ran
22 to the living room, and my dad was just, like, hysterical,
23 just asking him what happened. What did you do? Why did you
24 do it? Like, what are you doing?

25 Q: Now, when you say your dad was asking him what did you

A.M. - DIRECT BY MR. TUCKER

1 do, what did you do, to whom was he directing those comments?

2 A: He was talking to Ja Juan.

3 Q: Now, where was Ja Juan at this point when you came back
4 into the living room?

5 A: He was standing near my front door, and he was about to
6 run out the front door.

7 Q: Did you notice if he had anything in his hands at this
8 point?

9 A: I was looking at Rico and him. I wasn't looking at his
10 hands.

11 Q: Okay. Now, when he was standing at the front door, what,
12 if anything, did your father do?

13 A: He tried to run out to him out the front door.

14 Q: And once he ran out the front door with Mr. Scipio, what,
15 if anything, did you see at that point?

16 A: After that, the front door had closed, and we was tending
17 to Rico.

18 Q: Okay. Now, when you say tending to Rico, what were you
19 specifically doing?

20 A: We was trying towels to get the bleeding to stop.

21 Q: Now, was Rico still on the couch at this point?

22 A: He was.

23 Q: Okay. Was he still sitting up or was he slumped over?

24 How would you describe his body position?

25 A: He was kind of slumped. Well, the way he's sitting from

A.M. - DIRECT BY MR. TUCKER

1 my house, he kind of slumped to his right, and he was, like,
2 turned over a little bit, trying to -- as if he was trying to
3 run towards my back door.

4 Q: Okay. So when he was slumped over, would you say he was
5 slumped on his right side?

6 A: Yes.

7 Q: And you said it appeared as if he were trying to run
8 towards the back door?

9 A: Yes.

10 Q: Okay. Now, after y'all were trying to help Rico, what,
11 if anything, happened at that point?

12 A: We started -- we was trying to look for a phone to call
13 9-1-1.

14 Q: Okay. And were you able to find one?

15 A: I did.

16 Q: Now, in terms of 9-1-1, I think you attempted to call
17 9-1-1 yourself, didn't you?

18 A: I did.

19 Q: Now, at some point shortly thereafter, did neighbors come
20 in and try to help?

21 A: Yes. My neighbors who live on my right side.

22 Q: Okay.

23 A: Uh-huh.

24 Q: And at this point inside the residence, your mother, your
25 sister, S.M. ?

A.M. - DIRECT BY MR. TUCKER

- 1 A: Yes.
- 2 Q: And you and the two small children; is that correct?
- 3 A: Yes. And my dad had eventually ran back in.
- 4 Q: Okay.
- 5 A: Uh-huh.
- 6 Q: And how would you describe everybody's mood and attitude
7 at this point?
- 8 A: It's a lot of screaming.
- 9 Q: Okay. Was everybody pretty emotional, would it be fair
10 to say?
- 11 A: Yeah. Uh-huh.
- 12 Q: Okay. Now, once everybody was back in, ultimately did
13 EMS and law enforcement arrive?
- 14 A: They did.
- 15 Q: Now, with regards to law enforcement, did ultimately you
16 talk to some of the sheriff's deputies about what happened?
- 17 A: Yeah, I talked to a male.
- 18 Q: You talked to a male deputy?
- 19 A: Yes.
- 20 Q: Did you speak to a female deputy as well ultimately?
- 21 A: No.
- 22 Q: Okay. Now, when you spoke to this male deputy, were you
23 yourself still very emotional?
- 24 A: Very.
- 25 Q: And when you were telling them what happened, again being

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1 emotional, did you do the best that you could in terms of the
2 circumstances?

3 A: Yeah.

4 Q: Now, at any point after the male deputy talked to you,
5 did anybody from law enforcement, the Sheriff's Office, ever
6 come back to you in the days that followed to show you a
7 report and ask you to check it for accuracy, to see if that's,
8 in fact, what you told them that night?

9 A: No.

10 Q: Now, the deputies, they were also, I'm assuming, speaking
11 to your mother, your father, and your sister as well?

12 A: Yeah.

13 Q: Now, at any point, did your grandmother and your uncle
14 ever come out of the back bedroom?

15 A: They did. When the EMT was trying to help Rico and get
16 him to the ambulance, my grandmother came out, and she -- she
17 seen Rico and she was --

18 Q: Okay. And, A.M., there's a Kleenex right next to you, if
19 you need it.

20 A: She -- she was trying to figure out what was going on.

21 Q: But now, prior to this, both your grandmother and your
22 uncle had been in their respective bedrooms and only came out
23 after everything had occurred; is that correct?

24 A: Yeah. My mother had told them to stay in the back room.
25 She didn't want -- she tried to keep all of them in that back

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1 room where their bedrooms are.

2 Q: And I hate to ask you again, but I just need to make sure
3 I'm clear. Your mother again is Stephanie Lucas; is that
4 correct?

5 A: Right. Yes.

6 Q: Now, ultimately, when you gave your statement to law
7 enforcement that night, I want to ask you at any time before
8 the shooting occurred, did your father, Orlando Mendez, and
9 Rico Johnson ever get into kind of an argument of any kind?

10 A: No.

11 Q: How would you characterize the relationship between your
12 father and Rico Johnson?

13 A: They had a very good relationship. Rico was like his
14 little brother to him, you know, a long time, a very long
15 time.

16 Q: Okay. At any point prior to that, did you ever know your
17 father and Rico Johnson to ever have any kind of words or have
18 any kind of an argument or any problems between them at all?

19 A: No.

20 Q: Now, with regards to Rico Johnson, he had his one-year-
21 old son approximately at the time there at your residence?

22 A: Yes.

23 Q: And in fact, you said you and your sister, I believe,
24 were actually feeding both he and your one-year-old little
25 brother, I believe.

A.M.

- DIRECT BY MR. TUCKER

1 A: Right.

2 Q: Okay. Now, again, how positive are you that the man that
3 you saw that night walk into the living room and stand close
4 to Rico Johnson and exchange words with him shortly before you
5 heard the gunfire is the defendant, Larry Ja Juan Scipio, Jr.?

6 A: I'm positive.

7 Q: Okay.

8 MR. TUCKER: I believe those are all the questions I have
9 at this time, Your Honor.

10 MR. KRZYSTON: Thank you, Your Honor.

11 CROSS-EXAMINATION

12 BY MR. KRZYSTON:

13 Q: Okay. Amya, I just have a couple of questions for you.
14 Okay? So you said that you talked to deputies on, you know,
15 the night after all this happened; right?

16 A: No, not after all of it, just that night.

17 Q: Yeah, yeah. That's what I meant, after. Like, after the
18 events, when the police came, you actually engaged and spoke
19 with them; correct?

20 A: Yes.

21 Q: Okay. And your testimony on direct was that you did not
22 speak with a female deputy; is that correct?

23 A: No, I didn't speak with a female deputy.

24 Q: Okay. So you never told a female deputy anything at all?

25 A: No.

A.M.

- CROSS BY MR. KRZYSTON

1 Q: Okay. And there'd be no reason for any female deputy to
2 have written in her report that she spoke to you; right?

3 A: No.

4 Q: Okay. All right.

5 MR. KRZYSTON: Well, Your Honor, permission to approach?

6 BY MR. KRZYSTON:

7 Q: I'm going to show you what's already been marked as
8 Defendant's 1 for identification purposes only.

9 A: Okay.

10 Q: Okay? Right there, those words say incident report, do
11 they not?

12 A: They do.

13 Q: Okay. These words right here say Florence County
14 Sheriff's Office, do they not?

15 A: They do.

16 Q: Under incident type, it says 9-A, murder, 16-3-20;
17 correct?

18 A: They do.

19 Q: Okay. Event [REDACTED] Tall Oaks Drive; right?

20 A: Right.

21 Q: All right. July 6th, 2019, under incident date?

22 A: Uh-huh.

23 Q: Okay. Victim's name, Johnson, Rico; correct?

24 A: Yeah.

25 Q: Okay. Now, under the block for reporting officer, it

A.M. - CROSS BY MR. KRZYSTON

1 says Amber Jones; correct?

2 A: Right.

3 Q: Okay. So I want to go to this paragraph right here. All
4 right? Read along with me as I read. I then made contact
5 with the two female juveniles that were in the residence
6 taking care of two small children. It says that; correct?

7 A: Right.

8 Q: The 17-year-old female, A.M., stated she did not
9 see anything because she was in the bedroom. It says that;
10 right?

11 A: Yeah, it says that.

12 Q: Okay. And so, again, this is Deputy Jones's report
13 stating that she spoke to you; right?

14 A: That's what it says, but the only female -- I didn't --
15 she didn't speak to us, really. The only female I seen was
16 when she came into the house to come get the kids and my
17 sister and walked them out safely.

18 Q: Okay. And so, again, this is Deputy Jones's report
19 stating that she spoke to you; correct?

20 A: It says that, yeah.

21 Q: Okay. And again, you're sure that your father was in the
22 back bedroom that would have been if you're looking at the
23 couch to the right?

24 A: Positive he was in that back bedroom.

25 Q: Okay. And only once he heard the gunshots you think he

A.M. - CROSS BY MR. KRZYSTON

1 came out; correct?

2 A: I know he came out.

3 Q: Okay.

4 MR. KRZYSTON: Thank you. No further questions. Tender
5 the witness.

6 THE COURT: Mr. Tucker?

7 MR. TUCKER: Just briefly.

8 REDIRECT EXAMINATION

9 BY MR. TUCKER:

10 Q: A.M., I want to be clear. What you've testified here
11 today is what you remember happening; is that correct?

12 A: Right.

13 Q: Now, when you were in the back bedroom, you didn't
14 actually see Mr. Scipio pulling the trigger; is that correct?

15 A: Correct.

16 Q: But you saw him come in?

17 A: Uh-huh.

18 Q: And you did see him go approach Rico Johnson?

19 A: Yes.

20 Q: And then you heard them have words?

21 A: Yes.

22 Q: And then you heard the gunfire?

23 A: Yes.

24 Q: Okay.

25 MR. TUCKER: That's all I have, Your Honor.

A.M.

DIRECT BY MR. TUCKER

1 THE COURT: Anything else?

2 MR. KRZYSTON: No, sir, Judge.

3 THE COURT: Ma'am, you may step down. Thank you.

4 THE WITNESS: Yeah.

5 MR. TUCKER: And, Your Honor, I would ask if Ms. A.M.

6 [REDACTED] could be released from her subpoena.

7 THE COURT: Any objection?

8 MR. KRZYSTON: No, sir, Judge.

9 THE COURT: She's so released. Call your next witness.

10 MR. TUCKER: Your Honor, at this time the State would

11 call S.M. [REDACTED].

12 (WHEREUPON, there was a pause in the proceedings until
13 the witness entered the courtroom, after which the
14 proceedings resumed as follows.)

15 THE CLERK: Ma'am, if you will please place your left
16 hand on the Bible and raise your right hand. Do you swear or
17 affirm the testimony you give in this case to be the truth,
18 the whole truth, and nothing but the truth, so help you God?

19 THE WITNESS: Yes, ma'am.

20 THE CLERK: Please be seated and state your full name for
21 the record.

22 THE WITNESS: Spell my name?

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

24 THE WITNESS: [REDACTED] S.M. [REDACTED].

25 [REDACTED] S.M. [REDACTED], being first

S.M. - DIRECT BY MR. TUCKER

1 duly sworn, testified as follows:

2 DIRECT EXAMINATION

3 BY MR. TUCKER:

4 Q: And, S.M., do you mind if I call you S.M.?

5 A: Yes, sir.

6 Q: Now, S.M., where do you live?

7 A: Tall Oaks.

8 Q: And how old are you?

9 A: Seventeen.

10 Q: And this may seem like a silly question, but how old were
11 you on July the 6th, 2019?

12 A: Fourteen.

13 Q: Now, you indicated that you lived at Tall Oaks. Who
14 lives there with you?

15 A: My mother, my sister, my dad, and my uncle.

16 Q: Okay. Now, your sister is A.M. is that right?

17 A: Yes, sir.

18 Q: And who is your mother?

19 A: Stephanie Lucas.

20 Q: And who is your father?

21 A: Orlando Mendez.

22 Q: And you mentioned your Uncle Johnny?

23 A: Uh-huh.

24 Q: Now, on July the 6th, 2019, were those individuals living
25 with you as well there at

S.M.

- DIRECT BY MR. TUCKER

- 1 A: Yes, sir. And my grandmother.
- 2 Q: Okay. Now, your grandmother, she doesn't live there
- 3 anymore?
- 4 A: No, sir.
- 5 Q: Okay. Now, going back to July the 6th of 2019, do you
- 6 recall where you were around 10:30 that night?
- 7 A: Yes, sir.
- 8 Q: And where was that?
- 9 A: My dining table.
- 10 Q: And was that in your house at [REDACTED]
- 11 A: Yes, sir.
- 12 Q: Now, I want to back up just a little bit before that. At
- 13 some point prior to that, around about 15, 20 minutes, did
- 14 your dad and Rico Johnson walk into the home?
- 15 A: Yes, sir.
- 16 Q: Now, Rico Johnson, how well did you know him on July the
- 17 6th, 2019?
- 18 A: Very well.
- 19 Q: And how would you characterize your relationship with
- 20 him?
- 21 A: Very well.
- 22 Q: Okay. Had he been someone you had known pretty much your
- 23 whole life?
- 24 A: Yes, sir.
- 25 Q: Now, in terms of [REDACTED] Tall Oaks, was that pretty much the

S.M. [REDACTED]

- DIRECT BY MR. TUCKER

1 only home you knew up until that point?

2 A: Yes, sir.

3 Q: Okay. And was Mr. Johnson kind of like a neighborhood
4 family friend?

5 A: Yes, sir.

6 Q: All right. Now, going back to just after your mom or
7 your dad and Rico Johnson come in, do you recall where Rico
8 Johnson went once he entered the home with your dad?

9 A: Yes, sir.

10 Q: Where did he go?

11 A: On my couch.

12 Q: Okay. Now, I'm going to show you what's been entered
13 into evidence as State's No. 6. And when you say your couch,
14 S.M. [REDACTED], I'm going to point with my pen and see if you can
15 see. Is this the general area that Rico Johnson went to and
16 sat on the couch?

17 A: Yes, sir.

18 Q: Okay. Now, do you recall where you were when all this
19 was going on when he came in and sat on the couch?

20 A: Yes, sir.

21 Q: Now, this was about 15 -- or right when they came in. So
22 where were you sitting at that time?

23 A: The dining table.

24 Q: Okay. Now, your sister, A.M. [REDACTED], where was she?

25 A: On that chair right there.

S.M.

- DIRECT BY MR. TUCKER

- 1 Q: On this one?
- 2 A: Yes, sir.
- 3 Q: Okay. And where were you sitting?
- 4 A: It was a chair in the middle.
- 5 Q: Okay.
- 6 A: I was sitting right there.
- 7 Q: Okay. Over in this area?
- 8 A: No. In the middle. It was -- that chair right there was
- 9 in the middle.
- 10 Q: Okay. This chair was in the middle?
- 11 A: Yes, sir.
- 12 Q: Okay. And that's where you were sitting?
- 13 A: Yes, sir.
- 14 Q: Okay. Who was there at the dining room table with you
- 15 and your sister?
- 16 A: My nephew and Rico Johnson's son.
- 17 Q: Okay. And what were they doing?
- 18 A: Eating.
- 19 Q: Okay. And who was feeding them?
- 20 A: Me and my sister.
- 21 Q: Okay. Now, at some point thereafter, did someone knock
- 22 at the door?
- 23 A: Yes, sir.
- 24 Q: And did your sister get up from her chair and go back
- 25 towards the bedroom?

S.M. - DIRECT BY MR. TUCKER

- 1 A: Yes, sir.
- 2 Q: And did you move from the middle chair to this chair?
- 3 A: Yes, sir.
- 4 Q: All right. And then what happened once the knock on the
- 5 door occurred?
- 6 A: He walked through the door.
- 7 Q: Now, I know this is difficult for you, S.M., but now
- 8 when you say he, to whom are you referring?
- 9 A: Scipio.
- 10 Q: Okay. Ja Juan Scipio?
- 11 A: Yes, sir.
- 12 Q: Now, how would you describe right before he came in the
- 13 lighting conditions in the living room area where you were
- 14 sitting?
- 15 A: It was enough to see everything.
- 16 Q: Okay. Now, with regards to Mr. Scipio, when he came in
- 17 -- let me ask you this first. Who opened the door?
- 18 A: My mother.
- 19 Q: So she had gone to the door to answer it when -- when
- 20 there was a knock?
- 21 A: Yes, sir.
- 22 Q: Okay. When Mr. Scipio came in, what did he do?
- 23 A: He walked to Rico.
- 24 Q: Now, again, Rico would have been sitting on this side of
- 25 the couch?

S.M.

- DIRECT BY MR. TUCKER

- 1 A: Yes, sir.
- 2 Q: And Mr. Scipio would have come in this way and walked
3 toward him? So was he in this general area here?
- 4 A: Yes, sir.
- 5 Q: Okay. And you were sitting in this particular chair at
6 that time; correct?
- 7 A: Yes, sir.
- 8 Q: Okay. What happened after Mr. Scipio approached Mr.
9 Johnson as he was sitting on the couch?
- 10 A: He was telling him to come outside.
- 11 Q: And what was Mr. Johnson's response?
- 12 A: No.
- 13 Q: And then what happened?
- 14 A: I just heard a gunshot.
- 15 Q: Okay.
- 16 A: And I looked up and he was shooting at him.
- 17 Q: Okay. When you say you looked up, he was shooting him --
18 and again, I know this is difficult, but who did you see
19 shooting who?
- 20 A: Ja Juan Scipio.
- 21 Q: And he was shooting who?
- 22 A: Rico Johnson.
- 23 Q: And you saw him with the gun in his hand?
- 24 A: Yes, sir.
- 25 Q: And you saw him shooting Rico?

S.M.

- DIRECT BY MR. TUCKER

1 A: Yes, sir.

2 Q: All right. Do you see the man in this courtroom that you
3 described or identified as Ja Juan Scipio in your testimony
4 here today?

5 A: Yes.

6 Q: Could you point him out, please?

7 A: (Indicating.)

8 MR. TUCKER: If the record could reflect that the witness
9 has identified the defendant, Larry Scipio.

10 THE COURT: So noted for the record.

11 BY MR. TUCKER:

12 Q: Once he shot Rico, what, if anything, happened then?

13 A: Sir?

14 Q: Once the defendant shot Rico Johnson, what did he do?

15 A: He ran out the house.

16 Q: Okay. Did you see your father come out of that bedroom
17 that he'd been in with your mother?

18 A: No. I ran with the children to my grandma's room.

19 Q: Okay. So you got up from your chair after the defendant
20 shot Mr. Johnson and picked up the two children?

21 A: Yes, sir.

22 Q: And then went towards your grandmother's room?

23 A: Yes, sir.

24 Q: Did your mother and your sister eventually get back there
25 with you?

S.M.

- DIRECT BY MR. TUCKER

- 1 A: Yes, sir.
- 2 Q: And do you recall what your mother told you?
- 3 A: She told us to go in her room.
- 4 Q: Okay. And did you subsequently come out of your room?
- 5 A: Yes.
- 6 Q: Okay. And what did you do when you came out?
- 7 A: I went to my sister's room.
- 8 Q: Okay. And did -- ultimately, did EMS and people come and
- 9 try to help Rico?
- 10 A: Yes.
- 11 Q: And with regards to what you saw, did law enforcement
- 12 eventually show up and talk to you?
- 13 A: They didn't talk to me. They just walked me outside.
- 14 Q: Okay. Do you recall talking to anybody with the
- 15 sheriff's office about what you saw?
- 16 A: No, sir.
- 17 Q: Okay. Now, would it be fair to say that you were pretty
- 18 emotional and upset that night?
- 19 A: Yes, sir.
- 20 Q: Okay. With regards to what you saw, how sure are you
- 21 that the man that you just identified and the man that you
- 22 identified as coming into your house and shooting Rico, how
- 23 sure are you that that's Larry Ja Juan Scipio?
- 24 A: I'm very sure.
- 25 Q: Okay.

S.M.

- CROSS BY MR. KRZYSTON

1 MR. TUCKER: Your Honor, I believe that's all the
2 questions I have.

3 THE COURT: Mr. Krzyston?

4 MR. KRZYSTON: Pardon?

5 THE COURT: Cross-examination.

6 MR. KRZYSTON: Yes, sir. Thank you.

7 CROSS-EXAMINATION

8 BY MR. KRZYSTON:

9 Q: All right. S.M., I'm just going to ask you a
10 couple questions. How old were you when all this went down?

11 A: Fourteen.

12 Q: As you sit here today, how old are you?

13 A: Seventeen.

14 Q: Is that your sister and your dad in the back?

15 A: Yes, sir.

16 Q: Okay.

17 MR. KRZYSTON: No further questions.

18 THE COURT: Any redirect?

19 MR. TUCKER: None, Your Honor.

20 THE COURT: Ma'am, you may step down. Thank you.

21 MR. TUCKER: And, Your Honor, I would ask if S.M.
22 could be released from her subpoena.

23 THE COURT: Any objection?

24 MR. KRZYSTON: No, sir.

25 THE COURT: All right. She's so released without

1 objection.

2 All right. Mr. Tucker?

3 MR. TUCKER: Your Honor, at this time the State would
4 rest.

5 THE COURT: All right. Can the lawyers approach a
6 minute, please?

7 MR. KRZYSTON: Yes, sir.

8 (WHEREUPON, a bench conference was held off the record,
9 after which the proceedings resumed as follows.)

10 THE COURT: All right. Ladies and gentlemen of the jury,
11 at this juncture the State has rested its case. The State has
12 rested its case. There are some matters of law that we need
13 to take up at this time.

14 So what I'm going to do is I'm going to go ahead and I'm
15 going to let you go home for the day while we handle these
16 matters this afternoon. I'm going to ask that you be back
17 here tomorrow morning at 9:30, at 9:30.

18 When you return tomorrow morning, my deputy clerk, before
19 you all come into the courtroom tomorrow, will get a lunch
20 order for you. So you can plan on being here through lunch
21 tomorrow, just for planning purposes for you all. We'll
22 resume at 9:30 or shortly thereafter. Once those lunch orders
23 are received by my deputy clerk, we'll will resume at that
24 time.

25 As I've told you throughout, do not discuss this case

1 All right. Anything further before I bring the jury out?

2 MR. TUCKER: Nothing from the State, Your Honor.

3 THE COURT: All right.

4 MR. KRZYSTON: Nothing, Judge. We do have a PowerPoint
5 presentation, and so I don't know how you want us to handle
6 the switchover from the computer, if you want to send them out
7 and let us get ours cued up. We'll do whatever you want.

8 THE COURT: I mean, I don't intend to send them back out.
9 I'll give you a couple of minutes to do that.

10 One thing. When I bring the jury back out, I will
11 recognize your -- you all for your defense at that time, based
12 upon what you all have told me, that you all do not intend to
13 put up a defense. So when I bring the jury out and recognize
14 you, you would simply rest. The defense would rest at that
15 point.

16 And once again, so the record is clear and to protect
17 your client's interests, I would ask at that point you state
18 that you are renewing all of your prior motions and
19 objections, and then we'll move right into my charge and then
20 closing arguments. Okay?

21 MR. KRZYSTON: Certainly, Judge.

22 THE COURT: Bring me the jury, please, sir. Hold up a
23 second.

24 As we're going through this jury charge and closing
25 arguments, I do not want any individuals out in the audience

1 entering and exiting the courtroom. I want this jury's full
2 attention on what I'm telling -- talking to them about the
3 law, as well as these lawyers. I want their full attention on
4 these lawyers as they're giving their closing arguments.
5 Okay?

6 MR. TUCKER: Yes, sir.

7 THE CLERK: Do you want me to lock the doors?

8 THE COURT: Yeah.

9 All right. Bring me the jury, please, sir.

10 THE BAILIFF: Yes, sir.

11 (WHEREUPON, the jury entered the courtroom at 9:48 a.m.)

12 THE COURT: All right. Mr. Foreman and ladies and
13 gentlemen of the jury, I hope you all had a nice evening
14 yesterday and are ready to proceed here today. When we
15 concluded yesterday, the State had rested its case.

16 Pursuant to the State resting its case at that time
17 yesterday afternoon, I will now recognize defense counsel.
18 Mr. Krzyston?

19 MR. KRZYSTON: The defense rests, Your Honor. In
20 addition, the defense would also renew any motions that were
21 made during the pretrial or trial phase of this litigation and
22 beg for the Court's ruling again.

23 THE COURT: All right. Ladies and gentlemen, the State
24 has -- excuse me. The defense counsel has rested its case as
25 well. With regards to defense counsel's renewal of all motion

1 -- prior motions and objections, the Court's rulings remain
2 the same. All right? But your objections and motions are so
3 noted for the record.

4 MR. KRZYSTON: Thank you, Your Honor.

5 THE COURT: All right.

6 All right. Now, ladies and gentlemen, what we're going
7 to do now, you've heard all the evidence in this case. Okay?
8 The process which we're going to follow at this point is I'm
9 going to give you a charge on the law in this case.

10 Once I give you all a charge on the law in this case, the
11 State will be recognized for closing arguments, followed by
12 defense counsel, and then the State, under our rules and under
13 our law, the State will have an opportunity to reply for a
14 reply. Okay? So please listen very carefully as I go through
15 this charge with you.

16 CHARGE ON THE LAW

17 THE COURT: Now, ladies and gentlemen, it's now my duty
18 as the trial judge under the Constitution of this state to
19 charge and instruct you on the law applicable to this case.
20 It is your duty as jurors to accept and apply the law as I
21 will now state it to you. Furthermore, it is your exclusive
22 duty to decide all the issues of fact in this case and to
23 determine the effect, value, and weight of the evidence.

24 Both the State and the defendant have a right to expect
25 that you will carefully consider and evaluate the evidence and

1 apply the law to this case so that in the end, both the State
2 of South Carolina and the -- and the defendant will receive a
3 fair and impartial trial. I want you to understand that when
4 I use the word defendant, I refer to Mr. Larry Ja Juan Scipio,
5 Jr.

6 Furthermore, it is important to understand that the State
7 of South Carolina charges the defendant with the offense known
8 as murder. Now, to these charges the defendant has entered a
9 plea of not guilty. This plea of not guilty places the burden
10 of proof on the State to prove the guilt of the defendant to
11 you, the jury, beyond a reasonable doubt.

12 Now, I remind you, ladies and gentlemen, that the fact
13 that the defendant was arrested, charged, and indicted in this
14 case is not evidence in this case and cannot be considered by
15 you as evidence of guilt in this case, nor does it create any
16 presumption or inference of guilt. The indictment, as I told
17 you before, is simply the formal written instrument which
18 contains the charge made against the defendant. It is the
19 formal document by which this case is brought into this court.

20 Now, during the trial, ladies and gentlemen, you and I
21 have had separate duties to perform. As the trial judge, it
22 is my responsibility to preside over this trial, and I also
23 have the duty to rule upon the admissibility of the evidence
24 offered during the process of this trial.

25 Now, in that regard, you are to consider only the

1 competent evidence before you, and you are to disregard from
2 your mind any testimony ordered stricken from the record of
3 this case during the progress of the trial, if there was any,
4 and you are to consider only the testimony which has been
5 presented from the witness stand, together with any exhibits
6 admitted into the record of this case and any stipulations of
7 counsel made into the record, if there were any.

8 Furthermore, I have the additional duty to charge you on
9 the applicable law in this case and, in that regard, I am the
10 sole judge of the law of this case. It is your duty to accept
11 and apply the law as I state it to you. If you have any
12 preconceived ideas as to what the law is or what the law ought
13 to be and it does not agree with what I tell you the law is,
14 you are obligated under your oath to abandon these
15 preconceptions because you are sworn to accept the law
16 precisely as I state it to you.

17 Now, in this trial, ladies and gentlemen, you -- you are
18 the sole and exclusive judge of the facts, and I am the judge
19 of the law. Do not infer that I have any opinion about the
20 facts in this case from anything that I have said during the
21 course of this trial in ruling upon the admissibility of
22 evidence or otherwise, or from anything that I say during the
23 course of this charge to you.

24 In this regard, the law simply does not permit me to have
25 an opinion about the facts. As jurors, it is your duty alone

1 to determine the effect, value, and weight of the evidence
2 during the course of the trial.

3 Now, in determining what the facts in this case are, you
4 must judge the credibility, which simply means the
5 believability of the witnesses and the value of weight to be
6 given to their testimony. You alone must decide the force and
7 effect of the testimony.

8 In making this decision, there are many things you may
9 and should take into consideration, such as the appearance and
10 manner of the witness on the stand, a characteristic often
11 referred to as the demeanor of the witness.

12 Was the witness forthright or hesitant?

13 Was the testimony of the witness consistent, or did it
14 contain discrepancies?

15 What was the ability of the witness to know the facts
16 about which he or she testified?

17 Did the witness have a cause or reason to be biased or
18 prejudiced in favor of the testimony that he or she gave?

19 Was the testimony of the witness corroborated or made
20 stronger by other testimony and evidence, or was it made
21 weaker or impeached by such other testimony and evidence?

22 As jurors, please understand that you have the right to
23 believe a small portion of a witness's testimony and discard
24 the larger portion, or vice versa. You may believe all of a
25 witness's testimony or none. You may believe the testimony of

1 a single witness against that of many witnesses or the other
2 way around.

3 Now, in exercising your mental processes in attempting to
4 decide the verdict, the law simply requires that you exercise
5 your good judgment, your common sense, your sense of logic and
6 reason, and your experiences in life. You then apply these
7 attributes to the evidence and apply the law as I state it to
8 you, and thus arrive at a verdict.

9 Now, ladies and gentlemen, it is vital to understand that
10 the defendant is presumed under the law to be innocent of this
11 charge. The defendant has no obligation to prove his
12 innocence. It is a fundamental rule of our law that a
13 defendant, irrespective of the seriousness of the charge
14 against him, is always presumed innocent of the crimes for
15 which he is charged unless and until his guilt has been proven
16 by evidence that satisfies you, the jury, beyond a reasonable
17 doubt.

18 Now, the presumption of innocence, ladies and gentlemen,
19 is not a mere legal theory or legal phrase. The presumption
20 of innocence is very important, and you need to understand
21 that the presumption accompanies -- accompanies the defendant
22 from the time of his arrest and appearance in this court and
23 continues with the defendant even after you retire to the jury
24 room to deliberate. In other words, the defendant receives
25 the benefit of the presumption of innocence until the very end

1 of this trial when you, the jury, will deliberate upon the
2 evidence and decide whether the State has proven his guilt
3 beyond a reasonable doubt.

4 Now, ladies and gentlemen, what is a reasonable doubt in
5 the law? A reasonable doubt is the kind of doubt that would
6 cause a reasonable person to hesitate to act. Proof beyond a
7 reasonable doubt is proof that leaves you firmly convinced of
8 the defendant's guilt.

9 Now, there are very few things in this world that we know
10 with absolute certainty. So even in criminal cases, the law
11 does not require proof that overcomes every possible doubt.
12 However, if based on your consideration of the evidence, you
13 are firmly convinced that the defendant is guilty of the crime
14 charged, you must find him guilty. If, on the other hand, you
15 think there is a real possibility that he is not guilty, you
16 must give him the benefit of the doubt and find him not
17 guilty.

18 Please understand, ladies and gentlemen, that reasonable
19 doubt may arise from evidence which has been presented in the
20 case or from the lack of evidence in the case. It is your
21 responsibility to determine whether or not reasonable doubt
22 exists as to the guilt of the defendant.

23 I charge you that the defendant is entitled to every
24 reasonable doubt arising in the whole case. If, upon any
25 issues of fact essential to conviction and a verdict of

1 guilty, you have a reasonable doubt as to how that issue
2 should be resolved, it would be your duty to resolve that
3 reasonable doubt in favor of the defendant.

4 Thus, it is important, ladies and gentlemen, to
5 understand that the defendant, as I told you before, is not
6 required to prove his innocence. Instead, the State is
7 required by law to prove every essential element of the
8 offense charged against the defendant by evidence that
9 satisfies you of his guilt beyond a reasonable doubt. Only
10 then can you convict the defendant and find him guilty.

11 Now, there are two types of evidence which are generally
12 presented during a trial: direct evidence and circumstantial
13 evidence.

14 Direct evidence is the testimony of a person who claims
15 to have actual knowledge of a fact, such as an eyewitness. It
16 is evidence which immediately establishes the main fact to be
17 proved.

18 Circumstantial evidence is proof of a chain of facts and
19 circumstances indicating the existence of a fact. It is
20 evidence which immediately establishes collateral facts from
21 which the main fact may be inferred. Circumstantial evidence
22 is based on inference and not on personal knowledge or
23 observation.

24 The law makes absolutely no distinction between the
25 weight or value to be given to either direct or circumstantial

1 evidence, nor is a greater degree of certainty required of
2 circumstantial evidence than of direct evidence. You, ladies
3 and gentlemen, should weigh all of the evidence in the case.
4 If, after weighing all of the evidence, you are not convinced
5 of the guilt of the defendant beyond a reasonable doubt, you
6 must find the defendant not guilty.

7 Now, during the trial, ladies and gentlemen, you heard
8 the testimony of a witness or witnesses that had a prior
9 criminal record. I will tell you that a person who has a past
10 criminal or a prior criminal record is competent to testify
11 during a trial. A past or prior record does not affect the
12 ability of that witness to testify. The past record may only
13 be considered by you, if at all, in determining the witness's
14 believability. Remember, you are the sole judge of the facts
15 in this case and of the believability of any and all of the
16 witnesses.

17 Now, during the course of the trial, you heard testimony
18 from individuals that were qualified as expert witnesses. I
19 previously gave you a charge as it relates to expert
20 witnesses, and I will do so again.

21 As I told you before, our rules of evidence ordinarily do
22 not permit witnesses to testify to opinions or conclusions.
23 An exception to this rule exists for witnesses that we call
24 expert witnesses. A witness who by education and experience
25 has become expert in some art, science, profession, or calling

1 may state an opinion as to relevant and material matter in
2 which the witness claims to be an expert and may also state
3 the reasons for the opinions.

4 You, ladies and gentlemen, should consider any expert
5 opinion received in evidence in this case and, like any other
6 evidence, give it the weight that you think it deserves. If
7 you decide that the opinion of an expert witness is not based
8 on sufficient education and experience, or if you conclude
9 that the reasons given in support of the opinion are not sound
10 or that the opinion is outweighed by other evidence, you may
11 disregard the opinion entirely. An expert witness's testimony
12 is to be given no greater weight than that of other witnesses
13 simply because the witness is an expert. Further, you are not
14 required to accept an expert's opinion, even though it is not
15 contradicted.

16 Now, ladies and gentlemen, I will tell you further and
17 instruct you and emphasize that the fact that the defendant
18 did not testify or chose not to testify in this case is not a
19 factor to be considered by you in any way in your
20 deliberations and in your consideration on the question of the
21 guilt or innocence of the defendant. It must not be
22 considered by you in any manner whatsoever. A defendant has
23 the constitutional right to remain silent, and the assertion
24 of this right must not be considered by you in your
25 deliberations.

1 I repeat, under your oath, you are to draw no conclusion
2 whatsoever from the fact that the defendant did not testify in
3 this case. The fact that this defendant chose not to testify
4 should not even be discussed in the jury room. The burden of
5 proof, as I have told you from the outset, is on the State.
6 The defendant is not required to prove his innocence. The
7 burden of proof remains on the State to prove guilt beyond a
8 reasonable doubt.

9 Now, ladies and gentlemen, in order -- in order to
10 establish criminal liability, criminal intent is required.
11 For example, the mental state required to be proven by the
12 State for a particular crime might be purpose, intent,
13 knowledge, recklessness, or criminal negligence. Criminal
14 intent must be proven by the State beyond a reasonable doubt.
15 Criminal intent is always a matter that must be determined by
16 the jury from the circumstances surrounding the situation.

17 There is no way, ladies and gentlemen, to prove intent to
18 a mathematical certainty. There is no way that medical
19 science can dissect a person's brain and determine what the
20 person had in mind. So the law says that criminal intent may
21 be inferred from the circumstances shown to have existed.
22 This is how you make a determination of whether or not the
23 element requiring intent was present.

24 It is not necessary to establish intent by direct and
25 positive evidence, but intent may be established by inference

1 in the same way as any other fact by taking into consideration
2 the acts of the parties and all the facts and circumstances of
3 the case.

4 Criminal intent is a mental state, a conscious
5 wrongdoing. It is up to you to determine what the defendant
6 intended to do based on the circumstances shown to have
7 existed. Criminal intent can arise from action or a failure
8 to act. It may arise from negligence, recklessness, or an
9 indifference to duty or to consequences that is considered by
10 the law to be the equivalent of criminal intent.

11 Now, as I told you before, ladies and gentlemen, the
12 defendant in this case is charged with the offense of murder.
13 The State must prove beyond a reasonable doubt that the
14 defendant killed another person with malice aforethought.

15 Malice is hatred, ill will, or hostility towards another
16 person. It is the intentional doing of a wrongful act without
17 just cause or excuse and with an intent to inflict an injury
18 or under circumstances that the law will infer an evil intent.

19 Malice aforethought does not require that malice exists
20 for any particular time before the act is committed, but
21 malice must exist in the mind of the defendant just before and
22 at the time that the act is committed. Therefore, there must
23 be a combination of the previous evil intent and the act.

24 Malice aforethought may be expressed or inferred. These
25 terms, expressed and inferred, do not mean different kinds of

1 malice, but merely the manner in which malice may be shown to
2 exist, either by direct evidence or by inference from the
3 facts and circumstances which are proved.

4 Expressed malice is shown when a person speaks words
5 which express hatred or ill will for another, or when the
6 person prepared beforehand to do the act which was later
7 accomplished. For example, lying in wait for a person or any
8 other acts or preparation going to show that the deed was
9 within the defendant's mind would be expressed malice. Malice
10 may be inferred from conduct showing a total disregard for
11 human life.

12 Now, ladies and gentlemen, I have concluded this portion
13 of the jury instructions or jury charge at this time. As I
14 told you before, once I gave you the charge on the law, the
15 State would give its closing argument, followed by defense
16 counsel, and then a reply by the State. I will tell you,
17 ladies and gentlemen, and instruct you that the attorneys'
18 closing arguments in this case is not evidence in the case.

19 Now, once the attorneys finish with their closing
20 arguments, I will have a few concluding remarks to give you
21 before giving the case to you all and instructing you to begin
22 your deliberations.

23 At this time, the State is so recognized for closing
24 argument. Well, let me ask this first. Any exception or
25 objection at this time to anything that I have said to the

1 jury from the State?

2 MR. TUCKER: No, Your Honor.

3 THE COURT: Defense Counsel?

4 MR. KRZYSTON: No, sir, Judge.

5 THE COURT: All right. Mr. Tucker, you're so
6 recognized.

7 CLOSING ARGUMENT ON BEHALF OF THE STATE

8 MR. TUCKER: The Tall Oaks community on July the 6th,
9 2019, was a peaceful place until death came. [REDACTED] Tall Oaks
10 Drive, the Mendez home, was peaceful and tranquil on the
11 evening of July the 6th, 2021 [sic], until he came. Rico
12 Johnson was sitting in the Mendez family home's living room on
13 the couch, with his one-year-old child less than ten feet away
14 from him with his whole life ahead of him until Larry Ja Juan
15 Scipio, Jr., came.

16 (WHEREUPON, State's Exhibit No. 27, 9-1-1 call, was
17 played in open court. Not transcribed herein.)

18 MR. TUCKER: When the neighbors who came over to help
19 handed that phone to Stephanie Lucas, it was the end of that
20 9-1-1 call. You can hear the chaos in the background, but you
21 could hear the pain and anguish in that woman's voice.

22 And what does she tell that 9-1-1 operator when that
23 9-1-1 operator asked if she saw who did this? Yes, I saw who
24 did this. He walked right into my house and said "yo" and
25 just started shooting. She knows who did it, and everybody in

1 that house that night knew who did it.

2 It's war at Tall Oaks Drive. It's war is what that man
3 told Rico Johnson, Orlando Mendez, and Khalid Belin as they
4 pulled off in that red Camaro.

5 You heard the judge. Murder is defined as the willful,
6 felonious killing of a human being with malice aforethought,
7 that malice being either expressed malice or implied malice.
8 Malice is defined as hatred or ill will, wrongful intent to
9 injure another person. Malice does not necessarily mean ill
10 will toward the individual injured or signifies rather a
11 depraved or wicked spirit intent on wrongdoing. Malice may be
12 perceived at the very moment the act occurs.

13 Folks, Rico Johnson was shot six times. It doesn't get
14 more malicious than that. This man says it's war and, less
15 than an hour and a half later, he brought war right to the
16 front step, in over the threshold and into the living room and
17 right up to Rico Johnson.

18 Expressed malice, a deliberate intention to unlawfully
19 take the life of another. After he says it's war, he gets a
20 handgun, he goes to [REDACTED] Tall Oaks, knocks on the door, walks
21 right up to him, and shoots him. It's a deliberate intention
22 to unlawfully take the life of another.

23 Inferred malice from circumstances demonstrating a wanton
24 or reckless disregard for human life. Not only did this man
25 demonstrate a wanton and reckless disregard for the life of

1 Rico Johnson, but there were two small children less than ten
2 feet away, who were about one year each. There was a 14-year-
3 old lady sitting at that table feeding them and helping them
4 less than ten feet away when this man pulled a gun and started
5 just blasting six rounds into Rico Johnson with three people
6 less than ten feet away, the oldest one 14, the youngest two
7 were one years old each. He not only disregarded the safety
8 of Rico Johnson, but he had total disregard for the safety of
9 everybody in that house that night, particularly those that
10 were closest to what he did.

11 Reasonable doubt. A reasonable doubt is the kind of
12 doubt that would cause a reasonable person to hesitate to act.
13 Proof beyond a reasonable doubt is proof that leaves you
14 firmly convinced of the defendant's guilt. In a criminal
15 case, the law does not require proof that overcomes every
16 possible doubt.

17 Rico Johnson. Now, at the beginning of this case, the
18 defense told you Larry Scipio had a support network, he had a
19 family, they were here, but Rico Johnson had a family too. He
20 had a wife, he had a brother, he had a father, and he had a
21 son who was one years old and ten feet from him when he was
22 shot six times by the defendant. And why?

23 He also had an adopted family. You heard Orlando Mendez.
24 He was a big brother. Everybody described that relationship
25 that way. He looked up to OT, which is how they referred to

1 Orlando Mendez. He had Stephanie Lucas. She regarded him as
2 a son. If you needed more proof of that, listen to that
3 woman's anguish when she's finally holding that phone when
4 they hand it to her and she's trying to tell the 9-1-1
5 operator what happened, but she only manages to get a few
6 words out because grief is just overwhelming.

7 Khalid Belin. Khalid came up and said that's my boy when
8 I asked him to describe the relationship between he and Rico
9 Johnson. He referred to him in the present sense as if he
10 couldn't three years later comprehend that Rico Johnson is
11 dead.

12 A.M. She thought of Rico Johnson as her
13 godbrother. And S.M., she was feeding Rico's son
14 and had to pick him up and run with her little nephew for her
15 life and their lives when the defendant walked in and brought
16 war to Tall Oaks Drive on the evening of July the 6th,
17 2019.

18 And why? Why? It's war. This all starts at a dice
19 game. Rico, Orlando, and Khalid attend a dice game the
20 evening of July the 6th, 2019, and they see the defendant
21 there and, folks, they all know him from the neighborhood.
22 This is not some stranger that they are seeing for the first
23 time. They knew this man when they saw him from interactions
24 that they had with him in previous encounters in the
25 neighborhood in Tall Oaks.

1 They see the defendant and they all know him. They
2 attempt to leave when it's getting dark. The defendant blocks
3 Rico and his friends from leaving, and the defendant gets
4 bumped by Rico's red Camaro. And despite not being injured,
5 the defendant declares war.

6 Even Khalid Belin, when asked by the defense lawyer about
7 didn't you tell the responding deputies that night that you
8 didn't know why the defendant shot Rico Johnson, and what was
9 Khalid Belin's response? I still don't know why. It was so
10 petty. I still don't know why something so small, something
11 so innocuous would cause a man to do what he did. Three years
12 later, he still doesn't know why.

13 Well, the defendant was wrong. It's not war, but, folks,
14 it is murder.

15 About an hour passes before Rico, Orlando, and Khalid
16 make it back to home, [REDACTED] Tall Oaks Drive, that night.
17 Another 15 to 20 minutes pass before the defendant walks right
18 up to the door or to Khalid Belin where he's sitting on the
19 steps and shakes his hand. And what was the exchange between
20 the two? The defendant said is OT and Rico inside, and Khalid
21 Belin said yeah. And then what does he say next? This is
22 OT's house. Knock on the door.

23 Little details matter. In the one hour and 15- to 20-
24 minute interval, the defendant is planning to get revenge.
25 That's premeditation. He has to think about where to get a

1 gun. He has to think about where he thinks they are. He has
2 to think about traveling there. He has to think about what
3 he's going to do when he gets there. He thinks about it when
4 he walks up and shakes Khalid Belin's hand, walks right past
5 him, knocks on the door, and he's made his mind up what he's
6 going to do the second that he gets in there.

7 That's premeditation. Although the law doesn't require
8 there to be any appreciable amount of time, I would submit an
9 hour and 20 minutes is all the time that he needed to get
10 ready to do what he did. It was murder, cold, calculated, and
11 brutal.

12 Now, you also heard from the defense facts matter, words
13 matter. On that, I would agree. Law enforcement responds to
14 an emotional and chaotic scene at [REDACTED] Tall Oaks Drive. You
15 can hear some of it in that 9-1-1 call. You could hear some
16 of it in the voice of the witnesses who testified yesterday,
17 three years after the fact. Witnesses and family members
18 alike are in a state of shock and disbelief.

19 Now, within minutes of someone they love being shot to
20 death in their own home, Orlando Mendez, Stephanie Lucas,
21 Khalid Belin, [REDACTED] A.M., and [REDACTED] S.M. are asked what
22 happened. Is it likely they got some things confused in the
23 immediate aftermath? Is it possible law enforcement got some
24 things wrong too? That night with all of that going on,
25 seeing what they saw, is it possible that they didn't recall

1 talking to a particular deputy? Is it possible that they were
2 confused about some of the facts in the minutes just after
3 this and law enforcement was on the scene?

4 A man was murdered in their living room, and they saw it.
5 And not just any man, a man who was as much a family member to
6 them as anyone. So is it possible? Sure, it's possible. I
7 suggest it was probably probable, given these circumstances
8 when they were speaking to law enforcement that night.

9 But they all came to court, and they all got on that
10 stand and they testified as to what happened. And three years
11 after the fact, it still bothers them. It's still emotional.
12 It's still shocking three years later.

13 Now, the neighbors. Not only did you hear some of them
14 on the 9-1-1 call, they lived next door at [REDACTED] Tall Oaks
15 Drive. Now, remember, when law enforcement responded because
16 the phone number was associated with that address, that's
17 where they went first, and then they were quickly directed to
18 [REDACTED] Tall Oaks, which was next door.

19 Now, when they went next door when they heard gunshots,
20 they called 9-1-1. Now, again, they were outside in their car
21 getting ready to leave. Now, this is a statement that Amber
22 Jones puts in her report. It's verbatim. They were outside
23 in their car getting ready to leave their home. They heard
24 gunshots. The stated that even seeing a male, Orlando, and he
25 yelled call 9-1-1, someone was shot. Later, they did not see

1 Scipio in the report.

2 Now, there's no context. There's no time reference from
3 when they heard gunshots until they saw Orlando Mendez. Did
4 they duck down? Did they cover up? You heard their child on
5 the 9-1-1 call. What would you do if you and the child were
6 outside and you heard gunshots and you had a small child out
7 there? You would cover. You would duck. So there's no frame
8 of reference from how long it took them to get oriented and to
9 come back and look to see what's happening.

10 Orlando Mendez told defense counsel that when he was
11 fighting out there when he asked him the time that nobody's
12 wearing a watch in these situations. But again, he says it
13 was 13 to 15 seconds.

14 So from the time the gunshots rang out, I would submit
15 it's just as plausible that they ducked down, looked around to
16 see if they could see where the gunshots came from, trying to
17 figure out what's going on or trying to look out for their
18 safety, as well as their child, and it was in that moment that
19 the occurrence on the porch where Orlando Mendez struggled
20 with Larry Scipio.

21 Now, I'll tell you even though they had a clear line of
22 sight and it was unobstructed, they didn't recall or didn't
23 say anything to Deputy Jones about seeing Khalid Belin, who
24 was sitting right there on the front porch, and when the
25 gunfire rang out, he ran straight by them on his way to the

1 neighbor's house. In fact, they were the closest neighbors to
2 that house.

3 Context matters. Rico Johnson is dead. If the defendant
4 didn't do it, then who? Now, we can rule out suicide. The
5 number and location of gunshots make that impossible, but the
6 number and locations of gunshots are consistent with what the
7 witnesses saw. Nothing but blood and shell casings down near
8 Rico Johnson. So we know he didn't have a gun.

9 And what did Dr. Beaver tell you? He located and pointed
10 out where the gunshots were. And I even asked him if a person
11 was standing to the victim's left and he went to fire and the
12 defen -- or the victim put his hand up and started to turn
13 away when he saw the gun, would the first shot have hit where
14 you indicated on the shoulder? Yes.

15 And if it looked like he was getting up trying to run and
16 he was trying to turn away from the gunfire, would that
17 account for the gunshot wounds to the back? Yes, the expert
18 in forensic pathology told this Court yesterday.

19 And what did A.M. say? When she came back out
20 after the gunfire, she saw Rico there kneeling, leaning
21 forward on the couch. It looked to her as if he was trying to
22 get up and run from the couch. In his last moments, that's
23 what he was trying to do. When that man was standing next to
24 him with a gun outstretched, shooting at him, he did what
25 normal people would do. He put his hand up to try to stop and

1 he tried to turn and run away, and that's when he was hit in
2 the back.

3 So if it's not suicide, Rico Johnson was shot by some
4 unknown person. Now, someone other than the defendant stood
5 in front of Rico's car and prevented him from leaving the
6 premises? There's only one problem with that. Both Khalid
7 Belin and Orlando Mendez saw him, and this is someone they
8 knew. This is someone that it wasn't a complete stranger. So
9 they didn't misidentify him there.

10 Someone other than the defendant walked up to Khalid
11 Belin, shook his hand, and asked him if Rico and OT were
12 inside? Now, again, this is a man known to Khalid Belin. Is
13 there any chance he misidentified the defendant with someone
14 else? I would submit no.

15 Someone other than the defendant knocked on the door,
16 which was opened by Stephanie Lucas, who said, hey, Ja Juan,
17 and then walks right by Stephanie Lucas, right to where Rico
18 is sitting? Is there any chance Stephanie Lucas opened the
19 door and misidentified him as someone else and called that
20 person Ja Juan?

21 And remember what she also testified to when asked if he
22 said anything back. Hey, Ms. Steph, is Rico home? He has to
23 come almost right by her to go into the house. Is there a
24 chance that she misidentified him? No.

25 Someone other than the defendant was seen by S.M.

1 S.M., who was sitting less than ten feet away when that
2 shooting occurred in the living room area, and she had the
3 best vantage point because it was less than ten feet away and
4 there was nothing obstructing her view from where she was
5 sitting with two one-year-old children at her feet? Is there
6 a chance that she misidentified the defendant and confused him
7 with someone else? No. No. She's not likely to forget that
8 then, now, and sadly, probably never. There is zero chance
9 that she misidentified the defendant.

10 It was someone other than the defendant with whom Orlando
11 Mendez struggled on his front porch as he attempted to get the
12 gun away? They are close. They are grabbing. He's got his
13 hands over trying to get a gun away from a guy who just used
14 it to shoot a good friend of his? He is this close to this
15 guy. Is there a chance Orlando Mendez misidentified the
16 defendant and confused him with someone else? No.

17 Khalid Belin. He was outside on the steps and took off
18 when the gunshots erupted.

19 Stephanie Lucas. Did she do it? Rico Johnson was like
20 her son.

21 A.M. A.M. Rico Johnson trusted his
22 one-year-old child to their care.

23 So it must have been Orlando Mendez, but there's a
24 problem with that. There's absolutely no proof whatsoever
25 that Orlando Hernandez had any bad blood, had any kind of

1 argument whatsoever with Rico Johnson.

2 If Larry Ja Juan Scipio, Jr., didn't murder Rico Johnson
3 on the evening of July the 6th, 2019, then Khalid Belin,
4 Orlando Mendez, Stephanie Lucas, [REDACTED] A.M. [REDACTED] and [REDACTED] S.M. [REDACTED]
5 [REDACTED], they're all lying. If they're not mistaken, they must
6 be all lying. And if they're lying, they must be lying to
7 protect someone.

8 Now, the only problem with that is there's absolutely no
9 proof of that whatsoever. None. Zero. Not a single witness
10 ever heard so much as a cross word between Orlando and Rico.
11 They were like brothers. Every witness that the State put up
12 that knew them personally told you that. Rico looked up to
13 Orlando like a big brother, and Orlando regarded Rico in the
14 same fashion.

15 No argument that weekend, that day, that evening between
16 Orlando and Rico. How do we know that? They were at home and
17 if they weren't home, Khalid Belin was with them almost the
18 entire weekend and all day Sunday. He never heard so much as
19 a cross word when he was with them personally, or when he was
20 sitting out on the front steps in front of [REDACTED] Talk Oaks that
21 night just before the defendant walked up. Not so much as a
22 cross word.

23 And to emphasize that point, Rico Johnson spent the last
24 minutes of his life with his one-year-old son in the home of
25 Orlando Mendez and Stephanie Lucas. Now, again, imagine if

1 Rico and Orlando are having words to the point where Orlando
2 pulls a gun and shoots him, why does he choose to spend the
3 last minutes he's living on this earth sitting in the living
4 room of a person that he is suspicious of or a person he's
5 having a problem with or a person he's having an argument
6 with? It makes no sense whatsoever. He was there with
7 friends that he regarded just like family, just like he'd been
8 planning out, as you heard the witnesses testify.

9 Now, even if you consider for one moment Orlando Mendez
10 for some unknown, inexplicable reason decided to shoot Rico
11 Johnson to death, would he do it with his entire family right
12 there? Everybody he loves is right there, his two daughters,
13 two small one-year-old children, one of whom is his grandson.
14 There's a grandmother and an uncle in the back room. There's
15 Rico or Khalid Belin standing out front.

16 Why would he choose at that moment to pull a gun and
17 shoot in front of all of the people that he loves inside that
18 house, and a chance that a stray bullet might hit one of them?
19 With his then 14-year-old daughter, S.M., sitting so
20 close by with two small children that could have been hit by
21 the gunfire, with his fiancée of 17 years and another daughter
22 in a nearby bedroom, and again, next, he would have to get
23 them all together and get their stories straight in mere
24 minutes because that's how quickly neighbors responded, and
25 that's how quickly first responders got there, deputies and

1 EMS.

2 So he would have had to have got them all together,
3 convince them all to lie for him, get his daughter S.M. [REDACTED]
4 to say we'll make something up, we'll blame it on Larry
5 Scipio. He would have to coordinate all of that within a
6 matter of minutes and convince them to do it.

7 Now, somehow overlook the fact that father, fiancée,
8 friend just brutally murdered someone that they all regarded
9 as family. So not only does he have to convince them of that,
10 but he has to get them over the fact that he shot Rico
11 Johnson, and Rico Johnson was loved like a family member by
12 everybody who testified.

13 Now, he's also got to get rid of the murder weapon and
14 all traces of ammunition. He's got to get all of that out of
15 there before law enforcement arrives. Not only does he have
16 to coordinate these stories, convince them all to lie for him
17 and get over grief, but he also has to get rid of ammunition
18 and the gun as well in a matter of mere minutes.

19 Larry Ja Juan Scipio, Jr., known by Orlando Mendez,
20 Khalid Belin, Stephanie Lucas, S.M. [REDACTED], and [REDACTED]
21 A.M. [REDACTED]. There's no chance they misidentified him.

22 Ladies and gentlemen, this incident did not occur in some
23 alley that was poorly lit, and they saw this person that
24 they'd never seen before for a matter of seconds and then they
25 picked him out. This is a man who was known by every witness

1 who took the stand that was there that night. They knew him
2 from the neighborhood. They knew him when they saw him.
3 That's why the descriptions of him are also consistent: tall,
4 heavy-set, green T-shirt, dark pants, and short dreads.
5 They knew him when they saw him, and this was in their living
6 room.

7 Now, much was made about the lighting conditions. What
8 did every witness who was in there that night tell you? I
9 saw just fine. I could see how to take care of two kids.
10 Rico Johnson somehow managed to find his way into the living
11 room to sit down.

12 Orlando Mendez came in in those same lighting conditions
13 and managed to find his way to the back bedroom. Stephanie
14 Lucas, when the doorbell or when the door was knocked, she
15 comes out and managed to answer the door. Everybody can see
16 everybody.

17 Ben Price, the investigator, worked this case, and I
18 asked him when you were inside the house, could you see.
19 Sure. I would see just fine, and this was before Chase
20 McDaniel showed up and started taking photos.

21 Now, it may have been non-sufficient light for him to
22 take detailed photos without the flash, but when you take the
23 flash, it makes everything darker in the distance. They
24 weren't operating and they weren't performing surgery in
25 there, but they could see clearly everybody that was in there,

1 and everybody could see everybody else. And more importantly,
2 they all saw that man there, Larry Ja Juan Scipio, Jr., walk
3 into that front door right up to Rico Johnson and shoot him
4 six times. Three years later, as I've told you in my opening,
5 the most damning, compelling testimony you've heard in this
6 case came from the stand and it came from the witnesses who
7 were there.

8 Law enforcement reports, the testimony from deputies who
9 responded and investigated. It didn't come from SLED experts.
10 It didn't come from Stephanie Lucas, who was still emotional
11 when she was -- it came from her when she was so emotional,
12 and what did she say when she was asked repeatedly?

13 There was some discrepancy about what was in the report
14 about whether she was in the back bedroom when she heard the
15 shots or whether she was walking back there to that bedroom,
16 and she stated clearly I was in the back bedroom sitting,
17 knock on the door. I got up and came in, opened the door.
18 That was Ja Juan Scipio. He comes in. I start to go back,
19 and as I'm about almost back to my bedroom, that's when I hear
20 the gunshots. And again, three years later, that woman is
21 still emotional.

22 We've heard from Orlando Mendez, and what did he tell
23 you? Rico Johnson was like his brother. And he told you he
24 was in that back bedroom with his daughter, [REDACTED], and his
25 fiancée, the door knock, Scipio comes in, gunfire. He comes

1 out and as he rounds the corner, he sees Larry Ja Juan Scipio,
2 Jr., with a gun in his hand going out the door, and he pursued
3 him and he grabbed him there and they wrestle and tussle with
4 each other on the front porch to the point where Mr. Scipio
5 points the gun at him and says don't make me kill you too.
6 Three years later, he still remembers it.

7 And it didn't come from SLED experts. It didn't come
8 from paramedics, the forensic pathologist.

9 Khalid Belin. Again, this is a man who knew Larry Ja
10 Juan Scipio, and he knew Rico Johnson. Is there any chance
11 that he's mistaken about what he saw? Again, this man walked
12 right up to him, shakes his hand, and he says when you knock
13 on the door, this is OT's house. So there's no chance
14 whatsoever that he misidentifies him. And three years later,
15 he still regards that man as almost like he's living. That's
16 my boy.

17 But, folks, the most compelling of the group were the two
18 Mendez sisters, who were there that night. A.M. is now
19 20, was 17 at the time. What did she tell you? She regarded
20 Rico Johnson as her godbrother.

21 And it most certainly, definitely, positively came from
22 S.M., who gathered all the courage she had in her
23 body and came into this very courtroom to tell you what
24 happened on the night of July the 6th, 2019, just feet from
25 where she was sitting. And when she was asked to name the man

1 or identify the man that she saw kill Rico Johnson, she stood
2 and she pointed her finger at the defendant, Larry Ja Juan
3 Scipio, Jr., and she did it with all the emotion that she
4 probably was feeling that night, but she was emphatic about
5 the man that she saw come in, and she was sitting less than
6 ten feet from him with two small children at her feet.

7 And it was well-lit enough to where she made out the man
8 that did this and it was well-lit enough so that she could
9 come here three years later, stand up, and take all the
10 courage in the world and point at that man and say that's the
11 man I saw shoot Rico Johnson to death that night, three years
12 later.

13 July 4th, 2022. Folks, 4th of July weekend is a time of
14 celebration. I told you that in my opening as well, but it's
15 been three years since the defendant murdered Rico Johnson at
16 [REDACTED] Tall Oaks Drive. The 4th of July has not been the same.

17 Now, those in the Mendez house, they still have to get up
18 every day and they have to walk through that same living room
19 where this thing happened and live with it day after day after
20 day. They were there that night when he came, when death
21 came, when Larry Ja Juan Scipio, Jr., came.

22 Why? Bruised ego? Hurt feelings? It doesn't make any
23 sense. It doesn't make any sense to Khalid Belin three years
24 after the fact either. But when Rico Johnson and his friends
25 got home, they left their trouble there at the dice game.

1 Trouble soon found them, just like I told you in the opening.
2 He went and got a gun, he went to [REDACTED] Tall Oaks Drive, and he
3 brought trouble right to their front door.

4 This is a case about senseless violence, folks. This is
5 a case about a needless tragedy, but ultimately, this is a
6 case about one man's murderous actions. July the 4th, 2022,
7 approaches now and while there hasn't been much reason to look
8 forward to the 4th of July since Rico Johnson was murdered,
9 not America's independence, not holidays time off, not even
10 the fireworks, but this 4th of July is different.

11 By finding this man guilty and holding him responsible at
12 last, you can give everybody who loved Rico Johnson, his
13 family and his friends, finally some measure of justice.

14 THE COURT: Mr. Krzyston?

15 MR. KRZYSTON: Could you switch to our -- thank you.

16 THE COURT: Mr. Sharpe?

17 MR. SHARPE: Thank you, Your Honor. May it please the
18 Court.

19 CLOSING ARGUMENT ON BEHALF OF THE DEFENDANT

20 MR. SHARPE: Details. Ladies and gentlemen, details
21 matter. I'll never forget a cold winter day, overcast, back
22 in January 1995, one of those days in January it just looks
23 nasty outside and nobody with any sense would be outside
24 except for children playing.

25 I was nine years old, just turned nine in December. I

1 remember this day what I was wearing. I had on a green Nike
2 windbreaker jumpsuit. It was green pants. About halfway up
3 the jacket, it turns white. It had red stitching on the left
4 chest. It said Nike. It had a Nike check underneath.
5 Underneath that, I was wearing the Michael Jordan T-shirt. It
6 had his face on it. Right above his face was the Jumpman logo
7 that said Air Jordan. I was wearing black Adidas tennis
8 shoes.

9 I'll never forget that. Whenever we were -- I was down
10 the street from my house playing with my friends, neighbors.
11 And back in those days, we didn't have cell phones. My mom,
12 to get me home, she'd yell down the street, Patrick, Patrick,
13 and I would run home.

14 Well, this day thinking it was just like any other day,
15 it's probably about four or so. I've been home from school
16 for maybe an hour or so. Like I said, down the street,
17 shooting baskets with my neighbors and thinking it was just a
18 regular day.

19 I get home and my mom says, Patrick, I have to tell you
20 some bad news. Your friend, Barrett, when he got home from
21 school, he was hit by a car and he's dead. It was the first
22 time I ever remember hearing -- having a death impact my life,
23 but I never forget those details. Ladies and gentlemen, I ask
24 you to remember the details here.

25 As Mr. Krzyston showed you in the beginning of this

1 thing, the way the case is presented is you've got physical
2 evidence, which is objective. It can't tell any lies. You've
3 got witness statements, which are subjective, and you have
4 expert opinions, which are also subjective.

5 You put those in a box. At the end of the day, you
6 should open that box and you should be left with a clear
7 explanation regarding the details about which you have no
8 reasonable doubts, no reasonable doubts. You should be able
9 to connect the dots between all of this evidence, and you
10 should be able to fill those blanks.

11 Now, they cleared Orlando Mendez as a suspect. How?
12 Not through an investigation. The definition of investigation
13 is to study by close examination or systematic inquiry. Or
14 did they clear him based on faith, firm belief in something
15 for which there is no proof? We would argue that they
16 cleared him based on faith because they didn't investigate
17 anything regarding him.

18 Now, let's look back at some of the testimony here. The
19 first thing we heard is, is Sgt. Odom says when he got to the
20 scene, Orlando Mendez immediately rushes out to him to want to
21 tell him his side of the story. In our opinion, that's
22 because he wants to dictate where the investigation is going.

23 Now, in court now, some of these statements are different
24 from what they originally told the police to what they said on
25 the stand. Here in court, you heard him saying that they're

1 horsing around and that Larry, he's -- Mr. Krzyston
2 specifically asked him if Larry touched the car. He said, no.
3 It was his rear end. He was at the front of the car.

4 Well, in Amber Jones's interview with Orlando Mendez, he
5 specifically says he stood in front of the car and put his
6 hands on the hood of the car. Then while he's sitting here in
7 court, he tells us that he gets in -- after the incident, he
8 gets in his car and leaves the scene. He spoke to -- that
9 night he spoke to Sgt. Odom, Investigator Flowers, who -- or
10 Amber Jones/Investigator Flowers, and Investigator Ben Price.

11 He didn't mention that he left the scene to not a single
12 one of them. Don't hear anything about that until he gets on
13 the stand here. Where did he go? What was he doing? Why
14 didn't he tell anybody?

15 He says that Khalid Belin was sitting on the front steps.
16 Independent witnesses, the Fridays, they had a clear sight of
17 the front steps. You heard Stephanie Lucas say that the front
18 porch was lit up. You saw the pictures. There's a light on
19 on the front porch. How did the Fridays not see him?

20 Ms. Stephanie Lucas. You heard from everybody that
21 Stephanie and Orlando have been in a relationship for years
22 and years and years, and she classifies their relationship as
23 good friends on the stand. What? Why would she try to
24 diminish the existence of their relationship?

25 She told -- at the scene, she told Deputy Jones, now

1 Investigator Flowers, that she heard a knock on the door. She
2 was back in her room. She left the room, answered the door,
3 went back to her room, was sitting down in her chair when she
4 heard the gunshots. She tells Investigator Ben Price she
5 opened the door and before she got back to her room, the
6 shooting happens. Big difference. Details matter. Details
7 matter.

8 She tells -- at the scene, she tells Investigator Jones
9 that she's -- that she's known Larry for years. On the stand,
10 she said she'd known him for about a year. That's a
11 significant difference. About a year is, like, ten months,
12 maybe up to 14 months. That's about a year. For years, at
13 the least years is at least 24 months because years is
14 multiple. So it has to at least be 12 months times two, 24
15 months. That's a significant difference.

16 Now, you heard from the Mendez -- the daughters. I don't
17 know about y'all. I have a three-month-old at home. 10:30 at
18 night my baby is asleep. We're not feeding that baby at 10:30
19 at night. We're hoping that baby is asleep and we're not
20 going to have to deal with him until the morning. Kind of
21 unusual that there'd be not one, but two one-year-olds at that
22 time of night.

23 Now, [REDACTED] A.M. [REDACTED]. She tells Amber Jones at the scene
24 that she was in the back bedroom, so she didn't see anything.
25 Orlando Mendez on the stand also said [REDACTED] A.M. [REDACTED] was in the

1 back bedroom with him. However, you heard her yesterday get
2 up on that stand right there and tell you that all of a sudden
3 she saw everything. Interesting. You even heard her tell you
4 that she never spoke to Amber -- to Investigator Flowers,
5 never spoke to her. Specifically, I never spoke to a female
6 officer.

7 Now, [REDACTED] S.M. [REDACTED]. She's the only witness who hadn't
8 directly contradicted herself, and that's because they didn't
9 take any detail from her statement. However, she did
10 specifically say that she did not speak to a single person
11 from the Florence County Sheriff's Office.

12 Now, Khalid Belin. He says on testimony that Larry
13 wasn't at the front of the car, he was at the side of the car.
14 Well, that's a huge difference. You're either at the front or
15 you're at the passenger side. You can't be at both.

16 He didn't mention -- when he was interviewed at the
17 scene, he didn't mention a single thing about a dice game.
18 Specifically said he didn't know why this would have happened.
19 Well, if there was some kind of interaction at the dice game,
20 wouldn't that be relevant to tell the investigators? I mean,
21 he said they were fooling around.

22 He tells you that he was sitting on the front porch
23 smoking a cigarette. Again, the Fridays, the only independent
24 witnesses that do not live at [REDACTED] Tall Oaks, who had a clear
25 view of the front porch and they're in their car with it

1 cranked up about to leave, I would imagine their headlights
2 were on, shooting right at the front porch. They didn't see
3 Khalid Belin. They didn't see Larry Scipio.

4 He's -- he told her -- told Investigator Jones at the
5 scene that he saw Larry leave the incident, but in court on
6 that witness stand right there, he told you that he ran away
7 when he heard the gunshots and didn't see Larry. I mean,
8 details, ladies and gentlemen, that matters.

9 Now, the Fridays, the only independent witnesses, and
10 they directly contradicted a lot of what's been said, and we
11 didn't hear from them. The State didn't call them as
12 witnesses. They said, again, they were sitting in their car.
13 Well, you saw the pictures that Cpl. McDaniel took that show
14 they have a clear, unobstructed view from their car to the
15 front porch/front yard to the in-between the houses.
16 If somebody had run from anywhere between those houses, they
17 would've seen it. They would've seen it, and you're going to
18 tell me they wouldn't have seen a fight happening on the front
19 porch after they heard gunshots? Immediately you hear
20 something loud, you're going to look up, especially if you're
21 not seeing where the shooting is coming from.

22 And you're hearing all of this about the Fridays from
23 what the defense brought to your attention. There's no
24 reasonable explanation why they wouldn't have seen the two
25 people fighting. They said the only person they saw was

1 Orlando Mendez. They did not see Larry. They specifically
2 said they did not see Larry Scipio, specifically said they did
3 not see Larry Scipio. Also did not mention anything about
4 seeing Khalid Belin.

5 Now to the physical evidence. It's objective. Can't
6 make this up. Here's what we saw. We saw the pictures from
7 the crime scene, layout of the house. Saw the location of
8 where Rico Johnson was sitting and where his -- where his body
9 was. Saw pictures of where the wounds on his body were, and
10 then you saw the poor lighting conditions in the house.

11 Now, you saw the pictures in the background. You can't
12 tell. It's very dark in the house. It was very light in the
13 house when that bright -- that bright flash is going, but
14 that's not how the lighting conditions were.

15 Now, here's the things that we didn't see. We didn't see
16 anybody take fingerprints of the hood of the car that
17 supposedly had both of his hands. Wouldn't that have been
18 nice if we could have pulled some fingerprints on that and
19 that could have corroborated -- independently corroborated the
20 story that Larry was actually in the presence of that vehicle
21 at the supposed dice game. That would have been nice.

22 Remember, they ran blood on Larry's shirt, that
23 Investigator Price from at least July of 2019 up until at
24 least March of 2022, three months ago, he was convinced that
25 the shirt that they had from Larry at the jail was the shirt

1 he was wearing at the time the crime was committed, but there
2 was no blood on it. And then when the blood comes back, but
3 there's none on there, he's all of a sudden, oh, we didn't
4 think it was his shirt. How convenient is that?

5 You're just basing your investigation on what you're
6 getting. Didn't have any DNA or blood testing done on the
7 clothing worn by Orlando Mendez, despite the clear appearance
8 of blood on his clothing. It showed two different types of
9 potential staining. No blood test on that, and you can see it
10 on his -- on his clothes.

11 No GSR run on Orlando Mendez's hands or clothes. GSR,
12 the gunshot residue that they talked about that you can't get
13 unless it's within 6 hours of the crime. Well, they're
14 sitting there talking with Orlando Mendez -- what? -- 15
15 minutes after the crime? Twenty minutes after the crime?
16 He's at his house. How hard would it be to take -- get him to
17 go change clothes and give them the clothes so that they can
18 test it so they can clear him, make him not a subject, a
19 suspect. They didn't do that. They didn't do that.

20 Didn't take fingernail scrapings for DNA on Orlando
21 Mendez's hands. You heard how in typical situations where
22 there's a struggle, they scrape the fingernails so that they
23 can identify the DNA of the victim's fingernails so they can
24 ID the perpetrator.

25 Why didn't they do that? You saw his fingernails.

1 They're long, jagged. Would have been great for taking DNA
2 had he gotten into a fight with Mr. Scipio, and they could
3 have confirmed the DNA of Mr. Scipio underneath his
4 fingernails to confirm his identity. Didn't do that. Didn't
5 do that.

6 Didn't do any examination of any of the cell phones for
7 the Mendez family. Could have gone through their text
8 messages, Facebooks, other communications to see if there is
9 any communication about this.

10 Now, the physical evidence. The lighting conditions we
11 already talked about, why they all consistently misrepresent
12 how bright it was in there. Because they're trying to bolster
13 their credibility with you.

14 How about the -- the pictures? The State, every time he
15 put those pictures up, he had them sideways. Was that to try
16 to confuse you? I don't know if you saw us. We turned them
17 straight up so you could see so you can understand what's
18 going on.

19 Didn't see any pictures of down the hallway. Why didn't
20 they have any pictures down the hallway so you can see exactly
21 where the rooms were that these people were supposedly in? It
22 would be something that would have been nice to clarify the
23 scene.

24 The back door to the residence led out to the backyard.
25 It was secluded, dark, and had a large retention pond. Did

1 you see that? How hard would it have been for Khalid or
2 Orlando to run out the back and thrown the pistol in that pond
3 and then he runs back to the house by the time the police get
4 there?

5 The physical layout of the exterior of the house. You
6 saw the pictures. The Fridays had a completely unobstructed
7 view. Unobstructed. Front porch is lit up, well-lit they
8 say. You saw the pictures. You can see it right here.
9 Lights on. Lights on.

10 How about the injuries to Mr. Rico Johnson's body? You
11 heard Dr. Beaver sit up there and testify that all of the
12 shots, he would have had to have presented his full back, his
13 full back.

14 You heard testimony of Stephanie Lucas, among others,
15 that Rico was sitting just like this, just like this. How in
16 the world do you get shot in the back six times if you're
17 facing forward?

18 You also heard him testify that it would have been just
19 as likely -- you heard Mr. Krzyston say if I'm shooting you
20 here, he said it would be more likely that the person was
21 shooting from over there, which would be the hallway that
22 Orlando Mendez said he was coming down.

23 And the close range and the nature of the bullets would
24 have caused high velocity impact blood spatter. Now, the high
25 velocity impact blood spatter is something that you heard

1 Deputy Coroner Bo Myers talk about, very, very teeny, tiny,
2 almost unable to see droplets of blood that come after a
3 shooting at close range. Right? He said -- I think he said
4 it was almost like cough droplets when you cough, very small,
5 very small.

6 Now, this is Defense Exhibit 14, the car that the
7 Friday's are sitting in. Right? They see Orlando Mendez out
8 here in the middle of everything, trying to dictate the
9 investigation, their car, clean view of the front porch. You
10 heard Officer McDaniel say that he was standing at the base of
11 the stairs when he took this picture. Clean view of the
12 front. Again, see their car? Clean view of the front. Clean
13 view right here.

14 Supposedly, from the testimony we heard, not only did
15 Khalid Belin run this way or this way, one of these two ways,
16 but Larry Scipio also went and left this way. How in the
17 world are you sitting right here and you don't see not one of
18 those two people running right across your view? It doesn't
19 make sense. It's two or three people sitting right there and
20 not a single one of them saw it.

21 Now, this is Defense Exhibit 4. Now, if you look closely
22 here now, these -- these photos we've got for you in digital
23 copy right here for you to review so you can have a better
24 clarity, but if you look closely, real close right there, you
25 can see a little red dot, a little red dot right there, a

1 little red dot right there, a little red dot right there.

2 We would submit to you that that's consistent with high
3 velocity impact blood spatter. Again, another picture. A
4 little red dot, a little red dot, a little red dot, a little
5 red dot all over the place. High velocity impact blood
6 spatter.

7 Now, what evidence would we have seen if the Florence
8 County Sheriff's Office had actually done an investigation to
9 clear Orlando Mendez? Cell phone data, not just the GPS and
10 tower triangulation to show the location, but they could have
11 pulled his text messages and other communications with others
12 about the event.

13 The gunshot residue analysis of the particle lifts. They
14 could have done it from his hands and his clothes. Didn't do
15 it.

16 Fingerprint the red Camaro, again, that he said Larry put
17 his hands on it. That's going to leave a fingerprint. Didn't
18 check those.

19 How about the serology testing? We could have tested to
20 see if there was any blood on Orlando Mendez's shirt, same way
21 they tested the blood for Larry's shirt, which there was none
22 there. Bloodstain pattern analysis. Not only did we have the
23 blood on his shirt over here that we could all see, but also
24 just those little dots I just showed you.

25 Now, again, how do you clear Orlando Mendez as a suspect?

1 Was it based on an investigation or faith? Faith.

2 Now, as we told you in the beginning, the State has to
3 prove beyond all reasonable doubt. What do you do? You
4 watched witnesses, looked at their behavior, listened to what
5 they're saying. Consider the objective physical evidence we
6 just went over. Weigh their contradictions, which there are
7 numerous, numerous amounts of contradictions, and you've got
8 to decide whether you want to believe the witnesses.

9 Now, we would submit to you that Larry is not guilty. We
10 submit that there's not a sufficient investigation performed.
11 They took people at their word. And I mean, honestly, they
12 handled this investigation like an investigation would be
13 handled before the ability of science to help investigation.

14 There's too much contradiction in the subjective
15 evidence, people saying different things at different times.
16 You saw it. You've been provided absolutely zero objective
17 evidence, zero objective evidence that would prove beyond any
18 reasonable doubt that Larry Scipio is guilty.

19 We'd submit to you that as a result of there being no
20 objective evidence and the unreliability of the witnesses,
21 wishy-washy subjective evidence, we'd submit to you that the
22 State has not met their burden to prove this case beyond a
23 reasonable doubt. And therefore, you must go back to the jury
24 room and find Larry Scipio not guilty. Thank you.

25 THE COURT: Mr. Tucker?

REPLY CLOSING ARGUMENT ON BEHALF OF THE STATE

MR. TUCKER: Mr. Sharpe wants you to focus on what the Fridays might have seen, could have seen, should have seen. He wants you to ignore what the witnesses on the stand actually saw and told you they saw because they were in that home that night at [REDACTED] Tall Oaks, not sitting outside doing who knows what in that car.

It is pure speculation to suggest that the Fridays were looking straight ahead and kept their attention there the entire time. I'd say it's just as likely, just as plausible that when they heard gunfire, they ducked down and they stayed down until they knew the coast was clear. They had a child with them, and it's not clear whether the car was started, whether they were getting in there, loading it, nothing.

All we know is what was in Amber Jones's statement, and nothing in that statement corroborates anything that they think or what they believe or what they hope the Fridays saw. He wants you to ignore what S.M. [REDACTED] saw. He wants you to ignore what A.M. [REDACTED] saw. He wants you to ignore what Stephanie Lucas saw and Khalid Belin and Orlando Mendez.

And what did they all tell you? Khalid Belin told you because he saw it. He saw what happened at that dice game where they tried to leave, and he saw what this man did. He tried to block Rico Johnson. Both he and Orlando Mendez in the car saw it.

1 Is it possible he was sitting in the back, he heard
2 something hit the car, he looked up, and he saw hands? What
3 Orlando Mendez said it was his butt, he kind of put his butt,
4 but some part of the body touched the car. But we know that
5 he was preventing Rico Johnson from pulling away.

6 Now, does it seem strange that something like that would
7 cause a man to an hour and a half later walk into a house and
8 shoot someone six times? Sure. Even Khalid Belin couldn't
9 understand it. I don't understand it, but it made sense to
10 him because he did it.

11 They want you to ignore what Stephanie Lucas saw. Now,
12 is it possible in the confusion and in her state of mind,
13 shock, and disbelief -- and you heard some of that in that
14 9-1-1 call and you heard some more of it when she testified.
15 Is it possible that she told the deputy one thing and was
16 confused on one or two facts?

17 Think about when these people gave these statements? It
18 wasn't two weeks later. It wasn't two months later when they
19 had a chance to calm down to quiet and get themselves
20 composed. They were asked these questions while they were
21 still at the scene, still while Rico's body ended up removed
22 from the living room. That's where they were giving these
23 statements to law enforcement.

24 Now, is it possible that they were confused on some
25 facts, given their state of mind? Yeah. Is it possible that

1 law enforcement, again, Amber Jones, overwhelmed with all that
2 was going on, is it possible that when she went back to do her
3 incident report, she got some of the facts wrong? Sure. But
4 they want you to focus on that.

5 Facts matter and words matter, and not the facts or the
6 words that came out of the witnesses who were on the stand.
7 They want you to ignore what Stephanie Lucas saw when she
8 heard that knock on the door. When she went to it and she
9 opened it, she saw this man there. She called him by name.
10 Hey, Ja Juan. He responds, hey, Ms. Steph, and he walks right
11 by her. She turns to go back to that bedroom, and she hears
12 gunfire.

13 Now, if these people are going to lie, if Stephanie
14 Lucas, S.M., A.M., Orlando Mendez, or
15 Khalid Belin all are going to lie, they'll frame Mr. Scipio
16 and cover for Mr. Mendez, then why aren't their lies better?
17 Why weren't they all sitting in the living room, and why
18 didn't all of them come in here and say, yeah, I was there and
19 saw the whole thing, it was him?

20 Think of the little details. Khalid Belin says he shook
21 my hand. I told him to knock on the door, and the little
22 things that go into it. And they have to manufacture this all
23 in a matter of minutes because that's how quickly neighbors
24 got there and that's how quickly law enforcement got there.
25 That's how quickly that scene developed like that. Think of

1 how quickly they've got to get all these little minute details
2 together.

3 They want you to ignore what they saw or what Orlando
4 Mendez said. He was in the back room. He heard the gunfire.
5 He came out and saw that man. Remember when Mr. Krzyston
6 tried to say, well, you -- how did you know who it was, he had
7 his back to you? I knew him. I knew it was him. I knew Ja
8 Juan, and he engaged with him and he was on that porch.

9 Now, again, they want you to focus on what the Fridays
10 should have seen, could have seen, the fact that it wasn't in
11 that report. You know, it's obviously Mr. Scipio.

12 Again, I think it's just as plausible that they ducked
13 down when they heard the gunfire and didn't pick their heads
14 up until they heard Orlando Mendez say somebody has been shot,
15 call 9-1-1. What we do know is that the Fridays went straight
16 over there.

17 Now, if they thought for one minute that Mr. Mendez had
18 actually shot somebody in that business, do you think two
19 reasonable people would have gone right in there, along with a
20 child that you can hear on 9-1-1 all around these people? Do
21 you think that that's likely? I don't.

22 They want you to ignore the facts. They want you to
23 focus on speculation, what would have been, what might have
24 been, what should have been. And what we know is this. These
25 people came into this courtroom three years after the fact and

1 told you what they saw, what they heard, what they experienced
2 that night, and it's not something they're probably ever going
3 to forget, I'm sad to say. Not when they're 17, not when
4 they're 20, probably not when they're 30. Hopefully, with
5 time it gets easier there.

6 But S.M. [REDACTED] got on that stand and she had the
7 best seat in the house or worst, depending on how you look at
8 it, and what did she tell you she saw? She was here. Rico
9 Johnson was there sitting on the couch. She heard her mom
10 come out and go to the door when the door knocked and there
11 was knock on the door.

12 She saw it open. She saw Ja Juan come in, and look at
13 how she responded. She was as emotional yesterday when she
14 testified as she probably was that night, and we know that
15 because Ben Price said she was so emotional he couldn't speak
16 to her. He had to get Amber Jones to do it.

17 It took great courage to come into this courtroom and get
18 on that stand. And when I asked her do you see the man in
19 here that was there that night that shot Rico, she stood up,
20 she looked and, with all the courage she could muster, she
21 looked right at the man she saw do it that night and pointed
22 him out for you. That's what she saw.

23 [REDACTED] saw Ja Juan come in. If you recall her
24 testimony, she was sitting at the table with her sister, a
25 knock on the door. She gets up, goes to the room and, in

1 fact, she and her sister switched places, and she says she saw
2 Ja Juan come through the door. This is a man that she knew.
3 This is a man Stephanie Mendez knew. And when she goes back
4 towards that bedroom, she turns and she can see him
5 approaching Rico.

6 Now, if she's going to lie, why didn't she say, yeah, I
7 was sitting at the table with my sister and I saw the same
8 thing my sister did, but she said I went to that back bedroom
9 and then that's when I heard gunfire and that's when I saw my
10 dad come out and engage him, but every one of them gave
11 consistent statements that night in terms of description:
12 tall, heavy-set, green T-shirt, dark pants, short dreads.

13 Those are details that matter and, as I said at the
14 beginning, the most compelling, damning testimony against the
15 defendant is what you heard from Stephanie Mendez, Amya
16 Mendez, Stephanie Lucas, Orlando Mendez, and Khalid Belin when
17 they all told you what they saw and what they experienced that
18 night and, folks, they were there. They were in [REDACTED] Tall
19 Oaks. Not the Fridays, not anyone else. They were there, and
20 they saw it.

21 And again, that house, it may not have been lit up like
22 Times Square, but what house would at 10:30 at night? And so
23 they were getting ready for bed and trying to calm down, but
24 it was well enough lit when they saw everything that happened.
25 And think about a gun going off in a place six times.

1 I guarantee you that lit that living room up.

2 Orlando Mendez. He was cooperative. He spoke to law
3 enforcement that night every time they asked him. He, in
4 fact, sought law enforcement out. Now he's this criminal
5 mastermind who engineered this whole thing because he's the
6 one who shot Rico Johnson? Why didn't he have the presence of
7 mind to pull his T-shirt off too? And he told you after this
8 when he engaged when he was outside and he tried to get the
9 gun away from Larry Scipio, he went back inside to check on
10 Rico.

11 Those little things that Mr. Sharpe pointed to that could
12 be blood is speculation. It's pure conjecture. But if, in
13 fact, it was blood, you heard Bo Myers also say that
14 expiration or where someone coughing blood could throw those
15 little things out.

16 And we know that Orlando was inside because he went to
17 check on Rico Johnson because he cared about Rico Johnson. He
18 didn't kill him. He loved that man like a brother. He told
19 you that, and every other witness who knew the relationship
20 between the two told you that.

21 It is pure speculation as to what the Fridays saw. It is
22 pure speculation as to what was on that shirt, and the reason
23 that Ben Price never processed anything is because he never
24 for one moment considered Orlando Mendez to be a suspect.

25 But I'll tell you who he did consider to be a suspect:

1 Larry Scipio, because all of the evidence that night,
2 everything that he learned during the course of his
3 investigation, pointed in one direction and one direction
4 only, to the defendant, Larry Ja Juan Scipio, Jr.

5 Remember what they told you from the stand, the Mendez
6 family and Stephanie Lucas. Remember what they saw, remember
7 what they heard, and remember their emotions. They were
8 there. They experienced it. And sadly, it's an experience
9 that they're likely to never forget then, now, or ever.

10 And it is time now to hold this man responsible for what
11 he did. He murdered Rico Johnson. He walked into a house,
12 walked right up to that man, and shot him six times with two
13 one-year-old children and a 14-year-old less than ten feet
14 away. It's now time to give Rico the justice and peace he
15 deserves.

16 FURTHER CHARGE ON THE LAW

17 THE COURT: All right. Ladies and gentlemen, as I told
18 you, once the lawyers finished their closing arguments that I
19 would have some additional remarks to make to you.

20 I want you, ladies and gentlemen, to clearly understand
21 that you're not partisans or advocates for the State of South
22 Carolina or the defendant. It is your duty by your joint
23 deliberations to determine the facts in this case, giving to
24 the defendant the benefit of every reasonable doubt on each
25 and every issue. Then to the facts which you determine to be

1 true, you should take and apply the law which has been given
2 to you by this Court and thus arrive at a verdict in this
3 case. Thus, when you have accomplished these
4 responsibilities, you will have satisfied your oath as jurors,
5 and you will have discharged your duty to this Court.

6 Now, once you retire to the jury room, Mr. Foreman, the
7 bailiff will give the verdict form to you. When you, the
8 jury, arrive at a verdict in this case, you, Mr. Foreman, will
9 select the verdict as to the offense on the verdict form.

10 Now, if the State has failed to prove the guilt of the
11 defendant beyond a reasonable doubt, your verdict will be not
12 guilty. Likewise, if the State has proven the guilt of the
13 defendant beyond a reasonable doubt, your verdict will be
14 guilty. Now, once a decision has been made, you, Mr. Foreman,
15 will initial whichever choice of the verdict of the jury to
16 the offense charged.

17 I will tell you, ladies and gentlemen, that the verdict
18 that you render in this case must be the verdict of each and
19 every juror. It must be your unanimous verdict. All twelve
20 of you must agree on the verdict which you authorize the
21 foreman to write for the jury.

22 I want you to further understand -- understand, ladies
23 and gentlemen, that the order in which the choices of verdict
24 appear on the verdict form are not suggestive of any verdict
25 on the part of this Court. The verdict in this case to be

1 determined by you, the jury, not the Court.

2 Furthermore, ladies and gentlemen, please understand that
3 even though I will give the verdict form to the foreman, it is
4 not his verdict alone. It is the verdict of all twelve of
5 you, and I emphasize again that it must be unanimous.

6 I'm also going to give you all a copy of these
7 instructions in written form. During the -- during your
8 deliberations, you may refer to the instructions to guide your
9 decision making. I will tell you that you must consider the
10 instructions as a whole and not follow some and ignore others.

11 Please, Mr. Foreman, once a verdict is rendered, return
12 the copy of the instructions to the Court.

13 Now, I'm getting ready to ask you all to retire to the
14 jury room. Does everyone on the jury feel okay? Anyone not
15 feeling well?

16 All right. When I instruct you all -- when I -- or when
17 I let you all go to the jury room here in just a minute, I'm
18 going to instruct you not to begin your deliberations until
19 you're instructed to do so. Okay? The law requires that I
20 consult with the attorneys to make sure that I have not left
21 anything out of these instructions.

22 After I've spoken with the attorneys, the bailiff will
23 bring in a copy of my instructions, along with the items of
24 evidence, as well as the verdict form and, at that time, you
25 will be instructed to begin your deliberations.

1 Now, during your deliberations, should you have any
2 questions, Mr. Foreman, it will be your responsibility to
3 reduce such to writing. Knock on the door. Let the bailiff
4 know you have a question. Give it to him and he will get it
5 to me. After consulting with the attorneys, I'll answer it
6 how I deem appropriate. Okay?

7 Likewise, the bailiff or -- also, the bailiff will be
8 placed outside the jury room door. Once you all have reached
9 a verdict, filled out the verdict form, signed and dated the
10 verdict form, knock on the door. Let the bailiff know that
11 you all have reached a unanimous verdict. We'll get you back
12 in the courtroom as quickly as possible.

13 At this time, I'm going to ask you all to step to the
14 jury room. Do not discuss the case at all until you are
15 instructed to do so. As I said, I'm going to consult with the
16 attorneys for a minute and we'll gather the items of evidence,
17 and all of those items of evidence, along with the
18 instructions and the verdict form, will be brought back to you
19 and, at that time, you will be instructed to begin your
20 deliberations.

21 I know that lunch has been ordered for you all. I have
22 asked them to have your lunch here around noon; so it should
23 be here shortly as well. So step to the jury room at this
24 moment and do not discuss the case until you're instructed to
25 do so.

1 (WHEREUPON, the jury exited the courtroom at 11:24 a.m.)

2 THE COURT: All right. Again, at this time, any
3 objection or exception to anything that I've said to the jury
4 from the State?

5 MR. TUCKER: No, Your Honor.

6 THE COURT: Defense counsel?

7 MR. KRZYSTON: No, sir, Judge.

8 THE COURT: All right. If you all would come forward,
9 make sure -- I know that you -- I think you all yesterday kind
10 of went through the items of evidence to make sure everything
11 was up here.

12 MR. KRZYSTON: I think she's going to make us do it
13 again. So no problem.

14 THE COURT: Here's my verdict form as well as the jury
15 instructions.

16 (WHEREUPON, there was a pause in the proceedings to check
17 the evidence, after which the proceedings resumed as
18 follows.)

19 (WHEREUPON, the jury instructions were marked as Court's
20 Exhibit No. 4.)

21 THE COURT: Any objection to me pulling the alternate out
22 and releasing them in the back -- in the back hall?

23 MR. KRZYSTON: No, sir.

24 THE COURT: Okay. All right. We'll stand at ease.

25 (WHEREUPON, the jury deliberations began at 11:28 a.m.)

1 (WHEREUPON, there was a break in the proceedings from
2 11:28 a.m. until 1:41 p.m., after which the proceedings
3 resumed as follows.)

4 THE COURT: All right. It's my understanding that the
5 jury has reached a verdict. Anything from the State before I
6 bring the jury out?

7 MR. TUCKER: No, Your Honor.

8 THE COURT: Defense Counsel?

9 MR. KRZYSTON: No, sir, Judge.

10 THE COURT: All right. I will remind everyone in this
11 courtroom that whatever the verdict is to keep your emotions
12 in check. If you don't believe you can do so, you need to
13 exit the courtroom now. If you fail to keep your emotions in
14 check, the Court could hold you in contempt and sentence you
15 to a period of incarceration and/or a fine.

16 All right. Bring me the jury, please.

17 THE BAILIFF: Yes, sir.

18 (WHEREUPON, the jury entered the courtroom at 1:43 p.m.)

19 THE COURT: All right. We have all the jurors.

20 Madam Clerk?

21 THE CLERK: Mr. Foreman, have you all reached a verdict?

22 THE FOREMAN: Yes, we have.

23 THE COURT: You may publish the verdict.

24 VERDICT

25 THE CLERK: State of South Carolina, County of Florence,

1 in the Court of General Sessions for the Twelfth Judicial
2 Circuit, State of South Carolina versus Larry Ja Juan Scipio,
3 Jr., Indictment Number 2019-GS-21-1930.

4 We, the jury, in the above captioned case on the charge
5 of murder of Rico Johnson unanimously find Larry Ja Juan
6 Scipio, Jr., guilty. Dated June 24th, 2022, signed Emory Neil
7 Lane, Jr., Foreperson.

8 Members of the jury, if this is your verdict, please
9 raise your right hand.

10 THE COURT: Let the record reflect that all twelve jurors
11 have raised their right hand in response to such question.

12 All right. Anything from the State at this time?

13 MR. TUCKER: Nothing, Your Honor.

14 THE COURT: Defense counsel?

15 MR. KRZYSTON: I would ask that the jury be polled, Your
16 Honor.

17 THE COURT: All right.

18 THE CLERK: I'm going to call each one of your names.
19 When I do, I need you to stand. I'm going to ask you two
20 questions, and I just need you to answer. I need you to
21 respond to each question that I have.

22 97, Emory Lane. Was this your verdict then in the jury
23 room?

24 JUROR NUMBER 97: Yes.

25 THE CLERK: Is this still your verdict now?

1 JUROR NUMBER 97: Yes.

2 THE CLERK: Thank you.

3 43, Jasmine Davis. Was this your verdict then?

4 JUROR NUMBER 43: Yes, ma'am.

5 THE CLERK: Is this still your verdict now?

6 JUROR NUMBER 43: Yes, ma'am.

7 THE CLERK: Thank you.

8 69, Linda Groff. Was this your verdict then?

9 JUROR NUMBER 69: Yes, ma'am.

10 THE CLERK: Is this still your verdict now?

11 JUROR NUMBER 60: Yes, ma'am.

12 THE CLERK: Thank you.

13 159, Angela Turner. Was this your verdict then?

14 JUROR NUMBER 159: Yes.

15 THE CLERK: Is this still your verdict now?

16 JUROR NUMBER 159: Yes.

17 THE CLERK: Thank you.

18 11, William Bazen. Was this your verdict then?

19 JUROR NUMBER 11: Yes.

20 THE CLERK: Is this still your verdict now?

21 JUROR NUMBER 11: Yes.

22 THE CLERK: 50, Karen Dubose. Was this your verdict

23 then?

24 JUROR NUMBER 50: Yes.

25 THE CLERK: Is this still your verdict now?

1 THE COURT: All right. Anybody else wish to say
2 anything, Mr. Tucker?

3 MR. TUCKER: I believe that's all the family members. I
4 know his father wants to, but I think his father is very
5 emotional, as is his brother.

6 THE COURT: Okay. All right. Mr. Krzyston? Mr. Sharpe?

7 MR. KRZYSTON: Thank you, Your Honor. May it please the
8 Court.

9 We certainly understand and respect the jury's decision
10 in this case. You know, Your Honor, again, much beyond saying
11 that, you know, we talked about in opening the extensive
12 network of support Larry has in the community. Certainly,
13 Your Honor is aware of the research indicating life expectancy
14 in the Department of Corrections, and I would encourage the
15 Court to consider a lesser alternative than a life sentence.

16 Certainly, we maintain that Mr. Scipio's innocence, as he
17 intends to and is providing all notice of his intent to seek
18 appeal. And so with that, Judge, I would tender to Mr.
19 Sharpe.

20 THE COURT: Anyone from his family wish to say anything?

21 MR. KRZYSTON: No, Your Honor.

22 THE COURT: All right. Mr. Sharpe, anything you wish to
23 say?

24 MR. SHARPE: Your Honor, just to echo what Mr. Krzyston
25 said. We'd ask you to consider the lower end of the -- of the

1 sentencing.

2 THE COURT: All right. Mr. Scipio, I certainly don't
3 want you to say anything that could affect any appellate
4 rights that you may have, but do you wish to address the Court
5 in any way?

6 THE DEFENDANT: No, sir.

7 THE COURT: All right. Has he -- has the defendant been
8 incarcerated since his arrest?

9 MR. TUCKER: He has, Your Honor.

10 THE COURT: And that was July 8th of 2019?

11 MR. TUCKER: Yes, Your Honor.

12 MR. KRZYSTON: Your Honor, if you're calculating, it's
13 1,083 days.

14 THE COURT: All right. Anything further from the State?

15 MR. TUCKER: No, Your Honor.

16 THE COURT: Defense counsel?

17 MR. KRZYSTON: Not at this time, Judge.

18 SENTENCE

19 THE COURT: All right. On 2019-GS-21-01930, the
20 defendant is hereby committed to the State Department of
21 Corrections for the balance of his natural life, given credit
22 for 1,083 days. Thank you.

23 MR. TUCKER: Thank you, Your Honor.

24 (WHEREUPON, the proceedings ended at 2:05 p.m.)

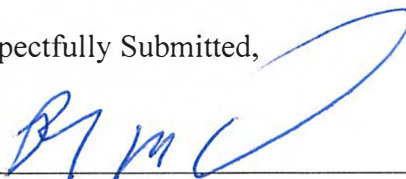
25 --- END REQUESTED TRANSCRIPT ---

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

RECEIVED**Feb 05 2024****SC Court of Appeals**

Respectfully Submitted,



Robert M. Dudek

Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

This 5th day of February, 2024.

RECEIVED

Feb 05 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Florence County

Honorable D. Craig Brown, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

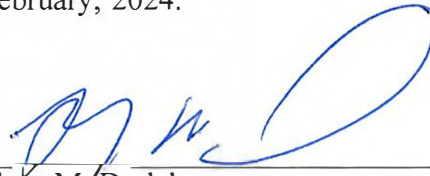
LARRY JA JUAN SCIPPIO, JR.

APPELLANT

APPELLATE CASE NO. 2022-000949

CERTIFICATE OF SERVICE

I certify that a copy of the Record on Appeal in the above-referenced case has been served upon Melody J. Brown, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 5th day of February, 2024.



Robert M. Dudek
Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

From: [Pollard, Shelby](#)
To: [SC - BROWN MELODY](#); [Angela Brown](#)
Cc: [Dudek, Robert](#)
Subject: 2022-000949 The State v. Larry Ja Juan Scipio, Jr. - Record on Appeal
Date: Monday, February 5, 2024 4:42:00 PM
Attachments: [The State v. Larry Ja Juan Scipio, Jr. - Record of Appeal.pdf](#)

Good Afternoon,

Please find attached for service in the above-referenced case the Record on Appeal. This will be filed today, February 5, 2024, with the Court of Appeals via email filing.

Thank you,
Shelby

Shelby Pollard

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