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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENWOOD COUNTY
Court of General Sessions
Frank R. Addy, Jr., Circuit Court Judge

Appellate Case No. 2022-001441

The State, ...Respondent,

v.

Deshawn Chazz Hurley,.....Appellant.

RECORD ON APPEAL – VOLUME II OF III

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State's Exhibits 1-82, 96, 109-127, 130-138, and 141, co-defendant Reed's Exhibits 4 and 16, And Court Exhibits 1-15 will be transported to the Court.

1 A 200.

2 Q What color?

3 A Black.

4 Q What year? What make?

5 A 2015.

6 Q 2015? Okay. Let me ask you -- and you agree, were you
7 parked pretty close to Gabe's apartment?

8 A Yes.

9 Q Okay, and I know they've shown you some photographs --
10 kind of when you walk down the steps over to the right --
11 when you walk down the steps, there's a parking lot;
12 correct?

13 A Yes.

14 Q Were you parked over there?

15 A Yes.

16 Q From walking down those steps over to the parking lot,
17 what's that? 25 feet?

18 A Something like that.

19 Q It's not that far of a walk, is it?

20 A No.

21 Q And that's where your black Chrysler was parked at?

22 A Yes.

23 MR. HENDERSON: I don't have anything further, Your
24 Honor.

25 THE COURT: Mr. Grose?

1 CROSS EXAMINATION

2 BY MR. GROSE:

3 Q Mr. Parks, my name is Charles Grose and I represent
4 Chazz Hurley. I'm just going to ask you a couple of follow
5 up questions. I'm not trying to embarrass you by doing
6 this, but the prosecutor asked you about being in prison?

7 A Yes.

8 Q And I think you said that was for a probation
9 violation?

10 A Yes.

11 Q Was that probation violation -- was one of the charges
12 armed robbery?

13 A Yes.

14 Q Was one of the charges possession of a weapon?

15 A Yes.

16 Q And were there two drug charges?

17 A Yes.

18 Q And I understand that they transferred you from the
19 Department of Corrections to the Greenwood County Jail for
20 this trial?

21 A Yes.

22 Q Did they do that last Friday?

23 A Yes.

24 Q And you're here to talk about what happened to you back
25 in April of 2020?\

1 A Yes.

2 Q But you don't know who is responsible for that, do you?

3 A No.

4 Q I'm sorry you had to go through all that. Thank you
5 for being here.

6 THE COURT: No redirect, Ms. Taylor?

7 MS. TAYLOR: No, sir.

8 THE COURT: Sir, you can step down. Do you have one you
9 can knock out in twenty minutes?

10 MS. TAYLOR: Your Honor, the next witness is the
11 investigator.

12 THE COURT: All right. Ladies and gentlemen, we're
13 going to go ahead and take our lunch break at this point in
14 time since I anticipate the next witness being a little bit
15 lengthy. If you could, let's plan on being back here at
16 about 1:45. Try and be back here at ---

17 MS. TAYLOR: Your Honor, I'm sorry. We do have one that
18 we can knock out in about five minutes and get him back to
19 work.

20 THE COURT: Call them. Correction, we're going to
21 continue. Go ahead.

22 MS. TAYLOR: The State calls Tony O'Bannon.

23 WHEREUPON, Anthony Wayne O'Bannon,
24 having first been duly sworn, testified as follows:

25 DIRECT EXAMINATION

- 1 BY MS. TAYLOR:
- 2 Q Good afternoon.
- 3 A Good afternoon.
- 4 Q Can you tell us your name for the record?
- 5 A Anthony Wayne O'Bannon.
- 6 Q And where do you work?
- 7 A Self Regional Hospital.
- 8 Q What's your job itself?
- 9 A I'm the security manager for the security department at
- 10 Self Regional.
- 11 Q Does Self Regional have cameras throughout the
- 12 hospital?
- 13 A Yes, we do.
- 14 Q And is part of your job monitoring that system and
- 15 pulling video as needed?
- 16 A That is part of our job.
- 17 Q Are there cameras on the emergency room?
- 18 A Yes, there is.
- 19 Q And were you asked to pull a video from April 8, 2020?
- 20 A Yes, we were.
- 21 Q I'm going to hand you what's been marked as State's
- 22 Exhibit 96. Is that -- have you seen that exhibit before?
- 23 A We have seen -- this is our video.
- 24 Q That's your video? Is it a true and accurate copy of
- 25 what happened that day?

1 A Correct.

2 MS. TAYLOR: The State moves Exhibit 96 into evidence,

3 THE COURT: No objections?

4 MR. GROSE: No objection.

5 MR. TINSLEY: No objection.

6 MR. HENDERSON: None, Your Honor.

7 THE COURT: All right. 96 is in evidence and you may
8 publish.

9 MS. TAYLOR: Your Honor, we'll actually publish this
10 through a different witness.

11 THE COURT: Okay.

12 MS. TAYLOR: No further questions. Thank you.

13 THE COURT: Mr. Tinsley?

14 MR. TINSLEY: I don't have any questions, Your Honor.

15 MR. HENDERSON: None, Your Honor.

16 MR. GROSE: No questions.

17 THE COURT: Take care, sir. Have a good day. No other
18 quick witnesses then? You're sure? We're now going to take
19 our lunch break, ladies and gentlemen. If you could, be
20 back, if at all possible, we'll just say 2:00. That'll give
21 you enough time. So, 2:00. Please be back at that point in
22 time. It's my intention to move forward with the trial at
23 that at that time. Don't talk about the case with anyone
24 and I will see you at 2:00. Enjoy your lunch. Thank you.
25 Just leave your tablets on your chair.

1 (WHEREUPON, jury exited 12:45 p.m. Lunch recess 12:45
2 p.m.-2:09 p.m.)

3 THE COURT: We'll go back on the record. The jury is
4 back. Let's bring the jury out, please.

5 (WHEREUPON, jury entered 2:09 p.m.)

6 THE COURT: The jury is seated. Solicitor, if you will
7 call your next witness, please.

8 MR. STUMBO: The State calls Detective Jonathan Davis to
9 the stand.

10 WHEREUPON, Jonathan Davis, having first
11 been duly sworn, testified as follows:

12 DIRECT EXAMINATION

13 BY MR. STUMBO:

14 Q Good afternoon, Detective Davis. I take it from that
15 star on your lapel there and your jacket that you work for
16 Sheriff Dennis Kelly?

17 A Yes, sir.

18 Q How long have you been with the Sheriff's Department?

19 A Nine years.

20 Q Did you start on the road?

21 A I started in the jail.

22 Q Did you get your certification from the Criminal
23 Justice Academy?

24 A Yes, sir.

25 Q Worked the road for a little while?

1 A Yes, sir.

2 Q And then you went to investigations; correct?

3 A That's right.

4 Q How long ago did you start investigations?

5 A Three years. Three years.

6 Q One of the investigations you had occasion to work,
7 this April 8, 2020 shooting out at Hillcrest Apartments on
8 Parkway?

9 A Yes, sir.

10 Q Can you tell the jury about what you did when you
11 arrived on scene?

12 A We got a call April 8, 2020 about a shooting that had
13 taken place. When I arrived, I saw Mr. Goode being attended
14 to in the grass in front of the apartment. I made my way up
15 the stairs up to the door of Apartment [REDACTED]. I entered in and
16 I saw Deputy Cockrell and Deputy Stroup applying tourniquets
17 to Mr. Parks. Once those were applied I did assist Deputy
18 Cockrell in clearing the apartment, performing a protective
19 sweep to make sure nobody else was in the apartment, either
20 suspect or victim. As soon as that was completed and it was
21 deemed safe, I did assist EMS with placing the chair under
22 Mr. Parks to get him out of the apartment and I went down
23 the stairs, back to where Mr. Goode was located. A short
24 time later I went to my truck and began my duties as an
25 investigator. Once the scene was rendered safe. I

1 retrieved yellow markers to begin marking evidence. Began a
2 canvas around the apartment complex, specifically the
3 building of "G", and located multiple shell casings outside
4 of that apartment. If you're facing the apartment, facing
5 the door, the shell casings would have been on the right
6 side that I located.

7 Q I'm going to stop you there just to give you some
8 reference points as you describe this to the jury. I'm
9 going to first show you State's Number 22. Do you recognize
10 that?

11 A Yes, sir.

12 Q Okay. What is -- what apartment building is this?

13 A That's apartment building "G".

14 Q Okay. And ■ would be the top right door?

15 A Yes, sir.

16 Q Okay. You said when you first got there -- where did
17 you observe Mr. Goode at that time?

18 A He was slightly to the left of this bush in front of
19 the brick column.

20 Q In the grass?

21 A In the grass. Yes, sir.

22 Q So, right here in this grassy area to the left of this
23 bush as you're looking at it, that's where Goode was?

24 A That's correct. Yes, sir.

25 Q Was he standing? Sitting?

1 A He was laying.

2 Q Okay. He was laying down when you got there?

3 A Yes, sir.

4 Q Okay. I believe you saw the body cam of Deputy
5 Cockrell earlier. You were on that body cam helping him
6 clear the house, or the apartment?

7 A Yes.

8 Q And then after y'all got the apartment cleared, where
9 did you go after that?

10 A I was the one that pushed the chair under Mr. Parks
11 with EMS and fire. Once they took him down, I exited with
12 him down the steps and returned to this location right here
13 in the grassy area in front of the apartment.

14 Q Where did you go from there?

15 A From there, I went back to my truck and I retrieved
16 evidence markers and things that I needed to begin marking
17 evidence that was on the scene.

18 Q Okay. How far away, walking distance, were you from
19 this area to your truck?

20 A Twenty-five, thirty feet. I came in on the left side
21 parking lot that comes right up to this apartment.

22 Q When you got your markers you went back over to the
23 apartment area?

24 A That's right.

25 Q I want to show you State's 16 now. Get that glare off

1 of there if I can. Can you see that?

2 A Yes, sir.

3 Q What area -- I believe you saw the body cam earlier,
4 did you not?

5 A Yes, sir.

6 Q On Cockrell's body cam were you walking around that
7 side to look for evidence?

8 A Yes, sir.

9 Q Did you find any evidence out in the grassy area?

10 A I did. I located multiple shell casings.

11 Q As we're looking at this now, and I'll show you an
12 additional picture that may give us exactly where, but what
13 area, generally, on this picture did you find those casings?

14 A Right off of the corner of the apartment, in front of
15 the green bush, and they continued, kind of, behind the
16 green bush. It made, sort of, a half-moon around the green
17 bush on the corner.

18 Q Okay, so half-moon going, you know, back side of the
19 corner?

20 A Yes, sir.

21 Q Okay. Let me show you State's 21. After you -- in the
22 prior picture we didn't see any of these markers. Who put
23 down those markers in the yard there?

24 A I did.

25 Q Okay. And those were all reflective of shell casings?

1 A Yes, sir.

2 Q So, right off the corner of this bush are these casings
3 that you find?

4 A Yes, sir.

5 Q You didn't move them anywhere at that time?

6 A No, sir.

7 Q Okay. You just put one of the yellow markers on them?

8 A Yes, sir.

9 Q A little big closer up. Let me zoom this out a little
10 bit. So, on this picture how many markers do we observe
11 here?

12 A I believe it was eleven.

13 Q So one at the top -- one, two, three, four, and eleven
14 down here -- but that's eleven casings you found?

15 A Yes, sir. Eleven cases that I marked.

16 MR. GROSE: Is that 19?

17 MR. STUMBO: Yes. That would be -- that's 18 on this
18 one. I'm sorry.

19 MR. GROSE: Thank you.

20 Q And 20? Kind of panned out a little bit here from the
21 corner; is that correct?

22 A Yes, sir.

23 Q So, there's no way for you to tell at that point, is
24 there, which one of these shots were fired first?

25 A No, sir.

1 Q From your perspective; right? All you know is there
2 are shell casings that appear to be freshly fired.

3 A Yes, sir.

4 Q I'm going to show you this first, then I'm going to
5 have you step over to the map. I'm going to show you
6 State's 12. Is that the black sock you found or marked in
7 the yard?

8 A Yes, sir.

9 Q Okay. And this was obviously after it was taken back
10 by the evidence custodian after you found it; correct?

11 A Yes, sir.

12 Q Where did you find that black sock?

13 A In the grassy area to the left of the stairwell where
14 Mr. Goode was located.

15 Q And, as we can see in 12, it was cut?

16 A Yes, sir.

17 Q Before I have you step down, you did walk around the
18 apartment complex and speak to a number of witnesses in this
19 case?

20 A Yes, sir.

21 Q Did you have your own body cam out there that day?

22 A No, sir. I don't know where my body cam was. It may
23 have been on charge at the office or dead. I obtained Mike
24 Murdoch's body cam when I went to speak with a witness.

25 Q Okay. And he's supervisor for you in the

1 investigations unit?

2 A Yes, sir.

3 Q And you documented a number of interviews you did with
4 witnesses via body cam; correct?

5 A Yes, sir.

6 Q Some of which who have already testified?

7 A Yes, sir.

8 MR. STUMBO: If I could have you step down a minute. If
9 the jurors could just turn towards the map here. I'm going
10 to step around behind you here, so we don't crowd everyone,
11 and hand you this little pointer here.

12 Q Okay. We're going to refer to State's 86, which is
13 this on the right-hand side of this map. Do you recognize
14 the buildings on this map?

15 A Yes, sir.

16 Q Okay. If you could, show us where the Apartment "G"
17 complex is on this map where the incident took place.

18 A Okay, this is Hillcrest Condos, 1522 Parkway. This is
19 building "G".

20 Q Okay, so as we were looking at these pictures a moment
21 ago, these steps that come out from the apartments, which
22 direction are these steps facing?

23 A They're facing in this direction right here.

24 Q Okay, facing out into the grassy area; correct?

25 THE COURT: You're going to need to speak up just a

1 little bit. She's having trouble hearing you, so really
2 project.

3 A Okay, they're facing away.

4 Q Okay, and you're pointing with the pointer, for the
5 record, out to the grassy area in front of "G"?

6 A Yes, sir.

7 Q And to the right would be the parking lot; correct?

8 A Yes, sir.

9 Q To the left is basically more apartment buildings;
10 right?

11 A Yes, sir.

12 Q Okay. Now, if you could, and if you can use this
13 sharpie here if you can, and obviously it does not be exact,
14 if you could circle around the area where we saw those
15 markers?

16 A Yes, sir.

17 Q Where you found the shell casings.

18 A Okay. This is the bush on the corner. I located the
19 shell casings from the corner of this bush in this area
20 right here.

21 Q All right. If you could, just mark that for me out to
22 this side, "casings", just so -- to make the record clear.

23 A Okay.

24 Q Okay. And, the sock, I believe, you don't have to mark
25 it on here, but you described that as in the grassy area in

1 front of apartment G?

2 A Yes, sir. The sock would have been located -- this is
3 where the steps come out. The sock was located in this
4 approximate area right here.

5 Q Okay. And that's where Mr. Goode was laying when you
6 arrived?

7 A He was lying when I arrived.

8 Q All right. Thank you, Detective. You can return to
9 the stand.

10 (WHEREUPON, witness returned to the stand.)

11 MR. STUMBO: Thank you for being here this week,
12 Detective. Please answer any questions the defense
13 attorneys may have for you.

14 CROSS EXAMINATION

15 BY MR. TINSLEY:

16 Q Investigator Davis, you were quick on the scene that
17 day?

18 A Yes, sir. I'd say fairly quick. I'm not sure of my
19 response time.

20 Q And did you knock on any of these doors of any of the
21 other apartments?

22 A No, sir. I did not.

23 Q Did you find any blood other than what was in and
24 around ■■■?

25 A No, sir.

1 Q Did you find a ski mask?

2 A No, sir.

3 Q And there is a fence back there behind Hillcrest

4 Condos, behind that parking lot?

5 A Yes, sir.

6 Q Did you go back there and search behind that fence?

7 A We did search that area.

8 Q Okay, when you say, "we". Did you personally do it?

9 A Yes, sir. I was back there.

10 Q Who else was back there?

11 A I don't recall.

12 Q You just don't recall any?

13 A Maybe -- No, sir. I don't.

14 Q Was it just you?

15 A No, sir. It was not just me.

16 Q And you would agree with me, that location where you

17 found these casings doesn't tell you where the actual

18 bullets went?

19 A Correct.

20 Q None of these witnesses identified anybody as the

21 shooter?

22 A No, sir.

23 MR. TINSLEY: No further questions. Please answer any

24 questions Mr. Henderson has.

25 CROSS EXAMINATION

Davis-Cross Examination

471

1 BY MR. HENDERSON:

2 Q Good afternoon, Detective Davis. How are you doing,
3 sir?

4 A Doing well, and yourself?

5 Q Good, good, good. Thank you for being here. Were you
6 the lead detective on this matter?

7 A No, sir. I was not.

8 Q Who was the lead detective?

9 A Mike Murdock.

10 Q Were there any other detectives beside you, and
11 Detective Murdock?

12 A Sure.

13 Q Who else was on scene, that was a detective?

14 A I couldn't tell you without going back and looking at
15 who all signed on.

16 Q Okay, now, today or during this trial, are we going to
17 hear any testimony from any detectives besides you and
18 Detective Murdock?

19 A Yes, sir.

20 Q And who would that be?

21 A I believe Investigator Womack.

22 Q Okay, now, is he a detective as well?

23 A He is.

24 Q Was he on scene?

25 A He was.

1 Q So at least three of you were on scene.

2 A Yes, sir.

3 Q Now, collectively, amongst all three of you, do you
4 think you did a full and thorough investigation?

5 A Yes, sir.

6 Q Mr. Tinsley just asked you a question, did you knock
7 on any other doors.

8 A Sure.

9 Q And your answer to that was "no"?

10 A That's right.

11 Q If I'm not mistaken, you saw the video that was played
12 this morning?

13 A Uh-huh.

14 Q Is that a "yes"?

15 A Yes, sir. Yes.

16 Q When you walk up the steps there, Apartment ■ is to
17 the right; correct?

18 A Yes.

19 Q And you agree that ■ is right there, immediately to
20 the left?

21 A Yes, sir.

22 Q You didn't knock on that door?

23 A No, sir.

24 Q Do you know if any of the detectives knocked on that
25 door?

1 A I do not.

2 Q Do you think if they had, do you think it would have
3 turned up in one of these reports?

4 A Yes. If we would have talked to anybody in those
5 apartments, it would have been documented.

6 Q Okay. Even if you tried to talk to them it would be
7 documented; wouldn't it?

8 A Yes, sir.

9 Q Now, you've reviewed this report before today; haven't
10 you?

11 A Yes, sir.

12 Q And is it fair to say that there is no mention of
13 knocking on the door of ■■■?

14 A Not in my report.

15 Q Okay, or anybody else's report?

16 A I don't know. I can't speak for somebody else's
17 report. Not in my report.

18 Q Okay, how about in anybody's report?

19 A I don't know. I have not read anybody else's.

20 Q Okay. So, you haven't read anybody else's report on
21 this matter?

22 A I read my report.

23 Q Do detectives not work together?

24 A Yes, sir. We do.

25 Q It seems like y'all would be discussing this matter.

1 A I'm sure at the time we were, but I don't recall
2 discussing that we had at that time.

3 Q So, below ■■■, you would agree, is probably ■■■?

4 A Yes, sir.

5 Q Is that a "yes"?

6 A Yes.

7 Q And below ■■■ would probably be ■■■?

8 A Yes, sir.

9 Q Did you knock on the doors to those apartments?

10 A I did not.

11 Q Do you know if anybody knocked on the doors of those
12 apartments?

13 A I do not.

14 Q Did you ever try to ascertain who rented those
15 apartments?

16 A No, sure, I did not.

17 Q I'm looking here at your report, and you said you
18 reviewed your report. It says that you seized, or took
19 possession of, a phone that belonged to Mr Parks. Is that
20 correct?

21 A Yes, sir.

22 Q Did you look at the phone?

23 A No, sir. I do not.

24 Q So, what did you do with the phone? Give it back to
25 Mr. Parks?

1 A No, sir. I did not.

2 Q What did you do with it?

3 A I took the phone to my truck. I placed it in a white
4 evidence bag, I marked it as Mr Park's phone, which was
5 information that Mr Goode provided me when he handed me the
6 phone. I locked it and secured it in my vehicle, to which
7 time it was turned over to Investigator Allison for evidence
8 collection purposes.

9 Q Okay. Do you know if he did anything with the phone?

10 A No, sir. I do not.

11 Q Okay. You just don't have a clue?

12 A No, sir.

13 Q Okay. Have you seen any evidence that he did anything
14 with the phone?

15 A I have not.

16 Q Now, you heard some testimony earlier too, if I'm not
17 mistaken, that it turns out Mr. Parks testified that he
18 arrived in a black Chrysler. Did you hear that testimony?

19 A Yes, sir. I did hear it.

20 Q Did you ask him on the scene what his vehicle was?

21 A No, sir. I did not.

22 Q Do you know if any of the other detectives asked him
23 what his vehicle was?

24 A I don't know.

25 Q Okay, you just don't know?

1 A No, sir.

2 Q If it was -- if one of them had asked, do you think it
3 would have made it in some of these reports?

4 A Should have been. Yes, sir.

5 Q Okay. Because, I mean, I think Mr. Grose, not with
6 you, but with prior law enforcement officers, that writing
7 these reports you're supposed to be very thorough; aren't
8 you?

9 A Yes, sir.

10 Q You're supposed to document everything that you did?

11 A Yes, sir.

12 Q And if you don't document that you did it, is it fair
13 to say that you didn't do it?

14 A Sure.

15 Q And you heard some testimony too that Mr. Goode's
16 girlfriend was driving some sort of white Honda vehicle?

17 A I did hear that.

18 Q Did you ask Mr. Goode out there what type of vehicle
19 he was driving, or anybody else in his house was driving?

20 A I did not.

21 Q Okay. You heard testimony that the black Chrysler was
22 parked about 25 feet from the bottom of these steps?

23 A I did hear that.

24 Q Apartment G. Okay. Now, you've already pointed out
25 to the jury where building "G" is at; correct?

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- 1 A Yes, sir.
- 2 Q Now, I suppose if there's a "G" there's also an "A"?
- 3 A Yes, sir.
- 4 Q There's also a "B"?
- 5 A Yes, sir.
- 6 Q There's also a "C"?
- 7 A Uh-huh.
- 8 Q Is that a "yes"?
- 9 A Yes, sir.
- 10 Q And there's also a "D"?
- 11 A Yes, sir.
- 12 Q There's also an "E"?
- 13 A Right.
- 14 Q There's also an "F"?
- 15 A Yes, sir.
- 16 Q How high does it go up the alphabet?
- 17 A I believe building "H".
- 18 Q "H"? Okay. One more after "G". Did you walk around
- 19 any of these other buildings?
- 20 A Rephrase your question. What are you asking?
- 21 Q Well, you know, on building "G" here it looks like
- 22 y'all were in the bushes. I mean, y'all got in the bushes.
- 23 Y'all were walking through the grass.
- 24 A Yes, sir.
- 25 Q Did you do that for building "A"?

- 1 A I did not.
- 2 Q Do you know if any of your fellow detectives did?
- 3 A I do not.
- 4 Q Did you do that for building "B"?
- 5 A I did not.
- 6 Q Did you do it for building "C"?
- 7 A No, sir.
- 8 Q Did you do it for building "D"?
- 9 A No, sir.
- 10 Q Did you do it for building "E"?
- 11 A No, sir.
- 12 Q Did you do it for building "F"?
- 13 A No, sir.
- 14 Q Did you do it for building "H"?
- 15 A No, sir.
- 16 Q Do you know if any of the other detectives did that?
- 17 A I can't speak for what they did.
- 18 Q Again, if they had done that, do you think it would
- 19 make one of the reports?
- 20 A Sure.
- 21 Q It should have, shouldn't it?
- 22 A Should have.
- 23 Q I mean, again, your job is to document with clarity
- 24 and specificity what it is you do out there.
- 25 A Absolutely.

1 Q And, again, it's like what these nurses always say.

2 If it's not in the medical record, it didn't happen. Have
3 you ever heard that expression?

4 A I have.

5 Q Okay. And, again, is it fair to say that if it isn't
6 in your report that it didn't happen?

7 A Fair to say.

8 Q So, again, y'all just walked around building "G" where
9 you located Mr. Goode at?

10 A I did.

11 Q You did? Okay.

12 A Not saying "y'all".

13 Q Okay, you did. And you just don't know where
14 Detective Murdock walked at?

15 A No, sir.

16 Q You don't know where Detective Womack walked at?

17 A No, sir.

18 Q Have y'all not discussed that at all?

19 A No, sir.

20 Q Did Detective Murdock order you or instruct you to
21 walk around just that particular building, or did you do it
22 on your own?

23 A I did it on my own. That was my job.

24 Q Okay.

25 MR. HENDERSON: I don't have anything further, Your

1 Honor.

2 THE COURT: Mr. Grose?

3 CROSS EXAMINATION

4 BY MR. GROSE:

5 Q I understand that you're here today to just testify
6 about your limited portion of this investigation.

7 A That is correct.

8 Q And you collected, or marked and identified, some
9 shells?

10 A Yes, sir.

11 Q And you were one of the initial officers that were on
12 the scene?

13 A Yes, sir.

14 Q And your roll here today is to help us understand the
15 nature of this crime?

16 A Yes, sir.

17 MR. GROSE: Thank you.

18 THE COURT: Thank you, sir.

19 MR. STUMBO: Just a couple of redirect.

20 REDIRECT EXAMINATION

21 BY MR. STUMBO:

22 Q Detective Davis, you were asked the question by Mr.
23 Tinsley about you can't tell where bullets go when they
24 leave a gun out of a casing; right?

25 A Yes, sir.

1 Q So, could you explain to the jury -- and a lot of us in
2 this room may have experience with guns, but if you shoot a
3 semi-automatic pistol, how does it eject the casings after
4 the bullet is fired?

5 A After the bullet is fired, the slide locks back and it
6 ejects the casing out to the right. Once the bullet is
7 fired, it basically pushes the slide backwards and the
8 casing comes out, generally to the right, but it also
9 depends on which side the window is on the slide that ejects
10 the shell.

11 Q Would it be fair to say that the vast majority eject
12 out to the right?

13 A Eject out to the right. Yes, sir.

14 Q Where you found these was right on the other side of
15 that bush?

16 A Yes, sir.

17 Q And also you had evidence that there were guys that
18 were shot from the steps of the apartment, because that's
19 where the blood was; right?

20 A Yes, sir.

21 Q Mr. Henderson asked you if you talked to anybody else
22 at the apartments. You did interview Mr. Hawthorne;
23 correct?

24 A Yes, I did.

25 Q Okay. And we've already heard from him in this trial;

1 right?

2 A Yes, sir.

3 Q And you sat in a truck, I believe, and interviewed him?

4 A Yes, sir.

5 Q Okay. Got his statement. When you come onto a scene
6 like this, there's a lot of work to do; right?

7 A Yes, sir.

8 Q Can you do it all? Interview every witness yourself?

9 A Absolutely not.

10 Q Okay. How about search every building in the complex
11 yourself?

12 A No, sir.

13 Q Okay. Mr. Henderson also asked you all these other
14 buildings that are here at Hillcrest. Did y'all have any
15 evidence whatsoever or reporting of a shooting in any of the
16 other buildings?

17 A No, sir.

18 Q Just building "G"?

19 A Just building "G".

20 Q But the investigative team did look in the periphery of
21 building "G" as well; correct?

22 A I'm sure they did. They can testify to that. I did
23 not. I was not a part of that.

24 Q Your role was just building "G" at that point?

25 A At that point, once I marked what I've shown here, I

1 began interviewing witnesses. I was no longer in this area.

2 Q Okay. Were you asked by supervisors to go interview

3 Mr. Hawthorne?

4 A Yes, sir. I was.

5 Q Some time later? Okay.

6 MR. STUMBO: Thank you. No further questions.

7 THE COURT: Mr. Tinsley?

8 RE CROSS EXAMINATION

9 BY MR. TINSLEY:

10 Q There were several deputies on scene out there working

11 that day; right?

12 A Yes, sir.

13 MR. TINSLEY: No further questions.

14 MR. HENDERSON: Very briefly, Your Honor.

15 RE CROSS EXAMINATION

16 BY MR. HENDERSON:

17 Q Detective, is it fair to say your testimony was that

18 the normal semi-automatic handgun ejects to the right?

19 A Most of them.

20 Q Most of them do. And is it fair to say that the

21 typical ejectment will go about six to eight feet?

22 A I can't testify to that, but it's not a very far

23 distance.

24 Q Not a great distance, is it?

25 A No, sir.

1 Q So, if Mr. Goode is standing of the bottom of these
2 steps, turned to the left facing the corner where you found
3 the shell casings; correct?

4 A Yes, sir.

5 Q If he did any type of shooting, it would eject off to
6 the right, his casings?

7 A Ask me that one more time.

8 Q No, again, you said the typical semi-automatic handgun
9 ejects to the right?

10 A Yes, sir.

11 Q And you said the ejectments don't go that far?

12 A Right.

13 Q Okay. If Mr. Goode is standing at the bottom of the
14 steps of this apartment -

15 A Right.

16 Q --- facing left. He's looking toward the bush that
17 you're talking about. You know the bush?

18 A Yes, sir.

19 Q Because you pointed the bush out to these ladies and
20 gentlemen here. If he's facing that way, and if he shoots a
21 semi-automatic handgun that typically ejects to the right --

22 A Yes, sir.

23 Q --- those ejectments would end up in the grassy area in
24 front of the Apartment ■■■. Is that fair to say?

25 A I would agree with that.

1 Q And you found Mr. Goode in that grassy area in front of
2 Apartment ■■■; correct?

3 A Yes, sir.

4 Q And you've heard the testimony, I think, from Deputy
5 Cockrell earlier today that from the time that 911 was
6 called until he first put his eyes on Mr. Goode actually
7 limping and walking in the grassy area, that it was a period
8 of seven minutes; correct?

9 A I did hear that.

10 Q Now, you don't know what Mr. Goode was doing during
11 those seven minutes; do you?

12 A I do not.

13 Q Did you ask him what he was doing during those seven
14 minutes?

15 A I did not.

16 Q Do you know if any of your colleagues asked him what he
17 was doing during those seven minutes?

18 A I do not.

19 Q And, again, you said you can't do it all yourself. I
20 understand that. We're all just one man or woman; correct?

21 A Yes, sir.

22 Q But there was a bevy of law enforcement officers there
23 that day; weren't there?

24 A Yes, sir.

25 Q I mean, Detective Murdock didn't say, "Hey, Detective

1 Davis, you handle "G". Detective Womack, you handle "A" and
2 "B". Officer Smith, you handle buildings "C" and "D"." Did
3 you hear any of that?

4 A I was given an assignment, and that was to go interview
5 Charles, who we've heard from.

6 Q Okay, so you didn't hear Detective Murdock give any
7 assignments for any other buildings to look around?

8 A No, sir. Once I had my assignment I went there.

9 Q So, you don't know what he assigned other folks?

10 A No, sir.

11 MR. HENDERSON: Okay. I don't have anything further.

12 THE COURT: Anything, Mr. Grose?

13 MR. GROSE: No, sir.

14 THE COURT: Sir, thanks. You can step down. You're
15 free to stay, free to leave. Solicitor, call your next
16 witness, please.

17 MR. STUMBO: Thank you, Judge. The State would call
18 Sheriff Dennis Kelly to the stand.

19 WHEREUPON, Dennis Kelly, having first been
20 duly sworn, testified as follows:

21 DIRECT EXAMINATION

22 BY MR. STUMBO:

23 Q Good afternoon, Sheriff. How are you today?

24 A Good afternoon. Good.

25 Q You've been here on and off for this trial this week?

1 A That's correct.

2 Q And it deals with something that happened April 8,
3 2020; correct?

4 A That is correct.

5 Q When this incident occurred, a lot of these guys that
6 work for you were out there on scene; correct?

7 A That's right.

8 Q Were you out -- did you come out on scene that day?

9 A I did.

10 Q Okay. And when you are able, do you like to do that?

11 A I do. I do in most major incidents. Most of them.

12 Q Okay. And who was your ranking investigator out there
13 on the scene that day?

14 A I'm thinking it was Cody Bishop maybe. I think he was
15 a Captain then, I believe, maybe.

16 Q Is Mike Murdock one of your lead investigators?

17 A Yes, he was out there. Yeah.

18 Q Was he assigned the lead on this case?

19 A Yes.

20 Q Okay. Tell me, when you get out there what do you do
21 when you first get there, Sheriff?

22 A When I first get there, I have my investigators handle
23 the scene. I just go for support. Also, looking, talking
24 to people. If I come across anyone that has any
25 information. So, on that incident that day I was just -- I

1 actually came in from the other apartments and just started
2 walking, seeing if there was any victims, anybody in the
3 area that had any information, and was just looking for any
4 kind of evidence. I knew it was a shooting.

5 Q You say the other apartments. That's the Gardens at
6 Parkway with the green roof?

7 A Right. Uh-huh.

8 THE COURT: That's a "yes"?

9 THE WITNESS: Yes. Sorry.

10 Q Sheriff, as part of the investigation, did you talk to
11 people that were standing around out there?

12 A I did.

13 Q Okay. Did you have occasion to look for any evidence?

14 A I was on the back side -- if this is "G", I came
15 through those trees that separates the apartments and was
16 just looking around. Just from information from my
17 deputies, and some of those residents, that the individuals
18 went back toward the apartments where I came from. So, I
19 don't know if they are Leland cypress or cedar trees, some
20 type of trees that line between the apartments, so I just
21 started walking in between and under those trees and
22 looking.

23 Q Okay. Since these are already in evidence, I'm just
24 going to put them up here on the screen. Sheriff, I'm going
25 to show you State's 70. What's that with the Number 20

1 marker with it?

2 A I can't hardly tell. I assume it's the gun I found.

3 Q If you need to step down?

4 MR. HENDERSON: Solicitor, what number is that?

5 MR. STUMBO: I'm sorry. It's number 70.

6 A That's the tan semi. It's a Taurus 9 mm that I found
7 under that tree in those bushes.

8 Q And you, just walking the tree line, found that gun?

9 A Yes, sir. I was walking in between every tree,
10 checking every bush, anywhere that I possibly could find any
11 type of evidence, and I happened upon that weapon.

12 Q State's 69, which is a little bit closer up view of
13 that. Same gun?

14 A Yes, sir.

15 Q Okay. Was it in this position when you found it? You
16 didn't move it; did you?

17 A I didn't touch it, didn't move it. I called my
18 evidence tech to document it and secure that weapon, and
19 document it for evidence.

20 Q And that would be Greg Allison, who is your evidence
21 man?

22 A That's correct.

23 Q I'm going to show you State's 68 now. That's the gun
24 after it's logged in by your evidence tech?

25 A Yes.

1 Q Now, when you see the gun is it racked back like that
2 already when you find it?

3 A Yes. It was locked all the way to the rear.

4 Q What does that mean when a gun is locked back like
5 that?

6 A It will do that if you fire the weapon empty, it will
7 do that, or you have to manually lock it to the rear. But
8 it will lock to the rear like that if it's fired until it's
9 empty.

10 Q Okay. So, the last shot bullet that's fired out, it
11 automatically locks back in that open position?

12 A Normally. Yes, sir.

13 Q Okay. So, it was locked back in that position when you
14 saw it for the first time?

15 A Yes.

16 Q Did you see any bullets or casings on the ground around
17 it?

18 A I did not.

19 Q Okay. As part of any other active part of this
20 investigation did you do anything after that?

21 A I did not. I let my investigators. They're well
22 trained. I let them handle it. I'm just there for support.
23 I've done anything from direct traffic to assist somebody
24 with whatever. I don't try to take over the investigation.
25 I let those guys handle it.

1 Q Okay. If they need advice you give it to them?

2 A Absolutely.

3 MR. STUMBO: Beg the Court's indulgence. Sheriff, thank
4 you for being here this week. Please answer any questions
5 the Defense attorneys may have for you.

6 THE COURT: Mr. Tinsley?

7 CROSS EXAMINATION

8 BY MR. TINSLEY:

9 Q Was this gun the only piece of evidence you found,
10 Sheriff Kelly?

11 A To my knowledge. I don't remember finding any other
12 evidence.

13 Q You testified you didn't touch the gun.

14 A That's right.

15 Q So, you don't know whether the barrel was warm? Cool?

16 A No, sir.

17 Q And you talked about looking for people with
18 information. Did you actually talk to anybody?

19 A Yes. Some of the people that were out at that point,
20 just walking around. I would just, in general, you know,
21 "Did you see anything? Do you have any information?"
22 Nobody -- people were, like, "I didn't see anything. I
23 didn't hear anything."

24 Q Okay, so you didn't turn up any information from any of
25 these folks?

1 A I did not.

2 Q Okay, and this was over at the Gardens at Parkway?

3 A I was at both, but I came in from the Parkway and
4 walked through those trees over to there, so I was in the
5 back of the other one as well.

6 Q These people that you encountered, were they just
7 people walking around?

8 A Well, we had the tape roped off, but they were in the
9 general area. Even at the other apartment I asked them if
10 they heard anything or seen anything, and nobody had any
11 information.

12 Q And these were people that were outside?

13 A (Non-verbal response.)

14 Q So, you didn't knock on any doors at either place?

15 A Huh-uh. I did not.

16 MR. TINSLEY: I don't have any further questions.

17 THE COURT: Mr. Henderson?

18 CROSS EXAMINATION

19 BY MR. HENDERSON:

20 Q Hey, Sheriff. How are you?

21 A Good.

22 Q Now, you've heard the expression, "The guilty dog
23 barks."

24 A Yes.

25 Q Okay. Now, here you've been in and out of the

1 courtroom haven't you?

2 A Yes.

3 Q Did you hear Mr. Goode testify?

4 A I did.

5 Q He's the only person here that's mentioned a tan
6 handgun; isn't he?

7 A To the best of my memory. Yes, sir.

8 Q Absolutely. And, again, you've heard testimony too
9 about, that between the 911 call and the time that Deputy
10 Cockrell came up on Mr. Goode it's a seven minute lag time?

11 A (No verbal response.)

12 Q You've heard that testimony?

13 A I have.

14 Q It's in evidence. So, you don't know what Mr. Goode
15 was doing during that seven minutes, do you?

16 A No, I do not.

17 Q Now, did you write an incident report about...

18 A I did not.

19 Q You didn't write an incident report?

20 A No, sir.

21 MR. HENDERSON: I don't have anything further.

22 THE COURT: Mr. Grose?

23 MR. GROSE: Sheriff, I don't have any questions. Thank
24 you for being here.

25 THE COURT: Thank you. You may step down. You are

1 welcome to stay or welcome to go. Call your next witness,
2 please.

3 MS. TAYLOR: Your Honor, the State calls Detective Mike
4 Murdoch.

5 WHEREUPON, Mike Murdoch, having first
6 been duly sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY MS. TAYLOR:

9 Q Good afternoon.

10 A Good afternoon.

11 Q How are you employed, Detective Murdoch?

12 A I'm currently employed at the Greenwood County
13 Sheriff's Office as the Lieutenant in the Criminal
14 Investigations Division.

15 Q How long have you been with the Sheriff's Office?

16 A I've been with the Sheriff's Office since 2015. I
17 started in Uniform Patrol in 2015 and then was transferred
18 to Criminal Investigations in 2017.

19 Q Prior to that were you -- you worked for the Highway
20 Patrol I believe. Is that correct?

21 A I began my law enforcement career in 1994 with the
22 Greenwood City Police Department, remained there
23 approximately 13 years. For some reason I left and went to
24 the South Carolina Highway Patrol. Stayed there from
25 approximately '07 until 2015 when I came to the Sheriff's

1 Office.

2 Q Were you called out to the scene on April 8, 2020?

3 A The -- not specifically. We heard the call come out
4 and the Criminal Investigations Division responded to
5 assist.

6 Q When you arrived, were you automatically -- well, let
7 me back up. Were you the lead detective on this
8 investigation?

9 A I wound up being the lead investigator. I was not the
10 Lieutenant at this time. I wasn't promoted to Lieutenant
11 until later in the summer of 2020, so I was just an
12 investigator at the time this incident occurred.

13 Q But you ended up taking lead on this investigation?

14 A I ended up. Yes.

15 Q When you first got there, what did you do?

16 A When I arrived on scene, the other units were already
17 there. I think Deputy Cockrell and Deputy Stroup were
18 already there. Mr. Goode -- as I approached the apartment,
19 Mr. Goode was lying on the ground facing the steps. I
20 briefly interacted with him. Kind of got briefed from
21 Deputy Cockrell, to the best of my -- what had transpired.
22 And at that time other information was starting to come in,
23 so I was relaying it via telephone, because I didn't have a
24 walkie, to other -- like Lieutenant Russ, who was there.
25 Wasn't on the scene. But Lieutenant Russ, Major Bishop,

1 Major Cromer, who has since retired. So, I was relaying it
2 to other units, and as more information come in other
3 detectives were sent. We were limited in number that day.
4 I think there was just three of us that day; Womack, Davis,
5 and myself. They were directed to other locations.

6 Q You said there were a lot of units already on scene.
7 Were there city units there as well?

8 A I believe there was. I didn't make contact with -- I
9 seen a lot of people on scene. I think maybe city officer,
10 Detective Blackwell, may have been on scene. Maybe others.
11 Usually in -- because that is so close to the city and
12 county, they dispatch both agencies to calls of this nature
13 in that area, so -- as it would be the norm. You had a lot
14 of marked city units and county units responding to the
15 area.

16 Q Would it be fair to say this area was crawling with law
17 enforcement?

18 A It would be safe to say that, yes.

19 Q Now, the extent of the scene. I'm trying to think if I
20 can do this without having you come over here. Can I just
21 get you to step?

22 A Yes, ma'am.

23 Q I'll just have you down to ask some questions.

24 (WHEREUPON, witness steps down from stand.)

25 Q All right. We've already heard testimony about

1 Apartment ■. Can you find that for us on the map?

2 A I think this ■ is going to be right in here, if I'm
3 not mistaken.

4 THE COURT: He's going to need to speak up, Elizabeth.
5 I'm sorry. Switch sides and project this way.

6 A This is The Gardens at Parkway, if I'm not mistaken.
7 This is in the city limits here, so I think ■ is going to
8 be right here. Hillcrest Condos would be in the county.

9 Q And you mentioned the Gardens at Parkway. Was that
10 part of your scene as well that day?

11 A Yes. It turned out to be a gun was later located and I
12 think this is the apartment complex where Stephanie Moss,
13 who testified earlier in the week, she resided in this -- if
14 I'm not mistaken. This building right here.

15 Q And you said there was a gun located?

16 A There was later a gun located somewhere around these
17 two parking spaces right here.

18 Q Can I get you to just write a "G", kind of, in the area
19 where that gun was located?

20 A It's going to be approximately right around in here.

21 MR. HENDERSON: Can we get him to spell the word "gun",
22 just to be clear?

23 MS. TAYLOR: Sure.

24 Q All right, you can take your seat.

25 (WHEREUPON, witness returned to stand.)

1 Q You said there was a lot of law enforcement in the
2 area. Was it a confusing scene at first?

3 A Yes, ma'am.

4 Q And is that typical when you're investigating a
5 shooting or a case like this to ---

6 A Yes, ma'am. It's ---

7 Q --- have a lot of confusion?

8 A --- very typical with most scenes like this.

9 Q Does the picture become more clear as you begin
10 investigating?

11 A As time goes on, hopefully it clears up some, but
12 sometimes there's still confusion.

13 Q Now, you said there were only three of y'all, three
14 investigators that day. You, Investigator Womack, and
15 Investigator Davis. You and Investigator Davis were at the
16 scene. Where did Investigator Womack go?

17 A Investigator Womack wound up at Self Regional. Started
18 receiving calls, I think, that people coming in with gunshot
19 wounds to the hospital. So, instead of coming to the scene,
20 he goes to the hospital.

21 Q I want to go through -- well, let me back up and ask
22 this first. As an investigator with the Sheriff's Office,
23 can you just search anywhere you want to search? Anybody's
24 house you want to search?

25 A You can't go into anybody's house absent -- without a

1 search warrant, absent being invited in or exigent
2 circumstances.

3 Q All right, so -- and I think we heard earlier that once
4 the scene was secure, law enforcement pulled back, even out
5 of Apartment ■■■?

6 A Yes, ma'am.

7 Q What did y'all do with regard to Apartment ■■■?

8 A I called Lieutenant Russ and advised him what we had
9 and that for an abundance of caution we would need to obtain
10 a search warrant for Apartment ■■■ to enter and search.

11 Q And did you have probable cause to believe that some
12 crime had occurred in Apartment ■■■?

13 A I believe we did, yes.

14 Q And the Magistrate agreed with you, obviously?

15 A Yes, ma'am.

16 Q So, you got a search warrant for ■■■. Did you have
17 probable cause to get search warrants for any of these other
18 apartments?

19 A I didn't see probable cause for -- I think there's
20 three other apartments there. I did not see any probable
21 cause to enter.

22 Q Did you have any evidence whatsoever that anything had
23 happened in those apartments?

24 A No, ma'am.

25 Q Is it typical when you're on a scene like this for

1 people to come rushing out, trying to see what happened?

2 A Yes, ma'am.

3 Q Did anybody come rushing out of any of those three
4 apartments?

5 A No, ma'am. Not while I was there.

6 Q Did anybody come running up saying, "What's happening
7 at my house?"

8 A No, ma'am.

9 Q There were people around. Were there people around the
10 crime scene?

11 A There are numerous people spread out through the
12 complex, on the outside of the tape. So, there were
13 numerous people in the area.

14 Q And did you have any evidence whatsoever that any of
15 those people had been in those apartments?

16 A No, ma'am. I didn't.

17 Q Or that anything had happened in those apartments?

18 A No, ma'am.

19 Q So, you testified that y'all got a search warrant for
20 the apartment. Did you also walk around the scene, the
21 outside?

22 A I walked limitedly. I walked around building "G".

23 Q Did you walk over to the Gardens at Parkway?

24 A If I'm not mistaken, Deputy Mansel was over there, and
25 that's where the gun that I pointed out there, she found it

1 in a parking lot. So, I actually drove from Hillcrest
2 Condos ■■■ -- not actually into Garden at Parkway, but to --
3 there's a cut through still in Hillcrest condos. I parked
4 there and walked through the cut through.

5 Q The cut through you're talking about, State's Exhibit
6 Number 23, is that the path we're talking about?

7 A Yes, ma'am.

8 Q And which direction are you facing on that path?

9 A You're facing from Hillcrest Condos back into the
10 Gardens at Parkway.

11 Q Okay. So, would the gun have been located like right
12 in ---

13 A Yeah, in that approximate area. Yes, ma'am.

14 Q Maybe that little black dot right there.

15 A Yes, ma'am. I can't see the dot, but that would've
16 been the area.

17 Q I'm showing you State's 24. Is that that same parking
18 lot we were just looking at?

19 A Yes, ma'am.

20 Q And can you -- can you see something over here on maybe
21 the third space over?

22 A It looks like, approximately the third space from the
23 curb, there's like a -- well, from what I see, it's like a
24 black dot right there, or a black object right there, on the
25 photo.

1 Q And going in closer. State's 25. Does that look like
2 that same black object?

3 A Yes, ma'am.

4 Q Can you identify what that is in this picture?

5 A I can't see it clearly from here, but that is
6 consistent with where the gun was found -- a gun was found.

7 Q And even closer -- let's see. State's 27?

8 A Yes, ma'am.

9 Q Is that the gun?

10 A Yes, ma'am.

11 Q And State's 30? It's a closer up on that gun. Is that
12 correct?

13 A Yes, ma'am.

14 Q And finally, State's 31.

15 A Yes, ma'am.

16 Q So, that's the gun that was found in that parking lot?

17 A Yes, ma'am.

18 Q Now, you didn't actually collect any of the evidence
19 that day, did you?

20 A I collected that gun. The reason being, the evidence
21 custodian crime scene tech is one and the same with our
22 agency. He was at building "G" processing that scene, and
23 rather than have deputies tied up there and a firearm laying
24 in the open like that, I photographed it, collected it in a
25 box, and then turned it directly over to him to be placed

1 into evidence.

2 Q Now, when you collected that gun, did you do anything
3 to it? Did you have on gloves? How -- what did you do?

4 A I collected it with gloves on in case DNA needed to be
5 collected from the gun or any other type of forensic
6 processing. So, I put on gloves. And you never want to put
7 a live firearm, or potentially live firearm in a box for
8 someone to handle, so I made the gun safe.

9 Q I'm going to hand you what's been marked for
10 identification as State's Exhibit 93. Is that the gun you
11 collected that day?

12 A Yes, ma'am.

13 Q Now, going back over to the scene at Apartment ■■■, did
14 you walk around over there a good bit?

15 A Just briefly. After initial contact, I walked around
16 to the direction Mr. Goode said that the shots had been
17 fired from, and I found what appeared to be shell casings
18 over there. I didn't count them. I just helped secure the
19 area until the evidence tech got there, crime scene tech, to
20 start processing and collecting everything.

21 Q I'm going to show you what's been marked as Exhibit 35,
22 or entered as Exhibit 35. Can you tell me what that is?

23 A That appears to be a photo of Apartment ■■■ with the
24 door open, with a rug that's hung over the railing. And
25 that's a dowel rod that apparently that had been stuck

1 through there by the evidence or crime scene tech to show a
2 direction of travel of the projectile.

3 Q Exhibit Number 36. Can you tell me what that is?

4 A It appears to possibly be a bullet hole in vinyl
5 siding. I didn't take the picture, so I can't say exactly
6 where that's located.

7 Q Was there vinyl siding on the roof over that stoop?

8 A There was.

9 Q State's Exhibit Number 38. We have a couple of
10 different markers. What's number 17 marking? Can you tell
11 from there?

12 A I cannot.

13 Q Can you step down and ---

14 MR. GROSE: This is exhibit number?

15 MR. HENDERSON: I think 38.

16 MS. TAYLOR: Thirty eight.

17 MR. GROSE: Thank you.

18 A It appears that Number 17 is marking a projectile.

19 Q All right, and Number 16 is marking a shoe? A slide?

20 A A slide on shoe.

21 Q State's Number 41? Is that a closer up of that
22 projectile?

23 A Yes, ma'am.

24 Q Now, going back to State's 38. I'm sorry. You
25 probably want to stay there for a second. Are there any

1 casings marked up there on that stoop?

2 A I don't see any. I don't see any in that photo. No,
3 ma'am.

4 Q Were there any casings found at the top of those steps?

5 A I don't recall any being found, but I just quickly
6 viewed the scene. I don't recall any being found up there.

7 Q All right. You can have a seat again. The last
8 picture I'm going to ask you about is State's Exhibit 49.
9 Can you tell me what that appears to be?

10 A It appears to be looking back from Apartment ■ down
11 towards the ground -- the steps go down to like a little
12 landing then turns right. More steps go down to the ground.

13 Q Are there footprints on those steps?

14 A Can I?

15 Q Sure, sorry.

16 A I apologize. I'm getting old. Yes, ma'am. It appears
17 to be consistent with possibly bloody footprints.

18 Q Now, you testified that as you're on the scene at the
19 apartments, Investigator Womack is also at the hospital?

20 A Yes, ma'am.

21 Q Did you attempt to get any of the video from the
22 hospital?

23 A The hospital was notified that we would be needing the
24 video. They're great with working with law enforcement, so
25 they began their procedure to capture -- and they have

1 limited people that release it. Just for court purposes, to
2 limit the number of people that have to come to court. So,
3 they began a procedure of capturing the video that we
4 needed.

5 Q And did you get that video from the hospital?

6 A Yes, ma'am. I think it was on the tenth, I believe it
7 was, a day or two later.

8 Q And I'm going to play what's already been entered into
9 evidence as Exhibit Number 96, and ask you some questions
10 about it.

11 Q Sorry, it's taking me just a minute to get it to go.

12 (WHEREUPON, State's Exhibit 96 was published to the jury.)

13 Can you tell what time is on this video in that upper left
14 corner?

15 A It appears to be 2:09, 2:10 pm from 4/8/2020.

16 Q I'm going to fast forward just a little bit. At about
17 the 2:12:48 mark, I'm gonna ask you to be paying attention.
18 All right. And we'll pause it right here. Coming into the
19 frame, up at the very top, is that a black sedan, looks
20 like, coming down the road?

21 A Yes, ma'am. It appears to be.

22 Q All right. And stopping it here at about 2:12:58. Did
23 they just park in front of the ER?

24 A Yes, ma'am.

25 Q Can you tell the make of that car?

1 A It is a Toyota.

2 Q Do you know what kind of car that is.

3 A I cannot. It -- a Camry or Corolla.

4 Q A black Toyota sedan?

5 A Body style. Yes, ma'am.

6 Q All right. And at 2:13 and some change. They're
7 already speeding off; is that correct?

8 A Yes, ma'am.

9 Q Now going back, rewinding this frame by frame. Do you
10 know who this person they put in the wheelchair is?

11 A That is later -- person is later identified as Mr.
12 Alston, the deceased in this case.

13 Q When you watched this video, were you able to identify
14 this person right here who gets out of the back passenger
15 seat?

16 A Yes, ma'am.

17 Q Who is that?

18 A That is, Mr. Reid, seated at -- Mr. Henderson's client.

19 Q In the black shirt in the bow tie?

20 A Yes, ma'am.

21 Q At the far table? And you knew him before this?

22 A Yes, ma'am.

23 Q Were you able to identify the driver?

24 A I did not know the driver. I was not personally able
25 to identify him. I took a still capture of the video, sent

1 it out over city/county wide email to all officers to see if
2 anybody could identify the driver.

3 Q And I'm rewinding it just a little bit more. The shoes
4 that Mr. Alston has on. What color do those appear to be?

5 A Blue.

6 Q Now, Mr. Reid, is he jumping back into the back seat of
7 that car again?

8 A It appears he gets into the same door he got out of,
9 the rear passenger side.

10 Q So, he didn't even take the time to get into the front
11 passenger seat?

12 A No, ma'am. It appears he got back in the rear
13 passenger.

14 Q Does it look like anybody's in that front passenger
15 seat?

16 A I can't see anyone visible at this time. No, ma'am.

17 Q I'm going to keep playing this, because I have some
18 more questions at the 2:14:00 mark. All right. Here at
19 2:14:37 -ish, :39, do you see a silver SUV, it looks like,
20 coming down the road?

21 A Yes, ma'am.

22 Q All right, and it's 2:14:52. Is someone getting out of
23 that silver SUV?

24 A Yes, ma'am. Someone is getting out of the front
25 passenger.

1 Q And is he hobbling?

2 A Yes, ma'am. He appears to be hopping on one foot.

3 Q I don't know if you can see. If you need to come over
4 here and see it on the small screen, that's fine. Does he
5 appear to have a design on his shirt?

6 A There -- I can't make out specific, but there is a
7 design. It's small, numerous little small designs, possibly
8 "c" or circle shaped.

9 Q And this gentleman in the red. Do you know who that
10 is?

11 A I don't know him. I think he was later identified as
12 the maintenance man.

13 Q Okay, and what about this gentleman? Do you know who
14 that is?

15 A That was later identified as Mr. Hill.

16 Q All right, so the maintenance man -- does it look like
17 he's trying to go into the hospital with Mr. Hill?

18 A It looks like he's following behind him. Yes, ma'am.

19 Q All right, and what does it look like he's doing now?

20 A Now he's returning to speak with the city police
21 officer that pulled up.

22 Q Does it look like he's sticking around trying to give
23 information?

24 A Yes, ma'am. He approached the officer and spoke with
25 the officer.

1 Q Now, we're at -- I want to keep watching and see when
2 he finally leaves. So, at 2:16, is he moving his vehicle?

3 A Yes, ma'am.

4 Q Did he stay at the hospital for a little bit before he
5 came back to the scene?

6 A I never spoke with him. I think he returned to the
7 scene. How long, I don't know, but I that's when I think
8 Investigator Davis spoke with him.

9 Q So, when he leaves the hospital, he goes right back to
10 where he found Mr. Hill. Is that correct?

11 A Yes, ma'am. To my understanding.

12 Q Now, let me back up to this Camry again. Which door
13 did they pull the deceased, Mr. Alston, out of?

14 A The rear passenger door.

15 Q And, as an investigator, where would you expect to find
16 most of the evidence associated with Mr. Alston?

17 A In that area where he had been seated and was removed
18 from.

19 Q And is that the same door that Mr. Reid jumped right
20 back in?

21 A Yes, ma'am.

22 Q Now, did this Camry return to the scene?

23 A Not to my knowledge. No, ma'am.

24 Q So, they pull in -- just to make sure I'm right. They
25 are turning into the hospital at 2:12:52, is that correct?

1 A Yes, ma'am. That's what it shows on the video.

2 Q And they are back in the car and pulling out at
3 2:13:45; is that correct?

4 A Yes, ma'am, that's correct.

5 Q All right. That's all the questions I have about the
6 video. And is there another angle of this?

7 A I'm not familiar with one right off hand. Unless there
8 is one that shows when they go out the front, the other end
9 of it.

10 Q On State's 96, is this another angle of this, of the ER
11 entrance?

12 A Yes, ma'am. That would be taken, kind of, looking back
13 up toward the Sheriff's Office.

14 Q Is there a lot of shadow over the car in this angle?

15 A Yes, ma'am.

16 Q Is it a lot harder to make things out?

17 A Yes, ma'am.

18 Q Does it also appear that this camera maybe jumps a
19 little bit? When -- by jump, I mean the video itself is --

20 A Advances.

21 Q --- staggering, sort of. So, this is not as good of a
22 view as the other one?

23 A No, ma'am.

24 Q Now, you said after you watched this video, you put out
25 an e-mail to city and county law enforcement. Were you able

1 to identify the car?

2 A I was. Detective McClinton with the Greenwood City
3 Police Department contacted me. He identified the driver as
4 Mr. Chazz Hurley, Mr. Grose's client, and said that the car
5 was a Toyota Camry and belonged to his mother, Trish.

6 Q And, shortly after that conversation, did the city, in
7 fact, stop that vehicle?

8 A They did. They stopped them at the New Way on Chipley,
9 at Chipley and New Market. Mr. Hurley wasn't in the vehicle
10 that time, but I think it was being driven by his mother, as
11 well as I remember.

12 Q Did you obtain a search warrant for that vehicle?

13 A I didn't at the time I seized the vehicle. I had it
14 towed to the county impound. That was on a Friday, Good
15 Friday if I'm not mistaken, the 10th. So, it was impounded
16 in our secure county storage facilities. A search warrant
17 was obtained for the vehicle on Monday and executed later
18 that day.

19 Q Did you personally execute that or did ---

20 A I obtained the search warrant. I'm not really sure who
21 actually signed off as executing it, but the crime scene
22 investigator processed the vehicle for any evidence.

23 Q Now, as part of your report, do you note the sizes of
24 the Defendants?

25 A On the initial report they do. There's a block that

1 has to be filled in.

2 Q Would you be able to remember their sizes off the top
3 of your head.

4 A No, ma'am.

5 Q If I showed you your report, could that refresh your
6 recollection?

7 A I can read what's on the report. Yes, ma'am.

8 Q I'm going to ask you if you could, just take them in
9 order, and tell me their heights and weights.

10 A Yes, ma'am. Do you just want me to go over everybody
11 that's listed?

12 Q Well, let's go with Mr. Alston, first. How tall was
13 he?

14 A Mr. Alston is listed on the report as 6 foot 3 and
15 weighing 170 pounds.

16 Q So, pretty tall and lanky?

17 A Yes, ma'am.

18 Q What about Mr. Hill? What was his size?

19 A Mr. Hill was listed on the report as 5 foot 8, 150
20 pounds.

21 Q What about Mr. Hurley?

22 A Mr. Hurley is listed as 5 foot seven and 150 pounds.

23 Q And what about Mr. Reid?

24 A Mr. Reid is listed at 5 foot 6, 145 pounds.

25 Q So, Mr. Alston would have been a good bit taller than

1 Mr. Reid or Mr. Hill; is that correct?

2 A Yes, ma'am.

3 Q If they were crouched down, could he have appeared
4 bigger?

5 A I guess to someone he could.

6 Q You were not able to locate Mr. Hurley or Mr. Reid
7 immediately after this incident; correct?

8 A No, ma'am.

9 Q Mr. Hill was in the hospital, so you knew where he was;
10 right?

11 A Yes, ma'am.

12 Q When were you able to locate Mr. Hill? I mean, excuse
13 me. Mr. Hurley.

14 A I think Mr. Hurley was located and taken into custody
15 in July, if I'm not mistaken, somewhere around the 9th.

16 Q And what about Mr. Reid?

17 A I think he was taken into custody later on in July,
18 maybe around the 29th.

19 Q Once you were able to locate the defendants, did you
20 obtain search warrants for their DNA?

21 A I did.

22 Q And how do you take a sample for DNA purposes?

23 A It comes in a kit, and it's got a big long -- basically
24 a big long Q-tip. You can do it two ways. You can either
25 stick the Q-tip in their mouth and rub your cheeks, or you

1 can have them hold it and rub the inside of their mouth on
2 their cheeks. Then it's allowed air dry and then placed in
3 a container.

4 Q Did you personally swab any of the defendants?

5 A I swabbed, if I'm not mistaken, I swabbed Mr. Reid.

6 Q I'm going to hand you what's been marked for
7 identification as State's 103. Are those the buccal swabs
8 you took from Mr. Reid?

9 A Yes, ma'am.

10 Q And, after swabbing Mr. Reid, what did you do with
11 that?

12 A It is, like I said, after it's air dried to prevent
13 molding and contaminating the sample it is then placed into
14 evidence, and the evidence custodian puts it in a location
15 to prevent moisture, and it's eventually taken to SLED for
16 analysis.

17 Q So, would you have taken this Exhibit 103 and placed it
18 into an evidence locker?

19 A I would have, or sometimes they're placed in
20 refrigeration, just to be on the safe side, but once it's
21 completely air dried, it is -- it can be placed in an
22 evidence locker.

23 Q And from you that would go to Greg Allison>

24 A Yes, ma'am.

25 Q Do you still have the report up there?

1 A Yes, ma'am.

2 Q Can you tell me how old these defendants are, or were,
3 or are?

4 A Mr. Reid, at the time the report was taken, was 22
5 years of age. Mr. Alston was 19 years of age. Mr. Hill, 18
6 years of age, and Mr. Hurley, 23 years of age.

7 MS. TAYLOR: Thank you, Investigator Murdoch. Please
8 answer any questions that the Defense has for you.

9 MR. HENDERSON: Your Honor, may we take a short break
10 now?

11 THE COURT: I'm actually thinking about that exact same
12 thing, Mr. Henderson. We've been at it in about an hour and
13 a half, and I imagine the jury probably needs to stretch
14 their legs and have a break. We'll be at ease for about 10
15 minutes. We'll be back on the record, we'll stay around
16 3:50, and we'll resume at that point in time. Adjourn to
17 the back and don't talk about the case. Thanks. Feel free
18 to pop downstairs if you need to.

19 You may step down. Don't talk about your testimony.

20 (WHEREUPON, recess 3:38 p.m.-3:59 p.m.)

21 THE COURT: Let's go ahead and have the jury, please.

22 (WHEREUPON, jury entered 3:59 pm.)

23 We're continuing with the examination of this witness. Mr.
24 Tinsley?

25 CROSS EXAMINATION

1 BY MR. TINSLEY:

2 Q Lieutenant Murdoch, you would agree with me that was a
3 clear, sunny spring day.

4 A Yes, sir.

5 Q And I heard you testify about taking some DNA evidence.

6 A You're talking about the buccal swabs?

7 Q Correct.

8 A Yes, sir.

9 Q What about any fingerprints on these guys? Did y'all
10 do that?

11 A That was -- when they're turned in -- when they're
12 take, they're turned in to the crime scene tech. He either
13 processes them for latent prints or either they go down to
14 SLED for processing. Because, sometimes if you going to do
15 DNA and test for latent prints there's --- you don't want
16 one to contaminate the other. So, often times, if they're
17 going to try for both, we'll leave that up to SLED.

18 Q So, y'all didn't do anything.

19 A No, sir. As far as I know, the evidence tech did not
20 do it. Everything was sent to the State Law Enforcement
21 Division for processing.

22 Q Okay. The Solicitor asked you about getting a search
23 warrant for any of these other buildings and you didn't do
24 that?

25 A No, sir.

1 Q But you don't need a search warrant to knock on a door
2 and ask anybody if they saw or heard anything?

3 A No, sir. You do not.

4 Q Okay, and y'all didn't do any of that, door knocking?

5 A I didn't. Not at that particular building. No, sir.

6 Q And you're not aware of any other deputy doing it?

7 A Not at that building. No, sir.

8 Q And I've heard testimony about searching around
9 building "G". Did you search around any of the other eight
10 buildings?

11 A Because of the outdoor and expansive complex we didn't
12 have enough investigators to do a grid search. I called, I
13 believe it was Major Cromer at that time over uniform
14 patrol, and said we've got a lot of people out here. Is
15 there any way I can get, you know, somebody walk through,
16 talk to people, see if there's any witnesses. Whether they
17 did or not, that is beyond me. If you read the report is
18 the only thing that we know.

19 Q Okay, and there's not nothing about any of that?

20 A The only thing I know is, if you remember with Ms.
21 Bollinger, Deputy Napier actually talked to her and got that
22 statement. He's with Uniform Patrol.

23 Q Okay, and that all came about from a somebody in Ms.
24 Bollinger's apartment calling 911. So, y'all didn't just
25 cold knock on the door?

1 A I didn't, and as far as I know, I asked for assistance
2 because we can't do it all.

3 Q I agree with that, but y'all had a lot of law
4 enforcement at the scene.

5 A We have a lot of a lot of law enforcement at the scene.
6 Don't mean they were doing everything they needed to be
7 doing, to be honest with you. A lot of them are -- just
8 like normal, they like to stand around and look. Or they
9 try to avoid this. Being up here, having to testify.

10 Q And other than the blood in the apartment, in and
11 around Apartment ■■■, y'all didn't find any blood in the
12 area; correct?

13 A I didn't. I don't -- there was none located, other
14 than around ■■■, that I'm aware of.

15 Q There is a fence behind Hillcrest Condos? You know
16 what I'm talking about?

17 A Are you talking about on the other side of the parking
18 lot --

19 Q Correct.

20 A --- wood line?

21 Q Correct. Did you go back there and search back behind
22 there yourself?

23 A I didn't. I think I understood Investigator Davis did.

24 Q And you didn't find a ski mask?

25 A No, sir. To my knowledge ---

1 Q And you're not aware of any -- I'm sorry.

2 A To my knowledge, I'm not aware of anyone finding a ski
3 mask.

4 Q None of these witnesses identified anybody as a
5 shooter?

6 A No, sir. None of the testimony I've heard did anybody
7 identify the shooter.

8 Q And you testified about a projectile being found up in
9 that porch area?

10 A Yes, sir.

11 Q And there was also one found down at ground level:
12 correct?

13 A To my understanding. Yes, sir.

14 Q And on these sizes that you looked at the report and
15 went over. Y'all are just making guesses at those sizes?

16 A There is various ways that they come up with this
17 information. Could be previous information in the record
18 system. Could be drivers license. So, there's various ways
19 that they can come up. How they come up with these, I can't
20 testify, because I did not write that part of the report.

21 Q So, you don't know where they got these?

22 A I do not.

23 Q Is it safe to say they didn't get a tape measure out
24 and a scale out to come up with precise numbers?

25 A That would be safe to say.

1 MR. TINSLEY: I don't have any further questions.

2 Please answer any questions Mr. Henderson has.

3 CROSS EXAMINATION

4 BY MR. HENDERSON:

5 Q Hey, Detective. How are you?

6 A Doing well, Mr. Henderson. How are you doing?

7 Q Good. I always love to see you. You're one of my
8 favorite people. Now, did I hear you right when you just
9 basically said that a lot of law enforcement officers are
10 basically lazy? That they're standing around, not doing
11 everything they ought to be doing?

12 A Mr. Henderson, you've been doing this as long as I
13 have, probably longer. We're human. Some of them are go
14 getters, and some of them like to be standing there and
15 secure the crime scene-ers. So, we're human. Just like any
16 y'all's employment you've got the go-getters and the stand
17 around-ers. We're the same way.

18 Q Right. So, is it fair to say there were some stand
19 around-ers out there that day?

20 A In twenty-eight years I've never not seen a stand
21 around-er.

22 Q They're like a bad penny. They always show up.

23 A They're useful for just standing there, or directing
24 traffic, or crime scene security.

25 Q Detective, let me borrow you down here at this -- at

1 these exhibits. And I don't recall the numbers. It looks
2 like it's number -- it looks like it's upside down. Looks
3 like Number 88 and 86. I want you -- and again we're going
4 to need to talk loud so Madam Court Reporter can hear us.
5 Point out building "G" again. I think you actually circled
6 it on one or maybe Detective Davis.

7 A I didn't. I think Detective Davis circled it here, or
8 where the casings was, which would have been at the corner
9 of "G".

10 Q I'm looking at Exhibit 86, and I see the word "casings"
11 and a circle. And you would agree with me that Deputy Davis
12 put that on there?

13 A Yes, sir.

14 Q You watched him do it, or at least ---

15 A I seen him draw something on there.

16 Q Right. And that's building "G" right there?

17 A Yes, sir.

18 Q Now, which one of these is building -- how about on
19 this map show what's building "G", if you could. And how
20 about mark it? You can draw a circle around it. Put a big
21 letter. That will be fine.

22 MR. HENDERSON: And let the record reflect that there's
23 a letter "G" that's on what's known as building "G".

24 Q Now, Do you know which one is building "A"?

25 A I do not know how they're numbered, or lettered. That I

1 do not know, because I had to ride around and find the other
2 police.

3 Q Okay, let me ask you, from looking out the front door
4 of Apartment "G" -- you know, we've seen a lot of
5 photographs looking down the steps there ---

6 A Yes, sir.

7 Q --- into a grassy area. How far is it walking forward
8 to this other building?

9 A It's approximately - I didn't get a tape measure and
10 measure. Maybe 25 yards, maybe?

11 Q Seventy-five feet?

12 A Could be.

13 Q How about if you're looking out the front door, down
14 the steps again, of Apartment G? If you're looking to the
15 left, going over here, how far would it be between those two
16 buildings?

17 A Maybe twenty yards. I don't know. I'm just
18 approximate. I hate to say it, but I'm guesstimating.

19 Q Right. I'm with you. I don't have a tape measure
20 either, but is it fair to say that all eight of these units
21 A, B, C, D, E, F, G, and H, are all fairly close together?

22 A Yes, sir.

23 Q And if you look at building "G", if you're walking down
24 the steps again -- the jury has seen a lot of photographs
25 looking down the steps out. And it's pretty close -- the

1 parking lot is pretty close to the right, right there?

2 A Uh-huh.

3 Q Is that a "yes"?

4 A Yes, sir.

5 Q And actually I think it must have been Mr. Parks who
6 testified, that it may be 25 feet. Did you hear him testify
7 to that, when he walked down the steps over there?

8 A He testified to some -- if you say he testified, I
9 don't doubt you.

10 Q I mean, that's my recollection of his testimony.

11 A I'm not doubting you, Carson. Mr. Henderson.

12 Q But all these buildings are fairly close?

13 A Yes, sir.

14 Q Okay. Again, I think Ms. Taylor actually used the
15 comment of, this place was swarming with law enforcement?

16 A Yes, sir.

17 Q Might not might not have been swarming. Might have
18 been teeming. It might have been some other.

19 A There was a lot there.

20 Q Right. A lot there. You can take your seat,
21 Detective. And I think that Mr. Tinsley asked that you
22 didn't instruct anybody else to walk around these other
23 buildings, like A, B, C, D, E, F?

24 A I didn't instruct anybody to. I testified to Mr.
25 Tinsley that I asked could we get somebody to walk through

1 for witnesses. Whether they did or not, we can only go by
2 what's in the report.

3 Q Right. And do you recall talking with Mr. Goode or Mr.
4 Parks about their vehicles?

5 A No, sir. I had very limited contact. I had no contact
6 with Mr. Parks and very limited with Mr. Goode.

7 Q Do you know if anybody asked them about their vehicles?

8 A Not that I know of.

9 Q And again, you're --

10 A They didn't in my presence, if they did.

11 Q You heard Deputy Detective Davis testify that, you
12 know, it's like any professional training that you're taught
13 how to document stuff in reports.

14 A Yes, sir.

15 Q And you're supposed to be extremely thorough, and
16 accurate, and complete. Is that fair to say?

17 A Yes, sir.

18 Q And then often times, like nurses tell me, that if it's
19 not in a medical record it didn't happen.

20 A That's correct.

21 Q And again, is it fair enough to say that if it's not in
22 the cumulative report -- not just your report, but Detective
23 Davis's report, Detective Womack's report. Several people
24 wrote report; correct?

25 A Yes, sir.

1 Q Is it fair enough to say that if it's not in those
2 reports that didn't happen?

3 A If it's not in the report, we can't say that it
4 happened.

5 Q And, so again, you know, just in building "G", you
6 didn't knock on Apartment number three?

7 A I knocked on no doors.

8 Q Okay. Did you ever ask the maintenance people who
9 lived in those apartments?

10 A I didn't.

11 Q Okay, do you know if any of your colleagues did?

12 A No, sir.

13 Q I saw what's looking like, I think it was State's
14 Exhibit Number 36 which showed a hole in vinyl. Do you
15 remember seeing that?

16 A Are you talking about the one that was up there where I
17 said it looks like vinyl? I didn't take a picture?

18 Q Correct.

19 A I did.

20 Q Okay, and I think the Solicitor asked you, does it look
21 like a bullet hole?

22 A I think I testified that it appeared to me to be a
23 bullet hole.

24 Q Okay, maybe you testified to that. Do you know if a
25 bullet was ever removed from that hole?

1 A Not that I'm aware of. If it's where I think it was,
2 it's kind of high up, and no. I don't think anybody got a
3 ladder and went up there. No.

4 Q Now, you said Mr. Allison's the evidence technician?

5 A Crime scene technician.

6 Q Now, he's got a ladder some place, doesn't he?

7 A I don't know. I don't...

8 Q Now, Greenwood County's got a ladder someplace.

9 A I'm sure they do.

10 Q OK, the County Manager is actually out here. I mean,
11 I'm sure they'd get y'all a ladder if you needed one.

12 A I'm sure.

13 Q Do you know whether or not Mr. Allison or Officer
14 Deputy Allison looked up in that hole?

15 A I do not know.

16 Q And you saw that video. I asked somebody else. That
17 big hole in the door in that apartment. Did anybody reach
18 their hand down into that big hole in the door?

19 A Not in my presence.

20 Q Has there been any word about anybody reaching their
21 hand down in there?

22 A I haven't heard any testimony here today. No, sir.

23 Q Now, I've noticed the Solicitor was playing this video
24 where Mr. Reid, Mr. Hurley, and Mr. Alston all arrive at the
25 Emergency Room. You saw video?

1 A Yes, sir.

2 Q And Mr. Hurley gets out and goes off camera. Looks
3 like he's going towards the door. Wouldn't you agree with
4 that?

5 A I would.

6 Q The ER door?

7 A Yes, sir.

8 Q From watching that video, it almost appears that they
9 were waiting on him. I just got that impression.

10 MS. TAYLOR: Objection, Your Honor. This is all
11 speculation.

12 MR. HENDERSON: Let me follow up.

13 MS. TAYLOR: Your Honor, he just said he got that
14 impression, and that would be.

15 THE COURT: I'll sustain the objection to that, but I
16 think maybe you can rephrase that and get where you're
17 going.

18 MR. HENDERSON: Absolutely.

19 Q When Mr. Hurley got out of the car, is it fair to say
20 that very quickly somebody else was coming out the door with
21 a wheelchair?

22 A Yes, sir. In a short amount of time, someone came out.

23 Q Bingo. A short amount of time?

24 A Yes, sir.

25 Q Okay. Did you ever ask anybody at the hospital whether

1 or not they -- that the hospital got a call from Mr. Reid or
2 Mr. Hurley saying, "Hey, we've got somebody who's harmed.
3 Can you come out and meet us."

4 A No, sir.

5 Q Did anybody -- I think you said Detective Womack was
6 the detective at the hospital. Did he tell you that he
7 asked, did he ask that lady who brought the wheelchair out?

8 A I haven't. He hasn't told me if they did.

9 Q Okay. And again, I think Mr. Tinsley said, or you
10 agreed with Mr. Tinsley, that wasn't raining that day.

11 A No, sir.

12 Q And it's my understanding, now correct me if I'm wrong,
13 on that tan handgun that the Sheriff found -- you've heard
14 that testimony?

15 A I heard the testimony.

16 Q And I think that gun, there was nothing found on that
17 gun. And when I say "nothing", no DNA, no fingerprints. Am
18 I correct about that?

19 A I can't testify to that. It was sent down. That will
20 probably be something -- I'm assuming they'll bring SLED up
21 later in the week. You may want to defer to that.

22 Q Okay. Assuming that nothing is found on that handgun -
23 - just assume that ---

24 MS. TAYLOR: Your Honor, this is leading to
25 speculation. I'm sure just by the way it's phrased.

1 MR. HENDERSON: No, no.

2 THE COURT: Let me hear the question first.

3 Q You're very knowledgeable about firearms.

4 A I'm not a ballistic expert or firearms expert. I have
5 limited knowledge.

6 Q Not asking you an expert ques -- I mean, you shoot
7 guns. You shoot pistols. You shoot on a regular basis.

8 A I qualify a couple of times a year.

9 Q Absolutely, and every time you touch a firearm you're
10 putting your fingerprint on it. You would agree?

11 A I would agree.

12 Q And then every time you touch the firearm, you're
13 putting your DNA, probably, on the firearm.

14 MS. TAYLOR: Objection, Your Honor.

15 THE COURT: Sustained. That would call for an expert
16 opinion, and I'm assuming we're going to have an analyst
17 here at some point in the future. Let's save that one for
18 him, if we could.

19 Q Okay. It wasn't raining that day.

20 A No, sir.

21 Q Let's assume again, if nothing is found on a handgun,
22 could the handgun have been wiped down?

23 A You're asking -- I can't speculate, Mr. Henderson. I
24 don't know.

25 MR. HENDERSON: I don't have anything further, Your

1 Honor.

2 THE COURT: Mr. Grose?

3 CROSS EXAMINATION

4 BY MR. GROSE:

5 Q When Mr. Henderson first started asking you questions,
6 he asked you if you had testified earlier about some of the
7 law enforcement officers just standing around?

8 A Yes, sir.

9 Q And you said there's go getters and stand around-ers?

10 A Yes, sir.

11 Q All right. When you first brought that up, when the
12 prosecutor was asking you questions, I thought I heard you
13 say that some of the, what we call stand around-ers, do that
14 because they don't want to end up having to testify. Did
15 you say that?

16 A Yes. In some in some cases, yes, sir.

17 Q So, if you don't do anything, and you keep your name
18 out of a report, you don't end up coming to court like
19 you're doing here today?

20 A Yes, sir.

21 Q But I did hear you say that though?

22 A Absolutely. I said that, Mr. Grose.

23 Q All right. I also think that at the very beginning. Of
24 the prosecutor's questioning you said that you wound up
25 being the chief investigator?

1 A Yes, sir.

2 Q Okay. Were you the chief investigator to begin with?

3 A In cases like this, everybody just shows up and
4 eventually one person is designated a lead. And in this
5 case, I was designated a lead later on.

6 Q Okay. When you say later on, how much later on?

7 A Probably towards the end of the day, when the paperwork
8 started coming in. Usually, nowadays the lead is more or
9 less the point of the contact between the Solicitor's Office
10 and other -- just so they have one person to contact instead
11 of having them try to contact somebody in the whole unit.

12 Q And I appreciate that answer. I want to kind of unpack
13 it a little bit. You said that you were designated the lead
14 investigator towards the end of the day?

15 A Yes, sir.

16 Q Was it still daylight?

17 A Yes. I will say, yes.

18 Q We know this happened around a little bit after 2:00 in
19 the afternoon. Was it -- were you designated the lead by
20 3:00?

21 A I can't give you a specific time.

22 Q But it was still daylight?

23 A It was a that day. I can't give you a specific time. I
24 didn't look at my watch and such and such a time. I was
25 designated -- by the time we finished for the day, I was the

1 lead.

2 Q I got you. Now, I understand the sheriff was out there
3 for a little, while based on his testimony. Is that right?

4 A Yes, sir.

5 Q Okay. I also heard him say that he stayed out of the
6 way of the investigators. Is that right? Did you hear that
7 too?

8 A Yes, sir.

9 Q I think I also heard him say that, is it Major Cody
10 Bishop?

11 A Yes, sir.

12 Q Was the -- other than the Sheriff, was the most senior
13 person out there? Is that what you recall?

14 A Yes, sir.

15 Q Okay. And I think you testified there was at least two
16 other investigators there, other than you?

17 A On the scene?

18 Q Yes, sir.

19 A The only ones I'm aware of was Investigator Davis was
20 on scene, Womack went to the hospital, and then the CSI.

21 Q Okay. Fair enough. So, there was at least one other
22 investigator other than you?

23 A Yes, sir.

24 Q Plus the Sheriff. Plus Major Bishop. Yes?

1 A Yes, sir.

2 Q And investigator Womack went to the hospital; is that
3 right?

4 A Yes, sir.

5 Q A I think a few minutes ago when I was asking you
6 questions you said that nowadays the lead investigator is
7 the person who collects the materials and is then the point
8 contact with the Solicitor's Office?

9 A Yes, sir.

10 Q Okay. All right. When the prosecutor was asking you
11 questions, I think you testified that this particular crime
12 scene was a confusing crime scene?

13 A It was chaotic.

14 Q Chaotic? And that that is typical of a case like this?

15 A Yes, sir.

16 Q And I think you -- they also asked you about, you know,
17 does sometimes that clears up, and I think you said
18 sometimes it does, but sometimes it's still confusing or
19 chaotic?

20 A Sometimes it takes a while. Yes, sir.

21 Q And that was the case here, wasn't it?

22 A It took a while.

23 Q And that was the case here?

24 A Yes, sir.

25 MR. GROSE: Beg the Court's indulgence for a moment.

1 THE COURT: Yes, sir.

2 MR. GROSE: Thank you for your patience, Your Honor.

3 That's all I have at this time.

4 THE COURT: Any redirect?

5 MS. TAYLOR: Yes, Sir.

6 REDIRECT EXAMINATION

7 BY MS. TAYLOR:

8 Q That last question Mr. Grose asked. I want to make
9 sure this jury has your answer right. As to this particular
10 crime scene, did it clear up, after a while, what happened?

11 A It cleared up, yes.

12 Q Now, going back to these questions about the reports
13 and what ended up in the reports. Does every officer who
14 goes to a crime scene write a report?

15 A No, ma'am.

16 Q Does every single person who gets talked to at a crime
17 scene end up in a report?

18 A No, ma'am.

19 Q Does every 911 call end up in a report, verbatim?\

20 A No, ma'am.

21 Q Do the 911 calls even end up in a report?

22 A No, ma'am.

23 Q Is it safe to say that if an officer stumbles across
24 something that appears to be important, that ends up in a
25 report?

1 A Yes, ma'am.

2 Q If he talks to someone who appears to have information,
3 does that end up in a report?

4 A Yes, ma'am.

5 Q If an officer anywhere on the crime scene sees
6 something that appears to be of evidentiary value, do they
7 note that and it ends up in a report?

8 A It should. Yes, ma'am.

9 Q The stand around-ers, as you call them, I think you
10 said they end up maintaining crime scene security and
11 directing traffic?

12 A That's correct.

13 Q Are these going to be the guys out walking the scene
14 and looking for evidence?

15 A Those are not the ones you want out there, no.

16 Q And you need those people to maintain the scene and the
17 security; is that correct?

18 A Yes, ma'am.

19 Q So, you're not going to have thirty officers writing.
20 Reports on what they didn't find?

21 A No, ma'am.

22 MS. TAYLOR: Thank you, Investigator Murdoch.

23 THE COURT: Any recross?

24 RE CROSS EXAMINATION

25 BY MR. TINSLEY:

1 Q Lieutenant Murdoch, she asked you about needing
2 officers to maintain the scene. You'd love to have a
3 hundred percent go getters on your force; wouldn't you?

4 A Love it.

5 MR. TINSLEY: No further questions.

6 RECROSS EXAMINATION

7 BY MR. HENDERSON:

8 Q Detective, I want to make sure I heard your answer
9 correct to the Solicitor on redirect that on a case of this
10 magnitude that all 911 calls may not end up in the case
11 file. Did I hear that right?

12 A No, in the report. We don't take and transcribe the
13 911 call and rewrite it in the report.

14 Q Okay, but all 911 calls should be available in your
15 case file?

16 A All 911 calls should be in the ultimate case file that
17 is transmitted, yes.

18 Q Okay. And were you the one responsible for gathering
19 all these 911 calls? Or anything else that went into the
20 case file?

21 A As far as 911 calls, I have to obtain them from the
22 manager. They send them to me and then I forward them. I
23 do not know how many or what calls came into the 911 center.
24 That's not my area.

25 Q You just have no idea.

1 A I have no idea.

2 Q Can you say under oath today that all the 911 calls are
3 actually in your case file?

4 A All the ones I got I forwarded.

5 Q Right. That's a different -- you're answering a
6 different question.

7 A All the ones that I got in my file went. I can't say
8 that all of them came to me. I don't know how many that
9 there were.

10 Q As a go getter, I know you're a go getter and I have
11 the utmost respect for you, but as a go getter detective at
12 the hospital, should Detective Womack have been asking --

13 MS. TAYLOR: Your Honor, I'm going to object to what
14 another officer should or should not have been doing, who
15 has not even testified yet.

16 MR. HENDERSON: He's the lead investigator on this
17 matter, Your Honor.

18 THE COURT: Sustained. You can ask him when he
19 testifies.

20 MR. HENDERSON: Okay. I don't have anything further,
21 Your Honor.

22 THE COURT: Mr. Grose?

23 RECROSS EXAMINATION

24 BY MR. GROSE:

25 Q About these 911 calls that Mr. Henderson just asked you

1 about. You're not sure whether all of them were collected?

2 A From -- clarify that a little bit for me.

3 Q Well, all the 911 calls that relate to this case,
4 you're not sure that all of them were collected?

5 A Did I collect them? I re -- we fill out a form. I
6 submit it to the 911 manager, and they send what we ask for.
7 Other than that, I do not know.

8 Q So, even though you filled out that form, you don't
9 know if you got all of them?

10 A I don't -- you're asking me -- no. I got what I got.
11 I can't -- beyond that, I can't testify to.

12 Q I got you.

13 MR. GROSE: That's all I have.

14 THE COURT: Thank you. You can step down. Call your
15 next witness, please.

16 MS. TAYLOR: Your Honor, the State calls Investigator
17 Matt Womack.

18 WHEREUPON, Matthew Womack, having first
19 been duly sworn, testified as follows:

20 DIRECT EXAMINATION

21 BY MS. TAYLOR:

22 Q Good afternoon.

23 A Good afternoon.

24 Q How are you employed?

25 A I'm sorry?

1 Q How are you employed?

2 A Oh, by the Greenwood County Sheriff's Office.

3 Q How long have you been with the Sheriff's Office?

4 A I've been with them since 2017.

5 Q How long have you been in law enforcement?

6 A Eleven and a half years. Before Greenwood I was at the
7 Newberry County Sheriff's Office.

8 Q What are your current duties at the Sheriff's Office?

9 A I am an investigator and secondary evidence custodian.

10 Q Going back to April 8, 2020, did you respond to a
11 shooting at Hillcrest Condos?

12 A I responded to Self Memorial Hospital, or Self Regional
13 Hospital, at the request of Investigator Murdoch. I was not
14 close to town. I was off, following up on another case, so
15 it took me a little while to get back into town.

16 Q Did you go out to the actual shooting scene at all?

17 A I did not.

18 Q So when you got to the hospital, what did you find?

19 A So, I met with the -- there was two deputies there.

20 One was an SRO, Chad Robertson, and then Mike Young, who was
21 the Sergeant for the shift at the time, and then
22 Investigator Blackwell was there as well from the Greenwood
23 City Police Department.

24 Q And did the hospital have a number of patients being
25 treated for gunshot wounds?

1 A So, when I came in, I entered through the ambulance
2 bay. The building was on lock down at that point in time
3 through the front entrance for safety matters, so I had to
4 come in through the back of the security. And then I was
5 notified by the SRO, Sergeant Young at the time, and
6 Investigator Blackwell did. There was at least four
7 individuals with gunshot wounds. Just as they were updating
8 me on conditions for each, the physicians at that time, did
9 indicate that one of the victims did not survive.

10 Q When you first got to the hospital, did the hospital
11 know who all of the people they were treating were?

12 A I don't -- I don't know.

13 Q Do you know if they have an identity for the person who
14 ultimately was the decedent?

15 A So, whenever the staff was, you know, continuing to
16 work on all the victims after the victim who ended up being
17 identified as Mr. Alston, after he was found to be deceased.
18 He was in the most serious condition when he came in and so
19 they started treating Mr. Goode, Mr. Parks, and Mr. Hill.
20 They did not -- Corner Cox arrived very shortly after I did,
21 and at that point in time we were trying to identify the
22 male that ultimately was Mr. Alston.

23 Q So when Coroner Cox arrived, y'all are still trying to
24 identify the decedent?

25 A That's correct. The hospital staff did not have

1 specific information of his identity.

2 Q So, they did not even know his name?

3 A That's correct.

4 Q And you keep using the term "victim". Is that -- are
5 you using that in a in a legal sense or just a gunshot wound
6 sense?

7 A Well, it a gunshot wound sense. At that point in time
8 when I arrived, I had no idea if they were suspects or
9 victims. I had no idea. So I, you know, I treat everybody
10 as a victim at that time.

11 Q You stated that Coroner Cox arrived very shortly after
12 you did and after Mr. Alston, I guess, was pronounced
13 deceased.

14 A Yes, ma'am.

15 Q What did you do next?

16 A At that point in time myself, Corner Cox, and his
17 deputy, we reviewed the body of Mr. Alston for his injuries.

18 Q Did you take any pictures of Mr. Alston's injuries?

19 A I did.

20 MS. TAYLOR: Your Honor, may we approach?

21 MR. HENDERSON: Your Honor, yeah, I think this is a good
22 time to approach.

23 (WHEREUPON, sidebar held.)

24 THE COURT: Ladies and gentlemen of the jury I need to
25 take up a brief issue of law with the attorneys. I hope

1 this won't take more than five to 10 minutes. Adjourn to
2 the back if you would and I'll have you back out here as
3 soon as I finish ruling on this issue. Okay. Thank you for
4 your patience. Don't discuss the case.

5 (WHEREUPON, jury exited 4:36 pm.)

6 THE COURT: We're still on the record. At the sidebar,
7 Ms. Taylor showed me basically three photographs. One is
8 color and it depicts Mr. Alston, showing his whole body, his
9 head, his torso, and then there were two other black and
10 white photos. And the genesis of the black and white photos
11 is actually an e-mail communication from last week and I
12 knew that there was probably going to be an issue with the
13 defense possibly objecting to the color photographs. And so
14 I suggested that maybe the Solicitor should procure black
15 and white photos which don't show the decedent's face.

16 I've taken a look at those for the purpose of
17 preserving what we said at sidebar, and I'm assuming that
18 the objection is basically that the prejudicial effect
19 outweighs any probative value? It's a 403 objection,
20 gentlemen?

21 MR. GROSE: Yes, sir. Can we get -- is this Exhibit 80
22 that we're talking about?

23 THE COURT: So, State's 80 is the color one?

24 MS. TAYLOR: We don't have any of the marked yet, but
25 the whatever comes in would be State's 80. Yes, sir.

1 THE COURT: Let me hear your rationale for introducing
2 those please.

3 MS. TAYLOR: Your Honor, the State's asking for the full
4 color photograph for two reasons. Number one, as far as the
5 color issue, the photo is of Mr. Alston. He's laying on a
6 bed in the trauma bay. On his right side, kind of over his
7 rib cage, there is an obvious lump that is the projectile
8 that the pathologist will ultimately testify to. It's
9 circled and you can see it very clearly. Does not show up
10 as well on the black and white photos. Also, the -- his
11 head clearly shows his hairstyle, which is very probative in
12 this case because there was testimony from Jameel Wilson
13 that the two backseat passengers in the Camry had twisties
14 in their hair. And if you see Mr. Alston's hairstyle, he
15 very clearly had short, what I would categorize as twists,
16 in his hair. So that hairstyle is very probative for the
17 jury, Your Honor.

18 THE COURT: May I see those and the black and white
19 exhibits again and take another look?

20 MS. TAYLOR: Yes. And, Your Honor, just for the record,
21 the ones I show you, I had two copies of the same black and
22 white.

23 THE COURT: Oh, Okay.

24 COURT REPORTER: Should I go ahead and mark them, in
25 case he needs to refer to them.

1 MS. TAYLOR: Yes.

2 COURT REPORTER: Which one would be 80?

3 MS. TAYLOR: The color.

4 THE COURT: I'm going to want the black and white in
5 too, so whatever is next, just mark it.

6 (WHEREUPON, photos marked State's Exhibit 80, State's
7 Exhibit 134 for identification.)

8 THE COURT: The record will reflect that the color
9 photograph has been marked as State's Exhibit 80, and the
10 black and white State's Exhibit 134, just for identification
11 at this point. I assume that, like the brown liquid that
12 looks like it's running down the side of Mr. Alston's torso.
13 That's, like, a antiseptic of some kind, like Mercurochrome
14 or something like that?

15 MS. TAYLOR: That's what I would assume, Your Honor.
16 Like a Betadine or something. They had done surgical
17 procedures, and then the other pictures will show surgical
18 procedures, and obviously they would have sterilized him
19 somehow.

20 THE COURT: Right. Does the defense want to be heard
21 further on this question? Anyone?

22 MR. TINSLEY: Yes. I'll turn it over to Mr. Grose.

23 THE COURT: Mr. Grose?

24 MR. GROSE: I think, Judge, as you indicated one of the
25 objections was, you know, with regard to -- or the

1 objections regard to the prejudicial effect substantially
2 outweighing any probative value. And of course, a lot of
3 the things that the Solicitor says are relevant. They could
4 ask questions of either this witness or of the doctor who
5 testifies. You know, this picture -- you know, the color
6 picture that shows the head and the entire body. In
7 addition to what you already pointed out, which is, you know
8 regarding the anesthetic or something to clean the wounds,
9 you have other signs of, you know, medical intervention. As
10 far as, it still looks like ---

11 THE COURT: A breathing tube.

12 MR. GROSE: Yeah, there's a breathing tube in his
13 mouth.

14 THE COURT: He's been intubated.

15 MR. GROSE: And there's -- right, and there's other
16 patches and cords. And I can't tell, you know, some of them
17 appear to be on him and some of them appear to be maybe
18 running towards him. With regard to the black and white
19 photograph that you've been given. You know, these are the
20 -- where you just see the torso. You're still seeing that
21 medical intervention. And of course that's -- I think
22 that's a problem. You know, they are -- they do have --
23 these are not the only photographs that they have. It may
24 be that from the autopsy photos that they could get
25 something that would be, you know, show the similar thing,

1 as far as the hair. We do have some objections to those,
2 but, for example, I'm looking at what's been marked as
3 State's Exhibit 81. I don't know that they need the medical
4 intervention on that, but they it also shows the decedent's
5 hair. And when I look at it, you know, it's not measured,
6 but it does appear to be more than an inch. So, I don't
7 even know that this reflects as what they're telling Your
8 Honor that it reflects. So, you know, I think the
9 prejudicial effect substantially outweighs any probative
10 value.

11 And I was having a little trouble hearing. This is
12 just for clarification. I know we started talking about
13 Exhibit 80. Is that still the color photograph?

14 THE COURT: Yeah, 80 is still the color, and 134 I
15 wanted just to mark that as an -- they're both ID at this
16 point though.

17 MR. GROSE: And then that's the black and white?

18 THE COURT: Yes.

19 MR. GROSE: And that was that was just for my
20 clarification, because I heard 130, but I didn't catch ---

21 THE COURT: And I've lost my mic. So, I'm sorry.

22 MR. GROSE: We're all going to get in trouble for not
23 using the mics right this week.

24 THE COURT: You're right. Okay. And of course, just
25 for the record, I'm certain that Mr. Hill and Mr. Hurley are

1 -- I'm sorry. Mr. Hill and Mr. Reid join in the argument
2 and the objection?

3 MR. HENDERSON: That's correct, Your Honor. \

4 MR. TINSLEY: Correct, Your Honor.

5 THE COURT: Did you feel the need to reply?

6 MS. TAYLOR: Your Honor, just -- a lot of the cross
7 examination has come down to this hairstyle. I think it is
8 -- the evidence of the hairstyle in the picture. I know
9 that Mr. Grose said we could ask questions but, you know, a
10 picture is worth 1,000 words, or 1,000 questions, in the
11 jury's eyes. So, the State believes that that photo should
12 come in.

13 MR. GROSE: Your Honor, I'm not going to argue with how
14 many words a picture is worth. It just doesn't have to be
15 that picture. And that's my point. And I think that
16 there's other ways for them to try to do it. And I threw
17 out one suggestion, and they're not offering you any other
18 alternatives.

19 MS. TAYLOR: Your Honor, there's also a lot of really
20 graphic pictures that we're keeping out. We're being very
21 measured in what we're trying to do and I was at a CLE at
22 the Solicitor's Conference one time where some pretty
23 graphic pictures of a deceased child who had been ---

24 THE COURT: The dog mauling thing?

25 MS. TAYLOR: --- mauled to death by dogs.

1 THE COURT: Yes. The dog mauling case. They showed us
2 the same pictures at a judge's conference, and the consensus
3 was that if those could come in and be considered admissible
4 in that kind of a case, and the judge who tried it was
5 actually sitting next to me and, I'll tell you a story about
6 that later, but there was actually a mistake made in what
7 you were shown.

8 But here's where I'm coming down on this. As a general
9 rule, I am very cautious about photographs of deceased
10 individuals because they can be graphic. These photos are
11 certainly not as bad as many I've seen, and more to the
12 point, the hairstyle and the way his hair appeared close to
13 the time -- temporally close to the time that these -- that
14 this incident took place, I think is relevant, so the
15 autopsy clearly took place some time later. Maybe they
16 could use those photographs. But this is, the photograph,
17 State's 80, shows what his hair supposedly looked like
18 within an hour of the incident occurring. The bullet and
19 the circled bulge on the right side of Mr. Alston's chest is
20 also much more visible in the color photograph than it is in
21 the black and white.

22 I understand your position, Mr. Grose. I'm going to
23 allow State's 80. I think the probative value is there, and
24 the jury has already seen a video of Mr. Goode being
25 attended to. That included showing his genitals. I warned

1 the jury ahead of time about possibly seeing unpleasant
2 things and nobody indicated that that would cause some undue
3 pressure on them, or otherwise affect their ability to be
4 fair and assess the evidence objectively. So, your --
5 everyone's objections are noted. I'll permit 80 to be
6 introduced, subject to the Defendants' objections. No need
7 to renew the objection when she introduces it here shortly.
8 And 134 will remain a State's exhibit just for
9 identification, not in evidence, so that in the event this
10 matter is reviewed, any review in court can make its own
11 comparison between the black and white and the State's 80.
12 Alright, that's my ruling on that.

13 How many more were you looking at getting to this
14 afternoon?

15 MR. STUMBO: We were hoping for two more city officers.

16 THE COURT: Our regrettable delay this morning, which
17 was occasioned by no one's faults in this courtroom, maybe
18 it put us a little bit behind. Give those back to Elizabeth
19 and we'll be at ease for a few moments. Step down, but
20 don't talk about your testimony.

21 (WHEREUPON, recess 4:49-5:00 p.m.)

22 THE COURT: We're back on the record and Mr. Henderson,
23 you indicated there was one thing before we bring in the
24 jury back?

25 MR. HENDERSON: Absolutely, Your Honor. The court

1 deputies just informed us that this morning that they
2 actually brought the straggler juror here.

3 THE COURT: Right.

4 MR. HENDERSON: We were under the impression that he
5 drove and they followed him.

6 THE COURT: No, I figured you all knew that already.
7 I'm sorry.

8 MR. HENDERSON: No, we didn't. We were under the
9 impression that he was driving and he had a tail on him to
10 make sure he didn't veer off to go to Callison or something.
11 You never can tell. The deputy said that they want to give
12 him a ride home, and it's not so much that we were worried
13 about what the deputies would do or say to him. We don't
14 think they would say a word. It's how he perceives it.
15 It's almost that if he perceives that if I don't "tow the
16 line", so to speak, I'm going to get another ride in the
17 squad car and it might not be so friendly the next time.

18 THE COURT: He actually indicated to them this morning,
19 and I was going to let you all know, that both he and one
20 other juror have had transportation issues. And I don't
21 know who the other juror is, but she's a female, and she
22 indicated that for the last couple of days, she's been able
23 to Band-Aid it and catch rides, but she's not sure that
24 that's going to be the case tomorrow morning and I said you
25 know, look, we'll send a car out to pick you up too. Just

1 because I don't want to be in the same position with her
2 tomorrow morning if she can't get a ride that we were in
3 with this, with the guy this morning when they went to his
4 apartment. But yeah, he's here without a car. I mean, we
5 don't have Uber. We have limited options here.

6 I'm certain the deputies aren't going to talk to them,
7 and I've already spoken to them and I'm sure they won't, so
8 I think we'll be all right. But yeah, they both have
9 transport issues and the guy this morning apparently was
10 asleep in bed when he knocked on the door and -- whatever.
11 I'd feel better with this trial proceeding expeditiously.
12 If we assist them to the extent we need to, to get here.

13 MR. HENDERSON: Now, it's my understanding that he said
14 he's got transportation to get here tomorrow that's not a
15 police?

16 THE COURT: No, neither of them do.

17 MR. HENDERSON: Neither of them do? Okay.

18 THE COURT: Yeah, well he does not. The guy from this
19 morning does not. He's got transportation issues. You
20 remember, he works landscaping. I got the impression that
21 maybe it was one of those things where his boss picks him up
22 or something and then they go cut grass. But the lady,
23 whoever she is, indicated, didn't she? Was it --

24 BAILIFF: It was not me.

25 THE COURT: It was some -- somebody indicated to me

1 that she does have. She's been able to Band-Aid it the last
2 three days and get somebody to pick her up and take her
3 back, but it's a day-by-day sort of thing. So, that's where
4 we are. I don't know what you would suggest by way of a
5 solution other than we give her a ride.

6 MR. HENDERSON: Right and again, it's not suggesting
7 that deputies to do anything that's wrong, it's how the
8 riders would perceive it.

9 THE COURT: I imagine that they would be appreciative
10 that they're getting a free ride and don't have to worry
11 about cab fare. That's what we're doing though. I've made
12 that decision.

13 MR. HENDERSON: I just wanted to put that on the record,
14 Your Honor.

15 THE COURT: I understand, but that's the only solution
16 I got.

17 MS. TAYLOR: Your Honor?

18 THE COURT: Ma'am?

19 MS. TAYLOR: While we were on the break, I went ahead
20 and went through all the pictures I was going to do with
21 this witness. It's my understanding Mr. Tinsley has an
22 objection to State's 50, 51, and 52 as well, so I thought
23 we'd gone on and talk about that now.

24 THE COURT: Let me let me go ahead and see those again.
25 Did you do a black and white on these?

1 MS. TAYLOR: I do not have a black and white on those.

2 And Your Honor, I think it's going to be obvious, even in a
3 black and white, that that's a jail jumpsuit.

4 THE COURT: Mr. Tinsley, again, it's just the prejudice
5 of the jumpsuit and everything?

6 MR. TINSLEY: Correct. I mean, just the same reason why
7 he doesn't have to sit here dressed like that. It's highly
8 prejudicial.

9 MS. TAYLOR: And, Your Honor, I think obviously the
10 jury understands that at some point he was arrested and
11 probably spent at least a little bit of time in the
12 Greenwood Detention Center.

13 MR. HENDERSON: Your Honor, if I may interject. I've
14 just created these pictures all in black and white. I've
15 got a black and white copy of them.

16 THE COURT: Let me see what you've got.

17 MR. HENDERSON: Which does not necessarily look like a
18 jail jumpsuit, or at least a whole lot less.

19 MR. TINSLEY: It cuts the prejudice way down. There's
20 three pictures that essentially show the same thing. I
21 think they're showing where the bullet wounds were, so I
22 think one picture would suffice.

23 MR. HENDERSON: And, Your Honor, if I may approach.
24 Here is 51 and 52, all in black and white as well.

25 THE COURT: I'm assuming, Solicitor, at some point in

1 time you are going to elicit testimony that, okay, based on
2 all of this, the decision was made to charge Mr. Hill with
3 the offense of attempted murder and blah, blah, blah?

4 MS. TAYLOR: Yes, sir.

5 THE COURT: At some point that's going to be elicited?
6 I've already told the jury that indictments are, you know,
7 the fact that the defendants were arrested, charged, and
8 indicted in this case isn't evidence and isn't relevant and
9 I think that they have common sense to understand that any
10 time you're arrested, you're probably going to be putting
11 them in the jail. Especially when you're dealing with an
12 incident involving shooting. I'll permit the State to use
13 52,51, and 50 and understand Mr. Tinsley's objection, but
14 they do better depict the injuries than the black and white.
15 Mr. Henderson has a point that the black and white would
16 obscure the orange jumpsuit, but it doesn't catch the
17 contour of Mr. Hill's torso and it's just easier to discern
18 it all in color.

19 MR. HENDERSON: And, Your Honor, those three exhibits I
20 handed up black and white, could we get those marked as a
21 Court's exhibit?

22 THE COURT: Yes, what I'm going to do is I'm going to
23 collectively make them another Court's exhibit. I'm just
24 going to staple all three of them together and make them
25 collectively a single exhibit.

1 MR. TINSLEY: Judge, I just want to make clear on the
2 record that in addition to the prejudice argument, I think
3 having all three of them, that it's improper. It's just
4 cumulative. I think one could do the trick.

5 THE COURT: I understand your position. We're up to --

6 COURT REPORTER: Court's 22.

7 (WHEREUPON, three black and white photos marked Court's
8 22 for identification.)

9 THE COURT: Let's have the jury.

10 (WHEREUPON, jury entered 5:08 p.m.)

11 THE COURT: The jury is back and seated. Ladies and
12 gentlemen, I've addressed that legal issue, and just so that
13 you're aware, I've told the parties that after we finish
14 with this witness, we will be done for the day. So, if you
15 have -- I know it's Wednesday night and y'all might have
16 church obligations or something here shortly, so hopefully
17 we'll be in a position to get you to those if you do. Ms.
18 Taylor, go ahead please.

19 MS. TAYLOR: Thank you, Your Honor.

20 BY MS. TAYLOR:

21 Q All right, Investigator Womack. When we left off, I
22 think you were saying that you took some pictures of Mr.
23 Alston in the ER.

24 A Yes, ma'am. Myself, Corner Cox and Deputy Coroner
25 Derek Rash, at the time.

1 Q And State's Exhibit 80, is that one of the pictures you
2 took?

3 A It is.

4 MS. TAYLOR: Your Honor, the State offers Exhibit 80
5 into evidence this time.

6 THE COURT: Subject to the pre-trial rulings a few
7 moments ago and any exceptions. You may publish.

8 Q All right, I'm showing you what's been marked entered
9 into evidence in State's 80. Who is that?

10 A That was later identified as Mr. Alston.

11 Q And, obviously at this point is he deceased?

12 A Yes, ma'am.

13 Q Now what, when you took this picture, what were you
14 trying to capture?

15 A When observing Mr. Alston's body, I observed, if you
16 look just below the armpit, you'll see a bulge right where
17 the ribs are. That's correct. And it has a circle drawn
18 around it. Now, I did not do that. Medical personnel
19 circled that, and it appeared to be to me as a as a foreign
20 object such as a, probably a bullet.

21 Q All right and one other thing on this picture. Mr.
22 Alston's hairstyle.

23 A Yes, ma'am.

24 Q Was his hair in twists.

25 A Yes, ma'am. As far as I remember. Yes, ma'am.

1 Q And now this wasn't the extent of his injuries, was it?

2 A No, ma'am. This is just one of many photographs.

3 Q Did he have entrance wounds on the other side of his
4 body?

5 A He did. I will add that we did observe that protrusion
6 first, which made us, you know, further look on the side of
7 the body ultimately finding there was.

8 Q And was Mr. Alston taken for an autopsy?

9 A He was.

10 Q Presumably, the pathologist can talk about entry and
11 exit and all those kind of details?

12 A Yes, ma'am.

13 Q You took some pictures of Mr. Alston. Did you do
14 anything else with his body?

15 A Yes, ma'am. I did collect or conducted a gunshot
16 residue test on Mr. Alston's hands.

17 Q And what is -- when you say a gunshot residue test,
18 what are you doing when you perform a gunshot residue test?

19 A So, the gunshot residue test, we summarize GSR, they
20 are provided by SLED to law enforcement agencies and they're
21 very simple to use. I have one with me. I'll be happy to
22 demonstrate how one is performed by any investigator or law
23 enforcement officer.

24 Q Very, very quickly. Since I know we're bumping up
25 against a late hour. How do you perform that test?

1 A So, they come sealed. You'll see the tamper resistant
2 seal. We will open the seal. Inside is instructions.
3 Analysis or information. It has things like the officers
4 collecting their badge number, agency case number, the
5 information from the individual you're taking the GSR from.
6 It also comes with latex gloves, so that you don't have any
7 cross contamination. And then it comes with two valves.
8 One says right hand and then the other says left hand. And
9 you'll, obviously glove. You'll take it and you'll dab it
10 on the victim's or suspect's hand at that point in time,
11 front and back. And it's a little sticky substance and it
12 will gather the gunshot residue if it's available.

13 Q And is there a specific amount of time that SLED
14 requires you to obtain that evidence within?

15 A Yes, within either -- usually six hours, I believe is
16 their policy, if I remember correctly.

17 Q So, you performed that on Mr. Alston?

18 A I did.

19 Q And was that relatively soon after you got to the
20 hospital?

21 A Yes, ma'am.

22 Q Do you have any idea of what time it would have been?

23 A Within, I would say within 30 minutes of me arriving at
24 the hospital.

25 Q And I'm going to show you what's been marked for

1 identification as State's 99. Can you identify that for me?

2 A GSR kit that I collected.

3 Q From Mr. Alston? Now the other three individuals that
4 were at the hospital, did you perform GSR kits on them?

5 A I did not. At that point in time, Corner Cox and I was
6 notified that Mr. Alston's mother, Ms. Jackson, was in the
7 lobby. It's not a good time, any time, to notify a mother
8 that her child has been killed. And so, instead of having
9 an interview separately or have to make her go through this
10 multiple times, I made the decision that Corner Cox and I
11 would go and get information from her at the same time.

12 With that being said, the other individuals Mr. Hill,
13 Mr. Parks, and Mr. Goode were awaiting surgery and we needed
14 to collect the GSR kits. So, at that point in time, I gave
15 those three to Investigator Blackwell to perform the GSR.

16 Q And, when you say Investigator Blackwell, is that Matt
17 Blackwell with the Police Department?

18 A Yes, ma'am. Greenwood City Police Department.

19 Q And you were trying to get that done in that time frame
20 you've got to get that collected?

21 A Yes, ma'am. Again, they had gunshot wounds. They were
22 awaiting surgery at any moment. So, it's something that
23 needed to be done.

24 Q And after Investigator Blackwell did that, did he
25 return the completed kits to you?

1 A Yes, ma'am. As soon as I returned back to where they
2 were at, they went in my possession.

3 Q And were those sealed when you received them back from
4 Investigator Blackwell?

5 A Well, he was completing them and sealing them. Yes,
6 ma'am.

7 Q Did you do anything with those after you received them
8 from Investigator Blackwell?

9 A As soon as I took them, I sealed them on my side as
10 well and entered them in evidence.

11 Q All right. And showing you State's 100, 101 and 102.
12 Are those the GSR kits from Xayvion Hill, Justin Parks, and
13 Gabriel Goode, respectively?

14 A GSR from Mr. Hill. GSR from Mr. Parks, and GSR from
15 Mr. Goode.

16 Q And you made no changes to those after you got them
17 from Investigator Blackwell?

18 A No, ma'am.

19 Q After you spoke with Ms. Jackson, Mr. Alston's mom,
20 what did you do next?

21 A At that point in time, I went to interview -- Well, I
22 met with Investigator Blackwell, received the GSR, and then
23 I interviewed the three individuals, Mr. Hill first.

24 Q All right. Let's talk about Mr. Hill. Obviously, he's
25 in the hospital at that point. Was he in police custody?

1 A No, ma'am.

2 Q Did he talk to you?

3 A Briefly.

4 Q What did he tell you?

5 A I asked him what happened. Again, he was awaiting to
6 be taken to surgery, had a gunshot wound. He stated that he
7 and a friend named Beezy were riding together in town.
8 Stated he couldn't remember anything else, but believed that
9 they were in a Honda car. He couldn't give me any further
10 information. I asked him how he got shot and he stated that
11 he didn't know.

12 Q Is Mr. Hill present in the courtroom today?

13 A He is.

14 Q Can you identify him for me?

15 A He's Mr. Tinsley's client.

16 Q So in the kind of plaid shirt sitting beside Mr.
17 Tinsley?

18 A Yes.

19 Q Now, did his hair look like that on April 8, 2020?

20 A It did not. It was longer.

21 Q So, it was longer? Was it kind of on the top of his
22 head?

23 A Yes.

24 MR. HENDERSON: Judge, we would have another matter.)

25 (WHEREUPON, sidebar held.)

1 BY MS. TAYLOR:

2 Q I'm sorry, Investigator Womack. Just a little bit of
3 arts and crafts real quick.

4 A That's fine.

5 Q I'm going to show you what's been marked as State's
6 136. Is that Mr. Hill?

7 A It is.

8 Q Is that what he looked like when you interviewed him?

9 A It does.

10 MS. TAYLOR: Your Honor, the State offers Exhibit 136
11 into evidence.

12 THE COURT: Without objection?

13 MR. TINSLEY: Without objection, Your Honor.

14 MR. HENDERSON: Right.

15 THE COURT: 136 is in.

16 Q All right. So, that's what he looked like when you saw
17 him in the hospital?

18 A When I interviewed him. Yes, ma'am.

19 Q Did you happen to notice his injuries in the hospital?

20 A I did.

21 Q And where does he appear to be injured?

22 A He appeared to have it in his left hip area, or closer
23 to his groin, and ---

24 Q Can you, maybe, step down and show us? Just keep your
25 voice up.

1 A Into his left hip area, like right in here, maybe
2 closer to his groin, and then out his back. Can everybody
3 see me? Right here.

4 Q Did you meet with -- did you talk to Mr. Parks?

5 A So, at that point in time, I collected Mr. Hill's
6 clothing and then secured it, and then I went and met with
7 Mr. Parks.

8 Q Let's talk about Mr. Hill's clothing first then. I'm
9 going to show you what's already in evidence as State's 53.
10 Now, when you -- after you collected the clothing, what did
11 you do with it?

12 A So, I took the clothing. Anytime we have any clothing
13 that has biological, such as blood, and especially a large
14 amount of blood, in evidence we have a drying chamber. And
15 essentially what that does is you hang it up. You turn the
16 chamber on, and it allows it to vent and dry properly so
17 that there's, you know, no kind of molding or any kind of,
18 you know, dangerous bacteria or anything like that. So, I
19 would have taken it straight there and put it in the drying
20 chamber.

21 Q And as you said earlier, one of your duties with the
22 Sheriff's Office is as backup evidence custodian?

23 A Yes, ma'am. I'm secondary evidence custodian.

24 Q Were you and Greg Allison, the current evidence
25 custodian, working together on this?

1 A Yes, ma'am. Sure were.

2 Q After the clothing came out of the drying chamber, did
3 y'all photograph everything?

4 A Yes, ma'am.

5 Q All right. And to do that, do you just lay it all out?

6 A Well, we have a photographic station in evidence where
7 we can lay it out and have enough room. Like I said, things
8 vary sometimes in sizes, and it's a lot easier. You can
9 control the lighting and things of that nature.

10 Q So, showing you State's 53, can you tell me what this
11 is?

12 A So, that is the undergarments from Mr. Hill and the
13 marker is marking what appears to be a bullet hole.

14 Q All right. And State's 54, what's that?

15 A That would be, I think that's the exit. If I remember
16 correctly. Let me step down.

17 Q Sure. Here. Would it help you to see them beside each
18 other?

19 A So the. That's fine. The right side would be the front
20 of the underwear and the left side picture would be the rear
21 of the underwear.

22 Q So, it went completely through his underwear and
23 presumably his body?

24 A Yes, ma'am.

25 Q Now, I'm going to show you State's 55 and 56. Can you

1 tell me what those are showing?

2 A So, those are the pants collected from Mr. Hill, and it
3 -- where you see the green sticker, is what appears to be
4 the exit wound, or what could be the exit wound.

5 MR. TINSLEY: I'm going to object, Your Honor. He's
6 obviously speculating. I don't think he's qualified to know
7 the entrance and exit. He said -- it might as well be
8 testimony. He's speculating.

9 THE COURT: Well, unless you can lay more of a
10 foundation, I'll sustain that. But if you want to back up?

11 Q Investigator Womack, do you have any training in
12 identifying entry and exit ---

13 A I sure do. I sure do.

14 Q Is that -- you received that as part of your law
15 enforcement experience?

16 A Yes, ma'am. I sure have, to include advanced training
17 for crime scene and things of that nature.

18 Q And, based on your training, did this appear to be an
19 entry or an exit?

20 A An exit.

21 MR. HENDERSON: Is the exit 55 or 56?

22 THE WITNESS: They're both the same. One is zoomed in
23 closer. The one on the right is a zoomed in photograph.

24 THE COURT: Yeah, they're the same.

25 Q The State's 56 is a zoomed in picture of State's 55; is

1 that correct?

2 A Yes, ma'am.

3 Q Now, these are not in evidence. I'm going to show you,
4 State's 131, 132 and 133 after I show the Defense. State's
5 131, 132, and 133, are those additional pictures you took of
6 the clothing?

7 A They are.

8 Q And are those fair and accurate depictions of the
9 clothing?

10 A They are.

11 Q The State offers 131, 132 and 133 into evidence, Your
12 Honor.

13 THE COURT: No objections?

14 MR. TINSLEY: No, objection, Your Honor.

15 MR. HENDERSON: They're in evidence.

16 (WHEREUPON, State's Exhibits 131, 132, and 133 in
17 evidence.)

18 Q State's 131, can you tell me what this is?

19 A So, the rods that you'll see are where myself or
20 Investigator Allison have placed showing where the holes are
21 in the clothing. This picture indicates that the shirt was
22 lined up with the hole in the underwear, and then the hole
23 in the back of the pants. This photograph.

24 Q Was there a hole in the front of the pants?

25 A There was not.

1 Q But there was a hole in the front of the underwear?

2 A There was.

3 Q State's 132. What is that one showing?

4 A Again, that's showing just a different angle of where
5 the holes are on each of the garments. If I may stand and
6 maybe it will clarify a little more?

7 Q Sure.

8 A So, in the shirt, and the underwear, and the pants, the
9 holes would all line up coming out right here just below the
10 back.

11 Q Is that -- that's assuming his shirt was untucked?

12 A Yes, ma'am.

13 Q And State's 133. Was that his shirt?

14 A Yes, ma'am.

15 Q Does it appear to have a pattern on it?

16 A Yes, ma'am. I would describe those as what I would
17 know as the clothing manufacturer Champion, the "c" from
18 that.

19 Q And State's 57, just another one of his shirt showing
20 the hole?

21 A Yes, ma'am. That would be the back of the shirt.

22 Q State's 58 and 59? Are those his shoes?

23 A Yes, ma'am. Those are the shoes collected from Mr.
24 Hill.

25 Q So, you talked to Mr. Hill. You collected his

1 clothing. You already told us what you did with the
2 clothing. Obviously, before you take all these pictures,
3 you're still at the hospital. What do you do after you talk
4 to Mr. Hill?

5 A So, I then speak with Mr. Parks.

6 Q And did you make note of his injuries?

7 A I sure did.

8 Q What injuries did he have, that you recall?

9 A So, he had an apparent gunshot wound in the right
10 pelvis area, the right upper buttocks, the right knee area.
11 It ended up being a shattered femur, from what the
12 physicians were saying at the time, and lodged the
13 projectile in there, and then his left thigh area and his
14 calf, left calf.

15 Q Did you collect clothing from him as well?

16 A I sure did.

17 Q Did you follow that same process with evidence?

18 A Yes, ma'am. The exact same process.

19 Q And are State's 14 and 15, is that his T-shirt and
20 socks?

21 A Yes, ma'am.

22 Q Did you collect any clothing from Mr. Alston?

23 A I believe so. Yes, ma'am.

24 Q And would you follow that same evidence process?

25 A Yes, ma'am. There's certain procedures with Mr. Alston

1 is once -- and the reason for photographing him there, as
2 well as the autopsy, is for -- to document the state that he
3 is in before autopsy. So, the tubes and all that would
4 stay. But, if they were cut off by law enforcement or
5 medical personnel, I would have collected them.

6 Q State's 66 and 60. Well, let's talk about 60 first.
7 Are those the shoes you collected from Mr. Alston?

8 A Yes, ma'am.

9 Q And State's 66?

10 A His underwear.

11 Q And you also spoke with Mr. Goode?

12 A Mr. Goode after Mr. Parks.

13 Q And where was his injury?

14 A In the foot.

15 Q Now, at some point, obviously Mr. Hill was arrested.
16 Is that correct?

17 A Yes, ma'am.

18 Q And charged with the charges we are here on today?

19 A Yes, ma'am.

20 Q Did someone obtain a search warrant for pictures of Mr.
21 Hill?

22 A I did not. I don't know. I believe so.

23 Q Or did you have occasion to take pictures of Mr. Hill?

24 A Yes, yes.

25 MR. GROSE: Your Honor, may we approach?

1 (Whereupon, sidebar held.)

2 THE COURT: Please continue, Ms. Taylor.

3 Q And did you take pictures of Mr. Hill?

4 A I did.

5 Q I'm showing you State's 50, 51, and 52. Are those
6 pictures you took.

7 A They are.

8 Q Your Honor, the State offers 50, 51, and 52 into
9 evidence.

10 THE COURT: Subject to the prior objections and
11 rulings, those are in evidence.

12 (WHEREUPON, State's Exhibits 50-52 in evidence.)

13 Q All right. State's 50. What are you showing with that
14 picture?

15 A This is the -- Mr. Hill, in our interview room where we
16 conducted the photographs of his injuries post treatment
17 from the hospital.

18 Q And he spent a few days in the hospital, didn't he?

19 A Yes, ma'am. If I remember correctly, this is
20 approximately a week after the incident.

21 Q Okay, so with this bandage, was the entry wound you saw
22 more to the left or to the right?

23 A I believe it was, if you're looking at this photograph,
24 more to the left, towards closer to the groin.

25 Q And then State's 52? That's his -- the exit wound?

1 A Yes, ma'am.

2 Q Do you remember -- I mean, they've got a lot of bandage
3 on there.

4 A Yes, ma'am.

5 Q Do you remember whereabouts it had been?

6 A Yes, ma'am. I would say closer to the middle of the of
7 the back, top of the buttocks. Again, he was, you know,
8 released from the hospital at that point in time. So, and
9 on -- we're trying to give him as much courtesy as possible
10 while taking photographs.

11 Q Did you attend the autopsy for Mr. Alston?

12 A I did not.

13 MS. TAYLOR: Beg the Court's indulgence.

14 Q Ultimately, Investigator Womack, were Mr. Hurley and
15 Mr. Reid also charged with these crimes?

16 A Yes, ma'am.

17 Q But on the date you took those pictures, Mr. Hill is
18 the only one in custody?

19 A The second picture that you showed, yes.

20 Q And you did not have access to Mr. Hurley or Mr. Reid
21 to perform GSR or anything like that on them?

22 A I did not.

23 MS. TAYLOR: Thank you, Investigator Womack. Please
24 answer any questions Mr. Tinsley has.

25 THE Court: Mr. Tinsley?

1 CROSS EXAMINATION

2 BY MR. TINSLEY:

3 Q Deputy Womack, you would agree with me that Mr. Alston,
4 the sides of his head were not shaved in those photographs
5 we looked at?

6 A I'd have to look again.

7 Q Okay. We won't go through all that. Would you agree
8 with me that his hair was more than an inch long?

9 A I mean -- I didn't measure his hair length.

10 Q So, you don't know?

11 A I don't know.

12 Q All right. And when you talked to Mr. Hill, my client,
13 he was waiting to go into surgery?

14 A That's correct.

15 Q For some injuries that kept him in the hospital for a
16 few days?

17 A That's correct.

18 Q And he appeared to be in pain to you at that point?

19 A Absolutely.

20 Q And are you familiar with the term "busting slack" as
21 far as wearing your pants?

22 A I'm sorry. You'll have to be more specific.

23 Q You've never heard that term?

24 A No.

25 Q Okay, but, I mean, is it uncommon for young folks to

1 wear their pants low, below -- to where their boxers show?

2 A No, it's not uncommon.

3 Q And wearing your pants like that would be consistent
4 with a hole being in the boxers and not in the jeans,
5 correct?

6 A I'm sorry?

7 Q Wearing your jeans like that would make -- would be
8 consistent with a hole being in the boxers, but not the
9 jeans in the front.

10 A Depending on the situation.

11 Q Okay. So, that's a yes?

12 A Yes.

13 Q And you didn't find a black ski mask in Mr. Hill's
14 clothing?

15 A Absolutely not.

16 MR. TINSLEY: No further questions. Please answer any
17 questions Mr. Henderson has.

18 CROSS EXAMINATION

19 BY MR. HENDERSON:

20 Q Hey, Detective. How are you, sir?

21 A I'm fine.

22 Q Good. Thank you for being with us. Let's go over a
23 couple of things. You said that you were someplace else
24 when these calls came in and you had to travel from there to
25 the hospital?

1 A Yes, sir. I was out following up on other cases.

2 Q And do you recollect where you were at?

3 A I don't recall.

4 Q Okay, and I think your testimony was, or at least I got
5 the idea was, is that Detective Murdoch ordered you to go to
6 the hospital.

7 A That's correct.

8 Q Okay. And do you recall what time it was that you
9 arrived at the hospital?

10 A I don't have any idea.

11 Q Okay. Was it daylight?

12 A Yes, sir.

13 Q Okay. I mean, I think all the videos and stuff ---

14 A It was within 30 minutes of the incident.

15 Q So, around 2:30?

16 A Yes, sir, that's probably fair.

17 Q Is it fair to say that by the time you got your orders
18 to go there, is it fair to say that Detective Murdoch was
19 already supervising the operation?

20 A I don't know if he was supervising. He contacted me
21 from the scene and asked me to go to the Emergency Room.

22 Q And you did it?

23 A Absolutely.

24 Q Is he your superior?

25 A At this moment he is.

1 Q Okay. Let me ask you, did you ask anybody at the
2 hospital whether or not Mr. Reid or Mr. Hurley called 911 to
3 give the hospital staff advance notice they're bringing in
4 somebody who's hurt?

5 A About them specifically?

6 Q Right.

7 A No.

8 Q Well, did you ask hospital staff did anybody call
9 saying that they're bringing in hurt folks?

10 A I did not.

11 Q You didn't?

12 A My information came from the deputies that were there.

13 Q So, you so you didn't follow up on that, or you just
14 didn't ask that question?

15 A I did not ask that question.

16 Q Okay. You know, it says -- the way I understand it,
17 you and Deputy Allison are both evidence technicians?

18 A No, he is the primary. I am the secondary. At some
19 point in time, you know, he may be sick or on vacation, and
20 I'll have to fill in at some point.

21 Q Absolutely. Now, your technician staff, I mean, y'all
22 have got a ladder, don't you?

23 A A ladder?

24 Q Right.

25 A Well, at the Sheriff's Office.

1 Q Y'all have got access to one.

2 A Yes, sir.

3 Q Well, did you go down to -- I think you said you didn't
4 go ever go down to Hillcrest.

5 A No, sir. I did not.

6 Q Do you know if Deputy Allison ever took the ladder down
7 there to go up into the soffit to see if there was a bullet?

8 A I have no idea.

9 Q You haven't talked to him about that?

10 A Not that specifically, no.

11 Q But y'all have a ladder?

12 A The Sheriff's Office has a ladder. Yes, sir.

13 Q And you know where it's at?

14 A Yes, sir.

15 Q And you have a way to take it down there? Or any
16 deputy --

17 A My truck. Yes, sir.

18 Q --- has a way to take it down there? Okay.

19 MR. HENDERSON: I don't think I have anything further,
20 Your Honor.

21 THE COURT: Mr. Grose?

22 CROSS EXAMINATION

23 BY MR. GROSE:

24 Q I believe you said that -- you said testified that you
25 had interviewed Justin Parks at the hospital?

1 A Yes, sir.

2 Q And that you took clothing from him?

3 A Yes, sir.

4 Q At the time you interviewed him, were you aware that he
5 was on probation for armed robbery?

6 A I had no idea.

7 MR. GROSE: That's all I have. Thank you.

8 THE COURT: No redirect?

9 MS. TAYLOR: No, sir.

10 THE COURT: Sir, you can step down. Ladies and
11 gentlemen, we're going to go ahead and break for the day,
12 and I'm going to ask that you report back tomorrow morning
13 at 9:15. The Bailiffs did tell me that I think two of you
14 were needing a ride tomorrow morning, and so we're going to
15 accommodate that and make sure that you get here. Probably
16 need to be ready to leave your house, or wherever it is that
17 you live -- I think one of you all lives in Ninety Six, so
18 that's about ten minutes, fifteen minutes. So, plan on them
19 being there maybe around ten of eight, just to give yourself
20 some breathing room. Okay, so if you need a ride be ready
21 about 7:50 and they'll pick you up of course, and we're
22 going to get you back tomorrow.

23 Additionally, ladies and gentlemen, just to let you
24 know, I indicated on, I think yesterday, not to read any
25 news reports or do any kind of independent research, or

1 listen to any radio or TV stories about this case. In the
2 "for what it's worth" category, a reporter has been here
3 from the Index today, the Index journal. I don't know -- I
4 anticipate there may be a story in tomorrow's paper.
5 Obviously, Thursday they don't do the print paper. They do
6 it online. So, if you could, if your habit is to wake up
7 and read the paper with the morning coffee, then just be
8 sure to skip any story that might appear in the paper about
9 this case. Because obviously, as I'm instructing you,
10 you're not supposed to read or do any kind of independent
11 research about this case. So, if that is your routine and
12 you get the e-version of the Index, then just avoid any
13 article about this particular case, all right.

14 Again, don't talk to anybody about this case this
15 evening. Be back here tomorrow morning at 9:15, and we will
16 resume at that point in time. Yes, sir.

17 BAILIFF: You said ten of eight. You mean ten of nine?

18 THE COURT: Ten of nine. It's late. All right. Ten of
19 -- Be ready at 8:50. All right, 8:50. And I think you
20 should be okay if you're catching a ride from a deputy
21 tomorrow. Have a good night. Leave your notes in the
22 seats. We'll collect those. See you more tomorrow morning
23 at 9:15. Thank you.

24 (Whereupon, jury exited and proceedings recessed 5:48 pm.)

25 TRIAL DAY 4: August 18, 2022

1 (WHEREUPON, proceedings resumed 9:30 a.m.)

2 THE COURT: If we may, we'll go back on the record. All
3 right. We're back on the record. All jurors are present.
4 You've got your next witness here, Solicitor?

5 MR. STUMBO: Yes, sir.

6 THE COURT: Very good. Go ahead and bring them in if
7 you could.

8 (WHEREUPON, Clerk began to swear witness prior to jury
9 entrance.)

10 THE COURT: Hold on. Let me get the jury first. Go
11 ahead and bring the jury in, please.

12 (WHEREUPON, jury entered 9:32 a.m.)

13 THE COURT: Ladies and gentlemen of the jury, welcome
14 back. Thank you for being here and thank you all for being
15 on time this morning. I do appreciate that. We're, of
16 course, still in the State's case in chief. Solicitor, if
17 you'll call your next witness, please.

18 MR. STUMBO: Thank you, Judge. The State calls
19 Lieutenant Matt Blackwell to the stand.

20 WHEREUPON, Matthew Blackwell, having
21 first been duly sworn, testified as follows:

22 DIRECT EXAMINATION

23 BY MR. STUMBO:

24 Q Good morning, Detective Blackwell.

25 A Good morning. Which agency do you work for?

1 A I work for the Greenwood Police Department.

2 Q And what year did you start there?

3 A I started working for the Greenwood Police Department
4 in 2008.

5 Q You've been there for your entire law enforcement?

6 A Yes, sir. Been there for my entire law enforcement
7 career.

8 Q Okay. During that time, I assume, you've worked on the
9 road.

10 A Yes, Sir. Worked on the road for about a year and a
11 half.

12 Q All right. And then, since that time, you've been in
13 major Crimes investigations and been an investigator or
14 detective with the office.

15 A Yes, sir. I've been a detective ever since.

16 Q And I believe also there's a ACE team, which is
17 community policing, that the Chief does; is that correct?

18 A Yes, sir. It's the active community engagement team. I
19 was placed on the active community engagement team a couple
20 of years ago, taken off of it about this year to go back
21 into detective work.

22 Q As part of your work as a detective, I'm going to take
23 you to an investigation in the city, a homicide on Pearl
24 Street, March 3, 2020.

25 A Yes, sir.

1 Q Who was that? Was that a homicide case?

2 A Yes, sir. That was a homicide case where Jakevius
3 Parker was killed by Ji'Tavius Adams on Pearl Street in
4 Greenwood.

5 Q Okay. At what time of day did that happen?

6 A Around 8:00 in the morning.

7 Q Okay, so after daylight?

8 A Yes, sir.

9 Q What was -- from what y'all could tell from what you
10 could gather in the investigation, what was the Jakevius
11 Parker doing that morning?

12 A Mr. Parker just went to the store to get some chips and
13 a drink, I believe it was, and he was walking back to his
14 home on Pearl Street, or somewhere in that area, and a
15 vehicle drove by. Ji'Tavius Adams got out of the vehicle,
16 shot several rounds at him, striking him, and he died right
17 there on the scene.

18 Q Bag of chips and drinks found right there by ---

19 A Yes, sir.

20 Q Jakevius Parker's body?

21 A Yes, sir.

22 Q Ji'Tavius Adams, after investigation, was arrested in
23 that case?

24 A He was arrested. Yes, sir.

25 Q And he was charged with murder; correct?

1 A Yes, sir.

2 Q And I believe pled guilty in that case?

3 A He did. He's now in prison for it.

4 Q And that was March 3, 2020 was the incident date?

5 A Yes, sir.

6 Q And, just to be clear, none of the individuals involved
7 with this case, either defendants or the two guys we heard
8 from yesterday that got shot at in April, or the guy that's
9 deceased, Mr. Alston, had any involvement? There's no
10 evidence they had any involvement with the March 3 murder of
11 Jakevius Parker?

12 A No, sir.

13 Q Ji'Tavius Adams was the only one arrested in that case?

14 A He was the only one arrested.

15 Q Now, you talked to us about the fact that you were in
16 detective work and you've done some community policing work
17 at the department over the last several years. As part of
18 that work, do you do social media research to assist in
19 these investigations?

20 A Yes, sir. Yes, sir. Sometimes, if we have names and
21 stuff that come up investigations, we'll check their social
22 media pages to see who they associate with and hang out
23 with.

24 Q Who is friends with who?

25 A Yes, sir.

1 Q As part of your investigative work related to and in
2 this case in particular, this April 8, 2020 case, the
3 shooting over on Parkway, that was in the county, right?

4 A Yes, sir. That was in the county.

5 Q Okay, but it's close to the city line?

6 A Yes, sir. There's three apartment complexes on Parkway.
7 Two of them are in the city. The one that happened in the
8 county is located directly in the middle of them, and it
9 would have been in the county. Yes, sir.

10 Q There was actually evidence found in the complex in
11 this case, though, the gun in the parking lot that we've
12 heard about, that's in the city.

13 A Yes, sir. That was in the parking lot in the city.

14 Q So, you assisted the county in this case with the
15 investigation?

16 A I did, yes, sir. Kind of, when it came out, everybody
17 from the city and county, since it's so close, all go to the
18 same place if an incident like that happens.

19 Q Now, as part of your investigative work, you said you
20 do social media research. Who, if anybody, involved in this
21 case, were friends with or associated with Jakevius Parker,
22 who was killed March 3, 2020?

23 A Through our investigative work and just social media
24 posts, all three of the defendants were friends with Mr.
25 Parker.

1 Q Okay. How about the deceased, Mr. Alston? Was he
2 friends with Mr. Parker?

3 A Yes, sir. Yes, sir.

4 Q So Trivoriaye Alston, or Man-Man, who the one that was
5 killed in this incident in April?

6 A That's right.

7 Q He was also friends with and associated with Mr.
8 Parker?

9 A Yes, sir.

10 Q Who, if anyone involved in this case in April of 2020,
11 was friends with or associated with Ji'Tavius Adams, who was
12 convicted of killing Parker?

13 A That would have been Mr. Parks and Mr. Goode who
14 testified here yesterday.

15 Q I'm going to show you some exhibits that have already
16 been marked for identification purposes. I'm going to give
17 you the numbers for the record.

18 A Yes, sir.

19 Q If you could look through that stack of pictures, and
20 while you do, for the record, what I've handed you for ID is
21 State's 109, State's 110, State's 114, State's 115, State's
22 116, State's 120, State's 121, 122, 123, and 124.

23 A Yes, sir.

24 Q Do you recognize what photographs depicted in those
25 exhibits?

1 A Yes, sir. These are all photographs that were taken
2 off of social media from different public social media
3 accounts.

4 Q Okay. Now, tell me, do you have a -- basically with
5 the Police Department as part of your community work and
6 detective work, do you have a, kind of, a Facebook page that
7 is not Matt Blackwell?

8 A Yes, sir. There are some pages that we have that
9 wouldn't have my name on it, but I also have pages that do
10 have my name on it just with an e-mail.

11 Q And anybody can create a profile on Facebook; correct?

12 A That's right. Yes, sir. And just look at them.

13 Q And you can do searches on Facebook of what people post
14 on Facebook; right?

15 A Yes, sir.

16 Q And you utilize some of your accounts just to do that,
17 so it doesn't have your personal name on it; right?

18 A Yes, sir.

19 Q All of these, you say, or I mean -- how do you document
20 them? Is it basically just a screen shot of the page?

21 A Yes, sir. I'll just save the image on my computer,
22 save the image, the date that I took it off of the social
23 media site, and put it in a file on my computer.

24 Q And you would label that for describing the page you
25 took it off of?

1 A Yes, sir. The name that the photo was under, and then
2 I'll also put the name of the, who we identified as the
3 social media page belonging to, and then the date.

4 Q Okay, so you can create a Facebook page. And I know a
5 lot of us in the room are familiar with Facebook to some
6 extent. You could create a Facebook profile that is not
7 your name, obviously, right?

8 A Yes, sir.

9 Q It might create five profiles on Facebook; right?

10 A Yes, sir.

11 Q And have different names with them, right?

12 A Yes, sir.

13 Q And how would you, just through your investigative
14 work, be able to say this page that's named not a real name
15 is associated with this person?

16 A Well, a lot of times it just has a lot of the photos of
17 that person on there, and then posting comments from family
18 and other members, and videos of that person on the page.

19 Q And then "likes" maybe, from friends of their friends,
20 that you that you've been able to associate them with;
21 right?

22 A Yes, sir.

23 Q All right. And were you able to do that as to these
24 exhibits that I just read off of the record that I handed
25 you?

1 A Yes, sir. I was.

2 Q And they are fair and accurate representations of the
3 screen shot that you took using Facebook that was publicly
4 accessible and put into your files?

5 MR. STUMBO: Judge, at this time we would offer State's
6 109, 110, 114, 115, 116, and then 120 through 124 into
7 evidence.

8 THE COURT: Any objections?

9 MR. HENDERSON: Your Honor, I think we need to take up
10 some stuff outside of the presence of the jury.

11 THE COURT: Ladies and gentlemen, adjourn to the back
12 for a moment. Let me discuss something with the attorneys.
13 I'll have you back in here as soon as possible. Thank you.

14 (WHEREUPON, jury exited 9:42 a.m.)

15 THE COURT: The jury is out. What's the concern, Mr.
16 Henderson?

17 MR. HENDERSON: Your Honor, these are the photos that
18 Lieutenant Blackwell was talking about pre-trial on Monday.
19 And these photos, I mean, just looking at these photos, they
20 look like gang members. I mean that's -- you've got guns in
21 these pictures. You got alleged gang signs in these
22 pictures, and you've got all sorts of stuff that's
23 definitely more prejudicial than probative. If they want to
24 demonstrate that somebody knows somebody, the detective has
25 already testified that, based upon his knowledge of various

1 accounts, that he knows that various people know one
2 another.

3 Just for example, in 109 here, you see a handgun being
4 held up. You see what he's previously identified as gang
5 signals on Monday, Your Honor. I mean, they're trying to
6 get in through the back door what you wouldn't let them put
7 in through the front door.

8 MR. STUMBO: Judge, and if I can respond to that. 109
9 and 110, this is what we're going to go through with the
10 detective. We can proffer it, but 109 and 110 are Parks and
11 Goode in there with those guys. And there is a gun that
12 some other guys holding. But it's a group of them together
13 that they associated with. So, it's just basically okay,
14 these are these group of friends, even though Ji'Tavius
15 Adams is not in that particular picture.

16 MR. HENDERSON: Your Honor, there's already ample
17 testimony that Parks and Goode know one another.

18 MR. STUMBO: But, Judge, I don't believe -- one of the
19 things -- we have plenty of pictures of these guys holding
20 guns that I'm not offering. I've done that for the very
21 purpose of not being -- trying to inflame the jury with
22 these guys holding guns in pictures, so...

23 THE COURT: Okay, and ---

24 MR. STUMBO: Quite frankly, Judge, one other point of
25 this. Mr. Henderson's cross on Monday when we were debating

1 the gang issue, essentially was arguing that these shirts
2 and these signs and all of this weren't gangs. They were
3 just a music group. So, I don't know how now he can say
4 that. You know, look, I mean the bottom line is my nephew,
5 who's a long-haired soccer player, white kid, back when we
6 were at the beach a few weeks ago he's flashing gang signs
7 in every picture, because he thinks it looks cool. So, I
8 don't know how that automatically associates these guys with
9 any particular gang if we don't elicit that.

10 MR. HENDERSON: Your Honor, it's just people's -- I mean
11 it's your gut reaction looking at these photos. And
12 Detective Blackwell testified for hours on Monday about how
13 this is -- signifies gang activity. I mean, he talked about
14 how the gangs use guns. How they flash these signs. How
15 they wear various colors. I mean this is everything that he
16 testified to and you prohibited the State from offering any
17 testimony than any of these people are involved with gangs.

18 THE COURT: I understand that the State's theory --
19 just for the record, I'm assuming that Mr. Tinsley and Mr.
20 Grose join in Mr. Henderson's argument, so that goes without
21 saying.

22 MR. TINSLEY: Yes, sir.

23 MR. GROSE: We do.

24 THE COURT: I excluded any reference to gangs on Monday
25 for the simple reason that, under the law, the Court found

1 that there was not clear and convincing evidence based upon
2 the methodology of that witness testifying, the methodology
3 that he used to include people and gangs. I concluded that
4 there was insufficient clear and convincing evidence to
5 warrant that being raised, or that issue being raised or
6 alluded to during the course of the State's case in chief.
7 I made it clear that the State would be allowed to introduce
8 evidence of the affiliation of Alston with the three
9 defendants and Mr. Parker, as well as Parks and Goode being
10 associated, were friends with Adams.

11 MR. HENDERSON: And that's already into evidence, Your
12 Honor.

13 THE COURT: I understand, but as it was pointed out the
14 other day, a picture is worth a thousand words. I'm looking
15 at the various exhibits. 109, which apparently shows Parks
16 and Goode, the person who's holding a gun by a clip inverted
17 is not involved with this case. Exhibit ---

18 MR. GROSE: Judge, I think we probably need to go
19 through these one by one and let them explain what it is
20 that -- why they think it needs to come in.

21 THE COURT: Fair enough.

22 MR. GROSE: Because, you know, I'm not really -- just
23 with what the Solicitor said a minute ago about 109 and 110.
24 I'm not sure what that really proves that's not already in
25 evidence. It doesn't prove the association of anybody

1 involved in this other case. At least the way that's what I
2 understood what he said. I don't know why those are
3 relevant.

4 THE COURT: I appreciate your position. The photo, 114,
5 it looks like it's kind of a collage. What's that relevant
6 or how is that relevant, Solicitor?

7 MR. STUMBO: It is just -- that is a tribute taken off
8 the page that Detective Blackwell has associated with
9 Defendant Xayvion Hill and in that picture is Jakevius
10 Parker, and it was taken March 20. No, excuse me. I think
11 that was taken March 10, just, you know, a week after he was
12 murdered. So, it's essentially a tribute to Jakevius Parker
13 and his memory, is what it appears to be, and it's posted on
14 a Facebook page associate with Mr. Hill.

15 THE COURT: Then, the sketch 115, Long live Man-Man
16 Alston. That was taken off of what?

17 MR. STUMBO: That was taken off of Xayvion Hill's page,
18 the same page that posted the tribute to Parker about a
19 month before. That was taken on April 14, I believe and
20 that's what Detective Blackwell will testify to, April 14,
21 2020. Which was several days after the Man-Man Alston was
22 killed in this incident.

23 MR. TINSLEY: My question is, what page is all this?

24 MR. STUMBO: It's walk em down. Walk em down is the
25 name of the profile.

1 MR. HENDERSON: Your Honor, my concern on that is how do
2 they know whose page this is coming from?

3 THE COURT: I'm assuming that they'll lay that
4 foundation momentarily.

5 MR. HENDERSON: Well, Detective Blackwell testified the
6 other day they did -- they issued no subpoenas to any social
7 media company to determine ownership. Just because you see
8 somebody's picture on a Facebook page does not mean it's
9 their page.

10 THE COURT: One might argue that would go to weight as
11 opposed to admissibility. I'm trying to get through these
12 one by one as Mr. Grose requested and get an idea of why
13 they maintain that they're relevant, so let me let him do
14 that and then I'll turn back to you guys, okay. 116 shows
15 three individuals. They are the defendants in this case?

16 MR. STUMBO: Two of them are, Judge. Narkevious Reid
17 in the middle in the white shirt, and to his to his left, or
18 to the right of him if you're looking at the picture, but to
19 his left arm is Xayvion Hill, the defendant, one of the
20 defendants. So, it's two of the three defendants in this
21 case.

22 THE COURT: Okay. And so, then the third person is
23 unrelated to any of this?

24 MR. STUMBO: Correct.

25 THE COURT: 120 shows three individuals in a pool hall.

1 Two of them are standing on a pool table. How is that
2 relevant, Solicitor?

3 MR. STUMBO: Judge, that is, crouched on the pool
4 table, is Mr. Reid, Narkevious Reid, and in the middle
5 standing leaned up against the table as Jakevius Parker.
6 And that was taken in 2018. It was posted on 2018 before,
7 obviously before Mr. Parker was murdered, but it shows the
8 association again between Reid and Jakevius Parker that
9 these guys were close.

10 THE COURT: And 121 shows three individuals it looks
11 like outside of the gas station over on 72 next to the New
12 Walmart. What's that about?

13 MR. STUMBO: That's Reid in the middle, Jakevius Parker
14 to his right. He has a shirt on that says "Thrasher".
15 Judge, and if you notice what he's wearing in that shirt,
16 says "Thrasher" and some flames on it, the black shirt. If
17 you look at the Facebook tribute that was in State's 114.

18 THE COURT: 115, you mean?

19 MR. STUMBO: No, that was 114. The tribute to -- the
20 collage. Mr. Parker is wearing the same shirt in that
21 picture, so it, there again, it corroborates. That picture
22 of 120 would associate directly association with Reid and
23 then by virtue of that shirt, it shows that it's the same
24 guy that Hill posted the tribute of, the same T-shirt.

25 THE COURT: And the other two individuals again? It's

1 Reid and ---

2 MR. STUMBO: There's a third guy in that picture at the
3 Sphinx, and then the only reason I put 122 in was just to
4 demonstrate -- because I think in 121 Reid is kind of
5 covering his face a little bit, but obviously they're taken
6 at the same time, wearing the same clothes, same gas
7 station. Just to show an uncovered face, that it is Reid.
8 That's just to, kind of, 22 goes with 21.

9 THE COURT: And then 123 is a group of eleven people, it
10 looks like, maybe at the same gas station. Well, no, that's
11 a different one.

12 MR. STUMBO: I think that one's at the 7-11, maybe down
13 off of South Main, going out of -- down on 25 South. That's
14 where it looks like, if you see in the background. It looks
15 like a 7-11 sign. I may be wrong on that. That one.
16 That's correct.

17 THE COURT: How's is that one relevant?

18 MR. STUMBO: Judge, in that picture you have a number
19 of individuals, but three of the individuals in that
20 picture, and it's taken from 2018, are Xayvion Hill, and
21 Narkevious Reid, and Jakevius Parker. So it shows two,
22 again, two of the individuals who were good friends with Mr.
23 Parker. They hung out, not just once or twice, but a lot,
24 Judge. And that's why we're taking a few different
25 instances. But, you know, there's other pictures that we're

1 not putting in that involve these guys where they're
2 flashing guns or some where it looks like they're smoking
3 weed. We're not putting those in, Judge, for obvious
4 reasons. So, this shows the associations without the other
5 highly inflammatory stuff.

6 THE COURT: Okay. And finally, 124 shows three --
7 well, three individuals are posing for the camera and then
8 you've got two in the background.

9 MR. STUMBO: Again, it's Jakevius Parker in a picture
10 with Narkevious Reid, and that was taken in 2016, Judge.
11 So, March 7, 2016.

12 THE COURT: In an effort to demonstrate that this is a
13 long lasting friendship of long term association, as opposed
14 to just these individuals being contemporaries and casual
15 friends or something to that effect?

16 MR. STUMBO: Correct, Judge. Yes, sir.

17 THE COURT: The exhibits that you're not seeking
18 introduction of, perhaps it would be wise to mark those as
19 an exhibit. State's exhibit for identification only.

20 MR. STUMBO: Judge, one of them is actually State's 119.
21 I intended to put this in, but it's a picture just of Reid
22 on 1/19. I'm not going to put it in because honestly, it's
23 not -- I'm not sure why we marked this the first time and he
24 does have a sweatshirt in this one that says "Contraband
25 Gang". To me, it's -- there again, the probative value of

1 this is probably much less in our view.

2 THE COURT: Just because he's by himself as opposed to
3 with Parker.

4 MR. STUMBO: That's correct. That would be 119. I'm
5 going to keep it over here for now.

6 COURT REPORTER: Is that also Court's 14?

7 MR. STUMBO: It's Court's 14 too? Okay.

8 THE COURT: All right. Let the record reflect that
9 same photo, State's 119, is also already Court's 14.

10 MR. STUMBO: And Judge, we can mark a series of these
11 that we're not intending to put in for that very reason.
12 Flashing money. These were all made available to the
13 defense. We can just clip them together and make them the
14 court's exhibit for purposes of this hearing. Let me go
15 through and make sure they're not duplicates. Judge, I can
16 pass these up and we can make them.

17 THE COURT: We're going to make the photographs the
18 Solicitor referenced a moment ago, which he is not seeking
19 introduction of, Court's Exhibit Number 23. That will be a
20 collective Exhibit comprised of seven photographs, and then
21 looks like one screen shot of a Facebook page. So, that
22 will be Court's Exhibit 23.

23 MR. STUMBO: And I've just one more just brief comment
24 after Tara gets that logged. Judge, just for the record
25 too, there are a lot of others that we have in possession

1 that have been made available to the defense that aren't in
2 this Court's exhibit. This is just a sampling of a lot of
3 photographs that we felt like were probably more, you know,
4 of less probative value and maybe more highly prejudicial.
5 So, we're trying to be judicious in our selection of these
6 photographs for the probative purpose of these guys being
7 associated with each other. Judge, one other one that I
8 haven't shown him yet is this and, because it's a little bit
9 separate after we go through these, will be 117. And I may
10 want to go ahead and bring that up while we're -- while the
11 jury is out of the room. It's the Facebook post from 93
12 Dripp page. And that's another that Detective Blackwell
13 will testify it's another one of Xayvion Hill's Facebook
14 profiles with a lot of pictures of him. And it was taken
15 around March 19, 2020. And, Judge, this is one of the links
16 and we think the linchpin on motive here. And it's some
17 evidence of that, but it's a -- basically, a post that's
18 words, not pictures, posts of words and just emojis that
19 says, reads, "Fuck twelve. We gone broad day some OPS.
20 Don't come outside after dark." That's the post.

21 THE COURT: And that State's what?

22 MR. STUMBO: 117. And that's one I have not handed -- I
23 was going to that after we went through the actual
24 photographs.

25 THE COURT: All right. Mr. Henderson?

1 MR. HENDERSON: Your Honor, before we start addressing
2 these items one by one, I think now might be a good time for
3 me to do my discovery motion, because it all deals with
4 these particular documents.

5 THE COURT: You've got the floor.

6 MR. HENDERSON: I previously gave the Solicitor copies
7 of this the other day, and I've already marked these as
8 Defendant Reid's Exhibits 1 through 14, and I think the
9 Court Reporter may have already marked something else as
10 one, but if that's the case, we may need to do some
11 adjusting of numbers. Your Honor, if I may walk through
12 these documents one by one. What I have marked as Reid
13 Number 1 are my discovery request that were served on August
14 14, 2020.

15 THE COURT: Can we do it this way? Start with the
16 conclusion and work your way backwards. What is it that you
17 are seeking that you're saying has not been provided and how
18 are these documents relevant to that?

19 MR. HENDERSON? Your Honor, it boils down to that I've
20 served general discovery requests. I served gang specific
21 discovery requests 15 months ago. The first time we get
22 anything related to gangs is on Thursday, August 4, 11 days
23 prior to trial. Everything that the Solicitor is trying to
24 get into now, we got 11 days prior to trial. Your Honor,
25 you're hearing that they're talking about stuff that's been

1 out here since 2016, that they keep talking about this
2 murder on Pearl Street in March of 2020. Your Honor,
3 they've had some suspicions -- they've had to have suspicion
4 or some idea that all this stuff was connected, that they're
5 alleging, Mr. Reid, Mr. Hill, and Mr. Hurley are in gangs.
6 They've known this before eleven days ago. I mean, they're
7 trying to do trial by ambush, Your Honor. That's exactly
8 what it is. And I don't think they should be rewarded for
9 that. I've gone through and laid it out in chronological,
10 Your honor. I've included copies in these exhibits of every
11 item of discovery produced by the Solicitor regarding gangs
12 since August 4. Now, in fact, they've given us a couple
13 documents here just this week in court. Now, again, those
14 aren't included in my packet because my packet was done
15 prior to us getting those documents.

16 THE COURT: The bond order does reference the -- I
17 mean, I'm looking at Defendant's exhibit Number 2. It's an
18 order, my order, dated June 18, 2021 denying bond for Mr.
19 Reid and it references that the State had a theory that this
20 is a gang-involved shooting.

21 MR. HENDERSON: Absolutely. They're representing that.
22 They're representing this to the Court over a year ago and
23 zilch discovery, Your Honor, until August 4, eleven days
24 prior to trial. That's why I'm putting these bond orders
25 in. you wanted

1 THE COURT: Solicitor, you wanted to respond to that?

2 MS. TAYLOR: I'll take this one, Your Honor.

3 Obviously, it's even in the incident report that law
4 enforcement believed this to be gang related. The
5 Solicitor's office, we did not decide to attempt to use the
6 gang stuff until -- first of all, the case, the Johnson
7 case, didn't come out until 2021. We did not decide to
8 attempt to use that until in the very recent past, two to
9 three weeks ago. I think August 4th is when I sent the
10 first batch of gang related discovery to the defense. It
11 was at that time very contemporaneous with that August the
12 4th e-mail that the State, the Solicitors Office, was made
13 aware of the Facebook page, the Facebook post, that we're
14 talking about that cleared up what the motive was for us.
15 Prior to that, we believed the motive was simply Southside
16 doesn't like Eastside and vice versa. But, once we got into
17 the gang files, which prior to that date, since we were not
18 going to attempt to use them in trial, would have been law
19 enforcement sensitive, they're not exculpatory. They're
20 inculpatory if anything, and we didn't want to provide these
21 documents without some indication that we were actually
22 intending to use them at trial. Once it became clear that
23 we were intending to use it at trial, we made it available
24 as soon as we possibly could.

25 MR. HENDERSON: Your Honor, that's not the standard,

1 when we decide that we're going to use it. They've known
2 about this stuff for years, and all this stuff is material
3 to guilt or innocence, Your Honor. And it very much is
4 material to guilt or innocence. Again, off the get go,
5 they've said in that incident report that they think it's
6 gang related. Fine, but why did you wait two, two and a
7 half years, or two years and four months, to start producing
8 any discovery that backs it up? They've known about this.

9 MR. STUMBO: Judge, in the discovery, the initial reports
10 and supplementals where Investigator Womack talks to the
11 mothers of Mr. Alston and Mr. Hill at the hospital, as Mr.
12 Alston has just died, and Mr. Hill is sitting in the
13 hospital. Both of the mothers tell Womack -- of course,
14 it's hearsay. We didn't elicit that through him, but it's
15 in the incident reports that the defendants have, said that
16 they thought this might be Eastside Southside bull. One of
17 them said. And, quite honestly, that's a good point. You
18 know, Judge these are the social media pages that anybody
19 can access, but are of these defendants, and quite honestly,
20 I would think that us telling them we intend to use them is
21 one thing. Which, we gave them plenty of notice of that.
22 And we found even some stuff over the weekend and into
23 Monday morning that was new and we handed it over right
24 away. But, those are things that they can access too,
25 Judge. So, the Rule 5 part of it is giving notice. Here's

1 copies of what we intend to use. They have access to it
2 because it's their social media pages. So, I don't know how
3 it's something we tried to obscure.

4 THE COURT: Mr. Grose, you wanted to chime in on this?

5 MR. GROSE: Well, I don't want to -- if Mr. Henderson
6 still has something to say, I don't want to cut him off.

7 THE COURT: It was his discovery motion but ---

8 MR. GROSE: Well, we also had discovery motions in the
9 case too.

10 THE COURT: I'm assuming, for purposes of this
11 argument, that all three defendants are joining in Mr.
12 Henderson's argument with a big ditto.

13 MR. HENDERSON: And I think I was the only one that
14 that served gang specific discovery request, Your Honor.

15 MR. GROSE: But, regardless -- and what one of the
16 reasons that I stand up is I think that they're overlooking,
17 and I don't want the Court to overlook in the heat of this
18 argument, all aspects of Rule 5. Rule 5 is really a rule
19 that explains how the Courts in South Carolina guarantee due
20 process, and as the Court is aware, sometimes we talk about
21 Brady, but Brady is a due process motion. There's other
22 cases of constitutional dimension from the United State's
23 Supreme Court that go back before Brady that talk about the
24 government having to turn over the evidence that they intend
25 to use or evidence that's necessary for presenting a

1 defense. And Rule 5 is how our state has chosen to comply
2 with those due process requirements. Rule 5, in addition to
3 talking about things that the State intends to use, it also
4 talks about materials which are materials to the preparation
5 or defense, regardless of whether they intend to use them or
6 not. And what the photographs they turned over on Monday
7 that had Mr. Hurley in them, I mean, we were here to pick a
8 jury then. Maybe it was Monday. Maybe was Tuesday. I don't
9 remember when it was, but it was after the trial was
10 supposed to have started. The fact that they had this and
11 didn't decide how to use it doesn't get them off the hook.
12 It doesn't matter whether they held this stuff until the
13 end. In good faith or bad faith, it doesn't matter. We've
14 known -- I could go back and find the e-mail. Maybe I need
15 to find the e-mail and put it in the Record. We have known
16 for months that Judge Hocker set the trial for this week.
17 Looks like Mr. Henderson has it. It's probably already in
18 the record.

19 MR. HENDERSON: Your Honor, my Exhibit Number 4, it
20 would be on one, two -- it would be on the 7th page of my
21 e-mail, about halfway down, dated Friday, April 15 from
22 Judge Hocker. "Let's go ahead and set it August 15, 22."
23 So, we've had a date certain four months. Exactly four
24 months from the start of this trial.

25 MR. GROSE: And I also want to put into context.

1 August 4th, I mean, we've known this for a while. I was on
2 vacation. I was at the beach on August 4 when they started
3 sending this stuff, and I also had protection for last week
4 that I ended up not using because this trial was coming up
5 and I was trying to plan around this trial date.

6 THE COURT: And I understand. I get your point, Mr.
7 Grose, and I -- we don't need to rehash everyone's vacation
8 schedules and stuff like that. I do understand your point.
9 Essentially, you are saying to me that Rule 5 contemplates
10 timely disclosure in a meaningful way, and essentially that
11 by providing on August 11, in your opinion, or August 4,
12 whenever I wrote it down ---

13 MR. GROSE: Or certainly August 15 or 16, whenever they
14 were providing other photographs this week, I mean.

15 THE COURT: Right. I understand your position.

16 MS. TAYLOR: And, Your Honor, for the record, I was in
17 California all summer with my dying son.

18 THE COURT: I understand.

19 MR. HENDERSON: With all sympathy, I see two other
20 prosecutors sitting next to Ms. Taylor.

21 THE COURT: I understand, but I do think that perhaps
22 Ms. Taylor was taking the lead on this to a certain extent.
23 And Elizabeth, I have been keeping up with that on Facebook
24 and I am very sorry, and I haven't told you that yet. But I
25 just wanted to let you know that now. But, I'm sorry. I

1 appreciate you gentlemen's position on this. As far as the
2 Brady issue, the Court finds that there is not -- the Brady
3 and Rule 5, the Court finds that there has not been a
4 violation of Brady or Rule 5, in terms of the timing of the
5 introduction of the photographs that we're discussing. I
6 certainly appreciate your position and your objection.

7 MR. GROSE: It's never going to stop. If a judge
8 doesn't stand up and say we've got to draw a line that
9 people on trial facing potentially life in prison, it's
10 never going to stop. And that's an argument that the
11 Justices of the Supreme Court have said that we need to be
12 making in these trials. It's just never going to stop. I
13 mean, it's been this way for 20 some years that I've been
14 here. It doesn't change with whoever's in the office. It
15 just goes on and on and on.

16 THE COURT: I appreciate your position, Mr. Grose, and
17 that's certainly an argument if, in the event that your
18 client is convicted, that's certainly an argument that I'm
19 sure is preserved and to be made to the Supreme Court. And
20 in the for-what-it's-worth category, I tried a homicide in
21 Lexington County two years ago. It was a double -- well, it
22 was more recent than that. It's about a year ago where GPS
23 tracking information was not provided until -- they didn't
24 get the final report showing -- connecting the dots. They'd
25 given the defense attorney, it's Dane Phillips. They'd

1 given him the raw data, but they had not provided the
2 graphic showing how the Defendant's cell phone had been
3 moving down the Interstate and that sort of a thing. The
4 Court, I, AKA the Court, concluded that was a tardy
5 disclosure under Rule 5 and I said that they could not use
6 that information showing where the defendant was moving. So,
7 I have made that conclusion previously. I would like to
8 believe that other judges have. Based on the unique facts
9 of this case, and the fact that it was apparent from the get
10 go that the State's theory was that this was gang related.
11 It should not come as a surprise that any gang postings on
12 the Defendant's Facebook pages -- which of course, they
13 could have taken down if they wanted to, that those might be
14 used in the case in chief of the State. But, I certainly
15 appreciate your position and that's my position. Off the
16 record.

17 THE COURT: My Court Reporter has brought something to
18 my attention. The exhibits that I am holding are already
19 marked as Defendant Reid's Exhibits Numbers 1 through 14.
20 The Bollinger statement had initially been marked Defendant
21 Reid's one. We are going to change the Bollinger statement,
22 which was previously marked Defendant Reid's 1 and probably
23 referenced in the record as Defendant Reid's 1, that now
24 going to become Defendant Reid's Exhibit Number 15. So,
25 that's how we're going to correct that so that we don't have

1 duplicate exhibits on the defense side of things. And you
2 had another comment, you needed to make, Mr. Grose -- or Mr.
3 Henderson?

4 MR. HENDERSON: Absolutely. I think we all wanted to
5 address these photos that the State wants to get into
6 evidence starting with number 109, Your Honor. And again,
7 this is this is all the stuff that Detective Blackwell
8 testified to on Monday as being indicia of gangs. I mean,
9 you've got this gentleman waving the gun. They're flashing
10 what Detective Blackwell says are gang signs. I mean, just
11 highly, highly prejudicial.

12 THE COURT: The testimony -- there will be no testimony
13 about these people flashing gang signs.

14 MR. HENDERSON: Your Honor, there doesn't have to be. I
15 mean, I don't think -- I don't consider these 15 people
16 sitting in the jury box a bunch of cabbages. I mean, if
17 they look at these photographs and see people flashing what
18 Detective Blackwell has already called gang signs, he
19 doesn't have to say a word about it.

20 THE COURT: I mean, it looks like 3 of the people on.
21 109, three of the individuals, their hand gesture is a -- is
22 basically flipping a bird, one person's holding up three
23 fingers, one person's holding up -- and then another person
24 is holding up apparently their pinky finger and their --
25 whatever's next to the pinky figure, of their left hand. So,

1 it's not like some uniform gang sign on that one. There
2 doesn't appear to be any gang signs or anything that could
3 be interpreted as such on 110.

4 MR. HENDERSON: And my concern is the gun too, Your
5 Honor, on 109 and 110.

6 THE COURT: I understand.

7 MR. HENDERSON: And again, I'd like to go through
8 these. On number 114, which is this collage that they're
9 alleging that Mr. Hill made, again, looks like a gun there
10 in the middle. And again, it's just more prejudicial than
11 probative. We know that Mr. Alston is deceased. There's
12 been testimony that all these young men know one another.
13 This photo -- none of these photos are making any fact in
14 evidence more likely or less likely, Your Honor. It's just,
15 I'm not sure it's relevant. Then, this long live Mr.
16 Alston, Man-Man, that they're saying coming from Hill's
17 page. I'm not sure what that's designed to show. We all
18 know he's deceased.

19 MR. GROSE: And I thought that the day they said they
20 took that down was when Mr. Hill was in the hospital or in
21 jail.

22 MR. TINSLEY: That's right.

23 THE COURT: You wanted to go through each of these
24 individually, Mr. Henderson?

25 MR. HENDERSON: Absolutely. Absolutely.

1 THE COURT: Go ahead. Keep going.

2 MR. HENDERSON: The 116, the one with my client in the
3 middle, with the white T-shirt saying, "Contraband Gang".

4 THE COURT: That's your client's rap group.

5 MR. HENDERSON: It is, but, again you're putting him in
6 a position where he may have to testify to explain what it
7 says. The jury sees the word gang. I know. Detective
8 Blackwell is not going to mentioned the word gang, but when
9 the juror -- And, again, I'm assuming I know these 15 people
10 over there in the panel box or not cabbages. They see the
11 word gang, the first thing they're going to think about is
12 street gang. They're going think about violence at
13 Greenwood High School last Friday night. And again, I think
14 the word gang needs to be taken out of this, Your Honor.

15 THE COURT: Since that's the second time you referenced that,
16 I may need to make the Index Journal story from Tuesday or
17 whenever part of the record. Maybe it was yesterday, but
18 the story that was in the paper -- and that's all that I
19 know about the incident Friday night, but apparently none of
20 it was gang related. It was all juveniles and there's no
21 indication that any of that was gang related. There were no
22 shots fired, and that seems to be the current position of
23 the police.

24 MR. GROSE: Well, we need to --

25 THE COURT: But, I don't want there being some belief

1 that that was somehow -- and I don't even know who was
2 charged, but apparently it was all just a bunch of kids, all
3 juveniles the way the story read, but I don't know anything
4 more than what I've read about in the paper.

5 MR. HENDERSON: But -- but -- but--

6 THE COURT: Let's let's talk about the exhibits, Mr.
7 Henderson.

8 MR. HENDERSON: But again, the jury sees those 4 letters
9 gang. They're going to, Your Honor, you know that when you
10 see the word gang, the first thing that will pop into their
11 brain when they've already heard about gunshots and somebody
12 dead is going to be street gang, criminal gang, violent
13 gang. That's going to be the first thing that pops into
14 their mind. And then, again, you made the comment that my
15 client could always testify about what the word means. But
16 again, you're forcing him to testify.

17 THE COURT: Well, Solicitor, as it relates to -- all
18 right, well, hold on. Before I turn back to him, any other
19 comments about the other exhibits, other than just the
20 general same objection?

21 MR. HENDERSON: And then on 120, this is what I call
22 the pool hall. I think Your Honor called it the pool hall
23 video. The pool hall photo. And, again, it is what
24 Detective Blackwell has said are gang signs. You know,
25 that's my concern. I don't think there are any guns in this

1 photograph. If there are, I don't see any. I don't see
2 anything else that looks out of place, other than -- and
3 we've already got testimony that Mr. Parker, in the middle,
4 and Mr. Reid on the far right, know one another. So, this
5 is not showing anything, Your Honor. 121, this is the one
6 with my client in the middle. It's got a handgun, Your
7 Honor. Highly prejudicial. Look at his right pocket.
8 That's not a cell phone. That's a handgun, Your Honor.

9 THE COURT: It looks more like a cell phone to me.

10 MR. HENDERSON: Your Honor, I think that's a handgun.
11 Same thing -- look at 120, the next one. Look at 122.
12 That's a handgun.

13 THE COURT: That too large to be the handle to a gun.

14 MR. HENDERSON: Your Honor, some jurors will be looking
15 at that and say, hey, Mr. Reid is being accused of shooting
16 somebody, killing somebody, and there he is walking around
17 with a gun. Highly prejudicial, Your Honor. Highly
18 prejudicial. At least those two photographs are.

19 THE COURT: And there doesn't seem to be a bulge in his
20 pocket as if that were a gun. I can't make out. Moving on.
21 123 and 124?

22 MR. HENDERSON: 123, and again, this is the, you know,
23 again, what Detective Blackwell has said are gang signs.
24 And this is the photo, Your Honor, that contains members of
25 what Detective Blackwell calls the Eastside and the

1 Southside. Now, obviously we're not going to get into that,
2 but this is the photograph that -- the combination photo.
3 Again, I don't think there are any guns in this photograph.
4 Not that I've been able to ascertain. And you'll see, Your
5 Honor, that different folks in the photographs are wearing
6 different colored bandanas. Again, I know that's not --
7 you've excluded all that, but I'm just letting you know.
8 Well, we think all this...

9 THE COURT: You're seeing something that I'm not seeing
10 I see one person with a bandana around their neck, as well
11 as -- one, two wearing red bandanas and two wearing black
12 bandanas out of a group of 11 people on 123. But, I mean,
13 I'm not really seeing a lot of bandanas in the other photos.

14 MR. HENDERSON: According to Detective Blackwell, I do
15 believe that bandanas are supposedly signs of local gangs.
16 Different colored bandanas would be supposedly signs of
17 different gangs, and they're all in the same photograph,
18 Your Honor. And looking at this last photo 124, again,
19 showing what Detective Blackwell has indicated are gang
20 signs. It looks like -- I'm trying to see what this
21 gentleman has got -- it looks like the contraband T-shirt.
22 But it looks like it's got some semi-automatic weapon, or
23 perhaps an automatic weapon on the logo, Your Honor. And,
24 again, you know ---

25 THE COURT: Maybe they should have put up cat pictures

1 on their Facebook page instead of these photos. I mean, if
2 they didn't want the world to see it...

3 MR. HENDERSON: Well, they can put up whatever they
4 want to. The issue is whether or not it's admissible, Your
5 Honor.

6 THE COURT: I understand. Here's my concern, Solicitor.
7 I've already made my ruling as far as the gang issue. On
8 116, the gentleman in the center is who?

9 MR. STUMBO: That's Narkevious Reid. And Judge, just
10 if I could comment to that.

11 THE COURT: Sure.

12 MR. STUMBO: You know, maybe I'm dating myself here,
13 Judge. You know, back into the 80's, I think the first rap
14 song I ever heard, and this was old school, was Rapper's
15 Delight by the Sugar Hill gang. But that was long before
16 the era of gangster rap. They weren't doing anything that
17 would be associated with gang. They were just a music group
18 like Mr. Henderson pointed out Monday during pretrial
19 motions. Kool and The Gang. Very popular band. They still
20 are today. But ultimately, Judge, they're using the word
21 gang. We probably could go through numerous examples of
22 that. I don't think "gang" in and of itself, and certainly
23 Mr. Henderson could ask that on cross. And say, you know
24 are you aware my client had a rap group called the
25 Contraband Gang? And he's aware of that. The answer to

1 that, I'm sure, would be yes. So, I'm not sure how that
2 that is overly prejudicial. The main thing with that
3 picture, and I think the probative value is very high
4 because of who is in that picture, Judge. And again -

5 MR. HENDERSON: Your Honor ---

6 MR. STUMBO: -- Mr. Reid and Mr. Hill. It's Mr. Reid
7 and Mr. Hill. Okay, I'm done.

8 MR. HENDERSON: If it's the head shots they're
9 concerned with, then how about do a diagonal cut and just
10 leave the heads in.

11 MR. STUMBO: Well, then the jury holds that against me,
12 Judge. And I just don't see any need for that.

13 MR. HENDERSON: The Solicitor's musical education, you
14 know, 35 years ago and today, I mean, the times they are a
15 changing, you know. I mean, different people now, the word
16 gang now has got a whole different connotation than with the
17 Sugar Hill Gang or Kool and the Gang. A whole different
18 connotation.

19 THE COURT: In the 80's, the Bloods and Crips were, and
20 even before then, I mean, you know, you had motorcycle gangs
21 that -- what's Charles Manson's gang out in the West Coast.
22 I mean, I guess what I'm saying is this is pretty vanilla
23 compared to those organizations.

24 MR. HENDERSON: But just the state of our local union.

25 THE COURT: I understand your position. I understand

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1 your point, and that was taken into account on Monday with
2 my ruling. Let me ask this witness this.

3 EXAMINATION

4 BY THE COURT:

5 Q If Mr. Henderson were to ask you whether Mr. Reid has a
6 musical group known as the Contraband Gang, what would your
7 answer be? Are you aware of that?

8 A Yes, sir.

9 Q And it is a rap music group?

10 A Yes, sir.

11 Q So, you would be able to testify that that is a group
12 that, I guess, has produced music that's out there?

13 A Yes, sir. On YouTube and on social media pages.

14 THE COURT: And, of course, it goes without saying that
15 Mr. Tinsley and Mr. Grose join in Mr. Henderson's argument.
16 Mr. Tinsley, you have something to contribute?

17 MR. TINSLEY: Yes, your Honor. I'm going to not run
18 over much of what we've already been over. 109 and 110, my
19 biggest problem there is to Ji'Tavius Adams is nowhere in
20 those pictures, so I don't see the relevance. 115, as Mr.
21 Grose pointed out, the Man-Man tribute. When it was posted
22 my client was, I believe was incarcerated, and if not he was
23 in the hospital. But then 117, which we haven't talked
24 about, first issues is with this authentication. It's from
25 an account called 93 Dripp, whereas the Solicitor just said

1 that my client, Mr. Hill, had to Walk em Down account that
2 they were basing his social media presence off. That's the
3 first issue with it. The second issue with it is it is the
4 unfair prejudice is so much higher than its low probative
5 value. If you just look at the terms, you need a
6 translator. It starts out, Fuck 12. I don't know what that
7 means. Then it says we're going broad day some ops. I also
8 don't know what that means. It doesn't sound good, but it's
9 very vague. It's just kind of trying to paint these guys as
10 bad people and then it says don't come outside after dark.
11 Well, this happened at 2:00 o'clock in the afternoon, so
12 it's not at all consistent with whatever this post is
13 saying. So, I would certainly ask that you exclude 117.

14 THE COURT: Thankfully, we are talking about 117 now.
15 Solicitor, how do you intend to lay a foundation to admit
16 117?

17 MR. STUMBO: I can ask -- just proffer Detective
18 Blackwell's testimony, but essentially it's going to be
19 this.

20 BY MR. STUMBO:

21 Q The screen shot this from 93 Dripp, which he had
22 previously associated with Xayvion Hill's -- that he was,
23 Xayvion Hill was that account, that profile. He changed his
24 account several times. He had several names.

25 A He changed his name to Walk Emm Down now. If you put

1 in the search bar 93 Drupp, it'll come up Walk Emm Down now
2 to his page.

3 Q Okay, because it was a previous profile?

4 A Just a different name.

5 Q How did you go about associating 117 with Mr. Hill?

6 A That is -- it's just photos that were taken on it,
7 posts from his family that are on there, videos of him on
8 there. It's obviously him in the pictures and videos that
9 are being added on there. So, it's his social media page.

10 MR. STUMBO: Judge, the follow up to this is going to be
11 he ultimately, as a result of finding this, put a BOLO out.
12 And we're not going to talk about the details of the BOLO,
13 because it references gang, but his BOLO that went out was
14 there may be a retaliatory shooting involving -- that linked
15 back to the Pearl Street shooting involving Mr. Hill. Not
16 the other two defendants, but, you know, because obviously
17 this is Mr. Hill's page.

18 THE COURT: Go into greater detail about what is on that
19 page and how what's on the page you're able to determine ---

20 THE WITNESS: On the page, there's photos of him and
21 his family, there's photos of him, there's videos, there's
22 comments from his family on there to him. His comments to
23 him, to his family, and you just go to Facebook and just put
24 in Walk Em Down and it has his information on it, his
25 videos. It's just obviously his page.

1 BY MR. STUMBO:

2 Q And you can identify Mr. Hill just from your work in
3 the community, right?

4 A Yes.

5 Q And he's in the courtroom today?

6 A Yes, sir.

7 Q The same guy on this Facebook page prolifically with
8 family and videos?

9 A Yes, sir. I believe that on that profile picture there
10 is Mr. Parker, that he put up, but he's got other pictures
11 of his own photo in the profile picture, in his profile
12 picture.

13 THE COURT: Mr. Tinsley, did you want to ask this
14 witness any questions about -- because this relates
15 specifically to Hill, but any questions about the
16 authentication or how he went about doing that?

17 BY MR. TINSLEY: Yeah. I mean, Detective Blackwell, I
18 could snap a few pictures of you and create a profile,
19 correct?

20 A Yes, Sir.

21 Q And if I did enough snooping around on the Internet and
22 found stuff that you had put I could pirate that and add it
23 to this page, correct?

24 A Yes, sir, but there's videos of him and pictures of his
25 person on there. I mean, it's obviously him. It's his

1 pictures on there, so he had to pose for the pictures. He
2 had to give the videos and make the stuff. Even if somebody
3 else put it on the page, it's obviously still him in the
4 photos and posts.

5 Q I understand that, but if I control this account, I
6 could post anything I wanted as far as text from it,
7 correct?

8 A Yes, sir.

9 MR. TINSLEY: Judge, I just don't think they've met the
10 bar. Not to mention the 403 argument.

11 MR. STUMBO: If I could follow up on that as to
12 authentication. The other thing he, and I didn't ask him
13 this before, but interaction with those pages to demonstrate
14 it's not a fake fraudulent page.

15 BY MR. STUMBO:

16 Q You get likes on comments and pictures, right?

17 A Yes, sir.

18 Q And like the profiles and the people that were liking
19 him and his pictures in his posts were people that he knows
20 and are friends and family, right?

21 A Yes, Sir. And people that are in posting photos with
22 him on that page.

23 Q And your experience with fraudulent Facebook pages
24 would be.

25 A It's not going to have a lot of interaction.

1 Q Interaction with actual people?

2 A With people, other people on the Facebook site.

3 MR. HENDERSON: And, Your Honor, my next concern.

4 Suppose you find it's authenticated. Who is going to
5 translate?

6 THE COURT: I appreciate your position.

7 MR. HENDERSON: Mr. Grose probably knows the case name
8 better than I do. I think Rauch had a case, a drug case,
9 where they were using lingo and having somebody come in here
10 trying to interpret, testify, interpret what somebody else
11 means. And again, is Detective Blackwell -- I don't think
12 he's an expert in what somebody else means in lingo and bad
13 spelling and broken English.

14 THE COURT: How do you plan on translating "F" 12, we
15 gonna broad day some OPS. Don't come outside after dark,
16 and then a wavy hand sign, and a tornado and a heart.

17 MR. STUMBO: Judge, the 12 is one that's probably
18 difficult to ascertain, or if we did it may have some
19 reference to gang stuff, but the OPS in broad daylight part,
20 I think is pretty clear, Judge. I think anybody would
21 interpret OPS as being, you know, Black Ops, you know.
22 Going on the aggressive attack and that's the whole point
23 here, Judge. I think we -- the jury needs to know that
24 there was some intent beforehand. There again, it goes to,
25 you know, goes to motive, goes to intent.

1 THE COURT: And again, when was 117 posted?

2 MR. STUMBO: It was posted on March 19, Judge. On March
3 20 is when Detective Blackwell sends, based on that post and
4 its juxtaposition, I think I said that right, with the March
5 10 tribute with Jakevius Parker. That between those things,
6 you know, he ascertained at the time before this even
7 happened that there -- let's be on the lookout for
8 retaliation and maybe be on the lookout for Xayvion Hill.

9 MR. HENDERSON: Your Honor, I just don't want Detective
10 Blackwell up there saying, "I think this means." Because
11 obviously he's not an expert in linguism or linguistics, or,
12 you know, what...

13 THE COURT: All right. Here's how we're going to
14 handle this. As it relates to the photographs that the
15 State seeks to introduce, the Court finds that the probative
16 value of these photographs far outweigh any unfair prejudice
17 to the defense, because basically the photos form the basis
18 for how this witness and the other investigators came to
19 believe these people knew each other, were close friends
20 with one another, and were such close friends that if one of
21 their group was killed they would want to exact revenge.
22 That's the State's theory and the photographs form the basis
23 of how law enforcement came to conclude that these people
24 frequently associated with each other, so much so that the
25 defendants would be inclined to seek revenge for the

1 homicide that occurred, I guess, in March.

2 As it relates to State's 117, Solicitor I have some a
3 little bit concerns about admitting that, because first of
4 all, the case that they referenced, and I can't remember
5 which one it is, but it is one of Rauch's.

6 MR. GROSE: Judge, I think I'm looking at it quickly. I
7 think it's US v Johnson 617 F 3rd 286. I believe it's 2010.

8 MR. HENDERSON: Out of the Fourth Circuit.

9 MR. GROSE: 2010. It's a Fourth Circuit case.

10 THE COURT: My concern with admitting this is the
11 translation, and there is somewhat of an authentication
12 issue, maybe in terms of the Defendant, Mr. Tinsley's
13 client, perhaps being the author. What I will allow you to
14 do though, is in lieu of introducing 117, if you wish to
15 elicit from this witness testimony that he saw a posting on
16 Mr. Reid's website or on Mr. Reid's Facebook page on ---

17 MR. HENDERSON: I think you mean Mr. Hill.

18 THE COURT: I'm sorry, Mr. Hill's. You're right. Thank
19 you for correcting me. On Mr. Hill's Facebook page on March
20 19. Perhaps he can describe it as cryptic, but, you know
21 the -- I don't want to speculate what all this language
22 means without some expert in gang terminology testifying,
23 but if the purpose of introducing this is to get the
24 information to the jury about the BOLO, then you can do that
25 without necessarily introducing 117. Because 117 would

1 simply be the impetus for this witness putting the BOLO out
2 there.

3 MR. STUMBO: Yes, Sir, and I do understand the Court's
4 ruling. The only concern I have is we have indicted these
5 guys for conspiracy. I do know that as far as Highklass YG
6 is one of the likes on that, on that post, Judge. I think
7 it, as close as it is to the Jakevius Parker tribute that
8 Hill puts up on his page, I think it goes right to, all
9 right, there's been some knowledge. There's been some
10 discussion. And, of course, the difficulty from our end to
11 prove a conspiracy in these cases, these guys never talk.

12 THE COURT: Who is my HighKlass YG?

13 MR. HENDERSON: They're alleging it's my client, Your
14 Honor.

15 MR. STUMBO: Well, and Judge, some of the pictures,
16 obviously that we're putting in here and he's going to lay a
17 foundation for this are off HighKlass YG's Facebook page and
18 they're of him, so it's not a secret.

19 THE COURT: If you wish to elicit that HighKlass YG.
20 Spelled H-i-g-h-k-l-a-s-s, all as one word, and then capital
21 "Y", capital "G", no space between the two. If you want to
22 elicit that he liked the post that caused this officer
23 concern, then that's fair game.

24 MR. HENDERSON: Your Honor, I will object if the
25 Detective tries to say that HighKlass YG is my client, Mr.

1 Reid. He's got no independent basis of that. Pure
2 speculation.

3 THE COURT: I'm assuming that a proper foundation will
4 be laid for that, and certainly that will be subject to your
5 cross examination, which I'm sure will be rigorous.

6 MR. HENDERSON: And, Your Honor, I have one more
7 discovery issue. Mr. Tinsley, or just to flesh out the
8 record. Mr. Tinsley said Ji'Tavius Adams isn't in any of
9 these photographs and that just triggered something that
10 happened Monday, and Mr. Tinsley's right about that. On
11 Monday, when Detective Blackwell is going down the list of
12 who he says are members of the various gangs on the
13 Southside, Ji'Tavius Adams was not listed. The first time
14 that we get any evidence at all that Ji'Tavius Adams is
15 allegedly tied in with this Southside group, Parks and
16 Goode, is yesterday when Parks and Goode testified. And
17 again, if the State has -- the State has to have known for
18 ages, or at least their theory is that these people are tied
19 together. Literally, the first time we learned about the
20 tying together of Adams, Parks, and Goode was yesterday when
21 Goode and Parks testified, because it wasn't in Detective
22 Blackwell's materials that he testified from Monday and that
23 I've actually made exhibits in my discovery exhibits, Your
24 Honor.

25 THE COURT: I understand your position. Thank you. I

1 beg to differ.

2 MR. GROSE: I just want to make sure the record reflects
3 that I join in all of Mr. Henderson's and also Mr. Tinsley's
4 arguments.

5 MR. HENDERSON: Same here, Your Honor. I join
6 everybody else's.

7 THE COURT: Well, to the extent that Mr. Grose has a
8 basis to join in on the authentication argument, it is
9 noted, but I don't know that your client liked it.

10 MR. GROSE: Well, you know.

11 THE COURT: You're covered.

12 MR. GROSE: I'm covered, but you know, one of the
13 things -- had stuff gone a little differently on Monday, I
14 was contemplating a severance motion, because we're getting
15 lumped in with all of these other people, and depending upon
16 how this plays out, your rulings on them maybe cause the
17 prejudice to us and so, that's just kind of hanging out
18 there.

19 THE COURT: No, I understand that. I understand that
20 and that's why I think that you probably do have a basis to
21 join Mr. Tinsley's motion on that and it occurred to me that
22 based on my prior contact with this case, that that motion
23 may have been forthcoming. I was actually thinking that it
24 may have been one of the ones that Judge Hocker was
25 contemplating dealing with last week, but that's neither

1 here nor there. It's water under the bridge. And speaking
2 of water, we're going to take about ten minutes and perhaps
3 use some of it and we'll be back on the record. Try and be
4 back here about 10 minutes from now, okay, guys. Thank you.
5 No further argument on this. I've made my ruling. I
6 appreciate your positions.
7 Thank you.

8 (WHEREUPON, recess 10:46 a.m. - 11:02 a.m.)

9 THE COURT: We're going back in the record. Just for
10 the benefit of everyone, I've made yesterday's Section A,
11 the first part of the Index journal, Court's Exhibit Number
12 24 and that references the reporting concerning the disorder
13 that happened at the football game, the Jamboree, this past
14 Friday. Just so that there's some record of what we've been
15 referring to and give it some context.

16 Mr. Grose, you have a matter?

17 MR. GROSE: Well, I don't know if they plan on going
18 into the BOLO, which is in the record as Court's Exhibit
19 Number 6, through this witness, but if they are, we should
20 probably take that up now. If they're not through this
21 witness, then we can we can do it later.

22 MR. STUMBO: We were just going to sanitize what's in
23 the BOLO, Judge. We're not going to put the document in.
24 We're not going to ask about the references to gangs they're
25 in. But we were going to ask Detective Blackwell, based on

1 a activity on social media, on the Walk em Down account,
2 which he associated with Mr. Hill, was there a level of
3 concern that there may be a retaliatory shooting for the
4 Pearl Street murder of Parks. That was essentially, Judge
5 and it is in the Court's exhibits that we -- we discussed
6 this on Monday, but, again, I was going to ask him about it
7 by reference, without any reference to gangs. Again, I do
8 think it, I'm sorry, Mr. Grose.

9 MR. GROSE: No, I didn't mean to cut you off.

10 MR. STUMBO: I'm sorry. I think it does go again to
11 corroborate the fact that there was some motive and intent,
12 at least as to Defendant Hill.

13 THE COURT: Mr. Grose?

14 MR. GROSE: Your Honor, obviously I believe the
15 Facebook post that we're talking about is 117, and obviously
16 we're objecting to that. And that objection would
17 necessarily require an objection to what's currently marked
18 as Court's Exhibit Number 6. I do appreciate their efforts
19 to clean it up by not actually introducing it, but I do have
20 concerns about retaliation. I think that gets into what
21 Your Honor ruled before the break, in that that gets into
22 the interpretation of the Facebook post and -- is it 117?
23 Yeah. I don't want to get into waiving my objection,
24 because I don't think that either one of them should come
25 in, but if you're going to limit it to they saw something

1 about a concern on Mr. Hill's page, then that maybe --

2 And Bolo, be on the lookout is, you know, kind of like
3 a suspect thing, but if they want to say that based on that
4 they pass that information on to, you know, other law
5 enforcement, I mean that might san --

6 THE COURT: That's probably -- BOLO is a little bit up
7 there. That's kind of like the child alert thing that you
8 see flashing on the Interstate, you know, people keep an eye
9 out for a Black 2002 Lexus, license plate number Circuit
10 Judge 8 that's involved with the child abduction. Go with
11 something other than BOLO.

12 MR. STUMBO: We can use law enforcement advisory.

13 THE COURT: Law enforcement advisory. Law enforcement,
14 yeah, law enforcement advisory. That's probably better than
15 BOLO. What I'm trying to -- what I'm doing my level best to
16 prevent is A) obviously any kind of undue prejudice and B)
17 any sort of speculation.

18 MR. GROSE: So, that will go to the word, use of the
19 word "retaliation" too, I assume?

20 THE COURT: Well...

21 MR. GROSE: That gets into translating.

22 THE COURT: I'm not trying to Casper Milktoast this
23 proceeding.

24 MR. GROSE: Oh, you're definitely not doing that.

25 THE COURT: Thank you.

1 MR. STUMBO: Judge, I think that -- I don't have a
2 problem changing BOLO to law enforcement advisory, but I
3 think for us to be able to adequately present this case to
4 the jury and give them some indication of motive as to an
5 intent, and that there was something possibly coming later
6 in the aftermath of Jakevius Parker being murdered. That's
7 critical here. I think the jury, if they don't hear that,
8 Judge, it goes to the res gestae of the case, and it is not
9 overly prejudicial. It is extraordinarily probative.

10 THE COURT: One issue is that this incident took place
11 on April 8, and I'm hearing that the alert, or the bulletin
12 was March 19, so eleven, nineteen days prior to this
13 incident. How long does the BOLO stay out there? I mean...

14 MR. STUMBO: That's a good question.

15 THE WITNESS: It's just as long as -- I mean, it's
16 fresh in law enforcement's mind. Eighteen days, twenty
17 days. There was another ongoing shooting at that time too
18 that people are looking for, so it's just an awareness for
19 law enforcement to have a head's up about something that can
20 happen. And that e-mail, I mean, if they don't erase it
21 it's there as long as they need to look at it.

22 MR. GROSE: My concern is the way that the Solicitor
23 just, you know, approached that is, is that they need to be
24 able to connect this Facebook post and this BOLO to
25 retaliation for a specific thing. And now I'm hearing that

1 there's there was other shootings going on. It gets into I
2 think what you talked about before, concerns about
3 translating what that Facebook post means. It also gets
4 into, you know, sort of opinion testimony about what that
5 Facebook post means and what that BOLO means and it
6 basically would be them offering an opinion that the
7 shooting in this case was retaliation for this other murder.
8 And I think that would, in addition to everything that we've
9 already talked about it, that's the way they're intending to
10 present it. That would be improper opinion testimony. It
11 would be improper bolstering of their own case.

12 MR. STUMBO: Well, and quite honestly, Judge that's one
13 of the reasons why I kind of prefer the post itself to go in
14 and those words can be interpreted by the jury. They can be
15 finders of fact as to what that meant.

16 THE COURT: You may as well hand them something in
17 Sanskrit, as far as I'm concerned. I mean, I don't know
18 what that means.

19 MR. STUMBO: I know what broad daylight means, Judge.
20 I know in the context of everything else, that's -- I get
21 it. And honestly, from Jakevius Parker being killed in the
22 daylight, that's not something that happened under the cover
23 of night, nor did this. I do think there's some common
24 ground here.

25 MR. TINSLEY: And the only thing about any timing in

1 there says don't come after dark. It's not consistent with
2 this.

3 THE COURT: Well, I mean, you raise the valid point that
4 perhaps it cuts both ways, Mr. Tinsley. But, y'all are the
5 ones objecting to it. Let me just think this through for a
6 second. Solicitor, explain to me how is it relevant,
7 assuming that factually you are correct that the post
8 referenced in State's 117, that that is a statement about
9 possible retaliation. How is the fact that law enforcement
10 saw that and then issued a BOLO probative of any issue in
11 this case? Because the BOLO was not relied upon by anyone
12 so far as I'm aware, on August -- or sorry, on April 8 when
13 this case was being investigated after the fact.

14 MR. STUMBO: It was -- the BOLO, specifically in the --
15 the lynchpin here, Judge, is Xayvion Hill, because the BOLO
16 itself, and it's in the record as a Court's exhibit,
17 mentions that Xayvion Hill's page is the one that produced
18 this post. So, an advisory to the other agencies to be on
19 the lookout for Mr. Hill specifically.

20 THE COURT: Right, but how is that relevant to whether
21 this shooting that took place -- the fact that BOLO was
22 issued, how is that relevant to whether this was a
23 retaliation. A BOLO being issued is simply what he did
24 based on what he saw and how he interpreted it.

25 MR. STUMBO: I think he anticipated, Judge, that

1 Xayvion Hill would be involved in some kind of retaliatory
2 shooting, which indeed a few weeks later he was. And that's
3 part of the proof in our case, Judge. You know, there again,
4 Mr. Hill posted this on his page and law enforcement just
5 took that and was using it as a proactive investigative
6 tool, which I think ultimately, Judge, this Court and our
7 public policy wants to encourage them to be proactive, to
8 try to prevent incidents when they can. Obviously, they're
9 not mind readers. They're not perfect. They're not
10 omniscient. They can't be in all places at all times. But
11 I think we want our law enforcement officers to be proactive
12 as a matter of public policy.

13 THE COURT: And I don't disagree with that. I certainly
14 don't disagree with that, but again, we're talking about a
15 post being made and then 19 days later the incident
16 occurring. And what I'm focused on is the BOLO. How's the
17 BOLO probative of anything, whether he anticipated trouble
18 or not. I mean, if he anticipated trouble from Mr. Reid, I
19 don't know.

20 MR. HENDERSON: Mr. Hill, Your Honor.

21 THE COURT: I'm sorry, Mr. Hill. Maybe he should have
22 gone out and shaken Mr. Hill down or something. And I don't
23 know.

24 MR. STUMBO: Well, at that point, obviously Judge they
25 didn't have any evidence of a crime to investigate at that

1 point, but at that point also they wanted -- of course they
2 could have gone and knocked on his door and hey, what does
3 this post mean, and what are you up to. I highly doubt Mr.
4 Hill would have disclosed that even if they had attempted to
5 approach him. But be that as it may, certainly they could
6 have taken that additional step, but, Judge --

7 THE COURT: What does the BOLO prove? That's what I'm
8 asking. As far as the culpability.

9 MR. STUMBO: The Bolo I think, Judge, just corroborates
10 the fact that there was some motive and intent to do a
11 retaliatory shooting for what had happened to Mr. Parker.
12 And I think you have to look at the post in the context of
13 the tribute to Parker that had just been posted on his page
14 several days before. I think outside of the post, the
15 tribute post to Parker after he had just been killed, you
16 know, maybe it doesn't make sense. But I think there's
17 clearly a chain of connection from Parker's murder to the
18 tribute post, to the March 19 posting that says, you know,
19 what it says.

20 THE COURT: Right, I get that. My point is more
21 specific. If the purpose of -- if you needed this witness
22 to testify that there was a BOLO put out to keep an eye out
23 for Mr. Hill, as a result of that BOLO, let's change the
24 facts slightly. Because of that BOLO, they stopped Mr. Hill
25 two hours for a traffic violation two hours before the

1 shooting on April 8 and they found in his possession, in a
2 glove box, not being carried illegally, but they searched
3 the car and they found a legally carried firearm that had a
4 tan color to it, and then two hours later they recovered
5 that same gun. The Sheriff recovers it in the woods.
6 That's why you would need that information about the BOLO
7 out there, is to explain why they stopped him two hours
8 before this incident, okay? The BOLO contributes nothing as
9 I see it.

10 MR. STUMBO: I do think it -- Judge, let me bring this
11 point. It occurred to me that the fact that Mr. Hill comes
12 into the ER, there's a shooting at these apartments. He
13 comes into the ER, carried by Mr. Hawthorne, several minutes
14 later. And he has a gunshot wound. Indicative, again, of
15 him being involved in this shooting. So, Judge, immediately
16 because of Detective Blackwell's BOLO, they are starting to
17 formulate why he may have done this, or why he may have been
18 involved. I think it's part of their overall investigation
19 into, of course, we're not going to mention the gang part.
20 That was part of it too. But the other part was why would
21 Xayvion Hill be at Parkway Apartments involved in an ambush
22 shooting. That post and BOLO gives them a, I guess, a head
23 start on those issues to some extent. So, it's part and
24 parcel part of their investigation and the information
25 they're getting as, on April 8, as he's at the hospital, as

1 they're interviewing him. That's something that's clearly.
2 Part of the investigation on the 8th, so it ties to it and I
3 think it's very relevant, especially as to motive and
4 identity.

5 THE COURT: Which witness is going to testify to that,
6 because I don't think I've heard anyone testify thus far who
7 interviewed the people of the hospital that the BOLO played
8 into their suspicions or investigation?

9 MR. STUMBO: Well, there again, I know Detective
10 Blackwell was there with Detective Womack, because he took
11 the GSR kits. They were working the hospital together. I
12 haven't even asked him that to this day what their
13 conversation was, because I didn't believe it -- I didn't
14 believe it at the time to be relevant, but obviously, in
15 light of this, I don't know what discussions they had at the
16 hospital that day or mention of oh, this is Xayvion Hill.
17 He posted something a few weeks ago about the Parker murder.

18 MR. GROSE: Judge, you're doing a pretty good job making
19 our point with your questions, but --

20 THE COURT: I'm trying to cut through this.

21 MR. GROSE: -- but this seems revisionist to me because
22 there's not an incident report that references this Facebook
23 post or the BOLO by their own admissions. This is something
24 that they figured out in the last couple of weeks. None of
25 this was produced, and it gets back to Mr. Henderson's

1 discovery motion. And I don't know -- I don't understand
2 how the BOLO goes to motive.

3 THE COURT: I agree with you. This isn't -- I mean,
4 this isn't the minority report and I don't see where the
5 BOLO is probative of any issue in this case. I'm going to
6 let him testify that he saw something of concern on Mr.
7 Hill's site that he interpreted as concern. But, I'm not
8 going to let him testify that he then put out a BOLO, or an
9 alert, or whatever for the simple reason that any alert that
10 was put out doesn't link up to any other evidence that was
11 recovered in this case. The deed was done 19 days later, so
12 I don't see where that is germane. I really don't. If it
13 was used to stop a car or something like that, like the
14 example I gave, yeah. But under these facts, the fact that
15 that he felt the need to issue an alert, is it a good law
16 enforcement practice? Heck yeah. Am I behind him one
17 hundred percent doing so? Yes. Does the jury need to know
18 about it? No. There's nothing probative to be gathered
19 from it. That's where I am. Let's have the jury back out,
20 please.

21 (WHEREUPON, jury entered 11:02 a.m.)

22 THE COURT: Ladies and gentlemen, welcome back. That
23 took a lot, a lot longer than I was expecting and I'm sorry.
24 Solicitor, you may continue with your examination, sir.

25 MR. STUMBO: Thank you, Judge. And, Judge, we had

1 offered 109, 110, 114, 115, and 116 and then 120 through 124
2 into evidence. We would ask to have them admitted with
3 proper foundation having been laid and publish to the jury.

4 THE COURT: Subject to the prior hearing and the
5 objections 109, 110, 114, 115, 116, 120, and 121 through 124
6 are in evidence. 117 is not.

7 MR. STUMBO: Thank you, Judge.

8 DIRECT EXAMINATION

9 BY MR. STUMBO:

10 Q And just since it's been a while since the jury's been
11 out here, Detective Blackwell, you talked about doing social
12 media research to try to figure out who's friends, who's
13 associated with one another?

14 A Yes, sir.

15 Q And these photographs I'm going to show, you we're
16 going to go through them one at a time in light of that
17 testimony.

18 A Yes, sir.

19 Q State's 109. Who was involved in this case, is in this
20 photograph?

21 A In this photograph is Gabriel Goode.

22 Q Where is he located?

23 A He's on the left side there with the black shirt and an
24 orange bandana around his head.

25 Q Okay, and who else?

1 A Justin Parks is in the white shirt with the red hat,
2 behind the guy wearing the Blue Jay's jersey.

3 Q Okay. 110? What is this a depiction of?

4 A This is a screen shot of a YouTube rap video that came
5 off of public social media, off of YouTube. The actual name
6 of the song that it came off of is Slick Came From Nothing.
7 In this photo, Justin Parks is in the red shirt that has
8 "Life" on it, and Mr. Goode is also in a -- it's a red or
9 orange shirt there on the right with a orange bandana,
10 beside the guy that's shirtless with the dreads.

11 Q Okay, and Slick, is that not one of these guys, one of
12 their buddies?

13 A Yeah, the guy that actually sang is Terrence Sanders.
14 He's in the middle there with the hat on.

15 Q And he goes by Slick?

16 A Yes, sir.

17 Q This is 114, State's 114.

18 A Yeah, this is, like, a collage to Mr. Parker, the
19 individual that was murdered on Pearl Street on March 3.
20 This was taken off of Xayvion Hill's public social media,
21 Walk Emm Down.

22 MR. TINSLEY: Objection.

23 MR. HENDERSON: Speculation, Your Honor.

24 THE COURT: Overruled. You're protected as far as your
25 objection, which you made previously. They are noted,

1 however, overruled. Go ahead.

2 A And this was posted on March 10, 2020.

3 Q And when was when was he shot and killed?

4 A March 3.

5 Q This was from what, at the time, was called Walk Emm
6 Down?

7 A Yes, sir. It was Walk Emm Down's social media.

8 Q Okay. Got you. All right. All three of -- this is
9 Jakevius Parker and all three of these image in this
10 collage, correct?

11 A Yes, sir.

12 Q And you know that from knowing Mr. Parker from the
13 community?

14 A Yes, sir.

15 Q And again, 8:00 March 3, 2020, he was shot and killed
16 walking home from the store?

17 A Yes, sir.

18 Q State's Exhibit Number 115. I'm going to turn it this
19 way for everybody and pan it out a little bit.

20 A This was a photo of Mr. Alston, the victim in this
21 case. This was taken off the Xayvion Hill's public social
22 media, Walk Emm Down. It was posted on April 14, 2020.

23 Q And that would have been six days after this incident
24 where Mr. ---

25 A Yes, sir. This happened on April 8.

1 Q State's 116?

2 A This is a photo that was taken off of Xayvion Hill's
3 public social media page, Walk Emm Down. I took that off on
4 8/10/22. That's Mr. Reid in the middle in the white shirt
5 and Mr. Hill in the grey hoodie on the right.

6 Q And you said you took the screen shot of it 8/10, which
7 was last week, right?

8 A Yes, sir.

9 Q But this picture was an older picture on Facebook?

10 A It's an older picture posted. I didn't have the exact
11 date that it was posted.

12 Q All right, State's Exhibit 120?

13 A This is the photo that came off of Narkevious Reid's
14 public social media page, HighKlass YG.

15 MR. HENDERSON: Objection. Speculation, Your Honor.

16 THE COURT: You can handle it on cross. Your objection
17 from earlier is protected. Go ahead.

18 A This was taken off of his social media page on
19 September 26, 2018. This is Mr. Parker, who was murdered on
20 Pearl Street, in the middle, right there and Mr. Reid on the
21 right side of the photo.

22 Q Mr. Reid, kind of, up on the table on the right, as
23 we're looking at it here?

24 A Yes, sir.

25 Q These two, Jakevius Parker is left?

1 A Yes, sir.

2 Q State's 121?

3 A This is another photo off of Mr. Reid's public social
4 media page, HighKlass YG. I got this photo off of the page
5 on 9/26/2018. It's Mr. Parker on the left and Mr. Reid in
6 the middle.

7 Q The individual on the right is not related to this
8 case?

9 A No, sir.

10 Q And 122? That's taken, it looks like, the same time,
11 same place?

12 A Yes, sir. That's also a photo that was taken from Mr.
13 Reid's public social media page, HighKlass YG, on 9/26/2020
14 and that's Mr. Reid.

15 Q Okay. His face is uncovered by his hand in this one,
16 as it was -- his hand was in front of his face in the last
17 one?

18 A Yes, sir.

19 Q This is State's 123.

20 A This is a photo that was taken from Narkevious Reid's
21 public social media page, HighKlass YG. This was on
22 9/26/2018. Mr. Hill is on the left side in the striped
23 shirt. Mr. Reid is in the white shirt there in the middle
24 with the red hat. Mr. Parker is in the white collared shirt
25 with the white hat on.

1 Q Okay, the guy in the white tennis shirt with the white
2 Nike hat is Parker?

3 A Yes, sir.

4 Q The other individuals in this picture aren't associated
5 with this case?

6 A No, sir.

7 Q And State's 124?

8 A Yes, sir. This is another photo that was taken from
9 Narkevious Reid's public social media page, HighKlass YG.
10 This was actually taking on March 7, 2016. That's Jakevius
11 Parker on the left side and Mr. Reid in the middle.

12 Q Okay. All right. Now, Detective Blackwell, we saw
13 State's 114, which was this kind of collage of Jakevius
14 Parker, and this was about a week after he was killed,
15 correct?

16 A Yes, sir.

17 Q Were there any posts from that same Facebook page that
18 gave you pause for concern as an investigator on that page?

19 A Yes, sir.

20 Q Okay. And those were of the nature of you believed
21 that there would be maybe some retaliation for Mr. Parker's
22 ---

23 MR. HENDERSON: Objection, Your Honor.

24 THE COURT: Sustained. Sustained.

25 MR. GROSE: I have a motion.

1 THE COURT: The jury is ---

2 MR. HENDERSON: Yeah, we have some motions, Your Honor.

3 THE COURT: Ladies and gentlemen of the jury, I'm
4 instructing you to disregard that question. It calls for
5 speculation. It was an improper question and it should not
6 have been asked. I know what y'all are thinking. We'll
7 take it up at the next break.

8 MR. GROSE: Yes, sir.

9 MR. HENDERSON: Thank you.

10 THE COURT: Please continue.

11 MR. GROSE: I object to the curative instruction.

12 MR. HENDERSON: Same objection, Your Honor.

13 THE COURT: Understood, gentlemen, understood. I know
14 what you are thinking. I am clairvoyant in this instance,
15 and we will handle it at the next break. Please continue.

16 Q Detective Parker (SIC), you went to the hospital on
17 April 8 to help investigate this case?

18 A I did. After I left the incident location, we heard
19 there was other people that were coming to the hospital with
20 gunshot wounds. So, I went over there where I met with
21 Detective Womack and some other deputies and asked how I
22 could assist them. Detective Womack asked me to take GSR
23 from some of the shooting -- people that had gunshot wounds
24 when they arrived at the hospital.

25 Q And which individuals did you take kits of?

1 A I took GSR kits off of Xayvion Hill, Justin Parks, and
2 Gabriel Goode.

3 Q I'm going to hand you first State's 100. What is that
4 identified as?

5 A This is a gunshot residue kit from Case Number 9698
6 from the Sheriff's Office described as taken off of, the GSR
7 kit from Xayvion Hill.

8 Q Okay. Yesterday we heard from Detective Womack about
9 how you take a GSR kit?

10 A Yes, sir.

11 Q And that's what you did on Mr. Hill?

12 A Yes, sir. Basically the same way. It comes in a sealed
13 package. You open the package up. It's pretty basic
14 instructions on the sheet that you fill out. It has gloves
15 that you put on and you just take a -- swab each of the
16 subject's hands.

17 Q And you did that on Mr. Hill, who is in the courtroom?

18 A Yes, sir.

19 Q All right. What did you do? Did you seal it up after
20 you took it?

21 A It would have been sealed up and I gave it back to
22 Detective Womack, who was there at the time, meeting with
23 other people and talking with witnesses and GSR.

24 Q And he's from the County, correct?

25 A Yes, sir.

1 Q And this is a County case?

2 A This is a county case, so I didn't take possession of
3 the evidence. I gave it to him.

4 Q I'll get the other one back and I'll give you State's
5 101. What is that?

6 A This is another GSR kit for Case Number 29698. This is
7 a GSR kit from Justin Parks, so the same thing would have
8 been true with Justin Parks. He was there being treated for
9 a wound. I opened up a sealed package, swabbed his hands,
10 filled out the form, and provided that back to Mr. Womack,
11 or Detective Womack.

12 Q State's 102?

13 A It says it's another GSR kit for Greenwood County case
14 29698, and this is a GSR kit from Gabriel Goode. The same
15 thing. I would have took an unopened package, opened it up
16 and swabbed Mr. Goode's hands, filled out the paperwork, and
17 I provided that back to Detective Womack.

18 Q You were in the courtroom at times in the courthouse
19 this week when Gabriel Goode and Justin Parks were here
20 testifying?

21 A Yes, sir.

22 Q And those are the individuals you took that GSR kits
23 from?

24 A Yes, sir.

25 Q And that would be in 101 and 102?

1 A Yes, sir.

2 Q You handed those off to Detective Womack?

3 A Yes, sir. I gave three gunshot residue kits to
4 Detective Womack.

5 Q Did you alter or mess with them in any way?

6 A No, sir.

7 Q Did you add anything to the kits?

8 A No, Sir.

9 Q Did you take anyway anything away from them?

10 A No, sir.

11 Q And in 100, that would have been Mr. Hill. Is he in
12 the courtroom today?

13 A Yes, sir. He's right there.

14 Q Okay. Sitting by his attorney, Mr. Tinsley.

15 A Yes, sir.

16 Q And that's who you took this GSR kit, State's 100, off
17 of?

18 A Yes, sir.

19 Q When you take a GSR kit, do you do that bare handed or
20 do you put gloves on?

21 A No, sir. In the kit that's provided to you, it has
22 gloves that you put on to keep any contamination or
23 anything. I used the gloves that were in the kit that came
24 with it.

25 Q So, in other words, if you had handled your gun as a

1 law enforcement officer and it had been recently fired, you
2 could have it on your bare hands, correct?

3 A Yes, sir. You could.

4 Q That's why you used the gloves out of the kit.

5 A That's why you use the gloves that are not
6 contaminated.

7 MR. STUMBO: No further questions of this witness, Your
8 Honor. Please answer any questions that the defense
9 attorneys may have.

10 THE COURT: MR. Tinsley?

11 CROSS EXAMINATION

12 BY MR. TINSLEY:

13 Q Detective Blackwell, Ji'Tavius Adams was not in any of
14 the photographs that we looked at?

15 A No, sir.

16 Q And did you testify that Number 115, which was a
17 tribute to Mr. Alston, was from April 14, 2020?

18 A It was posted on April 14, 2020. Yes, sir. That's
19 what it said on the social media page.

20 Q And Mr. Hill was still in the hospital at that point,
21 correct?

22 A I'm not sure.

23 Q Okay. Well, when he went into the hospital on the 8th,
24 law enforcement took possession of his cell phone, correct?

25 A I'm not sure.

1 Q And when you took the gunshot residue sample from Mr.

2 Hill, he was about to go into surgery, correct?

3 A I can't remember. I believe so.

4 Q And he was in pretty bad pain at that point?

5 A Yes, sir.

6 MR. TINSLEY: No further questions. Please answer any
7 questions Mr. Henderson has.

8 CROSS EXAMINATION

9 BY MR. HENDERSON:

10 Q Hey, Detective. How are you, sir?

11 A Good, sir. How are you?

12 Q Good. Always good to see you. Now, you know my
13 client, Mr. Reid is a rapper?

14 A Yes, sir.

15 Q That he produces rap music?

16 A Yes, sir.

17 Q He makes rap videos?

18 A Yes, sir.

19 Q And you know that his rap band or rap group is called
20 the Contraband Gang, don't you?

21 A Yes, sir.

22 MR. HENDERSON: I don't have anything further, Your
23 Honor.

24 THE COURT: Mr. Grose?

25 MR. GROSE: No questions for this witness, Your Honor.

1 THE COURT: Sir, thank you. You may step down.

2 Solicitor, call your next witness, please.

3 MS. TAYLOR: Thank you, Your Honor. The State calls

4 Detective Wes McClinton.

5 WHEREUPON, Wes McClinton, having first been
6 duly sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY MS. TAYLOR:

9 Q Good morning. How are you employed?

10 A Ma'am?

11 Q How are you employed?

12 A I work for the City of Greenwood Police Department.

13 Q Are you a detective?

14 A Yes, ma'am.

15 Q How long have you been with the City?

16 A Going on 12 years, a little over 12 years, maybe.

17 Q So, were you with the City back on April 8, 2020?

18 A Yes, ma'am.

19 Q Do you remember whether you responded to the scene out
20 at Hillcrest and Gardens at Parkway?

21 A I did.

22 Q You did? Once it was determined that this incident was
23 actually going to be a county investigation, did you remain
24 at the scene or did you leave?

25 A No, ma'am. I left.

1 Q Did you receive an e-mail from Detective Murdoch at
2 some point regarding a photo that he needed some help with
3 identification?

4 A Yes, ma'am.

5 Q How did you receive that?

6 A Through our e-mail.

7 MR. GROSE: What number is that?

8 THE COURT: That's already in evidence.

9 MS. TAYLOR: I thought it was.

10 Q I'm going to show you what's already in evidence as
11 State's 79. Can you see that from where you're sitting?

12 A Yes, ma'am.

13 Q Is this the video, the still shot, you received from
14 Investigator Murdoch?

15 A Yes, ma'am. It is.

16 Q And, I'm sorry just to -- because I keep using the
17 words interchangeably. For the County, they're
18 investigators. For the City, you're detectives, right?

19 A That's correct. Yes, ma'am.

20 Q But basically the same job?

21 A Yes, ma'am.

22 Q Can you identify the individual right here who's at
23 this back passenger door?

24 A That's Mr. Reid.

25 Q And did you know Mr. Reid before this time?

- 1 A Yes, ma'am.
- 2 Q Is Mr. Reid in the courtroom today?
- 3 A Yes, ma'am. He is.
- 4 Q Where is he sitting?
- 5 A Beside Mr. Henderson.
- 6 Q And he has on a red jacket?
- 7 A Red jacket. Yes, ma'am.
- 8 Q Do you know who this individual is?
- 9 A I need to step down to see that. Which one are you
- 10 pointing to?
- 11 Q The one in the wheelchair.
- 12 A Mr. Alston.
- 13 Q That's Trivoriaye Alston?
- 14 A Yes, ma'am.
- 15 Q And what about this gentleman in the red shorts?
- 16 A Mr. Hurley.
- 17 Q And when you say Mr. Hurley, do you know his full name?
- 18 A Dashawn Chazz Hurley.
- 19 Q And were you familiar with Mr. Hurley before ---
- 20 A Yes, ma'am.
- 21 Q --- April 8th.
- 22 A I was. Yes, ma'am.
- 23 Q Let's talk about this car a little bit, this black
- 24 Toyota. Did you know Mr. Hurley to drive that vehicle on
- 25 occasion?

1 A Yes, ma'am.

2 Q So, were you able to provide that information to
3 Investigator Murdoch as well?

4 A Yes, ma'am. I was.

5 Q I'm showing you what's been marked as State's 137. Is
6 that Mr. Hurley?

7 A Yes, ma'am. It is.

8 Q And is that essentially what he looked like around the
9 time of this incident?

10 A Yes, ma'am.

11 MS. TAYLOR: The State offers 137 into evidence, Your
12 Honor.

13 THE COURT: No objections. 137 is in evidence.

14 (WHEREUPON, State's exhibit 137 in evidence.)

15 MS. TAYLOR: Just to show the jury.

16 Q That's what he looked like around that time frame?

17 A Yes, ma'am.

18 Q So, his hair has changed a little bit today?

19 A It has.

20 Q Now, after you identified Mr. Hurley and the vehicle
21 that was in that still shot, did -- was it stopped shortly
22 thereafter? A traffic stop?

23 A Yes, ma'am. It was.

24 Q And were you the officer who stopped it?

25 A No, ma'am.

1 Q Did you back up that officer fairly quickly?

2 A I did. Yes, ma'am.

3 Q Who was driving that car when it was stopped?

4 A I believe it was Ms. Hurly. Yes, ma'am. I don't
5 remember her first name.

6 Q Do you have the report?

7 A Yes, ma'am. It was a Ms. Ty'Quisha Amayah Hurley.

8 Q And is it your understanding that she's related to
9 Dashawn Hurley?

10 A Yes, ma'am.

11 Q Do you know the relation?

12 A I believe it's his sister. Yes, ma'am.

13 Q Now, because this was a county investigation, what was
14 your role regarding the car once it was stopped?

15 A The officer that stopped the car alerted everybody he
16 had found the car. The traffic stop. Everyone arrived. I
17 arrived to help him secure the scene. Once the scene was
18 secure, the investigation and the vehicle were turned over
19 to the county deputies that arrived, investigators.

20 Q So, from that point it was the county's job to actually
21 process the car?

22 A Yes, ma'am.

23 MR. HENDERSON: Your Honor, I think we're going to need
24 to have a discussion about this photograph.

25 (WHEREUPON, sidebar held.)

1 THE COURT: If you intend to publish it, you can take a
2 piece of paper and do what I suggested. Subject to my
3 instructions -- that was 130, I think?

4 MS. TAYLOR: Yes, sir.

5 THE COURT: Subject to my instructions, State's Exhibit
6 Number 130 is in evidence.

7 MS. TAYLOR: Your Honor, for the record I am folding it
8 as much as I can to try to -- I'll show them where I folded
9 it.

10 MR. HENDERSON: Just subject to our prior objections,
11 Your Honor, about when we got it.

12 THE COURT: Oh, okay. Yes. Subject to the issue about
13 tardy provision by the State. Noted.

14 Q Showing you what's in evidence as State's Exhibit 130.
15 Can you see that from where you're sitting?

16 A Yes, ma'am.

17 Q First of all, can you tell me what this is?

18 A It's a photograph of two gentlemen, Facebook screen
19 shot.

20 Q Who's Facebook page was this taken from?

21 A Mr. Alston's public Facebook profile, Asskutta Flex.

22 Q Can you tell what date that picture was posted?

23 A April 7, 2020.

24 Q So, that would be the day before the shooting?

25 A Yes, ma'am.

1 Q Who is Walk Emm Down?

2 A Mr. Xayvion Hill's public Facebook page.

3 Q Have you -- you've been able to associate that page
4 with Mr. Hill?

5 A Yes, ma'am.

6 Q Going back to the picture itself, who is this taller
7 gentleman?

8 A Mr. Alston. Trivoriaye Alston.

9 Q And who is this?

10 A That's Xayvion Hill.

11 Q Again, this was the day before the shooting?

12 A Yes, ma'am.

13 Q I'm going to show you this after I show them what we're
14 talking about.

15 MR. GROSE: Your Honor, may we approach?

16 (WHEREUPON, sidebar held.)

17 THE COURT: State's 111, 126, 127, and 113 are in
18 evidence. 125 is not, but it can remain marked for
19 identification. Subject to the objections. Subject to all
20 objections from all defendants. You may publish.

21 MS. TAYLOR: Thank you, Your Honor.

22 Q I'm showing you State's 111. Can you tell me what this
23 is?

24 A It's a screen shot from a YouTube video published by
25 Double N of Spring Valley.

1 Q Who in this picture, if anyone, is related to the case
2 today?

3 A Second from the left is Mr. Hill. It looks like he has
4 a jean jacket on with his hand in front of his face. In the
5 very back is Mr. Reid with what looks like a white hoodie on
6 with the hood partially over his head. The one to the right
7 from Mr. Reid it looks like Hawk is on the hoodie, is Mr.
8 Alston with the hoodie all the way over his head.

9 Q Do you know when this video was posted to YouTube?

10 A I do. That was January 2020, I believe it was.

11 Q Next is State's 113. Can you tell me what that is?

12 A This is another screen shot from a YouTube video titled
13 Contraband Gang, How Could I. Music video.

14 Q Who's this way over here?

15 A That's Jakevius Parker.

16 Q Did he also go by J.P.?

17 A Yes, ma'am. He did.

18 Q Who else in this video or in a screen shot of a video
19 is related to this case?

20 A Sitting down with the pink shoes is Narkevious Reid.
21 In the back with the blue hoodie on there is Mr. Xayvion
22 Hill.

23 Q Do you know when this video was posted to -- was it
24 posted to YouTube?

25 A Yes, ma'am.

1 Q Do you know when it was posted?

2 A I'm not sure. It was more than two years ago. I can't
3 recall the exact date right this second.

4 Q If I told you it was in twenty sixteen would you
5 disagree with that?

6 A No, ma'am.

7 Q State's Exhibit 127. Can you tell me what that is?

8 A That is a screen shot from Dashawn Chazz Hurley's
9 public Facebook page titled Money Makin Mitch.

10 Q Who is in this picture?

11 A On the left is Dashawn Chazz Hurley. Squatted down
12 with the red shirt on is Narkevious Reid.

13 Q Can you tell when that was posted?

14 A June 16, 2018.

15 Q We've heard some about Xayvion Hill's Facebook page.
16 How did you associate Money Makin Mitch with Mr. Hurley?

17 A All of the pictures are of him. The comments on there
18 from his family to him. Videos of him. Predominantly just
19 Mr. Hurley who is photographed on the Facebook with his
20 associates.

21 Q And the last one, State's 126. Can you tell me what
22 this is?

23 A Yes, ma'am. It's also a screen shot from Mr. Hurley's
24 public Facebook page, Money Makin Mitch. It was taken on
25 8/12/2022 is when I took the picture. From left to right.

1 Mr. Hurley is in the white shirt with the black hat on. To
2 the right of him, our right, would be Mr. Jakevius Parker.

3 Q So, do you know when this photo was taken?

4 A I'm not sure.

5 Q But, obviously it would've been before Mr. Parker's
6 murder?

7 A Yes, ma'am.

8 Q So, before March 2020?

9 A Yes, ma'am.

10 Q And you downloaded it?

11 A Yes, ma'am.

12 MS. TAYLOR: Please answer any questions the defense
13 has.

14 THE COURT: Mr. Tinsley?

15 CROSS EXAMINATION

16 BY MR. TINSLEY:

17 Q Detective McClinton, you testified about a picture with
18 Mr. Hill and Mr. Alston on [REDACTED]. Were you aware
19 that was Mr. Hill's eighteenth birthday?

20 A I'm not sure of his birthday, sir.

21 Q But you're not disputing that?

22 A I don't know when his birthday is.

23 MR. TINSLEY: No further questions. Please answer any
24 questions Mr. Henderson has.

25 CROSS EXAMINATION

- 1 BY MR. HENDERSON:
- 2 Q Good afternoon, Detective. How are you, sir?
- 3 A Good, sir. Thank you.
- 4 Q You saw -- I don't recall the number, but you saw the
- 5 still photograph from the Self Regional video?
- 6 A Yes, sir.
- 7 Q You may have even been in here in the courtroom earlier
- 8 this week when that video was played. But you definitely
- 9 saw the photograph?
- 10 A Yes, sir.
- 11 Q And you said in that photograph you saw Mr. Reid?
- 12 A Yes, sir.
- 13 Q You just know Mr. Reid and his family; correct?
- 14 A I know Mr. Reid. Yes, sir.
- 15 Q Is it fair enough, looking at that photograph, that the
- 16 sides of his head weren't shaved were they?
- 17 A I don't recall what his haircut was.
- 18 Q Do we need to put up the picture again?
- 19 A If you want to.
- 20 Q Let's -- what I'm looking at is State's 79.
- 21 A Can you zoom in a little bit, please?
- 22 Q To be honest, I have no idea how to do that. Perhaps
- 23 one of the Solicitors can do that.
- 24 A Your question was about his haircut?
- 25 Q His haircut. Is his haircut in this picture similar to

1 what his haircut is today?

2 A It looks like it's a little longer in the picture.

3 Q But it's similar? The sides of the head.

4 A I can't tell you how long it is. I'm sorry.

5 Q Okay. Is it -- you just can't tell?

6 A I can't tell how many inches it is in that picture and
7 how many it is right now.

8 Q I got you. You just can't tell?

9 A I'm not a hairstylist.

10 Q I got you.

11 MR. HENDERSON: I don't have anything further.

12 THE COURT: Mr. Grose?

13 CROSS EXAMINATION

14 BY MR. GROSE:

15 Q I think when you were talking about State's 126 you
16 said that you downloaded that on August 12?

17 A I would have taken a screen shot. Yes, sir.

18 Q August 12, last Friday?

19 A Yes, sir.

20 Q I don't think you said on 127, but maybe you did. That
21 was also last Friday; wasn't it?

22 A Yes, sir. It was.

23 MR. HENDERSON: Thank you. That's all I have.

24 THE COURT: No redirect?

25 MS. TAYLOR: Very briefly, Your Honor.

1 REDIRECT EXAMINATION

2 BY MS. TAYLOR:

3 Q You've known Mr. Reid a long time, haven't you?

4 A Yes, ma'am.

5 Q Has his hairstyle changed a bit over the years?

6 A It has. Yes, ma'am.

7 Q Has he ever had the sides of his head shaved with
8 little twists?

9 A At times. Yes, ma'am.

10 Q And that still shot was pretty grainy, wasn't it?

11 A It was.

12 MS. TAYLOR: Thank you.

13 THE COURT: Sir, you can step down. Call your next
14 witness, please.

15 MS. TAYLOR: The State calls Greg Allison.

16 THE COURT: I'm sorry. I need a brief break. We're
17 going to take a brief break. Mr. Allison, just have a seat
18 out there. We're going to take your testimony in about five
19 minutes. Adjourn to the back, refresh yourselves, and we'll
20 be right back on the record in about five or ten minutes.

21 Thank you.

22 (WHEREUPON, jury exited 12:08 p.m. Recess 12:08-12:21 p.m.)

23 THE COURT: All right, let's go ahead and have the jury
24 out, please.

25 (WHEREUPON, jury enters 12:21 pm.)

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1 THE COURT: Sorry about that. Solicitor, if you'll
2 call your next witness now, please.

3 MS. TAYLOR: Thank you, Your Honor. The State calls
4 Greg Allison.

5 WHEREUPON, Greg Allison, having first
6 been duly sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY MS. TAYLOR:

9 Q Good afternoon.

10 A Good afternoon.

11 Q Where do you work?

12 A Greenwood County Sheriff's Office.

13 Q What's your job there?

14 A I'm the evidence technician.

15 Q Were you the evidence technician back on April 8, 2020?

16 A Yes, ma'am.

17 Q As the evidence technician, is one of your duties to
18 process a crime scene?

19 A Yes, ma'am. I do assist processing crime scenes.

20 Q And did you go to the crime scene at this location on
21 April 8, 2020?

22 A Yes, ma'am.

23 Q Also, is part of your job maintaining the integrity of
24 any evidence collected in your evidence room?

25 A Yes, ma'am, and the chain of custody.

1 Q And can you briefly describe for me, when a piece of
2 evidence comes into the evidence room, how is that secured?

3 A It's secured through the evidence lockers where it has
4 a knob on the locker where you turn it, and then you push a
5 lock button, and it secures that piece of evidence for the
6 remainder of the time it's in that locker until I get to the
7 following day to process it.

8 Q And who has access to the evidence room itself?

9 A Matthew Womack and myself.

10 Q And Investigator Womack is the backup evidence
11 custodian?

12 A Yes, ma'am.

13 Q So, once an item is actually secured in the evidence
14 room, no one else can get in there to mess with it; is that
15 right?

16 A Yes, ma'am. What usually happens is if somebody if
17 someone needs that piece of evidence, for whatever reason,
18 they have to contact me or Matthew Womack to release it and
19 they'll sign a release form or a transfer form to get that
20 piece of evidence.

21 Q And even if I want to come look at it, I have to do it
22 with you standing there, right?

23 A Yes, ma'am. You've got a sheet over there where you
24 have done that prior.

25 Q So, you said you went to the scene back on April 8,

1 2020. What did you do when you arrived?

2 A Well, what I do is I go with the lead investigator or
3 investigators and we'll do a walk through and they'll show
4 me what is -- what has been located, what has been found,
5 and what needs to be photographed, collected, and processed.

6 Q And are you the one who actually physically collects
7 everything?

8 A Yes, ma'am, to a certain extent. Sometimes you have an
9 investigator or an officer may collect something, but the
10 majority of the time I collect the majority of it. Yes,
11 ma'am.

12 Q Were you present -- did you take pictures of everything
13 that day?

14 A I took pictures of everything that deemed as evidence,
15 so anything that was deemed as evidence was photo --
16 numbered, photographed, and collected.

17 Q If there had been nothing of evidentiary value
18 somewhere, you wouldn't have taken a picture of it?

19 A Exactly. Yes, ma'am.

20 Q And did you take pictures of the inside of the
21 apartment?

22 A Yes ma'am. We take the inside of the apartment and
23 certain parts of the outside of the apartment. Basically
24 where the incident occurred.

25 Q I'm showing you State's 138. Is that one of the

1 pictures you took?

2 A Yes, ma'am. It is.

3 Q And does that appear to be in the bathroom?

4 A Yes, ma'am. It is.

5 Q The State offers 138 into evidence, Your Honor.

6 THE COURT: No objections?

7 MR. TINSLEY: No objection.

8 MR. HENDERSON: None, Your Honor.

9 THE COURT: All right, State's 138 is an evidence
10 then.

11 (WHEREUPON, State's Exhibit 138 in evidence.)

12 Q And showing you 138. Does there appear to be a hole in
13 that board?

14 A Yes, ma'am. It does.

15 Q Was there anything of evidentiary value found anywhere
16 in that apartment, other than the front room?

17 A No, ma'am. If it was, it would have been numbered,
18 photographed, and collected.

19 Q Now, we've seen a lot of pictures of some shell casings
20 and guns, various things that were on that scene. Did you
21 actually collect all of that?

22 A Yes, ma'am.

23 Q I'm going to hand you what's been marked for ID as
24 State's 89?

25 A Yes, ma'am.

1 Q Can you identify that for me?

2 A It's eleven 9 millimeter shell casings.

3 Q And were those collected on the scene that day?

4 A Yes, ma'am. They were.

5 Q And I'm going to hand you State's 90. Can you tell me
6 what that is?

7 A Yes, ma'am. There's two shell casings, number 12 and
8 number 13.

9 Q All right, so why are there two shell casings that are
10 in a different package from the first eleven?

11 A Sometimes, when you process the crime scene, you'll do
12 an initial walkthrough and processing and then before you
13 leave you'll do a secondary and I'm not the only one that's
14 looking. You have other investigators and other officers
15 looking as well to make sure we don't leave any equipment
16 behind, and possibly other evidence. And sometimes it's
17 found and what it is numbered, photographed, and collected.

18 Q So, these State's 90, were those two additional casings
19 found on that second walk through?

20 A Yes, ma'am. It's -- they were collected during the
21 second walk through. Yes, ma'am.

22 Q All right, and both of these exhibits, all 13 casings,
23 what happened after they were collected at the scene?

24 A Once they were collected at the scene and I'm deemed to
25 be released to go back to the Sheriff's Office, I'll go

1 back, along with my assistant, Womack. We'll start
2 processing, getting things ready, prepared to either go to
3 SLED or stay in house.

4 Q And with regard to the casings, did those eventually go
5 to SLED?

6 A Yes, ma'am, they did.

7 Q Do you know what date you took them to SLED on?

8 A I don't know right off, but I have a report that would
9 tell me exactly when.

10 Q Can you just -- well, I'll save that for -- did you
11 take most of this evidence on the same day?

12 A I think I did. Yes, ma'am. I'm not sure, but I think
13 we got everything ready to go at one time.

14 Q I'm going to show you State's 94. Can you tell me what
15 that is?

16 A This was collected from upstairs and it is a projectile
17 from the top front porch.

18 Q All right, and State's 95?

19 A It's a projectile from the bottom part of the front
20 porch.

21 Q And did you collect those at the same time you
22 collected the casings?

23 A Yes, ma'am.

24 Q And that would have been on April 8, 2020?

25 A Yes, ma'am.

1 Q And, did you take those back to be processed?

2 A Yes, ma'am.

3 Q Where they locked in the evidence room before they went
4 to SLED?

5 A Yes, ma'am.

6 Q Did you -- was there a search warrant obtained for a
7 black Camry in this case?

8 A To my understanding it was. Yes, ma'am.

9 Q Once the search warrant was obtained, would you have
10 been the one who searched that car and collected evidence?

11 A I was, on this particular case. Yes, ma'am.

12 Q I'm going to show you what's already in evidence as
13 State's 71. Is that the car we're talking about?

14 A Yes, ma'am.

15 Q Now, that's not where you actually searched it, is it?
16 That looks like where it was stopped.

17 A No, ma'am. We processed it at our impound lot here at
18 the Greenwood County Sheriff's Office.

19 Q I'm going to show you State's 74. Can you tell me, is
20 that you in the picture?

21 A Yes, ma'am. It is.

22 Q Can you tell me what you're doing there?

23 A We are collecting the -- what could possibly be DNA,
24 which could possibly be blood. So, we're doing a collection
25 of that.

1 Q So, were you -- how would you collect that?

2 A Well, first of all we would number and photograph what
3 items that we were going to collect as DNA evidence, and
4 then once we located what potentially could be possibly
5 blood for DNA, we'll photograph it. And then we'll start
6 collecting it by opening up a sterilized swab with a plastic
7 container and using sterilized water by not touching the tip
8 and moistening it, and then swab that area and then put it
9 back in the cylinder and number it.

10 Q And obviously you have on gloves while you're doing
11 that?

12 A Yes ma'am. Always use gloves.

13 Q State's 78. Were there some various items collected in
14 the car for different individuals?

15 A I can't remember as much as that, but I'm sure there
16 was. If we have photographs, we did.

17 Q Do you remember collecting this envelope addressed to
18 Ty'Quisha Hurley?

19 A Yes, ma'am.

20 Q And then there was a -- also a citation, or a traffic
21 ticket. It looks like a warning that had been written to
22 Ms. Hurley?

23 A Yes, ma'am.

24 Q And you don't know the relationships of anybody
25 involved in this case? That's not your role, is it?

1 A No. That's not my department, ma'am.

2 Q And then there were a few other items collected that
3 had other names, right?

4 A Yes, ma'am.

5 Q State's 77 and 76. Ms. Goodman and a Ms. Griffin?

6 A Yes, ma'am.

7 Q All right. You said you were swabbing that car for
8 possible DNA evidence?

9 A Yes, ma'am.

10 Q I'm going to show you what's been marked as State's
11 129. What is that?

12 A This is a DNA swab collected from the black four-door
13 Toyota Camry.

14 Q Do you know the date those were collected?

15 A It should be on that label. It's showing 4/8/2020.

16 Q Well, were they -- was that the incident date or the
17 date you collected the DNA swabs?

18 A It's showing recovery time.

19 Q Are you sure it wasn't 4/13/2020?

20 A Yeah, I apologize. Yes, ma'am. It was. It was.

21 Q You have a lot of evidence and a lot of dates in this
22 case?

23 A I process over 450 cases to go to SLED a year. Some
24 even more. Most of them are drugs, but a lot of it is what
25 we do here today. So, yes.

1 Q So, after you collected these swabs, did you take them
2 back and lock them in the evidence room?

3 A Yes, ma'am, for the processing, they'll be placed in
4 that envelope you see there and it will be sealed and will
5 not be opened again until they go to SLED.

6 Q And these other items, the casings, and the
7 projectiles, were those also sealed?

8 A Yes, ma'am.

9 Q Going back to the scene, I'm going to first hand you
10 State's Exhibit 91.

11 A Okay.

12 Q First of all, when you open that, can you tell me what
13 it is and then verify that it's safe for the jury?

14 A This is a Glock .40 caliber Gen. 4 and it is secure for
15 the jury.

16 Q All right, where was that collected in the apartment?

17 A It was collected on the sofa.

18 Q And did you -- was that weapon loaded when you
19 collected it?

20 A It was cleared when I collected it. Officers that
21 locate a firearm during a crime scene will -- they will
22 unload it.

23 Q I'm going to hand you State's 92. Can you identify
24 this for me?

25 A This is a Taurus .9 mm Gen. 2, and it is also secured

1 for the jury.

2 Q All right, and can you tell me where you collected that
3 gun from?

4 A It was collected at a wood line adjacent to a parking
5 lot at the complex where we were collecting evidence.

6 Q Was there any ammunition, live ammunition, associated
7 with this weapon when it was collected?

8 A No, ma'am.

9 Q Finally, State's 93. If you can tell me what that is
10 and verify that it's safe for the jury.

11 A This is a Taurus Gen. Three .9 mm semi-automatic and it
12 is also secured for the jury.

13 Q And was that collected at the scene that day?

14 A Yes, ma'am. It was collected at a parking lot.

15 Q Now, all three of these weapons, would you have taken
16 them back to the evidence room?

17 A Yes, ma'am, they were all taken back to the evidence
18 room, placed in those gun boxes, and sealed to be sent to
19 SLED.

20 Q Did you do anything with those weapons prior to sealing
21 them?

22 A Two of them I sealed, and the other one I did DNA
23 testing on. Let me rephrase that. I swabbed it for DNA. I
24 didn't test it.

25 Q State's 107. Are these the swabs you took from the tan

1 handgun?

2 A Yes, ma'am. They are.

3 Q All right, and are you sure? Did you swab two handguns
4 for DNA?

5 A I may have. I'm not really sure.

6 Q Well, I want to hand you State's 108. Are those swabs
7 from the black and silver handgun?

8 A It is. Yes, ma'am. I apologize. It is. There are
9 two.

10 Q And State's 107 and 108. After you collected these
11 swabs, I'm assuming you took those the same way you
12 processed the car?

13 A Yes, ma'am. Once they're collected, they're placed in
14 a sealed envelope, signed, and dated, and then sent SLED at
15 the same time.

16 Q And before they go to SLED, you hold them secure in the
17 evidence room?

18 A Yes, ma'am.

19 Q And you have on gloves so there's no cross-
20 contamination?

21 A Yes, ma'am. Actually you change gloves and you clean
22 the area if you're changing -- if you're swabbing for two
23 separate two separate items. You want to do that.

24 Q So, you wouldn't have both of them sitting out at the
25 same time?

1 A No, ma'am. No, ma'am. No, and you wouldn't process
2 them at the same time either.

3 Q Do you clean the area between?

4 A Yes, ma'am. What you do is you change -- Once you've
5 processed the first item, you go ahead and you change
6 gloves, and you clean the area, and then you bring out the
7 second item and process it the same way. You don't use the
8 same gloves, or do not clean the area.

9 Q We've heard testimony yesterday about buccal swabs.

10 A Yes, ma'am.

11 Q Did you collect any buccal swabs from anybody in this
12 case?

13 A Yes, ma'am. I was requested to do buccal swabs on
14 three of the guys that was possibly involved in the crime.

15 Q And going to hand you State's 104. Can you tell me
16 what that is?

17 A Yes, ma'am. This is a buccal swab from Xayvion Hill.

18 Q And did you collect that?

19 A Yes, ma'am. I did.

20 Q Does it say what date you collected that?

21 A I'm looking.

22 Q Well, it looks like the date on there may be the date
23 you first got back to the evidence room on the incident
24 date.

25 A Yes, ma'am. Yes, ma'am. 4/14?

1 Q 4/14 is when you collected that?

2 A Yes, ma'am.

3 Q State's 105. Can you tell me what that is?

4 A It is the buccal swab collected from -- I don't see it.

5 I can't find the name on here. It's -- chopped it off.

6 Chopped the name off.

7 Q This is item 48 on your list, if that helps you.

8 A That's a buccal swab collected from Dashawn Hurley.

9 Q All right. And same thing? Once you took these, you
10 sealed them up, and put them in the evidence room?

11 A Yes, ma'am.

12 Q They were locked away?

13 A Yes, ma'am.

14 Q No one could mess with them until they went to SLED?

15 A That's right.

16 Q Investigator Murdoch, I believe, took a buccal swab
17 from Narkevious Reid. Did he then check that into evidence?

18 A Yes, ma'am. If it shows on there he did. Yes, ma'am.

19 It shows Murdoch did check it in.

20 Q And when he checked this in, it went into a locker.

21 Is that right?

22 A Yes, ma'am. Same procedure.

23 Q And the only one with access was you or Investigator
24 Womack?

25 A Yes, ma'am. Once he checks it in, and I check it in

1 further from the locker, it will go from the locker to the
2 evidence box called the SLED box. That lets me know that it
3 will be going to SLED.

4 Q As each piece of evidence is coming in, are you
5 assigning it a number so you can track where it's going?

6 A Yeah, the computer will do that for me. It will give
7 the case number and it will give it an org number, which is
8 the original number for that piece of evidence that's in
9 that evidence room.

10 THE COURT: Which was the last exhibit?

11 MS. TAYLOR: It was 103.

12 Q And you're not running down to SLED every day, are you?

13 A I go -- it determines the demand. Sometimes -- usually
14 it's twice a month. Sometimes it's four times a month.

15 This time of year I usually go down more, because everything
16 and anything needs to go down between now and the first of
17 the year I try to get it down there.

18 Q Now, the deceased in this case, he went for an autopsy;
19 is that correct?

20 A Yes, ma'am.

21 Q Did you attend the autopsy.

22 A No.

23 Q Did you receive items from Investigator Murdoch after
24 that autopsy?

25 A Yes, ma'am. We got the biological fluids from the

1 autopsy.

2 Q I'm going to hand you State's 106. Can you tell me
3 what that is?

4 A This is the DNA collected from the victim from the
5 medical examiner's office.

6 Q And same thing. Once this came to you, it would have
7 been held in evidence?

8 A Yes, ma'am.

9 Q Secured until it went to SLED?

10 A That's correct.

11 Q Was there also a projectile recovered from Mr. Alston?

12 A From my understanding it was. Yes, ma'am.

13 Q And was that also checked into evidence?

14 A Yes, ma'am.

15 Q I'm handing you State's 98.

16 A Yes, ma'am. It is.

17 Q Can you tell me who you received that from.

18 A Mike Murdock, as well. The investigator.

19 Q Now, are these sealed when they come to you?

20 A Yes, ma'am. Yes, ma'am.

21 Q And do you do anything other than prepare them to go to
22 SLED?

23 A I just place them in the packaging container that you
24 see there, seal it, and date it. Put my signature on it and
25 get it ready to go to SLED.

1 Q And it's locked up ---

2 A It's locked up just like everything else, yes, ma'am,
3 sitting on the same shelf.

4 Q Investigator Womack, did he checked in a GSR kit for
5 Trivoriaye Alston.

6 A Yes, ma'am.

7 Q I'm handing you State's 99. Is that that GSR kit?

8 A Yes, ma'am. It is.

9 Q Once he checked it in, did that remain in your custody,
10 sealed secure?

11 A Yes, ma'am.

12 Q And eventually you took it to SLED?

13 A Yes, ma'am.

14 Q I'm going to hand you 100, 101, and 102, all as a pack.
15 Are these GSR kits for Mr. Hill, Mr. Parks, and Mr. Goode?

16 A Yes, ma'am. They are.

17 Q And did you also receive those from Investigator
18 Womack?

19 A Yes, ma'am.

20 Q And these were sealed and secured, just like everything
21 else?

22 A Yes, ma'am.

23 Q I keep asking that question just because we have to
24 prove that for every item.

25 A Yes, ma'am. That's not a problem. Not a problem.

1 Q I'm going to hand you what has been marked as State's
2 Exhibit 139. Can you tell me what that item is?

3 A It is fourteen unspent rounds of .40 caliber ammo.

4 Q And the only .40 caliber handgun in this case would
5 have been the one from inside the apartment?

6 A Yes, ma'am.

7 Q So, is that ammunition what you took out of that gun?

8 A Yes, ma'am. We have to take all of the ammo out of the
9 firearm box to send them to SLED. They will not take any
10 firearms with any ammo in them whatsoever. They have to be
11 empty.

12 Q So you take it out and package it up separately?

13 A That's correct.

14 Q And send it down there?

15 A Yes, ma'am.

16 Q Once you took it out of the gun, secure? Locked away?
17 Sealed?

18 A Yes, ma'am.

19 Q And you eventually -- did you take this one to SLED?

20 A No, there was no reason to send any unspent ammo down.
21 It's just put in the box with the rest of the ammo for long
22 term storage.

23 Q I'm going to hand you State's 140. Can you identify
24 that for me?

25 A Yes, ma'am. This is unspent ammo that was collected

1 from the Taurus G3 nine millimeter.

2 Q All right, and that Taurus G3 nine millimeter, is that
3 State's 93?

4 A Yes, ma'am.

5 Q So, this is the silver and black handgun?

6 A Yes, ma'am. We separate the ammo so we can send it to
7 SLED.

8 Q So, State's 139 and 140 were not submitted to SLED?

9 A That's correct.

10 MS. TAYLOR: Your Honor, the State --

11 Q And these were in your care, custody, and control ever
12 since April 8, 2020?

13 A Yes, ma'am. They were in my control.

14 MS. TAYLOR: The State offers Exhibits 139 and 140 into
15 evidence, Your Honor.

16 THE COURT: Any objection?

17 MR. TINSLEY: No, sir.

18 MR. GROSE: No, sir.

19 MR. HENDERSON: No, sir, Your Honor.

20 THE COURT: 139 and 140, that's the .40 caliber and the
21 ammo with the nine from the Taurus?

22 MS. TAYLOR: Yes.

23 THE COURT: All right, those are in evidence.

24 (WHEREUPON, State's exhibits 139 and 140 in evidence.)

25 MS. TAYLOR: From the black and silver Taurus.

1 Q Can you -- this is State's 139, the .40 caliber ammo,
2 unfired. Can you count how many are in there for us? And
3 if you need to open the bag that's fine.

4 A There are 14 rounds.

5 Q So, 14 rounds that you cleared out of the .40 caliber,
6 from the house?

7 A Yes, that's what was cleared. Yes, ma'am.

8 Q State's 140 from the black and silver gun from the
9 parking lot. Can you tell me how many were in there? Do
10 you need scissors?

11 A No. I've got it. Two, four, six, eight. It's eleven.

12 Q So, eleven rounds from the gun in the parking lot?

13 A Yes, ma'am.

14 Q Now, with regard to the weapons and all of the evidence
15 you've tested to, with the exception of the unspent rounds
16 we just talked about.

17 A Yes, ma'am.

18 Q You took all of this evidence to SLED?

19 A Yes ma'am, best of my knowledge we took it to SLED.

20 Q Would that have possibly been on different dates?

21 A It could have possibly been. Yes, ma'am. It's not
22 necessarily have to be sent at the same time, but it can be.

23 Q I'm not going to make you go through the exact date you
24 dropped everything off. Was everything sealed when you took
25 it to SLED?

1 A Yes, ma'am.

2 Q Had you tampered with it in any way while it was in
3 your possession?

4 A No, ma'am.

5 Q Other than the processing, like we've already talked
6 about?

7 A Just for processing purposes only. Yes, ma'am.

8 Q And that, again, we were talking about the -- let me
9 make sure I'm right on what this is. I'm showing you
10 State's Exhibit 10. Is that the gun that you unloaded that
11 was on that couch?

12 A Yes, ma'am.

13 Q And then State's 32, 33, and 34. Are those just more
14 pictures -- Well, I take that back. So, State's 10 was the
15 gun on the couch. State's 33 and 32, are those that silver
16 and black handgun?

17 A Yes, ma'am.

18 Q I want to go back to how you process these, the weapons
19 in particular, for DNA. Do you, kind of, have to make a
20 choice between whether you're going to try to get
21 fingerprints or DNA?

22 A Yes, ma'am. If you're really searching for evidence to
23 link the suspect to the firearm, it's best to go with DNA.
24 I have done prints on smaller cases like automobile break-
25 ins where they recovered firearms and try to get prints from

1 the same type of firearms with no success. So, a case like
2 this, I would definitely go with DNA.

3 Q I think you said you swabbed the weapon with water.

4 A No, you take the swab, and you take the sterilized
5 water which is in a vial, and you squeeze a drop onto the
6 swab so it doesn't touch the swab. And then you swab the
7 item with the moistened swab.

8 Q Would you then be able to go back on the same item and
9 try to lift a fingerprint?

10 A You could, yes. It's possible, but you're going to
11 smear anything, any evidential value as far as the print
12 goes on wherever you swabbed.

13 Q Let's go the other way around the circle. If I try to
14 get the prints first, is that a sticky substance you're
15 lifting a print with?

16 A Yes.

17 Q Would that possibly destroy any DNA evidence that was
18 on the weapon?

19 A That's possible.

20 Q And going back out to the scene. If there was what
21 appeared to be a bullet hole in a ceiling, or a wall, would
22 you typically destroy that ceiling or wall to try to dig
23 that out?

24 A No, ma'am. Usually projectiles that are in a structure
25 they usually go into fragments and into pieces when they hit

1 a board or something of that nature. So, and the integrity
2 of the building. We try not to go into tearing out ceilings
3 or wall to get a projectile, because most of the time SLED
4 wants shell casings for evidence to link up to the crime.
5 If they're available and fairly easy to get, yes, but we're
6 not going to tear a man's house or somebody's apartment up
7 to get a projectile.

8 MS. TAYLOR: I think that's all. Please answer any
9 questions the defense has for you.

10 THE COURT: I assume this may take you all a little
11 while.

12 MR. HENDERSON: A little while.

13 THE COURT: We'll do it after lunch then. Ladies and
14 gentlemen of the jury, we're going to go ahead and take a
15 break for lunch. I'm going to ask that you please be back
16 at 2:15 and we'll continue with the testimony of this
17 witness. Don't talk about the case. Leave your tablets
18 there. See you at 2:15. Thank you. You can step down.
19 Obviously, don't talk about your testimony.

20 THE WITNESS: Yes, sir.

21 (WHEREUPON, recess held 1:05 p.m.-2:15 p.m.)

22 THE COURT: If we could, we'll go back on the record.
23 Mr. Allison, do you want come on back up, please. Go ahead
24 and bring the jury out, please.

25 (WHEREUPON, the jury entered 2:19 p.m.)

1 THE COURT: The jury is back. We're still involved in
2 the examination of Mr. Allison. So, at this point in time,
3 Mr. Tinsley, your cross.

4 MR. TINSLEY: Thank you, Your Honor.

5 CROSS EXAMINATION

6 BY MR. TINSLEY:

7 Q Deputy Allison, when you were on scene that day
8 collecting evidence, were you going out searching for
9 evidence, or were you just going to where other officers
10 were telling you there was evidence?

11 A I was assisting. I do sometimes -- will be doing an
12 overview as well, seeing if I spot anything that they didn't
13 spot, but basically I was assisting that day.

14 Q Okay. So, you weren't doing your own independent?

15 A No, Sir.

16 Q And so you were just in this building G area for the
17 most part?

18 A Yes, sir. Where the perimeter had it marked off,
19 that's what I worked.

20 Q On the Glock that was found on the sofa, you didn't
21 take any samples for fingerprint testing?

22 A Not at the time. No, sir.

23 Q Did you at any time?

24 A No, sir.

25 Q How about DNA testing on that that gun?

1 A No, sir.

2 Q And I believe, if I understood your testimony on the
3 two .9 millimeters correctly, you took samples to be tested
4 for DNA?

5 A Yes, sir. They were requested by the investigators.

6 Q Okay, and then after that you didn't try to see if you
7 could do anything as far as fingerprinting went?

8 A No, sir.

9 Q How about the shell casings? Did you test them for
10 fingerprints?

11 A No, sir.

12 Q You testified, I believe, that eleven rounds were taken
13 from the black 9 millimeter found in the parking lot. How
14 many rounds would that gun and magazine -- how many would it
15 hold?

16 A I'm not sure, but I think it would hold seventeen.

17 Q Okay, so you found -- so there were eleven in there, so
18 six short of full capacity?

19 A It's possible. Yes, sir.

20 Q To the best of your ---

21 A To the best of my knowledge. Yes, sir.

22 Q And you took photographs of blood in that apartment
23 area?

24 A Yes, sir.

25 Q Did you take any photographs of any blood anywhere

1 else?

2 A I think it took some also on the exterior of the house
3 where the porch leads up to the apartment. If there's no
4 photos of any blood further into the apartment, there was
5 none there.

6 Q Okay. Now, where exactly are you talking about on the
7 exterior.

8 A The porch leading up to the apartment. You'll see
9 spots of blood, possible blood. I'm not sure I didn't test
10 it.

11 Q Okay, on that porch and those steps?

12 A Yes, sir. Uh huh.

13 Q Anywhere else?

14 A No, sir. Not to my knowledge.

15 MR. TINSLEY: No further questions. Please answer any
16 questions Mr. Henderson has.

17 CROSS EXAMINATION

18 BY MR. HENDERSON:

19 Q Hey, Deputy. How are you, sir?

20 A Fine, Mr. Henson.

21 Q Good. Always good to see you.

22 A You too.

23 Q I'm going to put up just so the jury can get an idea
24 of this. I might have you come down here and join us, sir.

25 A Yes, Sir.

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1 Q You may want to come down here with me. She's going to
2 give you a mic. Let the record reflect I've put up State's,
3 Exhibits 86 and 88. And Deputy, I will represent to you
4 that these are overviews of the apartment complexes that are
5 in issue here. Are you familiar with these locations?

6 A Somewhat.

7 Q And I might have it upside down. Might be easier to
8 look at the upside down. And you're going to see, I'm
9 looking at Exhibit 88. And do you see the letter G marked
10 on a building there?

11 A Yes, sir.

12 Q Okay, and I will represent to you that that's been
13 identified as building G where these incidents happened.

14 A Okay.

15 Q Do you agree with that?

16 A Yes, sir.

17 Q Okay, and you see, I'm looking at -- there's 1, 2, 3,
18 4, 5, 6, 7. Seven other buildings in this apartment
19 complex. Now, did you walk around any of these other units
20 with any of the investigators on site?

21 A No, sir. I just processed the area that we roped off
22 in section G.

23 Q Okay, and I'm going to look -- I'm going to point your
24 attention to Exhibit 86. And you see a circle right there?

25 A Yes, sir.

1 Q And it looks like the word "casings" is written next to
2 that.

3 A Okay.

4 Q Do you agree with that?

5 A That's what it says. Yes, sir.

6 Q It's not great handwriting. That's what the word looks
7 like. Now, in that circled area on Exhibit 86, is that kind
8 of the area that was roped off?

9 A If this is facing -- I think this is the front of the
10 apartment complex where the stairwell is located.

11 Q And I will represent to you, that's correct.

12 A All right. This is the left side of the building.
13 That's where the shell casings were collected.

14 Q Okay. Is that circled area, is that basically the
15 areas that you looked for evidence?

16 A I collected evidence right here and there, around this
17 corner area right here. Where this line crosses off right
18 here. It was probably right in that area.

19 Q Okay, within the circle, more or less?

20 A Yes, within the circle. Give or take.

21 Q Did you look -- did you do any other walking around? I
22 heard you say that you did a second walk through.

23 A Most of the evidence was already collected by -- I mean
24 already located by the investigators or some deputies on
25 scene. When I came on scene, I was to photograph, document,

1 and collect, which I did. So, what I did was is I started
2 off where the investigator started me off right here telling
3 me the description what was going, what happened, and what
4 they had found already. So, once he told me that, I started
5 I did a walk through with photographing everything before
6 marking numbers, then after I did my walk through with the
7 photographing everything without numbers, I placed numbers
8 down, photographed, and then came back to collect. Then,
9 after that, as I was processing and wrapping up, one of the
10 investigators made a statement that they had found two more
11 shell casings in this area.

12 Q Kind of in the same area?

13 A Kind of in the same area.

14 Q So, your walk through was basically in the same area?

15 A Yes, sir.

16 Q Did any of the investigators say, Greg, we walked on
17 these other seven buildings and we didn't see anything? Did
18 any of the investigators tell you that?

19 A What usually happens is after they've located basically
20 all the evidence they feel they have found, they'll start
21 canvassing the other areas. If anything located, I'll be
22 notified and then I'll follow up with the same procedure as
23 I did when I entered the crime scene. I'll go in. I'll
24 photograph. I'll put a number down. I'll photograph. And
25 then collect it.

1 Q Did I hear you right that once we look at our evidence
2 site that they will usually expand it and look farther out?

3 A They'll -- they can't expand the crime scene, but what
4 you can do is you can -- when you canvas out you can find
5 other items, and if it looks like it holds evidential value
6 for that particular case, we can collect for it. Once that
7 crime scene is set up with the yellow tape around, tracing
8 everything off, that's your crime scene.

9 Q So, it's fair to say that when that yellow tape was put
10 up, that law enforcement had decided there was no other
11 evidence that was going to be outside that tape?

12 A No, what it does is it just gives you an idea of
13 basically where the scene possibly happened with most of the
14 evidence there. Where people were shot and you see blood
15 there, we know that's the priority. That's priority. So,
16 we want to rope that area off as much as we can. So, once
17 we finish that, we'll canvass the area for more.

18 Q Okay, and did you canvass the area for more?

19 A No, I just processed the crime scene as I was
20 instructed to, to photograph, document and collect. That's
21 what I did. Sometimes, if I'm -- like, if I'm in an
22 apartment somewhere, I'll look around. If I see something
23 out of the ordinary that may hold evidentiary value I'll
24 comment on it. If they want to collect it, I'll collect it.

25 Q Okay. In this matter, did you comment on anything that

1 wasn't collected, that you recollect?

2 A No, sir.

3 Q And again, do you know if any of the other
4 investigators or deputies or -- there were even city
5 officers on hand. Do you know if any of those other law
6 enforcement personnel expanded the search?

7 A As far as expanding the search -- expanding the search,
8 I don't know about expanding the search, but we did -- one
9 of our -- I was notified as I was coming back through here
10 that they had located a firearm at a wood line adjacent to
11 the parking lot from Apartment G. And so I was notified. I
12 went, photographed, and collected.

13 Q As far as you know, that's the only item, or one of
14 the -- maybe the only item that was found outside your roped
15 off crime scene?

16 A To the best of my knowledge.

17 Q I don't have anything further as it relates to this
18 picture.

19 (WHEREUPON, the witness returned to the stand.)

20 Q And Deputy, did you -- I know you marked some stuff, I
21 guess, in the apartment, didn't you?

22 A I can't remember. I'd have to look at the photos to
23 say definitely for sure.

24 Q Did you go in the apartment?

25 A I photographed the apartment.

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1 Q Okay, and I think you photographed that big hole in the
2 door?

3 A Yes, sir. I did.

4 Q Did you stick your hand down in that big hole in the
5 door?

6 A No, sir. I did not.

7 Q There might have been a rubber snake or something in
8 there?

9 A Possibly.

10 Q I mean, do you know if anybody stuck their hand down
11 that door in the hole?

12 A I do not, but if something -- if someone would have
13 looked through that door and looked in the door and found
14 anything, it would have been the same procedure. I'd have
15 been called in to photograph it, number it, photograph it,
16 and collect it.

17 Q But do you know if anybody actually looked in the door?

18 A I don't know if anybody.

19 Q Going back to this, you know, I'm looking. I'm not
20 exactly sure how the exhibits are laid out up here. It
21 might take me forever to find it, Deputy.

22 MS. TAYLOR: What are you looking for?

23 MR. HENDERSON: 36. I'm not exactly sure how y'all --
24 it is the soffit picture. I'm not exactly sure how they are
25 laid out. It might be in that stack.

1 MS. TAYLOR: There you go.

2 Q And Deputy, I'm going to put this -- and again, what
3 we're looking at is State's Exhibit 36.

4 A Yes, sir.

5 Q Did you take that photograph?

6 A Yes, sir. I did.

7 Q And there's been some testimony previously. I don't
8 know if you were in the courtroom.

9 A I was.

10 Q That somebody says it might have been a bullet hole.
11 They're not sure. It might have been. But you took the
12 photograph?

13 A It is possible, but it was documented just in case.

14 Q And that was up on the ceiling? I'd say on the
15 overhead, on kind of the walkway?

16 A Yes, sir.

17 Q Coming down the steps?

18 A Right.

19 Q And again, you didn't get up there to take a look at
20 it?

21 A No, floor level is as far as I went. I mean, sometimes
22 I can take my camera and focus in a whole lot more and tell
23 more about it than I can just without using.

24 Q And I asked yesterday and I'm going to ask you. So,
25 you didn't bring a ladder down there to get up there just to

1 kind of peek around?

2 A No, sir.

3 Q Okay. I'm not telling you to destroy stuff.

4 A Right.

5 Q But you didn't get up there with your flashlight and
6 take a peek at it?

7 A No, sir. I did not.

8 Q Now, there was testimony yesterday that the Sheriff's
9 Office does have a ladder.

10 A Yes, sir. We do have access to ladders, but we don't
11 have any on site.

12 Q Okay, so there's not ---

13 A I don't bring one along. I have a lot of equipment on
14 my truck, but I don't have capability of hauling the ladder
15 on my truck, because it's enclosed.

16 Q Okay, so it's your testimony that the Sheriff's Office
17 does not have a ladder on premises?

18 A No, they do. I just don't have one on the crime scene.

19 Q On the truck?

20 A Yeah, or on the truck.

21 Q But, the ladder on premises, you know where it's at?

22 A Oh, yes, sir.

23 Q And I'm sure that somebody at the Sheriff's Office has
24 a truck or a bigger vehicle that they could have hauled the
25 ladder down there?

1 A Yes, sir. If it's deemed necessary for us to get up
2 there and really examine that hole we would have. Yes, sir.

3 Q Now, you understand this is -- these are serious
4 allegations?

5 A Yes, sir. You better believe they are.

6 Q At that point in time, you knew there was a shooting
7 case?

8 A Yes, sir.

9 Q You might not have known who was involved, who was
10 going to get arrested, or who was hurt, but you knew it was
11 a serious allegation?

12 A That's right. Yes, sir.

13 Q And you didn't think it wise enough or important enough
14 to have somebody from Sheriff's Office to bring down a
15 ladder so you can at least get up there with my flashlight
16 and look at it?

17 A If the investigators didn't seem it deemed necessary
18 for me to climb up there and get the projectile out, I
19 didn't take it out, sir.

20 Q Okay, are you telling this jury that you don't do
21 anything but what the investigators ask you to do?

22 A When I'm assisting -- when I am required to assist,
23 that's what I do. Yes, sir.

24 Q So you don't go above and beyond?

25 A If I'm asked to, yes, sir.

1 Q But if you're not -- but if you're not asked to, you
2 don't go above and beyond? Did I hear you right?

3 A Well, if I have that capability, but I am inside of a
4 rim where I have people that I have to answer to.

5 Q And I understand there was a search warrant that was
6 obtained to allow law enforcement to go all over this
7 apartment?

8 A I guess. I'm not sure. I wasn't there when the search
9 warrant was served.

10 Q Okay. I'll represent to you a search warrant was
11 issued.

12 A Okay.

13 Q So, you weren't there with it was served?

14 A No, sir.

15 Q Okay, so you'd already documented your stuff and left?

16 A Not to my knowledge.

17 Q I mean, you said you took photographs inside the
18 apartment. Did you photograph it prior to the search
19 warrant or after?

20 A Evidently there was a search warrant obtained, because
21 I was allowed to go in there. I would not been allowed to
22 go in there, but I didn't see the search warrant myself.

23 Q You didn't see it. Okay.

24 A That's right.

25 Q And listening to your testimony, it looks like you took

1 swabs from the gun that was found on the wood line, the tan
2 gun?

3 A Yes, sir.

4 Q The one that Sheriff Kelly found?

5 A Yes, sir.

6 Q It looks like you took swabs from the gun found in the
7 parking lot, if I'm not mistaken?

8 A Yes, sir.

9 Q And you didn't take any swabs from the Glock that was
10 found in the apartment?

11 A Yes, sir.

12 Q So you didn't?

13 A That's right.

14 Q And I think you said there was a lot of unspent
15 ammunition from various firearms and you just didn't do
16 anything with.

17 A That's right.

18 Q You didn't fingerprint it?

19 A No, sir.

20 Q The individual cartridges, you just didn't?

21 A No, sir.

22 Q Okay, you didn't test any DNA on any of those?

23 A No, sir.

24 Q So again, these unspent ammos from firearms that you
25 thought might be involved in a crime, you just didn't send

1 it to SLED?

2 A No, sir. I wasn't instructed to send them to SLED, so
3 I didn't.

4 Q I mean, do you ever -- I keep hearing you're following
5 orders. I understand that, but do you ever chime in and say
6 hey fellas, you know, this stuff needs to be sent down to
7 SLED. This is important allegations against these people.

8 A The investigators pretty much know what leads they have
9 and what they're going to and what they need and what they
10 don't need, and I just I just abide by what they feel is
11 their strongest evidence they need to send down. We're only
12 allowed to send certain amount of swabs down to SLED. We're
13 not allowed to send down 150 swabs. We're only allowed send
14 down a certain amount.

15 Q So, even if evidence could be potentially helpful to
16 your case, it's like, we've reached our limit and SLED is
17 full, and we're not going to send anymore?

18 A They pick and choose what to send.

19 Q Okay, who picks and chooses?

20 A The investigators.

21 Q The investigators. And you don't have any say in that?

22 A If I'm asked.

23 Q Do you ever say, investigator, guy, we need to send
24 this down? This is important.

25 A I don't know the logistics of the investigation. My

1 job is to process the evidence as it's requested. They know
2 the logistics of the case. I don't. They know how much
3 evidence they have and need. I don't.

4 Q Need for what?

5 A To prove their suspect is beyond a reasonable doubt
6 guilty of the crime that they've committed.

7 Q Okay, so it sounds like they're cherry picking. They
8 say we're going to use ---

9 A That's not for me to say, sir.

10 Q But that's exactly what it sounds like you're saying.

11 MS. TAYLOR: You're Honor, I'm going to start objecting
12 here.

13 THE COURT: Sustained. Asked and answered, and that
14 was somewhat of an argumentative question. Sustained.

15 MR. HENDERSON: I don't think I have anything further,
16 Your Honor.

17 THE COURT: Mr. Grose?

18 CROSS EXAMINATION

19 BY MR. GROSE:

20 Q You said you processed the Toyota Camry?

21 A Yes, sir.

22 Q And you had a picture that you were in and you were
23 doing something. Do you remember that picture?

24 A Yes, sir.

25 Q Did I understand that you were collecting for DNA

1 there?

2 A I was collecting for possible blood samples. Yes, sir.

3 MR. GROSE: Thank you. That's all I have.

4 THE COURT: Thanks. Hold on. She's got one or two for
5 you. Hold on.

6 REDIRECT EXAMINATION

7 BY MS. TAYLOR:

8 Q If someone had claimed ownership of a firearm, would
9 you DNA test that firearm?

10 A No, ma'am.

11 Q So, if Gabriel Goode said that's my gun, you had no
12 reason to test it?

13 A No, not unless that investigator said look, he might
14 claim it now, but later he's going to say it's not his, so
15 send it down and test it. Then I would. Yes, ma'am. That
16 would be the only time.

17 Q But if ownership is not a question, you're not going to
18 test it?

19 A No, ma'am.

20 Q And that goes for fingerprints too?

21 A Right.

22 Q And you testified, I think, that maybe the gun was the
23 only item not found inside the tree line was the gun. Or
24 the only item not found inside the crime scene was the gun
25 in the tree line. There's also the gun in the parking lot

1 and a lighter. Is that correct?

2 A Right.

3 Q And we're talking about this parking lot over here at
4 the Gardens at Parkway?

5 A Yes, ma'am, but I didn't collect those.

6 Q Investigator Murdoch collected those and gave them to
7 you?

8 A Either Murdoch or it was either Murdoch or Womack, but
9 it wasn't me.

10 Q This door that we've seen a picture of looks like a
11 pretty standard door, doesn't it?

12 A Yes, ma'am.

13 Q Would you be able to fit your hand and arm down inside
14 that door?

15 A You probably could to a certain extent, but I don't
16 think all the way down.

17 Q Well, assuming this door here on the jury room is the
18 same, roughly the same width, I mean -- I have small hands
19 and would I have a hard time?

20 MR. HENDERSON: Speculation there. He doesn't know her
21 hands, I hope.

22 MS. TAYLOR: He can see my hands, Your Honor.

23 THE COURT: Fair enough. Overruled.

24 Q Can you see my hand in this door?

25 A Yes, ma'am.

1 Q If you need to stand up and come look. Do you think
2 I'd be able to get my hand and arm very far inside this
3 door?

4 A No, ma'am.

5 Q So, if I was looking for something in that door, would
6 I have to take it apart?

7 A Yes, ma'am.

8 Q Same thing with this picture, That's a pretty small
9 hole, isn't it?

10 A Yes, ma'am.

11 Q So, if I'm really looking to dig around I'm going to
12 have to take that apart, aren't I?

13 A Yes, ma'am. You're going to have to jeopardize the
14 integrity of the building.

15 Q And I think you said this already on cross, but I just
16 want to clarify. All 13 casings that were ultimately found
17 we're all found in this general area, right?

18 A Yes, ma'am.

19 MS. TAYLOR: No further questions, Your Honor.

20 RECROSS EXAMINATION

21 BY MR. TINSLEY:

22 Q Someone other than the owner of the gun can handle or
23 use it, correct?

24 A At his request, it could be.

25 Q What now?

1 A You an owner of a gun could let someone else use it. I
2 said, yeah, at his request.

3 Q I'm saying somebody could use it, whether they have the
4 permission or not.

5 A Oh, sure. It could be stolen.

6 MR. TINSLEY: Nothing further, Your Honor.

7 MR. HENDERSON: Nothing further.

8 RECROSS EXAMINATION

9 BY MR. GROSE:

10 Q You don't have those devices with cameras on them where
11 you can stick them up in holes or down in holes?

12 A No, sir. We don't.

13 Q You might want to talk to the Sheriff about getting
14 some. Thank you.

15 THE COURT: Thank you, sir. You can step down. Have a
16 good day. You're free to go. Call your next witness,
17 please.

18 MR. STUMBO: The State calls Michelle Eichenmiller.

19 WHEREUPON, Michelle Eichenmiller,
20 having first been duly sworn, testified as follows:

21 DIRECT EXAMINATION

22 BY MR. STUMBO:

23 Q Good afternoon, Ms. Eichenmiller. Where do you work?

24 A I work for the South Carolina Law Enforcement Division.

25 It's also known as SLED. I work in the forensic laboratory

1 in the firearms department.

2 Q Okay, so you're a firearms analyst?

3 A Yes.

4 Q How long have you been with SLED?

5 A Approximately 16 years.

6 Q Prior to the time you went to SLED, did you study in
7 school, study forensic analysis?

8 A I do. I have a bachelor's degree in biology and I also
9 have a Master of Science in forensic science.

10 Q So, in the 16 years that you've been at SLED, have you
11 done training to keep up your training in the area of
12 firearms analysis?

13 A In order to be a firearms examiner, there's no college
14 you can attend. Once you're hired in the agency, you learn
15 with the firearms examiners that are there. So, once I was
16 hired at SLED, we have a three to four year training program
17 where I trained underneath the examiners that were there. I
18 did a lot of independent work on my own, reading and
19 microscopic comparisons. At the end of the four years I
20 took a comprehensive final. I passed my final and they
21 deemed me competent to do case work on my own.

22 Q In your 16 years at SLED, how many cases have you done
23 analysis on, estimate?

24 A I have to estimate thousands.

25 Q Have you ever testified in the courts, state courts, or

1 federal courts in South Carolina, as to as an expert in
2 firearms expertise?

3 A I have, the state courts of South Carolina.

4 Q How many times?

5 A Approximately 115 times.

6 Q Was that as an expert in firearms analysis and tool
7 markings?

8 A Firearms examination. Yes, identification.

9 Q Firearms identification and tool markings?

10 A Yes.

11 Q I'm sorry. Thank you for correcting me. Judge, based
12 on Ms. Eichenmiller's extensive experience and having
13 testified 115 times we would offer her as an expert in the
14 field of firearm identification and tool markings.

15 THE COURT: Any voir dire or objection from anybody?

16 MR. TINSLEY: None from me.

17 MR. HENDERSON: No, sir.

18 MR. GROSE: No, sir.

19 THE COURT: Ladies and gentlemen, in this case, the
20 parties essentially agree that Ms. Eichenmiller is an expert
21 in the field of firearms identification and tool mark
22 analysis, and normally when a witness testifies they cannot
23 give opinion testimony. They can only testify about
24 something they observed by their senses. Something they
25 saw, heard, smelled, touched, et cetera. An exception to

1 this rule, though exists for experts or people who are
2 experts in some particular field. An expert witness is
3 allowed to give opinion testimony and they can also state
4 the reasons for their opinion. Understand though, that
5 you're free to accept or reject their opinion to the extent
6 you find appropriate. So, she can give opinion testimony
7 that you may use as you deem appropriate. Solicitor, you
8 can continue.

9 MR. STUMBO: Thank you, Judge.

10 Q Ms. Eichenmiller, do you have your report with you?

11 A I do.

12 Q Did you have occasion to, as one of your cases in the
13 last couple of years, to analyze SLED number L20083416?
14 That was a case submitted by Greenwood Sheriff's Office,
15 Mike Murdock?

16 A Yes.

17 Q When did you complete your analysis and issue your
18 report?

19 A The report was issued February 26, 2021.

20 Q Now, if you could, tell the jury, Ms. Eichenmiller what
21 type of items do you analyze? I mean, obviously firearms,
22 correct?

23 A Correct.

24 Q What else, other than the guns themselves?

25 A Our branch of forensics deals with anything that comes

1 from a firearm. So, the firearm itself, fired bullets,
2 fired cartridge cases, and we do serial number restorations
3 if the serial number has been obliterated.

4 Q We didn't have any obliterated serial numbers in this
5 case, did we?

6 A No.

7 Q I'm going to hand you what's been marked for ID only at
8 this point as State's Number 91.

9 A This is one of the firearms I examined in this case.

10 Q What type of gun is in State's 91?

11 A It's a Glock Model 27. It's 40 S&W caliber and the
12 serial number is SRF069.

13 Q And what was your SLED item number on that?

14 A It's SLED item 8.

15 Q So, on your report it's noted as SLED 8, but the number
16 here is 91; is that correct?

17 A Correct.

18 Q And when you finished with your analysis of this, you
19 taped it back up and essentially put it back in the pipeline
20 to go back to the agency?

21 A Yes.

22 Q And that would be this yellow tape that you replace on
23 the box.

24 A Yes, with the date and my initials on it.

25 Q All right. Prior to the time it gets to you at SLED,

1 and this would apply to all these items, how does it get to
2 you? Does it come to you directly from the person at the
3 local agency, or are there other people that pass it on to
4 you at SLED?

5 A Whenever an agency would like to submit evidence to
6 SLED, they go into our Evidence Login Department and they
7 submit it to either the lockers, which are secured, and then
8 one of our technicians will take the evidence out and log it
9 into our system. So, every piece of evidence gets an item
10 number. It gets its own barcode. It could be put in a
11 container that has a barcode. That way it can be tracked
12 throughout the whole lab whenever it changes custody.

13 Q Okay. And in this case, the SLED chain of custody had
14 other people in it before it got to you after it was brought
15 by the Greenwood Sheriff's Office?

16 A Yes.

17 Q Anyone that was in that chain would be people that
18 wouldn't actually analyze or open the evidence they would
19 bring it to you; correct?

20 A There could be other analysts in a chain if it went to
21 a different department before it got to me. So, Firearms
22 always gets the evidence last. DNA and Latent Prints would
23 analyze the evidence first.

24 Q Okay. Is there a reason for that?

25 A Firearms, we would have to handle the firearm so we

1 wouldn't want to mess up any evidence that was on it. So,
2 any DNA or latent prints that would be on the evidence.

3 Q Do you have to test fire it?

4 A Yes.

5 Q What when you fire a gun, does it get hot?

6 A Yes.

7 Q What would that do potentially to DNA and fingerprints?

8 A It could harm the evidence that's on there.

9 Q It could compromise it?

10 A Yes.

11 Q So, that's why it comes to you last?

12 A Yes.

13 Q Now, the 40 caliber on State's 91 that you got that we
14 just discussed, did you have any casings submitted to
15 you or fired bullets that would be consistent with being
16 shot out of a 40 caliber gun?

17 A No, I only received nine millimeter Luger caliber
18 evidence.

19 Q Okay, so all the casings and fired bullets would be
20 consistent with a 9 millimeter round, not a 40 caliber?

21 A Correct.

22 Q So, as far as State's 91, there's no evidence that was
23 brought to you that that gun fired any of the evidence at
24 the scene?

25 A Correct.

1 Q State's Number 93. Take a look at that.

2 MR. STUMBO: While you're looking at that, Judge, we
3 would offer State's 91, the 40 caliber firearm into evidence
4 at this time.

5 THE COURT: That's the one that was found on the sofa?

6 MR. STUMBO: Correct. Yes, sir.

7 THE COURT: Any objection to 91? Anybody? 91 is in
8 evidence.

9 A State's 93 is my item eleven, SLED item eleven.

10 Q Okay. What kind of gun is that?

11 A This one is a Taurus Model G3. It's nine millimeter
12 Luger caliber, and the serial number is AAM103238.

13 Q What color is that particular gun?

14 A It has a silver slide and a black frame.

15 Q Okay. If you could just -- you don't have to come off
16 the stand, but if you could just turn that and show it to
17 the jury. Thank you. Is the clip that goes in the gun,
18 is it separated from the gun right now?

19 A Yes.

20 Q There weren't any live rounds of ammunition put in this
21 gun when you got it, were there?

22 A They were not in the firearm. But I did receive
23 unfired cartridges. Oh, no, this one did not. I'm sorry, I
24 misspoke.

25 Q Typically, when you get guns and ammo from agencies

1 they're separated, right?

2 A Yes.

3 Q Now, this particular firearm, did you do analysis of
4 it?

5 A Yes.

6 Q What type of gun -- you said it was a nine millimeter;
7 correct?

8 A Correct.

9 Q And when you finished your analysis of this gun and
10 submitted your report, you returned this to the agency
11 sealed up like you normally would?

12 A Yes.

13 Q Same as the other one? You got it. The ladies that
14 work in SLED, or the other analysts, maybe from the other
15 departments, brought it to you? It was as is for them;
16 correct?

17 A Yes.

18 MR. STUMBO: Judge, we'd offer State's 93 into evidence
19 at this time.

20 THE COURT: No objection? 93 is in evidence.

21 Q Lastly, we have State's 92. Let's take a quick look at
22 that.

23 A This is my SLED item 10 that I examined in this case.

24 Q What kind of gun is that?

25 A It's a Taurus Model G2S in nine millimeter Luger

1 caliber, and its serial number is AAL044024.

2 Q Same as the other? You received this item from normal
3 chain at SLED and you packaged it up and sent it back to the
4 Sheriff's Office afterwards?

5 A Yes.

6 Q Were there any problems analyzing this gun? Did it
7 test fire properly?

8 A If I could refer to my notes to make sure?

9 Q Yes.

10 A Yes, it was in working order.

11 MR. STUMBO: Judge, we'd offer State's 92 into evidence.

12 THE COURT: Without any objection? No objection.

13 MR. STUMBO: If we could just publish to the jury,
14 Judge?

15 THE COURT: Please.

16 Q Ms. Eichenmiller, did you receive any fired projectiles
17 in this case?

18 A I did.

19 Q I'm going to hand you State's 94 and State's 95. Are
20 your markings on those packages?

21 A Yes. The evidence tape is still intact with the date
22 and my initials.

23 Q And you analyzed those projectiles?

24 A Yes.

25 MR. STUMBO: Judge, we'd offer those into evidence, 94

1 and 95.

2 THE COURT: Without objection? 94, 95, and just for
3 clarification, 92, they're all in evidence.

4 Q Ms. Eichenmiller, could you tell what, if any, type of
5 caliber projectile come out of? What caliber gun?

6 A They were consistent with being bullets loaded into
7 some nine millimeter Luger caliber cartridges.

8 Q Okay. And now, when you get a cartridge, are you able
9 to try to analyze it to figure out which gun it came out of
10 specifically?

11 A A bullet or a cartridge case?

12 Q Yes. A projectile.

13 A In the absence of a firearm, or even with a firearm,
14 I'll document the class characteristics of the bullet, the
15 rifling type, the direction of twist, and the number, and
16 then, of course, the caliber.

17 Q Okay. And if you could just explain for the jury how --
18 when bullets fired out of a gun, what happens to it when
19 it's going through the barrel?

20 A A bullet will go through the barrel, and there's
21 usually, in semiautomatic pistols, rifling that's in the
22 barrel. The bullet engages the rifling, which marks the
23 bullet, and then as it exits, it's marked by the barrel.

24 Q When we say tool markings, that's what we're talking
25 about?

1 A Yes.

2 Q So, when you're analyzing a projectile that's gone
3 through a barrel of a gun, do you compare the lands and
4 grooves inside the barrel to the grooves on the projectile
5 itself? Is that correct?

6 A I compare bullets to each other, so I make my test
7 fires if I have a firearm, so I know they came from that
8 firearm. And then I'll compare those to any evidence we
9 received.

10 Q Okay, so you fire that gun, and you take that
11 projectile -- and at SLED do you have the equipment to fire
12 it into this tank? Is that what y'all do?

13 A Yes, we have a vertical water tank. It's basically two
14 stories deep. We close the lid. We point the firearm
15 in there. We test fire it. The tank collects the bullets,
16 and then the cartridge cases usually eject outside the tank
17 where I'm standing. We have a chain with a little cup on
18 the end, and that's how I pull the bullets up from the
19 bottom of the tank.

20 Q 94 and 95, were those bullets suitable for you to do
21 that kind of comparison?

22 A Yes.

23 Q What were your findings as to those two projectiles?

24 A Sometimes when bullets are fired, they don't mark as
25 well, or they become damaged after firing. These two

1 bullets were damaged and they didn't have sufficient marks
2 on them, so I couldn't tell if they were fired by one
3 firearm, two firearms, or if they were fired by either SLED
4 Item 10 or 11, which is the two nine millimeter firearms
5 that I received.

6 Q So, if a bullet hits something, it can be damaged to
7 the point where you could not make a suitable comparison?

8 A Correct?

9 Q And that's the case with these two 9 millimeter
10 bullets?

11 A Yes.

12 Q I'm going to give you State's 98. Do you recognize
13 that package?

14 A Yes. This is SLED Item 9 that I examined in this case.

15 Q What was the item inside of this packet?

16 A It's a fired bullet.

17 Q Where did it purportedly come from when it came to you?

18 A It was listed as recovered from victim Alston, Mandell.

19 Q Okay, so it came from an autopsy. There's a sticker on
20 the front of it. What does that say, that orange sticker?

21 A Bio-hazardous material.

22 Q Is that pretty common when you get bullets that have
23 come from an autopsy?

24 A Yes.

25 Q Now, this particular -- remind me the number on that.

1 A 98.

2 Q On State's 98, you did analyze this item?

3 A Yes.

4 MR. STUMBO: Judge, we'd offer State's 98 into evidence.

5 THE COURT: Without objection? No objection. State's
6 98 is in evidence.

7 Q And Ms. Eichenmiller, what were your findings as to the
8 nine millimeter bullet that is State's 98?

9 A The item nine bullet was also consistent with being
10 nine millimeter Luger. It had the same general
11 characteristics as my item 10 and 11, which were the Taurus
12 firearms, but it was also damaged, and I couldn't tell if
13 they were fired, if it was fired by item 10, item 11, or a
14 different firearm.

15 Q So again, it had enough damage to it that you could not
16 make a suitable comparison to a specific gun?

17 A Correct.

18 Q But it's consistent with the two nine millimeters that
19 we have here? It could have been fired by either one of
20 those?

21 A Yes.

22 Q Did you analyze any casings?

23 A I did.

24 Q I'm going to hand you what's been marked as State's 89
25 and State's 90.

1 A Yes. These are the items I examined in this case.

2 Q If we could maybe make this easier, Ms. Eichenmiller.

3 Those have not been cut open; right?

4 A Uh-huh.

5 Q They're still sealed up. Did you seal them at SLED?

6 A Yes.

7 Q Okay. If you could cut both of those open for us.

8 Starting with State's 89, what was in that package?

9 A There are 11 fired cartridge cases in State's 89.

10 Q And State's 90? What was in that package?

11 A State's 90 has two fired cartridge cases in it.

12 Q Okay. Are all of the eleven and the two in 89 and 90
13 the same caliber?

14 A Yes, they're all .9 mm Luger caliber.

15 Q And those are the only casings that the Sheriff's
16 Department sent to you in relation to this case?

17 A Yes.

18 Q Okay. What were your findings as to the 13 cases
19 collectively that you found in your report?

20 A SLED items 7, 23, 24, 25, 29, 31, and 34, I found
21 enough matching individual identifying characteristics on
22 them and concluded that they were fired by the Item 11
23 pistol.

24 Q Okay. And were any of them fired by Item 10 pistol?

25 A Yes. Items 26, 27, 28, 30, 32 and 33 were fired by the

1 Item 10 pistol.

2 Q Now, just for clarification and for clarity to the
3 jury, I'm going to ask you, because you could -- is that a
4 Ziploc bag that these two are in?

5 A It's heat sealed, though, so I'd have to cut this.

6 Q Okay. What I'd like for us to do is, because it says
7 eleven and two, these are mixed in terms of which gun you
8 matched them to; correct?

9 A Correct.

10 Q All right. If you could, Ms. Eichenmiller, I'm going
11 to hand you a Sharpie where you can write on these Ziploc
12 bags. How are these marked, these casings? Do you mark
13 each one with the SLED item number?

14 A Yes. Whenever I receive evidence in a case, I'll
15 engrave it with the SLED item number, the case number, and
16 my initials.

17 MR. STUMBO: Judge, if we could, I don't think I've
18 officially put 89 and 90 into evidence as of yet. If we
19 could put those into evidence at this time.

20 THE COURT: No objection? Hearing none, 89 and 90 are
21 in.

22 Q We'll start with State's Exhibit 92, which was SLED
23 Item -- this is the tan G2.

24 A Item 10. It should be on the end there.

25 Q Okay. There it is. Yeah. The tan Taurus G2, 9 mm

1 pistol. So, this is Item 10. Which casings, again, which
2 numbers are consistent by your analysis fired by this tan
3 colored gun?

4 A We have 26, 27, 28, 30, 32, and 33.

5 Q If my math is correct, that's 6?

6 A Yes.

7 Q If you could place those six in one of the Ziplock bags
8 that I've provided. And that's six of the casings; correct?

9 A Correct.

10 Q On the white part of that bag, if you could, write tan
11 9 mm Taurus. Thank you. And this would be the Item number
12 11, which is the black and silver 9 mm Taurus. If you
13 could, place the casings that you just listed off on the
14 record into that bag. These are the packaging -- original
15 package?

16 A Yes.

17 Q Okay, thank you. Ms. Eichenmiller, I think you said
18 this, but just in case you haven't, there were no other
19 casings submitted to you in this case other than the six
20 that you matched to the tan colored Taurus and the seven
21 that you matched to the black and silver?

22 A That's correct.

23 Q Okay. Now, were there any casings or projectiles in
24 this case at all that you analyzed that were consistent with
25 a .40 caliber gun?

1 A No.

2 Q Ms. Eichenmiller, being a firearms expert, can you tell
3 us, looking at the clips of these guns, what their capacity
4 is for the number of bullets they would hold?

5 A I would have documented in my worksheets. I can refer
6 to them. So, SLED item 10 has a seven capacity magazine,
7 and with one in the chamber, the total capacity of the
8 firearm would be eight.

9 Q That would be the tan colored gun?

10 A Yes.

11 Q Seven in the magazine, plus one in the chamber?

12 A Correct.

13 Q So, eight total. How about SLED Item 11?

14 A SLED Item 11, the black and silver pistol, had a 17 mag
15 capacity, and plus one would make it 18 total for the
16 firearm.

17 Q So, 17 plus one; right?

18 A Correct.

19 Q Correct me if I'm wrong on the math here, but this
20 black and silver gun could hold 18 bullets at one time;
21 correct? Fully loaded.

22 A Yes.

23 Q So, if there are seven casings that you matched to that
24 gun, it would have taken essentially 11 more full cartridges
25 to fully load that gun if it were fully loaded at the time

1 it was fired? Without reloading; correct?

2 A Yes.

3 Q And you can get seven in a magazine, one in the chamber
4 in the tan colored gun; right?

5 A Correct.

6 Q You matched six casings to this gun?

7 A Correct.

8 Q Just one more thing. The .40 caliber is empty here,
9 too, when you get it. No live ammunition in this .40
10 caliber gun when you receive it; correct?

11 A Correct.

12 Q What's the capacity of that gun?

13 A I actually didn't document that since we didn't have
14 any .40 caliber fired evidence to compare it to. I did a
15 shorter form of our worksheets. So, that doesn't have
16 magazine capacity on it.

17 Q Okay, so you didn't do that analysis?

18 A Correct.

19 Q Okay. Fair enough.

20 MR. STUMBO: Beg the Court's indulgence, Your Honor. No
21 further questions at this time, Ms. Eichenmiller. Please
22 answer any questions the defense attorneys may have.

23 CROSS EXAMINATION

24 BY MR. TINSLEY:

25 Q Agent Eichenmiller, you can't tell us what gun the

1 three bullets you tested came from?

2 A That's correct.

3 MR. TINSLEY: I don't have any further questions.

4 Please answer any questions Mr. Henderson has.

5 CROSS EXAMINATION

6 BY MR. HENDERSON:

7 Q Hey, ma'am. How are you today?

8 A I'm fine.

9 Q I've just got kind of a hypothetical. Say Greenwood
10 County contacted you and sais we've had a shooting site and
11 we recovered 25 handguns. Would it be acceptable for them
12 to send down 25 handguns to be analyzed by SLED?

13 A Yes.

14 Q What's the cut off? Meaning, say they called and said
15 we've got 50 guns. Will SLED say, no, we don't have room
16 down here for 50. You can send us 30.

17 A No, there's no cut off for the Firearms Department.

18 Q Okay. Is there any cut offs at SLED at all, to your
19 knowledge?

20 A I believe other departments have a limit on the number
21 of items at first.

22 Q Okay, say at first, but then say a department has a ten
23 limit. But Greenwood County calls back and says, hey, we
24 need to send another 10. I mean, would SLED say, Oh, no,
25 we're too busy. We're too full. We don't have enough

1 storage. I mean, will SLED ever tell a department that?

2 A I believe the departments deal with that on a case by
3 case basis, but the Firearms Department does not have a
4 limit.

5 Q So, the Firearms Department will take whatever an
6 agency wants to send to you?

7 A Correct.

8 Q Okay. I'm specifically interested in Items five, six
9 and nine.

10 A The fired bullets?

11 Q The fired bullets, absolutely. And I will represent to
12 you, and this will probably help the jury, too, that Item
13 five was a fire bullet that was found upstairs. I don't
14 know if your notes indicate that or not, but I will
15 represent to you it was found upstairs at an apartment.
16 Item six, I will represent to you, that was found downstairs
17 at the apartment. Again, I don't know if your notes show
18 that, but I'm representing that to you.

19 A It was in the notes.

20 Q Okay. And then I will represent to you that item nine
21 was recovered from Mr. Alston's body.

22 A That's correct.

23 Q Okay. Those are the three fired bullets we're dealing
24 with?

25 A Yes.

1 Q Correct? And you would agree with me, too, that out
2 here at the universe, there are a lot of firearms that will
3 fire 9 mm Luger cartridges?

4 A Yes.

5 Q Okay. These aren't the only two firearms in the
6 universe that fire those cartridges?

7 A Correct.

8 Q Okay. And again, is it your testimony that looking at
9 items five, the one found upstairs, item six, the one found
10 downstairs, item nine, the one found in Mr. Alston's body,
11 you can't tell this jury, more likely than not, that they
12 were fired from the same firearm?

13 A Correct. They were too damaged and not sufficiently
14 marked to make a determination as to what firearm.

15 Q Right. You can't tell that all three were fired from
16 the same firearm.

17 A Correct.

18 Q And you can't tell that any two of the three were fired
19 from the same firearm.

20 A That's correct.

21 Q So your opinion, or I guess it's possible that all
22 three were fired from different farms.

23 A It's possible.

24 Q Okay. You shouldn't say your opinion is not that one
25 firearm fired this.

1 A Correct. It was inconclusive.

2 Q And your opinion is not that two firearms fired these.

3 A Correct.

4 Q And your opinion is not that three firearms fired
5 these.

6 A Right. Correct.

7 Q You just don't know.

8 A Right. There's not enough markings.

9 MR. HENDERSON: I don't have anything further.

10 CROSS EXAMINATION

11 BY MR. GROSE:

12 Q Just to follow up on what Mr. Henderson just asked,
13 with regard to the fired bullets, items five, six and nine.
14 In your report, you say these may or may not be suitable for
15 identification with other firearms related evidence. Is
16 that right?

17 A Yes.

18 MR. GROSE: That's all.

19 MR. STUMBO: Just briefly, Judge.

20 REDIRECT EXAMINATION

21 BY MR. STUMBO:

22 Q Ms. Eichenmiller, you're a scientist, right?

23 A Correct.

24 Q So, you don't want to make a comparison if you don't
25 have sufficient information to make it; correct?

1 A That's right.

2 Q But, one thing you can say with certainty, that items
3 five, six and nine, the fired projectile sent to you in this
4 case, that you analyzed, were not fired by this .40 caliber
5 gun; correct?

6 A That's correct. The bullets were 9 mm Luger, and that
7 firearm is a .40 caliber.

8 Q So, as a scientist, you could say that for that with
9 absolute certainty, that those bullets, the one that came
10 out of Mr. Alston's body, and the two others at the scene
11 weren't fired by that .40?

12 A Correct.

13 Q They could have been fired by the black and silver
14 Taurus that you examined?

15 A Yes.

16 Q Just not suitable for comparison.

17 A Correct.

18 Q Could have been fired by the tan Taurus that you
19 examined?

20 A That's correct.

21 Q But you couldn't make a sufficient comparison because
22 of the damage to the bullet?

23 A Right.

24 Q Is that uncommon for you to have damaged projectiles
25 sent to you?

1 A No, it's pretty common that we get projectiles that
2 either aren't marked or damaged.

3 Q Would it be fair to say that probably more of the
4 projectiles you get are damaged than suitable for
5 comparison?

6 A A lot of them are damaged, but some are suitable and
7 some are not, so it just depends on how much damage.

8 MR. STUMBO: Nothing further, Your Honor.

9 RECROSS EXAMINATION

10 BY MR. HENDERSON:

11 Q Again, they could not have been fired by the Taurus G2
12 or the Taurus G3?

13 A That's correct.

14 MR. HENDERSON: Nothing further.

15 RECROSS EXAMINATION

16 BY MR. GROSE:

17 Q And those three projectiles, they could have been fired
18 by a gun that's never been recovered and submitted to you?

19 A That's possible.

20 THE COURT: You can step down. Thank you very much for
21 coming. I'm assuming you road with the other agents. Okay.
22 You're free to go as soon as they're ready to go.

23 All right, let's take a brief five minute break, and if
24 you all need to pop downstairs, let the Bailiff know. We'll
25 be back on the record at 3:30.

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1 (WHEREUPON, recess held 3:22 p.m.-3:40 p.m.)

2 THE COURT: All right, let's have the jury, please.

3 The jury is back and seated. Solicitor, if you'll call your
4 next witness, please.

5 MS. TAYLOR: The State calls Agent Donna Money.

6 WHEREUPON, Donna Money, having first
7 been duly sworn, testified as follows:

8 DIRECT EXAMINATION

9 BY MS. TAYLOR:

10 Q Good afternoon.

11 A Good afternoon.

12 Q Where do you work?

13 A I am employed at the South Carolina Law Enforcement
14 Division, also known as SLED, in the forensic services
15 laboratory, specifically in the DNA casework department.

16 Q And how long have you been in the DNA case work
17 department at SLED?

18 A Approximately nine and a half years.

19 Q Did you work in DNA casework anywhere else before that?

20 A I was in college prior to my employment.

21 Q Can you tell us a little bit about your training?

22 A When I started my employment at SLED back in 2012, I
23 participated in a year and a half long training program
24 under a qualified analyst in the department. The training
25 program included, but was not limited to, performing

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1 practice samples, training samples, observing the analyst as
2 she performed her own case work. I underwent a competency
3 round, which included a written exam, oral exam, a
4 competency practical exam, and a mock court.

5 Q And you mentioned college. Where did you go to college
6 and what was your degree in?

7 A I received a bachelor's degree in forensic science from
8 the Pennsylvania State University.

9 Q Have you ever testified as an expert in court before?

10 A Yes.

11 Q Approximately how many times?

12 A 45.

13 Q And is that typically is an expert in DNA analysis or
14 what do they usually qualify you as?

15 A It's been forensic DNA analysis.

16 MS. TAYLOR: Your Honor, the State offers Ms. Money as
17 an expert in forensic DNA analysis.

18 THE COURT: Any objection or voir dire from the
19 defense? Anyone?

20 MR. GROSE: No, sir.

21 MR. TINSLEY: None.

22 MR. HENDERSON: No, sir.

23 THE COURT: Ladies and gentlemen of the jury, as I
24 explained previously with the prior witness who testified,
25 Ms. Eichenmiller, in this case the parties agree that Agent

1 Money is an expert in the field of forensic DNA analysis.

2 So, she can give opinion testimony that you can use in that
3 area that you see fit. She's not limited to simply what she
4 observed or sensed or anything like that. She can give
5 opinion or expert testimony. Please continue.

6 MS. TAYLOR: Thank you, Your Honor.

7 Q In the DNA Casework Department, do you -- when an item
8 is analyzed and a report is issued, does the report just go
9 out automatically or is there a peer review process.

10 A There is a peer review process before any report is
11 issued for a case, and it is reviewed two times.

12 Q And as a peer reviewer, what are you looking at in the
13 file?

14 A For a peer review -- and the two reviews are referred
15 to as the technical review, which is the first, and then
16 administrative review is the second. For a technical
17 review, the individual who is also a qualified analyst in
18 the department will review all of the worksheets that were
19 generated by the assigned analyst, the data generated, the
20 statistics calculated, and the chain of custody.

21 Q And the case we're on -- when a case comes in to SLED,
22 is it assigned a lab number?

23 A Yes.

24 Q And as items come in, are they assigned individual item
25 numbers?

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1 A Yes.

2 Q So, if I hand you items, can you tell me if these have
3 the item number and the case number at SLED that you
4 reviewed?

5 A Yes.

6 Q And did you review case L203416, the DNA work in that
7 case?

8 A Yes, I performed the technical review.

9 Q I'm going to hand you what's been marked as State's
10 Exhibit 129. Does that have a SLED lab number on it?

11 A Yes, in the upper left corner. This yellow barcode is
12 the barcode affixed when a case is assigned at SLED and when
13 items are being given their assigned item number or in this
14 case, a container, because multiple items are contained
15 within this envelope.

16 Q What is the description of that particular item?

17 A Which label? There's multiple labels.

18 Q The big label that's in the middle. Does that have a
19 description?

20 A This label states, "DNA swabs collected from a 2015
21 black four door Toyota Camry, VIN 4T1BFK6FU006551."

22 Q So, DNA swabs from a Camry?

23 A Yes.

24 Q And that particular item, you did not perform the
25 actual physical analysis, did you?

1 A Correct. That was a different analyst. I only
2 performed the technical review.

3 Q And that technical review included reviewing the chain
4 of custody?

5 A Yes.

6 Q And, just generally speaking, in the DNA department, if
7 an item comes in and it is unsealed or appears to have been
8 tampered with in any way, will that analysis go forward?

9 A No. Notes will be made by the analyst assigned to the
10 case if anything does not seem correct, such as seals are
11 open or descriptions are incorrect, and follow up will be
12 made with the agency.

13 Q And those are records that are kept as a normal part
14 of the protocol and a normal part of the case file?

15 A Yes.

16 Q And any annotations about chain of custody problems
17 would be noted in the case file?

18 A Yes.

19 Q Now, that item that -- I'm sorry, I forgot what number
20 it is.

21 THE COURT: State's 129.

22 Q State's 129. Who actually performed the physical work
23 with that item?

24 A The DNA analyst assigned to this case was Sarah
25 Goodman.

1 Q And before it got to her, did it pass through some
2 technician's hands before it would have gotten to Ms.
3 Goodman?

4 A It would have been brought to the Evidence Control
5 Department at SLED, where it would have been logged in, and
6 that is the department she would have gone to to retrieve
7 the evidence in this case.

8 Q And would any of the people prior to her have unsealed
9 it or tampered with it in any way?

10 A The individuals in Evidence Control do not do that.

11 Q And you all maintain, in this case, a 47 page document
12 that shows everyone who's touched this evidence, correct?

13 A Yes, we maintain electronic chain of custody for every
14 item that is brought to SLED.

15 Q And State's 129, does that have Ms. Goodman's initials
16 on it indicating that she touched it?

17 A Yes. They are at the bottom of this envelope and
18 include the date.

19 Q And what is the date?

20 A It is January 5, 2022.

21 MS. TAYLOR: Your Honor, the State offers 129 into
22 evidence at this time.

23 THE COURT: Without objection?

24 MR. HENDERSON: None, Your Honor.

25 MR. TINSLEY: No objection.

1 THE COURT: Without objection, 129 is an evidence.

2 Q Now, with regard to State's 129, the swabs from the
3 car, do you have the report on that with you?

4 A Yes.

5 Q And did you review all of the data and do you agree
6 with conclusions in the report?

7 A Yes.

8 Q And what, if anything, was found regarding the swabs
9 from the Camry?

10 A May I refer to the report issued from 2022?

11 Q Sure.

12 A There were six total sets of swabs collected and
13 submitted, and the result for all six of these swabs was
14 that presumptive testing for blood was negative.

15 Q So the analysis stopped there. There was no blood,
16 nothing to analyze, is that correct?

17 A That's correct. Nothing was forwarded for DNA.

18 Q Now, if an item has been cleaned, say with Clorox wipes
19 or wiped down with a rag, could that possibly remove any
20 blood or any DNA that would be present?

21 A It's possible, yes.

22 Q I'm going to hand you the next four exhibits as a
23 group, State's 105, 104, 103 and 106. Can you tell me what
24 each of those items are?

25 A I'll start with State Exhibit 103, which is SLED item

1 number 39. Those are buccal swabs from Narkevious Reid.

2 State's Exhibit 104 is SLED item number 22, which are buccal
3 swab kit from Xayvion Hill. State's Exhibit 105 is SLED
4 item number 38, which is a buccal swab kit from Dashawn
5 Hurley. And State's Exhibit 106 is SLED item number 36,
6 which was the DNA evidence collected from Trivoriaye Alston,

7 Q And kind of the same series of questions as before.

8 Do you see on those items where Ms. Goodman opened those and
9 performed testing and sealed them back?

10 A Yes. Her initials and the date when she sealed her
11 opening are present on the two sides of this heat sealed
12 pouch. This heat seal pouch -- at the top of this heat
13 sealed pouch, since she repackaged it into a SLED heat
14 sealed pouch, because it was submitted just as an envelope.
15 But her initials are present with the date on the envelope
16 on the inside. And same for this item as well.

17 Q Same question as before. If those items appeared to
18 have been tampered with in any way would she have proceeded
19 with an analysis?

20 A No.

21 Q And you reviewed that in her notes?

22 A Yes.

23 Q And these items would have also passed through an
24 internal chain at SLED where no one tampered with it or
25 opened it before it got to Ms. Goodman?

1 A That's correct.

2 Q Did you review Ms. -- why is it important to have a
3 buccal swab from a suspect?

4 A A Buccal swab is a known standard collected from an
5 individual, directly from an individual, which allows for
6 that profile developed to be directly linked to that person.

7 Q So, we know that, for example, item 22 is what Xayvion
8 Hill's DNA looks like. The profile that was developed from
9 that is his?

10 A Yes.

11 MS. TAYLOR: Your Honor, the State moves to enter
12 Exhibit's 103, 105, 106, and 104 into evidence at this time.

13 THE COURT: Without objections?

14 MR. GROSE: No objection.

15 MR. HENDERSON: None, Your Honor.

16 MR. TINSLEY: No objection.

17 THE COURT: Without objection. Those are in evidence
18 103 through 106.

19 Q I'm going to hand you what's been marked as State's 107
20 and State's 108. If you can identify those for me.

21 A State's Exhibit 107 is container C, SLED container C,
22 which contains specifically SLED items 18 and 19, and then
23 State's Exhibit 108 was SLED container D, which specifically
24 contained items 20 and 21.

25 Q All right. And what were SLED items 18 and 19?

1 A SLED Item 18 was swab from trigger of Taurus, tan and
2 silver G2S, 9 mm, serial number AAL044024, and Item 19 was
3 swabbed from handle or grip of Taurus, tan and silver, G2S 9
4 mm, serial number AAL044024.

5 Q So, State's 107 is from a tan handgun and State's 108
6 is from a black and silver handgun. Is that correct?

7 A For State's Exhibit 108. The two items were 20 and 21.
8 One was a swab from trigger of Taurus, black silver, G3 9
9 mm, and 21 was swabbed from handle or grip of Taurus, black
10 silver, G3 9 mm.

11 Q And those items, do you also see Ms. Goodman's initials
12 on those?

13 A Yes. So, the envelopes are repackaged into SLED heat
14 sealed pouches, so her initial and date are on the top
15 there. But her initials and the date are also present on
16 the envelope on the inside. And the same goes for this as
17 well.

18 Q And same question, would she have proceeded with an
19 analysis that appeared to be tampered with?

20 A No.

21 Q And would she have notated in her records if there had
22 been any evidence of tampering?

23 A Yes.

24 Q And would that have been documented in the items you
25 reviewed as part of the peer review process?

1 A Yes.

2 Q And these same items would've passed through an
3 internal chain at SLED where no one was tampering with it or
4 opening it until it got to the analyst; is that correct?

5 A Yes.

6 MS. TAYLOR: The State moves Exhibits 107 and 108 into
7 evidence, Your Honor.

8 MR. TINSLEY: Your Honor, we may have a legal matter to
9 take up.

10 (WHEREUPON, sidebar held.)

11 THE COURT: I think we have an understanding.
12 Solicitor, go ahead and continue, please.

13 MS. TAYLOR: All right. Your Honor, I think I was
14 entering 107 and 108 into evidence.

15 THE COURT: Yes, without objection, based upon our
16 bench conference.

17 Q Did Ms. Goodman perform an analysis on items 107 and
18 108?

19 A Yes. She performed analysis on the items that were
20 contained within each of these containers.

21 Q Kind of, understanding that the rest of us don't do DNA
22 work every day, can you kind of very simply explain when you
23 analyze something, what are you trying to do?

24 A DNA analysis is a four step process, and the end result
25 of the process is the development of a DNA profile from an

1 item of evidence or a known standard. The four step process
2 is just extracting DNA from the item, whether it's a cotton
3 swab or a cutting from a larger piece of clothing, for
4 instance, determining how much DNA is present. After that,
5 it's amplifying or making more copies of the DNA to have
6 more to work with. And then that sample is run through an
7 instrument where it is separated based on size, and that
8 information is translated into what is referred to as a DNA
9 profile.

10 Q If you're able to develop a profile from these swabs,
11 do you then compare it back to the known profiles?

12 A Yes.

13 Q With regards to items 18 and -- well, let's go with
14 items 20 and 21 first. In the work that you reviewed as
15 part of SLED's process, was a profile developed from those
16 swabs?

17 A Yes.

18 Q Was it profile for a single person or was it mixture?

19 A For both items the profiles developed were mixtures.

20 Q And a mixture -- what is that?

21 A A mixture means that there is DNA from more than one
22 person present.

23 Q So, possibly more than one person touched an item, or
24 somehow more than one person's DNA ended up somewhere?

25 A Yes.

1 Q Once you develop the profile from the item and you have
2 your known standards, perform your analysis, can you explain
3 how you then report out your results?

4 A The next step in the process is comparing profile from
5 a known standard to profile and drawing an interpretation.
6 So, for this instance with a mixture, the next step would be
7 to determine whether or not the individual's DNA may be
8 present in that mixture. What is used for statistical
9 calculation is called a likelihood ratio. And what that is
10 comparing two possible explanations for an event. In
11 general terms, one could say that they are going to win a
12 marathon and you have two possible explanations for that
13 event, for that outcome. One could be that the individual
14 trained for the marathon, or the individual stayed at home,
15 ate popcorn, ate cookies, and the likelihood ratio is the
16 value in favor of which of those two possible explanations
17 best explains the event.

18 So when it comes to DNA analysis, the DNA profile is
19 the event. And the two possible explanations are whether if
20 that individual's DNA is present explains the profile, or if
21 not having that person's DNA in the profile explains the
22 profile.

23 Q And with regard to item 20, what were the two
24 proposition sets that you were testing, or that were being
25 tested against each other?

1 A The first proposition set, and this is where the two
2 possible explanations are written out, the DNA profile was
3 interpreted as a mixture originating from four individuals.
4 First possible explanation is Trivoriaye Alston and three
5 unidentified unrelated individuals contributed to the
6 mixture, or four unidentified unrelated individuals
7 contributed to the mixture. The DNA profile is
8 approximately 8.8 octillion times more likely if Trivoriaye
9 Alston and three unidentified unrelated individuals
10 contributed to the mixture than if four unidentified
11 unrelated individuals contributed to the mixture.

12 Q So in layman's terms, the likelihood is overwhelmingly
13 likely that this is Trivoriaye Alston's DNA on item 20.

14 A It's 8.8 octillion times more likely that this DNA
15 profile exists if Trivoriaye Alston and three unidentified
16 unrelated individuals contributed than if it was four
17 unidentified unrelated individuals.

18 Q 8.8 octillion is a pretty big number, isn't it?

19 A Yes. There's 27 zeros.

20 Q Now, proposition set two, is that where you're testing
21 the other profiles that you received, the other suspect
22 against the mixture?

23 A Yeah. So this is where the other known standards
24 submitted are compared to the profile that was developed.

25 Q And what conclusions were drawn from testing the other

1 three individuals against that or comparing their profiles
2 with the mixture?

3 A For this proposition set, which it stayed the same as
4 the DNA profile, was interpreted as a mixture originating
5 from four. Two possible explanations are that the person of
6 interest and three unidentified unrelated individuals versus
7 four unidentified unrelated individuals for Xayvion Hill,
8 Dashawn Hurley, and Narkevious Reid are excluded as
9 contributors to the mixture under the listed propositions.

10 Q So, Mr. Hill, Mr. Hurley and Mr. Reid were excluded?

11 A Yes.

12 Q And as to item 21, which is the swab from the grip of
13 that same firearm, I think you tested the same two -- or the
14 same two propositions were tested?

15 A There were two propositions set. There were three
16 propositions that's calculated for this item.

17 Q All right. And the proposition that it is Trivoriaye
18 Alston and three unidentified unrelated individuals. What
19 was the likelihood there?

20 A That was proposition set one. And when comparing
21 Trivoriaye Alston to the DNA profile interpreted as a
22 mixture originating from four individuals, the DNA profile
23 is approximately 560 octillion times more likely if
24 Trivoriaye Alston and three unidentified unrelated
25 individuals contributed to the mixture than if four

1 unidentified unrelated individuals contributed to the
2 mixture.

3 Q And going to proposition Set two. What was the finding
4 regarding proposition Set two for that item?

5 A Proposition Set two was that the DNA profile was
6 interpreted as a mixture originating from four individuals.
7 First possible explanation was Xayvion Hill and three
8 unidentified and unrelated individuals contributed to the
9 mixture versus four unidentified unrelated individuals. The
10 DNA profile is approximately 76 -

11 MR. TINSLEY: Your Honor, I think we're getting awfully
12 close to what we just talked about.

13 THE COURT: Let me handle it this way, ladies and
14 gentlemen of the jury, give us a few moments. Let me
15 address this. Don't talk about the case, but go back in
16 there and I hope to have you back in about 5 minutes or so.

17 (WHEREUPON, jury exited 4:07 p.m.)

18 THE COURT: At the sidebar, Ms. Taylor kind of explained
19 to us that there's a new method here and kind of a new way
20 of doing the report. What are the results here? Brass
21 tacks.

22 MS. TAYLOR: Your Honor, what she's about to testify is
23 that it's 76 times more likely if four unidentified
24 unrelated individuals contributed to the mixture than if
25 Xayvion Hill and three unidentified unrelated individuals

1 contributed to the mixture. And my next question was going
2 to be, what number do you have to get to be considered
3 excluded. That's 100, and this is closer to exclusion than
4 inclusion.

5 THE COURT: Okay, so it's more likely than not that
6 Hill was excluded.

7 MS. TAYLOR: They just didn't -- they didn't hit the
8 number.

9 THE COURT: Okay.

10 MR. HENDERSON: Let's cut to Brass tacks.

11 THE COURT: Yeah, I'd love to too, but we'll take it as
12 the testimony is and then we can just basically summarize it
13 I guess. We're talking about which gun? The previous one -
14 - I'm trying to -- I think I may have misnumbered my exhibit
15 or misnumbered my notes, but ---

16 MS. TAYLOR: This is the black and silver that was by
17 the car.

18 THE COURT: Okay, the one in the parking lot?

19 MS. TAYLOR: Yes, sir.

20 THE COURT: The black and silver. That's what we're
21 talking about now. And the other one with Alston's DNA on
22 it was the one on the fence line.

23 MS. TAYLOR: This is still the one with Alston's DNA on
24 it.

25 THE COURT: Oh, okay.

1 MS. TAYLOR: We haven't gotten to the one on the fence
2 line.

3 MR. STUMBO: Judge, I think where it's confusing,
4 there's two swabs taken. One from the trigger and one from
5 the handle.

6 THE COURT: That's what messed me up.

7 MR. STUMBO: So we're still on the handle of the black
8 and silver.

9 THE COURT: So, we're still on the parking lot gun?

10 MR. STUMBO: Correct.

11 THE COURT: Got it. Okay. I think that's where my
12 notes got messed up. Are we good?

13 MR. TINSLEY: I just don't -- it just seems awfully
14 confusing to me, this 76 number. I just don't, you know --
15 I think it should just be it's, you know, something along
16 the lines that it's much more likely than not that his DNA
17 is not on here. Like, brass tacks, like we're talking
18 about.

19 THE COURT: Well, yeah, I'll let you just handle that in
20 terms of how you want to colloquially refer to that. But I
21 think it's clear that the result is that Hill is -- they're
22 not able to say that Hill's DNA was on the gun.

23 (WHEREUPON, jury entered 4:12 p.m.)

24 THE COURT: Sorry for the interruption, Ms. Taylor.
25 Please, go right ahead.

1 BY MS. TAYLOR:

2 Q We were talking about the swab, item 21, the swab from
3 the handle or grip of the black and Silver Taurus. And we
4 were talking about proposition set two. And I think I had
5 asked you what were the findings regarding -- what was that
6 proposition and what were the funding regarding that?

7 A Yes. The DNA profile is approximately 76 times more
8 likely if four unidentified, unrelated individuals
9 contributed to the mixture than if Xayvion Hill and three
10 unidentified, unrelated individuals contributed to the
11 mixture.

12 Q Now, to be excluded, is there a certain threshold you
13 have to hit?

14 A Yes. The likelihood ratio would have to be 100 or
15 higher.

16 Q So, 76 is trending more towards that exclusion than
17 inclusion, is that correct?

18 A Yes.

19 Q So, it's likely that his DNA was not -- that he is
20 excluded as a contributor?

21 A The 76 falls under moderate support that four
22 unidentified, unrelated individuals better explains the
23 profile when comparing Xayvion Hill.

24 Q And then going down to proposition set 3. Were Dashawn
25 Hurley and Narkevious Reid excluded as contributors to that

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1 mixture?

2 A Yes.

3 Q Turning to the handgun that was found, was a DNA
4 profile able to be developed from either of the swabs, items
5 18 or 19?

6 A DNA profiles were developed from both items 18 and 19.

7 Q And were those profiles suitable for comparison?

8 A No.

9 Q And what would make a DNA profile not suitable for
10 comparison?

11 A If a profile is too partial, meaning that there's not
12 enough information to compare to any individual. If it
13 appears that it is a mixture of more than four individuals,
14 we stop our interpretations at four. So, if it appears to
15 be five, six, it's not suitable for comparison.

16 Q And at that point, the analysis stops? It's never even
17 compared against the suspect's; is that correct?

18 A Correct.

19 Q So, the tan gun, there was just no suitable profile
20 that could be compared, is that correct?

21 A Correct. For either item.

22 Q For either of the swabs?

23 A Correct.

24 Q And the black and silver gun was more likely than not
25 that's Mr. Alston's DNA, along with some unidentified

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1 individuals?

2 A The two swabs collected from the gun, when comparing
3 Trivoriaye Alston to these profiles, the profiles are better
4 explained by the presence of his DNA there.

5 MS. TAYLOR: Please answer any questions the defense
6 has.

7 THE COURT: Mr. Tinsley?

8 CROSS EXAMINATION

9 BY MR. TINSLEY:

10 Q Agent Money, the trigger for the black and silver gun,
11 Mr. Hill's DNA was completely excluded from?

12 A You're referring to SLED item 20?

13 Q Yes.

14 A Yes. When comparing Xayvion Hill to the profile, he
15 was excluded.

16 Q SLED Item number 21 was the grip to that gun?

17 A Handle or grip.

18 Q While you haven't testified that he was excluded, he
19 was pretty darn close to being excluded?

20 A For that item, the likelihood ratio calculated is
21 trending towards exclusion.

22 Q 76 is a lot closer to 100 than it is to one?

23 A Yes.

24 MR. TINSLEY: I don't have any further questions.

25 Please answer any questions Mr. Henderson has.

1 CROSS EXAMINATION

2 BY MR. HENDERSON:

3 Q Hey, Ma'am. How are you?

4 A I'm good. Thank you.

5 Q Now, you've got the reports with you, don't you?

6 A Yes.

7 Q And again, I'm making reference to -- and these are Ms.
8 Goodman's reports, correct?

9 A Yes.

10 Q Okay. I see a report dated April 2, 2021, called DNA
11 Analysis. You got that report?

12 A Yes.

13 Q Okay. I also see a report dated July 18 of this year
14 called DNA Analysis. Do you have that report?

15 A Yes.

16 Q Okay. Now I'm looking at the kind of top right on both
17 those reports and I see six names on both reports. Am I
18 right?

19 A Yes.

20 Q I see Mr. Parks. I see Mr. Reid. I see Mr. Goode. I
21 see Mr. Alston. I see Mr. Hill, and I see Mr. Hurley. Did
22 I read those correctly?

23 A Yes.

24 Q Now, did anybody at SLED tell the Sheriff's Office
25 we're busy this week. We got a lot going on. You can only

1 send four buccal swabs out of these six.

2 A There's no limit to the number of known standards that
3 can be submitted for a case.

4 Q Oh, the Sheriff's Office could have sent all six of
5 these guys?

6 A Yes.

7 Q And if they had 100, they could have sent 100.

8 A Yes.

9 Q Okay. Now, is it fair to say that you didn't get or
10 SLED didn't get any buccal swaps from Mr Parks or from Mr
11 Goode?

12 A Known standards from those individuals were not
13 submitted.

14 Q Okay. Now, looking at these handguns, where on one
15 gun you just can't get any samples, is that fair to say?
16 It's got undeveloped. Unknown.

17 A It's just not suitable for comparison.

18 Q Not suitable. Now, if you happen to have, say, Mr.
19 Goode's buccal swab or Mr. Park's buccal swab, it might have
20 been suitable?

21 A No. The profile, once it's deemed not suitable, is not
22 compared to any known standard that is submitted.

23 Q Okay, so even if you had six people to compare it
24 against?

25 A The profile would still be interpreted as not suitable

1 for comparison.

2 Q Okay, well, the other gun where all these guys are
3 excluded, if you had buccal swabs from Mr. Goode and Mr.
4 Parks, could they have been included?

5 A They would have to be compared first before drawing any
6 conclusions.

7 Q Correct. And the government, the Sheriff's Office,
8 just did send those two buccal swabs to you, correct?

9 A To my knowledge, no.

10 Q Okay, well you ought to know. They didn't send them,
11 did they?

12 A Correct.

13 Q Okay. And now, going back to this Camry, now, you
14 don't have any evidence that this car was wiped down or
15 Cloroxed or anything like that, do you?

16 A I don't have any information like that.

17 Q None at all, do you?

18 A Correct.

19 MR. HENDERSON: I don't have anything further.

20 THE COURT: Mr. Grose?

21 CROSS EXAMINATION

22 BY MR. GROSE:

23 Q My name is Charles Grose and I represent Dashawn Chazz
24 Hurley. If I understand your testimony correctly, what you
25 were able to make comparisons of he was excluded?

1 A Yes. The two items that had profiles suitable for
2 exclusion, Dashawn Hurley was excluded.

3 MR. GROSE: Thank you.

4 THE COURT: Ma'am, thank you very much. You may step
5 down and you're free to go. Ms. Taylor, call your next
6 witness.

7 MS. TAYLOR: Your Honor, the State calls Jennifer Nates.

8 WHEREUPON, Jennifer Nates, having first been
9 duly sworn, testified as follows:

10 DIRECT EXAMINATION

11 BY MS. TAYLOR:

12 Q Good afternoon.

13 A Hello.

14 Q Can you please tell us where you work.

15 A I work for the South Carolina Law Enforcement Division
16 in the Trace Evidence Section of the forensic laboratory.

17 Q And what does the Trace Evidence Section do?

18 A The Trace Evidence Section is responsible for many
19 different types of analyses. We are responsible for the
20 analysis of gunshot residue evidence, fire debris evidence,
21 explosives, tape, paint, glass, trace other, and bank dye.
22 We have so many, it's hard to list, but we also do general
23 chemical examinations and comparisons for just complete
24 unknowns that we receive. Sometimes we're asked to do
25 comparisons with those or to try to identify the item.

1 Q Now, I want to talk to you today specifically about
2 gunshot residue evidence. Can you tell me a little bit
3 about your education and your training in gunshot residue
4 specifically.

5 A My training for gunshot residue specifically was a year
6 long training program in the Trace Evidence Section that
7 consisted of oral, practical and written examinations that
8 culminated with a competency test. Once I successfully
9 completed the competency test, I was deemed competent to
10 perform gunshot residue analysis. I completed that training
11 in 1999.

12 A And have you been performing gunshot residue analysis
13 ever since?

14 A I have been.

15 Q Do you have a guesstimate of how many times you
16 performed an analysis?

17 A Samples are well into the thousands.

18 Q Have you ever been qualified as an expert in gunshot
19 residue analysis?

20 A I have been.

21 Q Approximately how many times?

22 A 159.

23 MS. TAYLOR: Your Honor, the State offers Ms. Nates as
24 an expert in gunshot residue analysis.

25 MR. TINSLEY: Judge, we have a matter of law we probably

1 need to put on the record.

2 THE COURT: As to her qualifications?

3 MS. TAYLOR: Your Honor, I can clear this up at a
4 sidebar probably, if it's what I think it is.

5 THE COURT: Okay. Why don't we come over here.

6 (WHEREUPON, a sidebar was held.)

7 THE COURT: Sorry about this. Again, ladies and
8 gentlemen, adjourn to the back. Some of you may not have
9 had a chance to use the restroom anyway. Let me take this
10 up with them. I'm hoping it doesn't take more than 1
11 minutes or so. Don't discuss the case. Thank you.

12 (WHEREUPON, jury exited 4:25 p.m.)

13 THE COURT: Before I hear the objection, Ms. Taylor,
14 can you set the stage for me. What do you anticipate this
15 witness testifying to?

16 MS. TAYLOR: Your Honor, she will testify, actually,
17 that she performed the in lab work. This was during Covid
18 and a different analyst wrote the report, but she's reviewed
19 the report and agrees that there was gunshot residue found
20 on Mr. Hill and Mr. Alston. There was no gunshot residence
21 found on Mr. Parks or Mr. Goode.

22 THE COURT: Okay. All right, Mr. Tinsley, you had the
23 initial objection, even though Mr. Henderson is standing.
24 Let me hear yours first.

25 MR. HENDERSON: I was stretching my legs, your Honor.

1 THE COURT: Okay, very good. Feel free to keep doing
2 that.

3 MR. TINSLEY: I would say this gunshot residue, the
4 jury shouldn't hear about it. It's misleading. The
5 probative value -- it's not going to prove anything, make
6 anything more likely than not. I have a document that
7 probably should be marked as a Court's exhibit for the
8 record, but it's from SLED. Forensic Services Laboratory
9 Customer Service Notice 2021-03, dated December 20, 2021.
10 In bold it says, "Regarding analysis of GSR Kits, effective
11 January 1, 2022, the SLED Trace Evidence Department will no
12 longer routinely accept and analyze gunshot primer residue
13 kits collected from the following two categories of
14 casework. 1. Shooting victims, to include suicides. 2.
15 Persons known/found to be in the possession of a firearm, to
16 include police officers." It says, "Current GSR Kits in the
17 laboratory from cases fitting these categories will be
18 returned to the submitting agency for storage without
19 analysis. This policy does not prohibit the collection of
20 the above referenced kits. Potential submissions as
21 exceptions to this policy will require advanced
22 communication and authorization prior to submission. Please
23 contact Lieutenant Jennifer Nates." It gives her phone
24 number and email. If you have any concerns. There's
25 evidence in here Mr. Hill was shot, so as a matter of

1 course, if this happened today SLED wouldn't test the kits
2 unless there was some special reason to, and I just think
3 this evidence of gunshot residue in the facts of this case
4 will mislead the jury. For that reason, we know he was
5 shot. He's in category one. So I would have this marked
6 for a Court's Exhibit.

7 THE COURT: Ms. Taylor, can you ---

8 MR. TINSLEY: They got a search warrant to take
9 pictures of him and to take the DNA, but they didn't get one
10 for a gunshot residue test.

11 THE COURT: Likely because that was exigent. It has to
12 be done within a very short period of time.

13 MR. TINSLEY: Judge, I would just point out to push back
14 on that, this didn't happen in the middle of the night.
15 This was at 2:00 in the afternoon, so I don't think it's
16 that hard to get a warrant at that time of day.

17 MS. TAYLOR: Your Honor, he was about to go into
18 surgery.

19 THE COURT: Okay, tell me about the memo. Or do you
20 know anything about it or do you need to ask her about it?

21 MS. TAYLOR: Your Honor, I've heard bits and pieces of
22 this from the evidence people with the Sheriff's Office and
23 the city. Obviously, there's been some push back on this
24 from law enforcement and from our standpoint. This would
25 have been a case, had it occurred after this date, I would

1 have absolutely asked them to go ahead and perform the GSR
2 analysis, given our contention that that gunshot wound was
3 self-inflicted. I think this is the kind of case that we
4 would have asked for it. Your Honor, I think this is fodder
5 for cross examination, but I don't think that it requires
6 the inclusion of the evidence.

7 THE COURT: What's the underlying reason for the policy
8 that they're not going to analyze those anymore?

9 MS. TAYLOR: I would defer to Lieutenant Nates on that.

10 THE WITNESS: With a person who has sustained a gunshot
11 wound, we expect to find gunshot residue on their hands. One
12 of the issues that we had was that people were
13 misinterpreting it. We tried to clear that up in our
14 report, but the majority of the gunshot residue community
15 does not perform analysis on victim kits, because there is
16 no way for us, except in very limited circumstances, to
17 determine whether or not the gunshot residue present, if
18 found, is from that person sustaining a gunshot wound or
19 from that person discharging a firearm or being near the
20 discharge of a firearm. So, the evidence is not able to
21 answer that question in the majority of the cases where
22 someone has sustained a gunshot wound and has gunshot
23 residue on their hands.

24 THE COURT: Okay, that makes sense then why you would
25 request it be analyzed under the facts of this particular

1 case, because obviously, Mr. Alston is in somewhat, shall we
2 say, different category of victim than what you typically...

3 MS. TAYLOR: Yes, sir. And I would also point out that
4 both Mr. Parks and Mr. Goode did not have gunshot residue on
5 them. And obviously it's already uncontroverted both of
6 them were shot. They also fall into the gunshot residue
7 victim.

8 MR. GROSE: I don't mean to interrupt, but I haven't
9 heard any testimony that this case is different from the
10 concerns that generated this policy.

11 THE COURT: The way I took Ms. Taylor's suggestion that
12 she would still request an exemption to that policy, is that
13 because Mr. Alston was involved with this shooting as a
14 potential assailant of Goode and Parks -- am I barking up
15 the right tree here?

16 MS. TAYLOR: Yes, sir. I would also have pointed out
17 that -- what I was going to elicit in testimony is both Mr.
18 Parks and Mr. Goode are a good distance away from the
19 gunfire. Mr. Alston and Mr. Hill are right there.

20 THE COURT: Nothing else?

21 MR. GROSE: I want to ask her some questions. One of
22 these lawyers may want to go first?

23 THE COURT: Go ahead.

24 CROSS EXAMINATION (in camera)

25 BY MR. GROSE:

1 Q If I understood you right, you said that it's very
2 limited circumstances that you can make a determination if
3 the person is sustained a gunshot wound.

4 A That is correct. It usually involves a great distance
5 or intervening objects between the person being shot and the
6 firearm.

7 Q Are you -- I'm sorry. I didn't mean to cut you off.

8 A No, go ahead.

9 Q You go ahead and finish.

10 A I was going to say in this case, the two that were
11 negative, if I had been called and presented with the
12 information they were shot, it was from a great distance, we
13 would have analyzed those two kits because of the distance
14 between the firearm and the victim at the time of the
15 shooting.

16 Q So are you just going to testify about those two or are
17 you going to testify about all four?

18 A My testimony would be about all four. That two were
19 negative, two were positive. The two that were positive
20 sustained gunshot wounds. Therefore, I can't tell you
21 whether the gunshot residue is from them discharging a
22 firearm or from being shot.

23 Q So your testimony would not assist the jurors with
24 regards to whether Mr. Alston or Mr. Hill fired a gun.

25 A I am not able to answer that. No.

1 Q All right. And as far as Mr. Parks and Mr. Goode, who
2 both sustained gunshot wounds, don't you also have a lot of
3 explanations as to why gunshot residue might not be found?

4 A Right. It may not be found because they didn't fire a
5 gun. It may not be found because their hands were cleaned
6 after the residue possibly was discharged. The firearm may
7 or not have deposited residue on their hands. Their hands
8 could have been wiped off. Any activity from the time of
9 deposition to the time of collection can remove that
10 evidence.

11 Q And so your testimony really wouldn't assist the jurors
12 with regards to Mr. Goode and Mr. Parks either.

13 A In their case, I can tell them that they had no gunshot
14 residue present on their hands. One scenario can be they
15 did not discharge a firearm.

16 Q So, there's no way of knowing.

17 A No.

18 CROSS EXAMINATION (in camera)

19 BY MR. HENDERSON:

20 Q So, as an expert, more likely than not, you just can't
21 offer that opinion that Mr. Grose asked you about.

22 A Can you repeat that? I'm sorry.

23 Q Basically, Mr. Grose asked you about assisting the
24 trier of fact, but in your expert witness capacity, more
25 likely than not, you can't offer the opinion whether or not

1 Mr. Hill and Mr. Alston got gunshot residue because they
2 fired a gun or they got shot.

3 A That is correct. I am not able to tell you which of
4 those scenarios they have gunshot residue on their hands
5 from.

6 Q So, it could be 50/50?

7 A Correct. And that is the point of why we put the
8 customer notice into place.

9 EXAMINATION

10 BY MR. GROSE:

11 Q And I think you said you put that in place because
12 people have been misinterpreting this evidence ---

13 A For years ---

14 Q --- or misinterpreting the reports.

15 A Right. Because it would be reported gunshot residue
16 found with no explanation on how it was -- why it was there.
17 But the reports now list all the caveats and the possibility
18 that I can't tell you which of the scenarios it was
19 deposited from.

20 THE COURT: Which is basically what you've just
21 testified to a few moments ago from these gentlemen's
22 questions.

23 THE WITNESS: Yes.

24 THE COURT: Got you.

25 MS. TAYLOR: And Your Honor, all of that is, of course,

1 ripe for cross examination.

2 THE COURT: I tend to agree.

3 MR. GROSE: Well, we got to do the Watson v Ford Motor
4 Company three prong analysis. You're smiling. You're
5 almost laughing, Judge. I don't get it.

6 THE COURT: This is not a reliable science?

7 MR. GROSE: Her testimony has to be reliable. It has to
8 be an area that expert testimony would assist the jury. I
9 would say generally it would, but she's testified that she
10 would not be able to assist the jury with all four of them,
11 but particularly with Mr. Alston and Mr. Hill. Second part
12 is her qualifications. I'm not taking any issue with that.
13 And the third part is the reliability of the testimony. And
14 what I think is getting ready to happen is that the State is
15 going to use this evidence and misinterpret it in the way
16 that what led to this policy.

17 But just starting at the bare principle of what expert
18 testimony is supposed to do, it's opinion testimony that's
19 supposed to assist the jurors. And her testimony is that
20 she can't do that.

21 THE COURT: I understand. And perhaps viewed in
22 isolation, if this was the only evidence that we had. But
23 what we do have is Alston's DNA on one of the pistols. We
24 also have him suffering, obviously, a gunshot wound. And we
25 now have additional evidence of gunshot residue, at the very

1 least, on Alston's hands. How that's interpreted, how
2 that's argued is a completely different matter. But we're
3 talking about bricks. Viewing any brick in isolation, one
4 brick does not a building make. You put them together and
5 they do make a wall. I appreciate y'all's position. I'm
6 finding that she's an expert. I'll do that when the jury
7 comes out and permit this testimony, subject to everyone's
8 objections. Thank you.

9 We may as well take five for ourselves.

10 (WHEREUPON, recess 4:49 p.m.-4:53 p.m.)

11 THE COURT: The jury is back and seated. I think when
12 we left off, Solicitor, you were moving to qualify Agent
13 Nates as an expert in the field of gunshot resident.

14 MS. TAYLOR: Yes, sir.

15 THE COURT: All right. Subject to the prior objections
16 in the hearing that we had a few moments ago, the Court is
17 finding that Ms. Nates is an expert in the field of GSR
18 analysis and will be permitted to testify. As I explained
19 previously with the other two expert witnesses, she can give
20 opinion testimony in the field with GSR analysis that you
21 may use as you deem appropriate. Please continue, Ms.
22 Taylor.

23 MS. TAYLOR: Thank you, Your Honor.

24 DIRECT EXAMINATION

25 BY MS. TAYLOR:

1 Q I'm going to hand you what's been marked as State's
2 100, 101, 102 and 99. Are those GSR kits for Mr. Reid, Mr.
3 Hurley -- excuse me, Mr. Hill, Mr. Alston, Mr. Goode and Mr.
4 Parks?

5 A The GSR kits are actually inside these envelopes. This
6 is the lab number from the case with the item number along
7 with my initial and date on when I analyzed these GSR kits.

8 Q But those are the GSR kits that you analyzed?

9 A Yes.

10 Q And when did you perform that analysis?

11 A I performed this analysis on April 17, 2020.

12 Q And when those items came into your possession, were
13 they sealed? Did they appear to have been tampered with in
14 any way?

15 A The seals were sealed properly and the seals were
16 initialed, so there did not appear to be any tampering of
17 the evidence.

18 Q And we've already heard testimony, but there is a an
19 internal control process where you can track evidence
20 through SLED. Is that correct?

21 A There is. When a case is submitted to SLED, the case
22 of course usually has many different items of evidence. So
23 a police agency will bring a case in. It will be assigned
24 what is called a laboratory number. It's sequential number
25 that starts with an "L" for laboratory and the year. So, in

1 this case it was L20, and then it's a sequential number for
2 each case that comes in, it's given the next number. This
3 one was given 3416. Each item of evidence that submitted in
4 that case is given a unique item number and they are
5 submitted to the analyst for analysis.

6 Q As the item moves through SLED, until it gets to an
7 analyst, does anyone open it or do anything with the sealed
8 item?

9 A They do not. Once the officer will bring it. It will
10 be. It will go through our evidence intake department and
11 that's where it's assigned the lab number and the item
12 number. Once there, they will place it in a secure location
13 until an analyst from the respective department picks up
14 that evidence takes it to that department, and then pens
15 analysis. In this case, it was sealed, initialed, and in
16 the same form as when it was submitted when I opened it and
17 took the evidence out of the container.

18 MS. TAYLOR: Your Honor, the State offers Exhibits 99
19 through 102 into evidence this time.

20 THE COURT: Subject to basically the relevancy
21 objection and the other objections that were made a few
22 moments ago, State's 99 and through 102 are in evidence.

23 Q Now, you actually -- did you actually perform the
24 physical analysis, the in lab work, with regards to those
25 items.

1 A I performed the inventory of the items and the
2 analysis.

3 Q Now this was back during the beginning of the pandemic.
4 Is that correct?

5 A It was in 2020, yes.

6 Q Did SLED have full staff in the lab at the time?

7 A There were restrictions on our staffing due to COVID.
8 We were only allowed to have a limited number of personnel
9 in each laboratory during the day.

10 Q So, the actual report was issued by Megan Fletcher. Is
11 she another scientists in your lab?

12 A She is one of the forensic scientists in the trace lab.

13 Q And did you send her your data?

14 A After I analyzed the case, I compiled all of my data
15 that I had generated during the analysis. I put it on an
16 electronic server. Since she was not in the facility, she
17 was able to download everything electronically while working
18 from home and review all the data, review the raw data, and
19 compile all of the worksheets, the note sheets, and the data
20 and generate the report.

21 Q And have you reviewed her report?

22 A I have.

23 Q And do you agree with the conclusions in the report?

24 A I do.

25 Q If I can borrow these back from you? With regard to

1 State's Exhibit 99, which is the GSR kit for Trivoriaye
2 Alston. Before I ask that, can you tell the jury what
3 gunshot residue is?

4 A Gunshot residue is a term used to describe all of the
5 material that is formed when a firearm is discharged. This
6 includes organic material, inorganic material, metallic
7 fragments from the weapon, from the projectile, and from the
8 cartridge. Our laboratory, along with the majority of the
9 forensic labs that perform gunshot residue analysis analyze
10 for what is called primer gunshot residue or PGSR. Primer
11 gunshot residue is specific to the primer composition and
12 the cartridge. And when this gunshot residue, when this
13 portion of the gunshot residue is formed, it forms molten
14 microscopic particles that contain three elements; lead,
15 barium and antimony. So, when I perform a gunshot residue
16 analysis, this is specifically what I'm analyzing for using
17 the microscope. I am looking for microscopic particles that
18 contain specific elements.

19 Q Now the actual question I'm going to ask, the first
20 question I'm going to ask, is in regards to State's Exhibit
21 102, which is the GSR kit for Gabriel Goode. Did you
22 analyze this GSR kit to determine if gunshot residue was
23 present?

24 A I did.

25 Q And was there any gunshot residue present in what you

1 analyzed?

2 A There were no particles characteristic of primer
3 gunshot residue found on the kit from Gabriel Goode.

4 Q And what -- a finding of no gunshot residue on someone,
5 what are the various scenarios that could be consistent
6 with?

7 A Gunshot residue is considered very fragile evidence.
8 Once gunshot residue is deposited on a person's hands or
9 body, it can be removed very easily. If you wash your
10 hands, you can remove that evidence. If you put your hands
11 in and out of your pocket, run, somebody touches you, you
12 receive medical care. Anything can remove that residue.
13 So, a negative finding can mean that that person wasn't
14 around the discharge of a firearm, to include discharging a
15 firearm. It can also mean that potentially they had gunshot
16 residue on their hands, but something removed it prior to
17 the collection of the kit.

18 Q So would that potentially be consistent with being a
19 gunshot victim from a great distance away?

20 A A gunshot victim from a great distance away usually
21 will not have gunshot residue on them, but it is possible.
22 There are research papers out there that have shown that
23 people who receive a gunshot wound can have gunshot residue
24 on them from a distance of 60 feet. So, at a great
25 distance, there's less likelihood you will find gunshot

1 residue on a gunshot residue victim, but it is still a
2 possibility.

3 Q And turning to State's Exhibit 101, which is the GSR
4 kit for Justin Parks. What, if anything, did you find
5 regarding gunshot residue for Mr. Parks?

6 A On the gunshot residue kit from Mr. Parks, there were
7 no particles characteristic of gunshot residue found.

8 Q Now if someone is shot, and I think you've already said
9 this, but if someone is shot at a close range, is it more
10 likely that they would have gunshot residue on them than if
11 they were shot, again, at a farther distance and upwards?

12 A I don't know about upwards, but the closer you are to a
13 firearm when it is discharged the more likely you are to
14 have gunshot residue deposited on you.

15 Q Turning to State's Exhibit 100, which was the GSR kit
16 for Xayvion Hill. What, if anything, did you find regarding
17 Mr. Hill?

18 A In the GSR kit for Mr. Hill, I found particles
19 characteristic of primer gunshot residue.

20 Q And what would that be consistent with?

21 A When a person has gunshot residue on their hands, it
22 can mean one of several things. It can mean they discharged
23 a firearm. It can mean they were in the vicinity to the
24 discharge of a firearm. It can also mean they handled
25 something with the gunshot residue on it. But if someone

1 has sustained a gunshot wound, we do expect to find gunshot
2 residue on them from being shot.

3 Q And would you also expect to find gunshot residue on
4 someone who discharged a firearm?

5 A We can find it on someone who discharged a firearm,
6 someone who was near a firearm when it was discharged, or
7 someone who handled something with gunshot residue on it.

8 Q And finally, State's 99, which was the gunshot residue
9 kit for Mr. Alston. What did you find regarding that?

10 A In the GSR kit from Mr. Alston, I found particles
11 characteristic of primer gunshot residue.

12 Q Now, SLED has certain guidelines for when you will
13 analyze a GSR kit. Is that correct?

14 A That is correct.

15 Q Is there a timeframe after which SLED will reject the
16 kit?

17 A There is.

18 Q So if an individual was picked up days, weeks later,
19 obviously there would be no gunshot residue. You wouldn't
20 expect to find gunshot residue relating back to an incident
21 date, is that correct?

22 A If it was collected weeks or days after the incident, I
23 would not be able to link anything I found to that incident.
24 With gunshot residue, the kit has to be collected within six
25 hours of the incident to be valid and to be analyzed.

1 Q And is it true that it's usually the sooner the better?

2 A That is true.

3 MS. TAYLOR: Thank you, Lieutenant Nates. Please
4 answer any questions the defense has.

5 CROSS EXAMINATION

6 BY MR. TINSLEY:

7 Q Lieutenant Nates, you just testified that you expect to
8 see gunshot residue on someone who is shot by a gun?

9 A Usually, yes.

10 Q And as a matter of fact, SLED's standard policy now is
11 to not test a sample from someone who has been shot for
12 gunshot residue; correct?

13 A That is correct. We put a policy in place at the
14 beginning of this year, because if a person has sustained a
15 gunshot wound, in most cases they will have gunshot residue
16 on them and we are not able to determine whether the gunshot
17 residue was, in the case of the suicide self-inflicted, or
18 in the case of a homicide or an attempted murder, we can't
19 tell you if that person fired a weapon or if they have
20 gunshot residue on them from sustaining a gunshot wound.

21 Q And I'm going to hand you what's marked as Court's 25
22 and see if you recognize that that document.

23 A This is the customer notice that we issued in December
24 of last year concerning the analysis and the acceptance of
25 victim GSR kits.

1 Q So that's the policy that we were just talking about,
2 the current SLED policy?

3 A Yes.

4 MR. TINSLEY: I would move that exhibit into evidence.

5 THE COURT: Any objection?

6 MR. HENDERSON: None, Your Honor.

7 THE COURT: That's Defense 1. That's your first one in
8 evidence?

9 MR. TINSLEY: Correct, Your Honor.

10 THE COURT: That will be Defendant Hill's 1.

11 COURT REPORTER: Would it be cleaner, Judge, if I just
12 get a different copy and keep this as the Court's exhibit
13 since we talked about it as a Court's Exhibit?

14 THE COURT: Give her that copy and she'll make that
15 Defendant Hill's 1. It will keep Court's 25 as is.

16 Q So you can't testify to this trial jury that Mr. Hill
17 fired a gun based on these results?

18 A I can testify that it's a possible scenario, but I
19 can't tell you that's how the gunshot residue was deposited.

20 Q You can't tell me that that's more likely than any
21 other possible scenario?

22 A I cannot.

23 Q Just from the test you ran, you can't tell how far
24 someone was from the discharge of a firearm, can you?

25 A I cannot.

1 Q And based off the test you ran, you can't tell what
2 type of gun this residue came from?

3 A No, sir.

4 Q And as for someone testing negative, you outlined some
5 possible scenarios. Let's go through some of these
6 specifics. Someone who fired a gun could still test
7 negative for primer gunshot residue based off of normal
8 physical activity between the time of the firing and the
9 time of the sampling?

10 A Yes. That is in the results.

11 Q Someone washing their hands would make it come back
12 negative.

13 A Depending on how well they washed them, yes.

14 Q Same with wiping the hands down?

15 A Yes.

16 Q Even sweating profusely would cause someone to test
17 negative even though they had fired a gun?

18 A Yes. Any activity can remove the residue.

19 Q Wearing gloves at the time of firing?

20 A Correct, because if you're wearing gloves at the time
21 of the firing and they collect from your hands, there will
22 be no residue on your hands.

23 Q Excessive blood getting on your hands would be
24 something to make you come up negative.

25 A That can interfere with the analysis. Yes.

1 Q Same with any other type of debris?

2 A Yes. Dirt and debris can interfere.

3 Q Even environmental factor like wind could make somebody
4 come back negative after firing a gun.

5 A Wind, rain, and any outside element can affect the
6 deposition and the retention of the gunshot residue.

7 MR. TINSLEY: I don't have any further questions.

8 Please answer any questions, Mr. Henderson has.

9 CROSS EXAMINATION

10 BY MR. HENDERSON:

11 Q Thank you, ma'am. How are you?

12 A I'm good. How are you?

13 Q So, there's no difference -- I mean, there's no
14 separate type of gunshot residue for somebody who fires a
15 gun versus gunshot residue for somebody who's shot?

16 A That is correct. There is no difference in the
17 residue. The residue that will deposit on your hands when
18 you discharge a firearm is the same residue that will be
19 deposited on the victim who has sustained the gunshot wound.

20 Q Right. So when you're studying this in the lab, you
21 can't say, hey, this person shot a gun and this person was
22 shot?

23 A No.

24 Q Okay. And so you can't say, like I said, you said you
25 found gunshot residue on, I believe, Mr. Hill and Mr.

1 Alston, and I will represent to you that both of them were
2 shot. Actually, one of them is dead from a gunshot. Mr.
3 Alston is. So again, you can't say more likely than not,
4 how that gunshot residue got on them?

5 A I cannot.

6 Q Okay. As an expert, again, more likely than not, you
7 can't offer that opinion.

8 A No, because there was no scenario presented to me
9 concerning a great distance from who shot them, which I have
10 no knowledge of.

11 Q So really, your testimony here can't guide the jury. I
12 mean, you you can't -- your expert opinion is basically I
13 have no opinion, because I don't know.

14 A My opinion is that I don't know, but I can tell you the
15 gunshot residue was deposited by either discharging a
16 firearm from being in the vicinity to include being shot, or
17 by handling something that had gunshot residue on it.

18 Q Right. But you don't know which one of those, more
19 likely than not, applied.

20 A I do not.

21 Q Okay, let me ask you this. If I'm bleeding profusely
22 and I'm running my hands over my body trying to stop the
23 bleeding, I mean, I've got blood on my hand, head to toe,
24 all over my hands, my arms. Would that destroy the presence
25 of gunshot residue?

1 A It can, yes.

2 Q Okay, especially at some point in time if that blood
3 all over me is cleaned off.

4 A Definitely if the blood is cleaned off of the hands
5 prior to the collection of the GSR kit, it can remove the
6 residue.

7 Q Okay, and just if you're sweating profusely? You're in
8 a panic. You're in terror. You're -- you're close to
9 death.

10 A Yes, sweating can remove the residue.

11 Q Absolutely.

12 A Any activity that comes in contact with your hands can
13 remove the residue.

14 Q Right. Again, I think Mr. Tinsley covered all this
15 with you and I believe some firearms just don't create any
16 gunshot residue.

17 A Some firearms create very little gunshot residue, and
18 it is possible that a firearm can be discharged and the
19 person can not have any gunshot residue deposited on their
20 hands.

21 Q So again, more likely than not, to a reasonable degree
22 of certainty, you can't tell this jury whether or not
23 somebody shot a gun or was shot as the reason for them
24 having gunshot residue.

25 A As they were shot, I cannot.

1 MR. HENDERSON: I don't have anything further, Your
2 Honor.

3 THE COURT: Mr. Grose?

4 CROSS EXAMINATION

5 BY MR. GROSE:

6 Q I think Mr. Tinsley and Mr. Henderson have covered a
7 lot of the questions that I would have asked, but in this
8 Defendant's Exhibit 1 that you looked at a minute ago. This
9 the new policy that we were talking about, that you were
10 talking about with Mr. Tinsley.

11 A Yes.

12 Q And if I understand it correctly, one of the reasons
13 that SLED adopted this policy is because people were
14 misusing or misinterpreting gunshot residue results?

15 A That is one of the reasons, because we would receive
16 numerous, numerous calls on suicides where the officers or
17 the investigator wanted to know if that person discharged
18 the firearm, and they would submit a GSR kit. In those
19 cases, it's the same as in this case. I can't tell you if
20 they have GSR from being shot or from discharging a firearm,
21 so we were not able to answer that question that was most
22 asked was, did the victim discharge a firearm.

23 Q And that goes the same regarding any shooting victim,
24 whether it was suicide or they were shot by somebody else.

25 A Correct. And there are exceptions when there are great

1 distances involved in the case.

2 MR. GROSE: Thank you, that's all I have.

3 REDIRECT EXAMINATION

4 BY MS. TAYLOR:

5 Q Just to follow up on your last answer. You said there
6 are exceptions when there are great distances involved
7 between a gunshot victim and a suspect. Mr. Parks and Mr.
8 Goode did not have gunshot residue on their hands, is that?
9 Correct?

10 A That is correct.

11 Q And that either means, and assuming that they were a
12 great distance away, that would either mean that they didn't
13 shoot or that they had time to clean their hands, is that
14 correct?

15 A That is correct.

16 MS. TAYLOR: No further questions.

17 RECROSS EXAMINATION

18 BY MR. TINSLEY:

19 Q You would agree with me that it's hard to be accurate
20 with a handgun from a great distance away.

21 MS. TAYLOR: Objection, Your Honor. Scope.

22 THE COURT: She's GSR. Probably not ballistics.

23 Probably beyond the scope of her expertise. Anything else?

24 MR. TINSLEY: That was it.

25 THE COURT: Mr. Henderson?

1 RECROSS EXAMINATION

2 BY MR. HENDERSON:

3 Q Yes, ma'am. Because there is no gunshot residue on Mr.
4 Parks and Mr. Goode, to a reasonable degree of medical -- of
5 certainty in your field of expertise, you can't say that
6 that's because they were too far away versus they cleaned
7 their hands or some other factor came in?

8 A No.

9 MR. HENDERSON: I don't have anything further.

10 RECROSS EXAMINATION

11 BY MR. GROSE:

12 Q In fact, your report lists nine different ways somebody
13 can explain not having GSR on their hands and still have
14 fired a weapon?

15 A I'm not certain it's nine. I didn't count them, but
16 there are many.

17 Q Would you would you like to see a copy of your report?

18 A No, I have a copy of the report. I can count them.

19 Yes, there are nine different ways that we have listed in
20 our report on how gunshot residue, why it may not be present
21 on a person.

22 MR. HENDERSON: Thank you.

23 THE COURT: Ma'am, thank you for coming. Sorry it's so
24 late. Safe travels back to Columbia.

25 (WHEREUPON, sidebar held.)

1 THE COURT: Ladies and gentlemen, we're going to go
2 ahead and take a break for the evening. If you would,
3 please do be back here at the courthouse tomorrow morning.
4 Be here same bat time, same bat channel, 9:15 in the
5 morning, please, and we'll move forward with the case. And
6 in talking to the attorneys, as far as the State's case, I
7 think we're getting close to being done with their case. So,
8 9:15. Again, please don't discuss the case with anyone.
9 Print edition of the Index comes out tomorrow. If it winds
10 up in your mailbox tonight, okay, go straight to my favorite
11 part. What is that? The comics. They say you actually
12 live longer if you read the comics first and then you turn
13 to the real news, but you can't really read the real news,
14 because I do anticipate there will be a story in the paper
15 tomorrow. So, if you take the Index in print form or online,
16 do not read it tomorrow. Go straight to the comics and just
17 do the puzzles, okay? With that, I will see you all back
18 tomorrow morning at 9:15. Thank you.

19 (WHEREUPON, jury exited 5:20 p.m.)

20 THE COURT: All the jurors are out? Are all the jurors
21 out? All the jurors out. We need to address some
22 housekeeping matters. First of which, the Bailiff just
23 handed me a note. It's authored by Blake Williams, who is
24 Juror 332. It states, "Timothy stated that he believes all
25 three defendants are guilty in juror room at 3:20 break."

1 Signed, Blake Williams. The only Timothy I think that we
2 have on the jury is -- I just want to double check this.
3 The only Timothy I've got is our person who suffers from
4 African sleeping sickness, Juror 158 the tardy juror from
5 yesterday. So, let's do this by the numbers, and the Court
6 will mark this as Court's Exhibit Number 26. Obviously, the
7 defense will be moving for a mistrial based on premature
8 jury deliberation. Obviously the Court has got an
9 obligation to determine who heard this, et cetera, and I've
10 got to deal with Timothy.

11 As a practical matter, my intention is to talk to the
12 Williams juror first thing in the morning and get some
13 context under which this was said. Neither of those are
14 smokers, right? They're staying in there?

15 BAILIFF: No.

16 THE COURT: Both of them? There are, like, four
17 smokers? Three?

18 BAILIFF: At the time - there was five at one point,
19 but one only four smokers.

20 THE COURT: So, obviously I've got some work to do
21 tomorrow morning at 9:15, and based on those responses, I'm
22 confident that a motion for a mistrial may very well be
23 made. Which leads us to this morning at approximately --
24 give me a second.

25 MR. HENDERSON: At about 11:35, Your Honor.

1 THE COURT: And I'm trying to find my note here. At
2 11:34 a.m. when I stated that I am clairvoyant, my
3 clairvoyance meant that I was acknowledging the defendant's
4 mistrial motion in light of the question that was asked by
5 the State concerning retaliation.

6 Mr. Grose, of course, objected to the curative
7 instruction that I wanted to give right then and there, as
8 opposed to at some later point in time after the motion was
9 made. But, I am correct that y'all were moving for a
10 mistrial based on the way that the question was posed? And
11 if I'm not mistaken, I don't think there was any answer to
12 the question, but it was the question itself that was posed.

13 Mr. Grose, you're closest. Go ahead.

14 MR. GROSE: Yes, sir. And to put this into context, I
15 think that we -- this happened after we had, you know, a
16 lengthy in-camera hearing on a number of issues. I think it
17 was originally requested by Mr. Tinsley, and we were talking
18 about a number of exhibits, including the pictures of the
19 individuals and how they how they related to each. In the
20 course of that, we began talking about State's Exhibit
21 Number 117 and how the Court was going to handle that and
22 that discussion would be reflected on the record. And the
23 Court put some limitations on that.

24 Also about the same -- well, we had a break in the in-
25 camera proceedings, and before the jury was to come back in

1 I had, I think, raised the question about Court's Number 6,
2 which was the BOLO, and how they were going to use that.
3 And of course, Your Honor, excluded the BOLO, but in the
4 context of having the conversation about these two exhibits,
5 Your Honor, instructed the State on how to handle Exhibit
6 117 that there was some information, the word may have been
7 "concerning" that they noted on social media and leave it at
8 that with regards to the BOLO, Court's Number 6, which was
9 ultimately excluded.

10 You know, in that BOLO it uses the word "retaliation" on
11 the third line from the top. And in that discussion we had,
12 you know, conversations about how it would be inappropriate
13 for the State and have a witness to testify that, you know,
14 that this was retaliation. And, you know, I -- and, of
15 course, that discussion will reflect what it was said on the
16 record. The Solicitor's question, you know, was sort of a
17 loaded dynamite type of question. And how he asked it. And
18 you know, the question was, and again, the record will
19 reflect. But, basically that Mr. Hill's social media post
20 gave you concerns about retaliation. And that's when I
21 think we all jumped up and I think you did state that it was
22 an improper question, should never have been asked.

23 You know, my problem is, in a lot of these cases, a lot
24 of these situations, there are things that can be cured by a
25 curative instruction and there are things where you cannot

1 un-ring the bell. I believe that this is one of those
2 situations. I would -- and so, what I think the 3, all of
3 us, I think we did indicate that that we have a motion and
4 you've indicated that you understood that it was going to be
5 a mistrial motion. I think it was obvious when that question
6 was asked that that would be something that any criminal
7 defense council would move for a mistrial based on.

8 I feel like this is a situation where the Solicitor was
9 goading us into moving for a mistrial, because he clearly
10 was not happy with your ruling on Monday about excluding the
11 gang evidence. He was clearly not happy with your ruling on
12 117, in limiting that. He was clearly not happy with your
13 ruling on Court's Exhibit 6 and not being able to use that.
14 And the exact question that he asked, used the language out
15 of Court's Exhibit 6, and we had specifically objected to,
16 and went far beyond and outside the scope of the
17 instructions that you had given the government on how to
18 handle that particular piece of evidence.

19 THE COURT: And just so the record is clear, my
20 recollection -- I don't know the -- the objections were made
21 almost simultaneously, but my recollection was Mr. Tinsley,
22 Mr. Grose, and Mr. Henderson all objecting simultaneously.
23 So, the Court does believe that all three defendants were
24 moving for a mistrial in addition to what Mr. Grose. I'm
25 sure you all join in his argument, but anything in addition

1 to that from Mr. Henderson?

2 MR. HENDERSON: Your Honor, it goes back to what I was
3 saying about letting in all these photographs that you let
4 in this morning. These 15 men and women over here are not
5 cabbages. I mean, once they see stuff that looks like gang
6 signs, they see the word "gang", and then they hear the word
7 "retaliation". I mean, again, that's just -- I mean, you
8 can't un-ring that bell.

9 THE COURT: I understand your position. Mr. Tinsley,
10 anything to add?

11 MR. TINSLEY: Nothing additional. These gentlemen have
12 covered it well.

13 MR. GROSE: And I join Mr. Henderson's additional
14 comments.

15 THE COURT: Solicitor, you want to speak to that?

16 MR. STUMBO: Thank you, Judge. I have been, kind of,
17 waiting to address this all afternoon. First of all, I
18 clearly I think, and Ms. Taylor and Ms. Hoffman both, we
19 talked about this. I think we misunderstood the Court's
20 ruling. We believed that you excluded the BOLO, excluded us
21 putting in our reference to the BOLO. We knew we weren't
22 going to be putting that in. But also that we wouldn't put
23 in 117, which was the actual Facebook post. But we believed
24 that what Your Honor did rule was that we could ask to ask
25 Detective Blackwell was there a post that gave you concern

1 about retaliation? And, there again, that's that's what I
2 thought I was asking, and I did it in a kind of leading way,
3 Judge, so it wouldn't open up him to just a long explanation
4 of why, Judge. Because I thought that that may run us afoul
5 of your ruling if I had done so. So, my recollection of
6 your ruling, and clearly I was not on the same page with
7 you, and I was, kind of, taken aback. I didn't not expect,
8 I guess, the objection to be contemporaneous with a question
9 that they had already had objections on.

10 Honestly, I thought we were within the confines of the
11 Court's ruling. Obviously, I misunderstood and I was wrong
12 so, to that extent, we all three of us apologize. But, we
13 were under the impression that -- this goes back to Monday
14 to some extent, because I believe when you ruled on, I
15 guess, in the totality and context of what we talked about
16 Monday, you were very clear that no references to gangs. I
17 think that was crystal clear, but you did say that we have
18 the right to go into the associations to show that there was
19 some kind of motive here. And we believed that that
20 included references to -- was this a "we're going to get you
21 back for what happened to Jakevius Parker".

22 So, I thought that the generalized we had concern about
23 a social media post, and the concern was that it was
24 potentially was potential retaliation that that's where we
25 were going to end it. And so Judge, that's the question

1 that I asked. Of course, I didn't write down the question
2 that I asked because I was asking it, so, I don't have great
3 notes on it, but that's my recollection of what I asked and
4 after that it was going to be over.

5 So, I misunderstood the courts ruling. I believe that
6 that was within the lanes that you had, I guess, the bumpers
7 you had set up for us to not go outside of. Again, Judge,
8 obviously I was wrong, so I was taken aback a little bit by
9 the Court's response. But, be that as it may, I certainly
10 respect Your Honor's rulings on all of these matters. I
11 don't think we're trying to -- certainly, we're not trying
12 to intentionally go to mistrial. That's not even close to
13 what we want to do after four days of Court, Judge. We want
14 to see this through.

15 THE COURT: Here's what my recollection was. Obviously,
16 most of my focus prior to -- while the jury was out, most of
17 my focus was on that question of the BOLO, the alert.
18 Whether that testimony was going to be admitted. And that's
19 when I paused and I kind of went through that little self
20 analysis and came to the conclusion that because the
21 issuance of the alert 19 days prior, because the issuance of
22 the alert did not cause somebody to come and, you know,
23 discover evidence that the alert was a nullity and not
24 really relevant to any issues involved in the case. What I
25 had intended to limit the question to was simply, cause

1 concern. The addition of quote, "about retaliation", end
2 quote, was the part I was expecting to not be addressed.
3 And perhaps I did not communicate that adequately, or y'all
4 didn't catch it and they did, or something like that but
5 that that was the reason for the Court sustaining the
6 objection. And I just want that noted that most of my
7 thought and perhaps I worded -- I don't know exactly what I
8 said, but the record will reflect it. But I thought I
9 worded it clear that it simply be a matter of, did it cause
10 you concern.

11 MR. GROSE: And, Judge, we don't know if it's that
12 question that caused that one juror or to say that he
13 believes everybody is guilty.

14 THE COURT: I don't know, and that's something I'm
15 going to have to take up tomorrow. We're just having to put
16 a pin in that, because I've already released him. If I got
17 the note before they left ---

18 MR. GROSE: I know. I understand we've got to take
19 that up tomorrow, but that, I mean, the fact that those
20 issues are related, we're starting to get into -- and it's
21 something we'll probably have to take up tomorrow after we
22 look into this a little bit more, but we're probably getting
23 into some cumulative prejudice territory. And we'll know
24 more tomorrow.

25 THE COURT: Exactly.

1 MR. GROSE: The one thing I do want to add, because I
2 don't know that this made it into the record. It might
3 have, or it might not have. But after your ruling on
4 Monday, the State considered appealing this case, then
5 ultimately decided not to ---

6 THE COURT: I heard.

7 MR. GROSE: --- after talking to the Attorney General.
8 And I know we had discussion in the courtroom about that,
9 but it might have been at times when we were off the record.
10 And I just, I mean, that's the degree that they were
11 disappointed with your ruling on Monday.

12 THE COURT: I take no offense, and since Judge Taylor
13 is here, I will suggest to him that at no point during your
14 career should you ever take offense if anybody appeals you.
15 I want to make sure that the Appellate Court Judges remain
16 well fed and fully employed.

17 MR. GROSE: That's very generous of you.

18 THE COURT: I've never taken offense at any appeal that
19 has been filed by you, Mr. Grose, Mr. Henderson. The whole
20 world can appeal me, I promise you. My wife does too.

21 MR. GROSE: My point was more their offense at your
22 ruling than any offense that you ---

23 MR. STUMBO: But, Judge, I think part of that -- you
24 jokingly said, "Why don't we go ahead and appeal this so
25 we're not trying a case for two weeks."

1 THE COURT: Candidly -- candidly, I've only briefed this
2 case with you guys a couple of times and I didn't get it. I
3 don't have a -- I did not have a feel for the nature of the
4 evidence, and obviously under the law if the Court orders
5 something like in the typical case of suppression of drugs,
6 that can be immediately appealed. And, if the Court had
7 ruled in such a way that significantly impaired the State's
8 case, then you've got the ability to file an immediate
9 appeal. And thankfully, it would have been done prior to
10 selection of the jury, so that's the reason that I was
11 thinking along those lines. And it's clear that the reason
12 that you talked to Don Zelenka is all well and good and I
13 don't care, is what I'm saying.

14 Back to the mistrial motion. I appreciate everybody's
15 position on this. I do fully understand it. I do not think
16 that this was a situation where the State was seeking to
17 goad the Court into granting a mistrial. I do believe it
18 was a mistake in understanding of the limitation that the
19 Court was looking to put on the State in inquiring of that
20 witness, and the Court did give a curative instruction. And
21 of course, the question was not answered by the witness. I
22 don't find that the question in and of itself was so
23 egregious as to warrant setting aside four days of work and
24 I find that the curative instruction I gave was sufficient
25 to solve the problem. That said, and without waiving your

1 right to argue that a mistrial should have been granted
2 should anyone have a suggestion as to an additional
3 instruction that I could put in the general jury
4 instructions, and I would Simply put it in there at that
5 part about if there was any question or testimony ordered
6 stricken, you have to disregard that. I mean, I'm happy to
7 modify that in any way, shape, or form that y'all may wish
8 to suggest without you waiving or conceding that that
9 instruction, or the one I gave earlier this morning to the
10 jury, was sufficient to cure the error.

11 MR. GROSE: And I think we all did object to the
12 sufficiency of the curative instruction.

13 THE COURT: Yes. All three did object to the
14 sufficiency of that instruction as well.

15 MR. GROSE: And I don't want to get ahead, but I think
16 we're all three renewing that objection in light of your
17 ruling.

18 THE COURT: Correct. All right. Now, you said there
19 was something I didn't know about. I'm assuming you're not
20 talking about the juror note.

21 MR. GROSE: No, because I didn't know about that when I
22 said it. Can we mark this as the next Court's exhibit,
23 please.

24 MR. HENDERSON: Your Honor -- well, I'll let Mr. Grose
25 finish.

1 MR. GROSE: He has one too. This should be fairly
2 quick.

3 THE COURT: That's today's story from the Index?

4 MR. GROSE: Well, yes and no. Your Honor, we've just
5 marked Court's Exhibit Number 27, and I printed it out the
6 way -- after I got it up on my computer, printed it out the
7 way -- the whole packet, so that it wouldn't look like I was
8 leaving anything out. But, it's a 26-page document. The
9 first 19 pages of it --

10 THE COURT: It probably just adds some stuff, is usually
11 what happens when I try to do that.

12 MR. GROSE: Well, there is some of that, but actually
13 the first 19 pages doesn't really have any ads. This is the
14 article that was in the Index Journal about the fight ending
15 the Jamboree game at Greenwood High School. "Brawl brings
16 Greenwood Jamboree to an abrupt ending."

17 THE COURT: Oh, I've made that a Courts Exhibit 25, I
18 think, earlier today or 24. It's in there somewhere. The
19 actual hard copy.

20 MR. GROSE: Yeah, but this is what the Index Journal
21 posted on their Facebook page and they -- while sometimes
22 people put comments on the online, where the community
23 really talks about these articles is on the Index Journal's
24 Facebook page. And to some extent and including this case
25 the Index was interacting with some of the people who were

1 commenting.

2 MS. TAYLOR: Charles, I'm sorry. Which -- they've posted
3 several articles on the Facebook. Which one are you ---

4 THE COURT: This is the football thing.

5 MS. TAYLOR: But, there's probably three or four they've
6 put up.

7 MR. GROSE: Well, this is the one that I think that --
8 "fight ends tonight's Jamboree at Greenwood High." I think
9 that was the first one that went up.

10 MR. STUMBO: Saturday morning or Friday night. That
11 would've been Saturday morning.

12 THE COURT: That that would be Saturday. No, it would
13 have been press time for Saturday. It would have been
14 Monday's.

15 MR. GROSE: Well, but they were posted about it on
16 Friday night, and it may be that the link. I don't know.
17 But anyway, the point is, is that above these 19 pages, this
18 is the comments from the community, including people who
19 were at the game who disagree with the official version
20 about shots being fired. And some people said that shots
21 were fired. I just need to -- page 20 has the article from
22 today in it.

23 THE COURT: Were there any jurors who commented in
24 there?

25 MR. GROSE: Not that I saw, but this has been an issue

1 since voir dire. I think Mr. Henderson had wanted a
2 question about the game and, of course, the Court didn't ask
3 it. And the Court has commented a couple of times about
4 what the official version is and, of course, the Index is
5 adopting the official version, but it's very clear that the
6 community does not believe that, or at least a significant
7 element of the community.

8 THE COURT: A significant element of the community
9 probably believes a lot of fanciful things that we could go
10 through in detail, but I'm ---

11 MR. GROSE: Well, these were people there. Some of
12 these comments were people that were at the game that heard
13 the gunfire.

14 THE COURT: And Mr. Henderson, you're standing too. Is
15 that just a stretch your legs or...

16 MR. HENDERSON: Both, Your Honor. I think we all have
17 a motion to strike Agent Nate's testimony, Your Honor, for
18 the exact same reason that that we did it outside the
19 presence of the jury.

20 THE COURT: I appreciate that. I'll acknowledge that.
21 But I'm talking about the Facebook thing. Fine, all three
22 of you moved to strike Nate's testimony. Your motion is
23 noted and denied for the reasons we discussed earlier. Let
24 me finish looking at this. Solicitor, let me ask this. And
25 the Sheriff is back there. I know the investigation has not

1 been completed on the thing Friday night. Would it be
2 possible for him, and I'm going to make it a Court's exhibit
3 sealed, not public record or anything, because I know the
4 investigation is still ongoing, but whatever incident report
5 you've got thus far, would it be possible to have a copy of
6 that and place it in the file and let me -- I'll look at it.
7 Of course, it will be subject to my eyes only, and if y'all
8 want to look at it that's fine too. But it's for y'all's
9 eyes only, and then we put it in the file just so that all
10 this kind of gets sorted out and we're dealing with an
11 official version from the police or from the Sheriff. That
12 can be made a part of the record in this case, since this
13 issue apparently has arisen several times and now the usual
14 nimrods from Facebook are doing their usual thing.

15 MR. STUMBO: I don't see that as a problem, Judge. My
16 understanding is, and the Sheriff can correct me if I'm
17 wrong, there was no evidence at the game. And I don't think
18 they had any, like, statements from people that said we saw
19 somebody shooting a gun. I've talked to several people that
20 were at the game, at the Jamboree too, and not a person that
21 I've talked to said they heard a gunshot. So I -- and I
22 don't think there's anything in the official reports that
23 indicates that.

24 SHERIFF DENNIS KELLY: There's not. We don't have any
25 evidence that there was any shooting. No videos. No

1 witness. No law enforcement or administration person at
2 school has verified there were shots fired.

3 THE COURT: As a courtesy, and again, I know that this
4 is an incomplete investigation. You don't want the incident
5 report to become public record at this point in time by
6 being introduced into the trial, but to the extent that I
7 could take that, seal it, make it part of the record in this
8 case, so that at least as of August 18, 2022 the Appellate
9 Courts can have an understanding of what the official
10 investigation has revealed to date. And obviously that will
11 be a sealed document.

12 And again, I declined to offer that instruction for the
13 reasons that I explained earlier. I felt like that was way
14 collateral. There was no indication that it was gang
15 related. My understanding is that it was mostly juveniles
16 and The Flat Earth Society still exists for a reason. I can
17 fix ignorant, but I can't fix stupid. So, there you go. All
18 right, nothing else, hopefully. Knock on wood.

19 MS. TAYLOR: One issue, Your Honor. Dr. Ladd lives in
20 Columbia. He is not scheduled to be working tomorrow. He
21 has asked, if it is at all possible, for him to testify via
22 WebEx. He would really appreciate that. And so, I didn't
23 know if there would be an objection from the defense.

24 THE COURT: I would sincerely appreciate the defense
25 allowing him to do that for a number of reasons, but I think

1 you already discussed that possibility. He's, I think, going
2 to testify as to the injuries to Alston?

3 MS. TAYLOR: Mr. Parks.

4 THE COURT: As a courtesy to Dr. Ladd, who
5 incidentally, he does have a practice in Colombia. The only
6 reason that he is working here at the hospital, and I only
7 know this because of family that works there, but they can't
8 find ER doctors. We have to contract with the group in
9 Columbia because living in Greenville and other parts of the
10 state has become much more attractive for physicians and to
11 the extent that we can accommodate that, since he's only
12 going to be testifying as to the injuries, and he's not a
13 fact witness. Gentlemen, I would ask that y'all briefly
14 discuss that with your clients and express to them that I
15 would sincerely appreciate it. And consider it a favor if
16 y'all could see clear to accommodate that the same way that
17 I will happily accommodate Mr. Grose's motion, that I'm not
18 even sure he's heard yet, concerning your guy going up to
19 Greenville for his revival meeting. So, if y'all could help
20 me on that, I would appreciate it.

21 MR. HENDERSON: Your Honor, I think it's safe to say
22 that the defense has no problems with video testimony.

23 THE COURT: I sincerely appreciate that and I
24 appreciate that accommodation. My wife does know Dr. Ladd.
25 She works with them and he's one of the good ones, so to the

1 extent that we can help him out and keep him happy I think
2 that's a very nice thing to do. Nothing else? I'll see you
3 all at 9:15, and I guess the first thing I'll have to do is
4 drag out Timothy Whatever or Blake Whatever. If y'all have
5 any thoughts about how I need to approach that. I've never
6 had this happen. I had it happened last week actually in
7 Greenville with premature deliberations, but there was also
8 a corollary issue that that involved lie detector test
9 testimony being elicited, and then the jury deliberation
10 issue came up, and I decided that just a combination of two
11 of those things warranted me declaring a mistrial, but we'll
12 just have to see how things play out tomorrow. I'll see
13 y'all in the morning. Thanks.

14 (WHEREUPON, proceedings recessed 5:40 p.m. and resumed
15 at 9:29 a.m.)

16 Trial Day 5 August 19, 2022

17 THE COURT: If we may, we'll go back on the record.
18 As I indicated yesterday evening, it was my intention to
19 talk to the jurors individually concerning the note which I
20 received, Court's 26, and I shared with everybody. And just
21 so that the record is clear, I asked this morning that Juror
22 158 be separated from the rest of the jury. And so what I
23 was thinking about doing -- is the family courtroom
24 available? What I'm intending to do is, after I question
25 the jurors individually, I'll simply let them, the ones that

1 I question, I'll let them go. Instead of back into the jury
2 room here, I'll let them go over into the family courtroom
3 so that I can be sure that they're not relating to anybody
4 else in there what I'm asking them. So, I'll simply move
5 them separately from here to there.

6 I was going to start with Mr. Williams and ask him
7 about the notes, since he's the author, and then just sort
8 of take it from there. And I'll speak to Juror 158, Mr.
9 Jackson, second, and then just run down the list of the
10 other jurors and see if there's been any premature
11 deliberations, or if any of them have made up their minds
12 about this case thus far. So, let's start by bringing out
13 Mr. Williams.

14 (WHEREUPON, Juror 33, Blake Williams, entered the
15 courtroom.)

16 THE COURT: Mr. Williams, I appreciate the note
17 yesterday. I got it. I looked at it. Can you tell me,
18 kind, of how this all went down, what happened?

19 JUROR 33: As soon as we walked in from that break he
20 just blurted it out, "I think they're guilty."

21 THE COURT: Okay. How many people were around him?

22 JUROR 33: Everyone.

23 THE COURT: Everybody heard it?

24 JUROR 33: Yes, sir.

25 THE COURT: Okay. And this is the gentleman who was

1 late on Wednesday, too?

2 JUROR 33: Yes, sir.

3 THE COURT: When he said it, did it prompt any kind of
4 discussion about the facts or the evidence?

5 JUROR 33: No, sir. We all told him that we can't talk
6 about it.

7 THE COURT: Okay, and personally, have you made up your
8 mind one way or another on this case?

9 JUROR 33: No, sir.

10 THE COURT: You haven't? Okay, fair enough. Again, I
11 appreciate the communication. I'm going to ask that you
12 step over into the family courtroom, and you'll be joined by
13 your other jurors, one by one. Okay. But obviously, don't
14 talk about the case or any of this, and I appreciate what
15 you told me. All right? So, if you'll just step out this
16 way, she'll point you right to where the family courtroom
17 is. Okay? Thanks.

18 (WHEREUPON, Juror 33 exited the courtroom.)

19 BAILIFF: Random order?

20 THE COURT: No, I want to speak to Mr. Jackson next.
21 The one who is segregated. Timothy Jackson. He's not in
22 there. He's somewhere else.

23 (WHEREUPON, Juror 158, Timothy Jackson, entered the
24 courtroom.)

25 THE COURT: Mr. Jackson, good morning. I need to ask

1 you about something that came to my attention yesterday
2 afternoon. I heard that at a break around 3:30, you went
3 into the jury room and you made some remark along the line
4 so that you thought all people, all the defendants, were
5 guilty on this case. Did you make that statement?

6 JUROR 158: (Nods affirmatively)

7 THE COURT: You did? Okay. Mr. Jackson, obviously,
8 I'm going to release you from further service on this jury.
9 Okay? So, you'll go back home and have a good day. All
10 right? Take care.

11 We'll just go down the order in which they were
12 selected. Let's go with Ellen Laughlin next.

13 (WHEREUPON, Juror 180, Ellen Laughlin, entered the
14 courtroom.)

15 THE COURT: Ms. Laughlin, I got word yesterday that one
16 of the jurors, the juror who was tardy on Wednesday, that at
17 a break around 3:30, he went into the jury room and
18 basically stated his opinion about the case thus far, that
19 he'd already basically made up his mind. Did you hear him
20 say anything along those lines?

21 JUROR: Yeah. I think he was just kidding. I'm not
22 sure.

23 THE COURT: Okay, well, let me ask you this. Has there
24 been any other discussions about the facts today by the
25 jury?

1 JUROR 180: No.

2 THE COURT: Nothing? And have you made up your mind as
3 far as one way or another on this case yet?

4 JUROR 180: I'm still a little ...

5 THE COURT: You're still -- you're still even-keeled?

6 JUROR 180: A little bit, but I'm leaning more one way.

7 THE COURT: Okay, well, you know, my opening
8 instructions to you, Ms. Laughlin, were that, you know, you
9 can't decide any issue in this case until all the evidence
10 has been presented.

11 JUROR 180: Right.

12 THE COURT: All right. So, have you made up your mind
13 or not?

14 JUROR 180: Oh, no, not totally.

15 THE COURT: All right. So, you're still able to judge
16 this case? You're still able to listen to the rest of the
17 testimony, and the law, and make a decision?

18 JUROR 180: (Nods affirmatively)

19 THE COURT: You are? Okay. Very good. If you would
20 go into the jury room, not the jury room, the family
21 courtroom next door, and we'll be back with you in a moment.
22 But don't talk about any of this conversation with the other
23 juror. All right, let me have Juror Number 49, Curtis
24 Cannon.

25 (WHEREUPON, Juror 49, Curtis Cannon, entered the

1 courtroom.)

2 THE COURT: Good morning, Mr. Cannon.

3 JUROR 49: Good morning. How are you doing?

4 THE COURT: Doing all right. The reason I'm asking you
5 to step out is that I was told by one of the other jurors
6 that yesterday, around 3:30, the gentleman who was late, he
7 went back into the jury room with you guys. The guy who was
8 late on Wednesday and basically blurted out that he had
9 already made up his mind and what his feelings were about
10 the case. Did you happen to hear what he said?

11 JUROR 49: No, I didn't hear what he said.

12 THE COURT: You didn't hear what he said? Okay. All
13 right. Has there been any discussion about the facts or any
14 of the evidence yet among the jurors?

15 JUROR 49: No.

16 THE COURT: There has not been? And I assume -- well,
17 let me just ask you this. Have you made up your mind one
18 way or another as far as the guilt or the innocence of the
19 defendants?

20 Juror49: No. I don't have all the evidence?

21 THE COURT: You have not? Great. All right, fair
22 enough. Mr. Cannon, if you would just go over into the
23 family courtroom and hang tight. Just don't talk about what
24 we discussed in there, and we'll start back soon.

25 THE COURT: Next is Number 18, Darcel Bell.

1 (WHEREUPON, Juror 18, Darcel Bell, entered the
2 courtroom.)

3 THE COURT: Good morning, Ms. Bell. How are you.

4 JUROR 18: Fine.

5 THE COURT: The reason I'm asking you to step out here,
6 I need just to ask you a few questions. I was told by one
7 of the jurors yesterday that the gentleman who was late on
8 Wednesday, that during a break, around 3:30, he went into
9 the jury room and basically blurted out his opinion as to
10 the status of this case about the defendants and things like
11 that. Did you hear anything that he said?

12 JUROR 18: No.

13 THE COURT: You didn't hear anything?

14 JUROR 18: Huh-uh. (NEGATIVE)

15 THE COURT: Okay. Have there been any premature
16 deliberations or any sort of discussion yet about the facts
17 in this case among the jurors?

18 JUROR 18: No.

19 THE COURT: There has not been? All right. And have
20 you made up your mind one way or another about this case?

21 JUROR 18: I have not.

22 THE COURT: You have not. All right. Very good, Ms.
23 Bell. If you would just step across to the family
24 courtroom. Don't talk to the other jurors who are already
25 in there about what we discussed. Next 218, Hanna Nelson.

1 (WHEREUPON, Juror 218, Hanna Nelson, entered the
2 courtroom.)

3 THE COURT: Good morning, Ms. Nelson. The reason I'm
4 asking you to step out here, I got a note from one of the
5 other jurors yesterday afternoon that during a break, around
6 3:30, the juror who was late on Wednesday, that he went into
7 the jury room and basically blurted out his opinion about
8 the guilt or the innocence of the defendants. Did you hear
9 him say that?

10 JUROR 218: Yes.

11 THE COURT: Okay. Have there been any premature
12 discussions on this case by the jury or among you or any
13 other members of the jury?

14 JUROR 218: No.

15 THE COURT: There have not. Okay. I heard he blurted
16 this out. You heard what he said. Is that going to affect
17 anything or as far as your decision in this case?

18 JUROR 218: No, sir.

19 THE COURT: And have you made up your mind one way or
20 another about either the guilt or the innocence of the
21 defendants?

22 JUROR 218: No, sir.

23 THE COURT: You have not. All right. Very good.
24 Ma'am, if you would just step over into the jury room, or
25 not the jury room, the family courtroom, and don't talk

1 about this with the other people in there. Okay, ma'am.

2 I think next is 226. Ometere Norman.226.

3 (WHEREUPON, Juror number 226, Ometere Norman, entered
4 the courtroom.)

5 THE COURT: Ms. Norman, good morning. How are you
6 doing?

7 JUROR 226: Good. How are you?

8 THE COURT: Doing great. The reason I asked you to step
9 out here is that I got a note from one of the jurors
10 yesterday afternoon that around 3:30, during one of the
11 breaks that we took, the gentleman who was late on Wednesday
12 morning, basically, as you all were going back into the jury
13 room, he blurted out that he had already made up his mind on
14 the case, and he shared his opinion with everybody. Did you
15 hear what he said?

16 JUROR 226: I did not hear that.

17 THE COURT: You did not hear that?

18 JUROR 226: I didn't.

19 THE COURT: Okay. Have there been any premature or
20 have there been any deliberations or discussions in the jury
21 room about the case, or the evidence, or the facts, or
22 anything yet?

23 JUROR 226: No.

24 THE COURT: There have not been? Okay. And have you
25 made up your mind about the guilt or the innocence of the

1 defendants at this point?

2 JUROR 226: I have not.

3 THE COURT: You have not. Thank you very much, Ms.

4 Norman. Go over to the family courtroom and don't talk to
5 the others in there about what we discussed, and we'll start
6 back shortly. Okay, Ms. Norman. Next, I got Michael Scott,
7 Number 269.

8 (WHEREUPON, JUROR Number 269, Michael Scott, entered the
9 courtroom.)

10 THE COURT: Good morning, Mr. Scott. How are you?

11 JUROR 269. Good.

12 THE COURT: The reason I'm asking to speak individually
13 with you and the other jurors is yesterday I got a note from
14 one of your fellow jurors that the gentleman who was late on
15 Wednesday morning, that he when y'all went back into the
16 jury room for a break around 3:30, that he basically blurted
17 out what his opinion was about the outcome of this case.
18 Did you hear what he said? Did you happen to hear?

19 JUROR 269: No.

20 THE COURT: You didn't hear that? Okay. Have there
21 been any discussions in the jury room thus far about the
22 facts or the evidence or anything like that?

23 JUROR 269: No.

24 THE COURT: You haven't heard anything? Have you made
25 up your mind one way or another about the guilt or the

1 innocence of the defendants today?

2 JUROR 269: No.

3 THE COURT: You have not. All right, very good. If you
4 would just go into the family courtroom and be comfortable
5 there for a few moments and we'll start back. But don't
6 talk to them, of course, about what we discussed. All
7 right, sir. Let's have number 83, Tiana Eberhart.

8 (WHEREUPON, Juror Number 83, Tiana Eberhart, entered
9 the courtroom.)

10 THE COURT: Good morning. Ms. Eberhart. How are you?

11 JUROR 83: Good. How are you?

12 THE COURT: Just over here so my court reporter can
13 take this down. The reason I'm asking you to step out, Ms.
14 Eberhart, is that I got a note from one of the jurors
15 yesterday telling me that on a break around 3:30 the
16 gentleman who was late for court on Wednesday, that he, as
17 you all were going back into the jury room, basically
18 blurted out that he had already made up his mind. And he
19 said what his opinion was about the outcome in this case.
20 Did you hear the guy say that?

21 JUROR 83: Yes.

22 THE COURT: Okay. Have there been any premature
23 discussions in the jury room about the facts or anything
24 like that?

25 JUROR 83: Definitely not.

1 THE COURT: Okay. And the fact that you heard this guy
2 say that, is that going to affect what your decision is in
3 this case?

4 JUROR 83: It's not going to affect it.

5 THE COURT: Okay. And have you made up your mind yet,
6 one way or another, about the facts or the evidence?

7 JUROR 83: No, sir.

8 THE COURT: You have not. Okay. Thank you very much
9 for that. I'm going to ask that you step over into the
10 family courtroom and just hang with the other jurors who are
11 over there, but don't talk to them, of course, about what we
12 discussed. All right? Please. Thank you. Next, I've got
13 Juror 22, Michael Blackwell. He's the foreman.

14 (WHEREUPON, Juror 22, Michael Blackwell, entered the
15 courtroom.)

16 THE COURT: Good Morning, Mr. Blackwell. How are you?
17 And I noted are you a retired professor at Lander?

18 JUROR 22: No. I was just working.

19 THE COURT: Okay, fair enough. I noticed you retired
20 from Lander. I didn't know if I should be calling you
21 professor or doctor or what, but all right. Mr. Blackwell,
22 the reason I asked you to step out is I got a note from one
23 of your fellow jurors yesterday. You know, the guy who was
24 late coming in on Wednesday morning. Okay. What I was told
25 was that basically around 3:30, as you all were going back

1 into the jury room, he blurted out what his opinion was as
2 far as the outcome of this case. Did you hear the guy?

3 JUROR 22: I did not.

4 THE COURT: You did not hear him say that? Okay. And
5 have there been any premature or have there been any
6 deliberations or discussions about the facts at this point?

7 JUROR 22: Nothing I know of.

8 THE COURT: Okay, so the jury hadn't been discussing
9 the facts or anything like that.

10 JUROR 22: No.

11 THE COURT: Okay, very good. Have you made up your
12 mind one way or another about the outcome in this case or
13 any of the facts or the evidence?

14 JUROR 22: No.

15 THE COURT: Okay, very good. I appreciate that. Mr.
16 Blackwell, I'm going to ask that you join the rest of the
17 jurors in the family courtroom and just hang tight for a few
18 moments while I finish up asking questions of the other
19 jurors. And, of course, don't discuss what we talked about
20 when you go over there. Okay, sir? Thank you. Let me get
21 17, Andrea Belcher.

22 (WHEREUPON, Juror 17, Andrea Belcher, entered the
23 courtroom.)

24 THE COURT: Ms. Belcher, how are you this morning?

25 JUROR 17: I'm doing good.

1 THE COURT: The reason I'm asking you to step out here
2 is that one of the jurors let me know yesterday that when
3 you all took a break around 3:30, the gentleman who was late
4 for court on Wednesday that he basically went in there and
5 blurted out what his opinion was about the verdict in this
6 case or what he thought the verdict should be. Did you hear
7 him say that?

8 JUROR 17: No.

9 THE COURT: You didn't hear him? Okay. Have there
10 been any discussions so far about the facts or the evidence
11 in the jury room? Have you all talked about any of this?

12 JUROR 17: No.

13 THE COURT: You have not. Okay. And have you made up
14 your mind one way or another about the outcome in this case
15 or the facts?

16 JUROR 17: No.

17 THE COURT: You have not. Fair enough. Ms. Belcher, I'm
18 going to ask that you just step across and stay in the
19 family courtroom for a few moments, and we'll get you back
20 in here as soon as possible. But obviously, don't talk
21 about what we discussed out here. Okay, ma'am? Thank you.
22 All right. Next one is 96, Mr. Robert Ferrell.

23 (WHEREUPON, Juror Number 96, Robert Ferrell, entered
24 the courtroom.)

25 THE COURT: Good morning, Mr. Ferrell. I hope you're

1 all right. The reason I was asking the jurors to step out
2 here is I got a note from one of the other jurors yesterday
3 afternoon and the note basically said that around 3:30 on a
4 break when we took a break the gentleman who was late on
5 Wednesday morning that he went back into the jury room and
6 he basically blurted out what his opinion was or made a
7 statement about -- You heard him say that?

8 JUROR 96: Yes.

9 THE COURT: Okay. What he said, is that going to
10 ultimately affect your ability to be fair and impartial and
11 judge this case?

12 JUROR 96: No, it won't.

13 THE COURT: Okay. So you're able to keep your own
14 opinion and not be affected by what he said?

15 JUROR 96: Yes.

16 THE COURT: Okay. Have there been any kind of
17 premature deliberations or discussions about the facts?

18 JUROR 96: No, there haven't.

19 THE COURT: All right. And you have not made up your
20 mind one way or another about anything?

21 JUROR 96: No. I'm still waiting.

22 THE COURT: Very good. Mr. Farrell, what I'm going to
23 ask you to do is, if you would just step over into the
24 family courtroom where the other jurors are, and we'll have
25 you back in here as soon as possible, but don't, obviously

1 talk about it that we discussed out here. Okay, Mr. Ferrel?

2 All right. Thank you. Next is number 66, Wonder Crawford.

3 (WHEREUPON, Juror Number 66, Wonder Crawford, entered the
4 courtroom.)

5 THE COURT: Good morning, Ms. Crawford. How are you
6 doing?

7 JUROR 66: Good. How are you?

8 THE COURT: Doing great. The reason I asked you to
9 step out here, and I'm asking jurors to come out
10 individually, is that I got a note from one of the Jurors
11 that yesterday, around 3:30, when we were on a break, the
12 gentleman who was late coming to court on Wednesday morning,
13 went into the jury room and basically blurted out what he
14 thought was his opinion about the facts and the outcome in
15 this case. Did you happen to hear him say that or say
16 anything?

17 JUROR 66: I did.

18 THE COURT: You did? That's fine. That's fine. What I
19 need to know is, having heard that, is that going to affect
20 you and your individual decision in this particular case?

21 JUROR 66: No.

22 THE COURT: It will not. Okay. Have there been any
23 kind of discussions about the facts or any sort of talk
24 about the facts in the jury room to date?

25 JUROR 66: No.

1 THE COURT: All right. And you're still able to judge
2 this case based on the law and the facts. Well, have you
3 made up your mind one way or another about the outcome in
4 this case?

5 JUROR 66: No.

6 THE COURT: You have not. All right. Very good. Thank
7 you, ma'am. I'm going to ask that you go over into the
8 family room and just hang tight over there. We'll get you
9 back in here as soon as possible. The other jurors are in
10 there, but of course, don't talk about what we discussed
11 when you're over there. Okay. Thank you, ma'am.

12 I've got next -- I'm sorry. Yes?

13 MR. GROSE: Up until the last two jurors, you've been
14 asking non-leading questions about whether or not they can
15 be fair or whether or not they've made up their mind. And
16 last two, you asked that in the form of a leading question.
17 We would just ask that you not lead the jury.

18 THE COURT: All right. My bad. I don't have a script
19 for this, and I'm doing as best I can, but you have a ---

20 MR. GROSE: You're doing a pretty good job. I just
21 wanted to make sure.

22 THE COURT: You've got a point there. Fair enough.
23 I'll try and do better. Let's see here. Where are we?
24 Last one was 66. Let me have Mr. 134, Mr. Cory Henderson.
25 (WHEREUPON, Juror Number 66, Cory Henderson, entered the

1 courtroom.)

2 THE COURT: Good morning, Mr. Henderson. How are you?
3 The reason I'm asking you to step out here, the reason I'm
4 talking to the jurors individually this morning, is that I
5 got a message yesterday from one of the other jurors that
6 basically told me that the guy who was late Wednesday
7 morning, during a break around 3:30 while you all were going
8 in there, that he basically blurted out what he thought
9 about the facts and what he thought the verdict in this case
10 should be. Did you hear him?

11 JUROR 66: I didn't hear him.

12 THE COURT: All right. You didn't hear him say
13 anything?

14 JUROR 66: He's talking all the time, but I don't hear
15 him.

16 THE COURT: He's talking all the time, but you didn't
17 hear him. Okay, fair enough. Okay, so you didn't hear him
18 say anything about the facts or anything in this case?

19 JUROR 66: I didn't.

20 THE COURT: You did not. All right. Have there been
21 any kind of discussions about the facts by the jury to date
22 in the jury room?

23 JUROR 66: No.

24 THE COURT: There have not been? And have you made up
25 your mind one way or another about the outcome in this case

1 or the guilt of the innocence of the defendants?

2 JUROR 66: No.

3 THE COURT: You have not. Okay, very good. I'm going
4 to ask that you just step over into the family courtroom and
5 hang out with the rest of the jurors, but don't talk to them
6 about what we've discussed out here. Okay, sir. Thank you.
7 Last one. Should only have one in there. 113, Eric
8 Gilchrist. Well, hold on. I got two more. Maybe we do
9 have -- oh, sorry, 290, Kelsi Steele.

10 (WHEREUPON, Juror Number 290, Kelsi Steele, entered the
11 courtroom.)

12 THE COURT: Sorry to put you in there by yourself for
13 a few moments, Ms. Steele. The reason I'm talking to the
14 jurors individually this morning is that I was told by one
15 of the jurors yesterday evening that during a break around
16 3:30, the juror, the fellow who was late for court on
17 Wednesday morning, that he basically blurted out when we
18 took that break, he blurted out what his opinion was about
19 the outcome in this case. Did you hear him say anything?

20 JUROR 290: No. I wasn't paying attention to him.
21 okay. All right, fair enough. So, you didn't hear anything
22 that he may have said?

23 JUROR 290. No.

24 THE COURT: All right, ma'am. Have there been any kind
25 of discussions to date about the facts in this case or any

1 sort of discussion about the facts?

2 JUROR 290: No, sir.

3 THE COURT: All right. And have you made up your mind
4 one way or another about the guilt or the innocence of the
5 defendants?

6 JUROR 290. No.

7 THE COURT: You have not. All right. And what I'm
8 going to ask that you do is just -- I don't want to put you
9 in there by yourself, so step over to the family courtroom
10 and hang out with the rest of the jurors who are over there.
11 But of course, don't discuss what we discussed this morning.
12 Okay, ma'am? We'll have you back in here as soon as
13 possible. Thank you.

14 The jury is in the family courtroom. Obviously I just
15 missed 158. Happy to entertain any motions that you want to
16 make or give any comments about the colloquy that I had with
17 the jury?

18 MR. STUMBO: Judge, if I could just briefly say. I read
19 some case law this morning on premature deliberations. I
20 think you handled it just like the case law lays it out. I
21 know there's a 1999 case out of Georgetown County that was a
22 Circuit Court Judge Burnett from Spartanburg at the time,
23 but who became Justice Burnett. And I believe that case
24 lays out if this sort of thing happens during, before a
25 verdict, or after a verdict and how it's handled, Judge, and

1 I feel like you handled it in the proper way. I don't
2 believe there's any prejudice to any of the other jurors
3 based on their answers, and the appropriate remedy would
4 obviously, Mr. Jackson being released is appropriate and
5 seating the alternate, Judge. So, we believe that we can
6 proceed, and there's not been any prejudice in the case.

7 THE COURT: Mr. Grose?

8 MR. GROSE: We think that juror number 180, Ms.
9 Laughlin, the one who said that she was leaning one way, and
10 she seemed to be pretty -- whichever way she was leaning,
11 she seemed to be leaning pretty hard. It was notable that
12 nobody else answered any of your questions the way that she
13 did.

14 MR. HENDERSON: And again, that could be to our
15 benefit, that could be to our detriment, but at this point,
16 we don't want to take that risk, Your Honor.

17 MR. GROSE: I agree with -- I said whichever way she's
18 leaning. I agree with that.

19 MR. STUMBO: Judge, I just noted -- I'm just looking at
20 my notes here. She said leaning, but not decided. Haven't
21 made up my mind, was the last thing she said. Ultimately,
22 Judge, I do think it's probably unrealistic for us to expect
23 a juror not to have their own thoughts in their mind
24 oscillating around about the facts that they're hearing
25 during the case. I think the way the question was asked,

1 maybe that she felt like you were asking her what was going
2 on in her mind. But obviously she hasn't had any
3 discussion, and she ultimately said she has not made up her
4 mind. So, I don't think that she is prejudiced.

5 THE COURT: May I suggest this as a possible remedy?
6 Mr. Grose has a point. Leaning one way ---

7 MR. HENDERSON: And I think her exact words were "not
8 totally" made up my mind, and not totally in quotes. I
9 think that's verbatim what she said.

10 MR. STUMBO: Well, I think she did say verbatim too she
11 could still be fair. Fair and impartial to both sides. And
12 deliberate accordingly.

13 THE COURT: Here's my concern somewhat from a
14 logistical standpoint. We're going to be down two
15 alternates when I take a replacement for 158. And so being
16 down two alternates, it may very well be as much as I want
17 to try and finish this case today, it may very well be that
18 we're going to be here -- we haven't even discussed the
19 possibility of tomorrow, but if not tomorrow, Tuesday. So
20 that's three days where something could happen and I might
21 need to draw on another juror, or another alternate rather.
22 I really wanting to avoid dropping below twelve for obvious
23 reasons. What if we were to go ahead -- what I'm inclined
24 to do is go ahead and see, while I'm mulling over in my mind
25 what to do with Juror 180, instead of replacing her now I

1 can always just kick that decision down the road until we
2 determine if we've got enough jurors and I can always make
3 the decision later to replace her if we have sufficient
4 alternates at the conclusion of the trial, or towards the
5 end of the trial. I know that may be an inconvenience to
6 her, but I may or may not replace her. I'm really just not
7 sure.

8 MR. GROSE: Judge, I don't think it's a decision to
9 kick down the road. I think that she has basically told you
10 that she's made up her mind. I'm certain that we could all
11 sit here and spin this any way we want to, but she's now
12 looking for something to change that mind and it's 50/50
13 which way she's gone. But, it's -- she's basically telling
14 you, contrary to the other jurors, that she's not following
15 your instructions to keep an open mind until the end of the
16 case. It could also be that she simply explained that --
17 evidence is obviously supposed to have an impression on
18 somebody when it's heard, and I think the key thing is
19 whether she's made up her mind and made a final decision
20 like 158.

21 MR. GROSE: Well ---

22 THE COURT: And I appreciate your position, but we're at
23 14 now and I'm going to reflect upon this, and there's no
24 harm her continuing to be here, to be present until I make a
25 final decision on this, whether to replace her with one of

1 our two remaining alternates. That's going to be my
2 decision on that. There's no harm in deciding this later
3 and that will allow me to reflect on it.

4 MR. GROSE: Can we take up some other housekeeping while
5 they're in what's probably a more comfortable room than that
6 tiny jury room.

7 THE COURT: Sure.

8 MR. STUMBO: Judge, and just from our perspective, I
9 have had Dr. Konsek and Dr. Shaw here since early. Dr.
10 Konsek has got surgery at eleven. I'm really trying to get
11 him up on the stand and out of here.

12 THE COURT: We probably need to go ahead. Is it
13 anything that relates to the next two witnesses?

14 MR. GROSE: Well, no, but it does relate to some extent
15 to the discussion that we just had. I'd like to mark that
16 as a Court's exhibit. I can save the other issue until
17 later.

18 THE COURT: What is it that you need to bring up?

19 MR. GROSE: Well, you know, I mean, you just said that
20 you're hoping to finish this trial today and I have
21 expressed some concerns about you unduly rushing things
22 earlier in the week. Also, in one of the other motions
23 yesterday, I had expressed some concern about how long the
24 State had known about this trial and we were getting
25 discovery, and I don't know that it got on the record, but I

1 believe it was 126 and 127. I said at a sidebar that those
2 had been produced on Monday and the witness confirmed that
3 they didn't discover them until last Friday. What I'm
4 making as a Court's Exhibit is the emails scheduling this
5 trial. Everybody in this courtroom, including your Honor,
6 was aware that this case was likely going to go into a
7 second week, and so -- and it's not going to go beyond the
8 second week, but I just have some concerns about rushing it,
9 particularly when we're having to deal with issues like we
10 did this morning. And we still have three defendants and we
11 have to make a decision after we hear all the State's case,
12 whether or not we want to present a case of our own or not.

13 THE COURT: I appreciate your concerns. All right, I
14 will be asking the Clerk -- I think we pick them randomly in
15 terms of the alternate. Anyone have a hat? Come up here
16 and randomly pick one of these pieces of paper out of my
17 hand.

18 CLERK OF COURT: Juror 290.

19 THE COURT: That will be Kelsi Steele. That was the
20 last lady I spoke with. She'll replace Juror 158. Thank
21 you. And bring the jury in, please.

22 (WHEREUPON, jury entered 10:05 a.m.)

23 THE COURT: We're back on the record. Ms. Steele?
24 Kelsi Steele. You're now the lucky full member of the jury.
25 Not that the other two alternates aren't yet, but you'll

1 take the place of a jury that I dismissed this morning. So,
2 Ms. Steele, you'll be a member of this panel. So, feel free
3 to move to that seat whenever we take a break. If you're
4 okay to hear from where you are, we'll just keep on going.
5 The Bailiff is going to return your tablets to you all, and
6 while he is doing that, Solicitor, call your next witness,
7 please.

8 MR. STUMBO: Thank you, Judge. The State calls Dr.
9 John Konsek to the stand.

10 WHEREUPON, John Konsek, having first
11 been duly sworn, testified as follows:

12 DIRECT EXAMINATION

13 BY MR. STUMBO:

14 Q Dr. Konsek, how long have you been a medical doctor?

15 A Twenty-nine years.

16 Q And currently you practice here in Greenwood?

17 A Yes, sir. I do.

18 Q What is your primary area of practice?

19 A I'm a general surgeon at Self Regional Healthcare.

20 Q And what types of surgery do you do?

21 A Everything in the abdomen, or the belly, per se.

22 Q Okay, so mainly torso trauma? Trauma to the torso?

23 A Correct. Yes, sir.

24 Q Okay. Do you have occasion to do surgery on
25 individuals who sustain gunshot wounds to the torso?

1 A Yes.

2 Q Many times?

3 A Yes. Many times.

4 Q Your education -- certainly you're certified in the
5 state of South Carolina to practice medicine, correct?

6 A I am.

7 Q Okay, and have you ever been qualified as an expert
8 testify in general surgery or trauma surgery in the courts
9 of this state?

10 A One other time. Yes, sir.

11 Q Okay, and that was in this courtroom, correct?

12 A Yes, sir. It was.

13 Q How many surgeries, just really, really broad estimate,
14 have you done in your career, Doc?

15 A Six hundred a year for 30 years. Lots?

16 Q Lots. Thousands.

17 MR. STUMBO: Judge, we would offer Dr. Konsek as an
18 expert in the field of trauma surgery.

19 THE COURT: No objection to that qualification?

20 MR. TINSLEY: No objection.

21 MR. HENDERSON: None, Your Honor.

22 MR. GROSE: No objection.

23 THE COURT: Again, ladies and gentlemen, the Court and
24 the parties recognize Dr. Konsek as an expert in the field
25 of trauma surgery, so he can give opinion testimony that you

1 can use if you deem appropriate.

2 Solicitor, you may continue.

3 MR. STUMBO: Thank you, Judge.

4 Q One of the surgeries that you've done in your career,
5 I'm going to take you back to April 8, 2020. Did you have
6 occasion to treat a young man by the name of Xayvion Hill?

7 A I did.

8 Q And you've been able to review your note from a couple
9 of years ago when you did this surgery?

10 A I have. Yes, sir.

11 Q And if you could just explain to the jury the injuries
12 you observed to Mr. Hill and the type of surgery you
13 conducted on him.

14 A I was asked to evaluate him when he presented with a
15 gunshot, and the Emergency Room thought that there was a
16 potential for life threatening injuries, so they asked me to
17 evaluate. He was worked up radiographically and was
18 diagnosed with injuries from that gunshot. Ultimately, I
19 did not have to operate on him.

20 Q Okay, so you did not do a surgery after the evaluation?

21 A I did not operate on him, no. We simply observed him,
22 admitted him to the hospital, and observed him for any
23 complications from that and then had the orthopedic surgery
24 doctor on call evaluate him for his bony injuries.

25 Q Okay. And where were the wounds on his body?

1 A When I was asked to see him, he had two wounds. One
2 just above his left hip and another one on the medial left
3 buttock.

4 Q Okay. I'm going to show you what's already in
5 evidence. As these are already in evidence. I'm going to
6 put them on the screen here. See if you can see. This is
7 State's Number 51. Okay. Can you see that, Dr. Konsek?

8 A Yes, sir.

9 Q Okay. These bandages here, is that consistent with the
10 places where the injuries or the entrance and exit wounds
11 are -- were on Mr. Hill?

12 A Based on my dictation and correspondence, yes.

13 Q Thank you, Doctor. And, just from your observations
14 and to a reasonable degree of medical certainty, can you
15 tell what is, I guess, what would be an entry wound and what
16 would be an exit wound?

17 A Yes. Generally, one is bigger than the other and you
18 can also tell with CAT scan sometimes what's entry and exit.

19 Q Okay. And here, were there any projectiles found in
20 Mr. Hill's body that you recall?

21 A I think he had bullet fragments in his hip that were
22 retained, but nothing that had to be surgically removed.

23 Q So those, ostensibly, would still be inside of him
24 today?

25 A Yes, sir.

1 Q Okay. Which of the wounds above the left hip, in the
2 front or the buttocks, of those two, which was the entrance
3 wound? Which was the exit wound, to your...

4 A The entrance seemed to be at the left hip. The exit
5 was at the buttock.

6 Q Okay. So it'd be consistent with a bullet entering
7 here on the left side, if I'm pointing for the record, to my
8 left hip about my belt line where the bandages were and
9 coming out backside on the left buttocks?

10 A That's correct.

11 Q Okay. Did the bullet seem to hit any major organs or
12 anything inside of him?

13 A It did not. It seemed to enter his soft tissue, hit
14 his hipbone, he broke his hip a couple of different places,
15 and then it was deflected towards this exit.

16 Q Okay. I'm sure that played into your decision to not
17 do surgery, that it did not damage major organs.

18 A Correct.

19 MR. STUMBO: Okay. Thank you, Dr. Konsek. I
20 appreciate you being here today. Please answer any
21 questions the defense attorneys may have.

22 THE COURT: Mr. Tinsley?

23 MR. TINSLEY: Thank you, Your Honor.

24 CROSS EXAMINATION

25 BY MR. TINSLEY:

1 Q Dr. Konsek, you don't know anything about the bullet
2 that hit Mr. Hill, as far as what type of bullet it was or
3 anything?

4 A No, sir.

5 Q And would you agree with me that the plane between the
6 entry wound and the exit wound is pretty close to
7 horizontal?

8 A I probably would have to review a CAT scan to be able
9 to tell you that. They're probably pretty close.

10 Q Okay, so pretty close? You say a lot closer to
11 horizontal than vertical?

12 A Again, I don't...

13 Q But you would say pretty close to horizontal?

14 A Probably.

15 Q Okay. And you don't have any evidence to tell you how
16 far off the bullet came from that hit his hip. You just
17 know it hit him. Is that fair to say?

18 A Correct.

19 MR. TINSLEY: Thank you, Dr. Konsek. Please answer any
20 questions Mr. Henderson has.

21 MR. HENDERSON: No cross, Your Honor.

22 THE COURT: Mr. Grose?

23 MR. GROSE: No questions.

24 THE COURT: Thank you for being here. Call your next
25 witness, Solicitor.

1 MR. STUMBO: The State calls Coroner Sonny Cox to the
2 stand.

3 WHEREUPON, Sonny Cox, having first been
4 duly sworn, testified as follows:

5 DIRECT EXAMINATION

6 BY MR. STUMBO:

7 Q Good morning, Mr. Coroner.

8 A Good morning, sir.

9 Q You are the Greenwood County Coroner?

10 A I am.

11 Q And how long have you been the elected corner?

12 A Going on ten years.

13 Q 2012 election cycle, and were sworn in 2013, just like
14 me, right?

15 A That's correct.

16 Q It's been ten years? That's a long time.

17 A Yes, sir.

18 Q Could you tell the jury just a little bit about your
19 role as coroner, and particularly as it pertains to deceased
20 individuals?

21 A Certainly, yes. My position on this is when a homicide
22 occurs, apparently the decedent died at the hospital. It's
23 my function to go to the hospital where the decedent is at,
24 and we photograph, we secure the body, we place the body in
25 a secured environment until we can get them to the

1 pathologist for further examination.

2 Q Okay, and as part of your role, too, do you have to
3 meet with the families?

4 A Yes.

5 Q Do you consider that an important part of your job, to
6 meet with the family and handle that the right way?

7 A Probably equally important as anything else.

8 Q Do you have occasion to handle a body of a deceased
9 individual by the name of Trivoriaye Alston?

10 A I did.

11 Q Okay, and that was back on April the 8, 2020?

12 A Correct.

13 Q All right. So, you respond to Self Regional, I'm
14 assuming, in this case?

15 A I did. I received a call out of that in the office and
16 I had to respond to Self Regional.

17 Q Okay. What's the first thing you did when you got
18 there?

19 A Entered into treatment room number three, I believe it
20 was, and then we just photographed just the way we received
21 the deceased. And nothing -- before we touch anything, we
22 photograph it as is, and then we proceed on with securing
23 the body.

24 Q And you were able to do that in this case?

25 A Certainly.

1 Q Did you meet with the family there at the hospital?

2 A We did. Normally, they're off into a waiting room
3 area. They had already identified the deceased and I talked
4 to the mother and the grandmother.

5 Q All right. Did you do that before or after y'all took
6 his body away?

7 A Before.

8 Q Now, in this case, where did you take Mr. Alston's
9 remains?

10 A I took them to the Self Regional Hospital. They have
11 the in-house morgue. We placed him in the morgue in the
12 lower right-hand cooler. And that was secured, locked by
13 security from the hospital.

14 Q Okay, so that's a secure area. You just can't just ---

15 A It's very secure. Did you take Mr. Alston for an
16 autopsy in this case?

17 A I did.

18 Q Okay. Which doctor did you take him to?

19 A Forensic Pathologist, Dr. Kyle Shaw.

20 Q Okay. He's in the courtroom today?

21 A He is.

22 Q Do you work with him fairly regularly?

23 A Yes, sir.

24 Q Did you stay for the autopsy?

25 A I did. Yes, sir.

1 Q Okay. In this case -- I know you have your report.

2 Was there a projectile recovered from Mr. Alston's body to
3 your recollection?

4 A Yes, from what I understand, there was one.

5 Q Law enforcement was there as well to collect that and
6 take it for evidence?

7 A They took possession of that. Yes.

8 Q At the time you had custody and control of Mr. Alston's
9 body until he gets to the autopsy, was his body secured?

10 A Absolutely.

11 Q Other than the medical interventions, any other --
12 before he gets to autopsy, handling of his body?

13 A Nobody touched Mr. Alston but me. Of course, my
14 assistant, I think Derrick Rash was with me, but nobody
15 handled the body but us.

16 MR. STUMBO: Thank you, Mr. Coroner. Please answer any
17 questions may have.

18 THE COURT: Mr. Tinsley?

19 CROSS EXAMINATION

20 BY MR. TINSLEY:

21 Q Coroner Cox, are you aware of Mr. Alston's size that
22 was measured?

23 A I do not have that noted, no sir. I do recall him
24 being a lean teenager.

25 Q Would 5'11 140, would that ...

1 A I would say that would fit in that window there.

2 MR. TINSLEY: Okay. No further questions. Please
3 answer any questions Mr. Henderson has.

4 MR. HENDERSON: No cross, Your Honor.

5 MR. GROSE: Thank you for being here, but I don't have
6 any questions.

7 THE COURT: Have a good day. Next witness?

8 MR. STUMBO: Thank you, Your Honor. The State calls Dr.
9 Kyle Shaw.

10 WHEREUPON, Dr. Kyle Shaw, having first
11 been duly sworn, testified as follows:

12 DIRECT EXAMINATION

13 BY MR. STUMBO:

14 Q Good morning, Dr. Shaw. Thank you for being here. You
15 are a forensic pathologist?

16 A Yes.

17 Q Okay, and how long have you practiced medicine in the
18 field of pathology?

19 A I've been a forensic pathologist since 2009.

20 Q Okay, prior to that?

21 A Prior to that, basically I was still doing my training,
22 so I had finished medical school, had a medical degree, but
23 I was doing training in pathology and training in forensic
24 pathology, and then started my work in 2009.

25 Q Where did you go to medical school?

1 A I got my medical degree from the University of Sydney
2 in Sydney, Australia. Following that, I did a one year
3 clinical internship with the Southeastern Sydney Area Health
4 Service, still in Australia. Following that, I returned to
5 the US and did the first two years of my general pathology
6 residency training at the Eastern Virginia Medical School in
7 Norfolk, Virginia. Following that, it did the final two
8 years of my general pathology residency training at the
9 University of Maryland Medical Center in Baltimore.

10 Following that, it did a one-year sub-specialty fellowship
11 in forensic pathology at the office of the Chief Medical
12 Examiner for the State of Maryland, also in Baltimore.

13 Q Okay. How long have you practiced here in South
14 Carolina?

15 A I've been here for about three years.

16 Q Okay. And over the course of your career as a
17 pathologist, how many autopsies have you conducted?

18 A On the order of 3,000 or so.

19 Q Okay. And you have been qualified as an expert in the
20 courts of this state in the field of forensic pathology?

21 A Yes.

22 Q Okay. How many times?

23 A In this state I think only once or twice, but in
24 general I've testified multiple times, primarily in Florida,
25 where my previous job was, so around 50 times in total.

1 MR. STUMBO: Judge, at this time we'd offer Dr. Shaw as
2 an expert in the field forensic pathology.

3 THE COURT: Any questions or objections to that?

4 MR. TINSLEY: No, Your Honor.

5 MR. HENDERSON: No, Your Honor.

6 MR. GROSE: No objections.

7 THE COURT: Ladies and gentlemen, again the parties
8 agree that Dr. Shaw is an expert in the field of forensic
9 pathology, so he can offer opinion testimony in that area
10 that you may use as you deem appropriate. Please continue.

11 Q Okay. Do you have a copy of your autopsy report on
12 the stand with you?

13 A Yes.

14 Q Okay. I'm going to hand you just another copy of it
15 so you can verify. Doctor, I'm going to hand you what's
16 been marked State's 128. Do you recognize that document?
17 And you can flip through it.

18 A Yes.

19 Q And is that an accurate copy of your autopsy report on
20 Trivoriaye Alston?

21 A Yes, it's the autopsy report and body diagram that I
22 generated at the time of autopsy.

23 Q Okay, and that when did you conduct autopsy?

24 A On April 9, 2020.

25 Q Okay, thank you. If you could hand that one back to

1 me. You have a copy of this on the stand with you for
2 reference?

3 A Yes.

4 MR. STUMBO: Judge, we offer a copy of the autopsy
5 report, State's 128, into evidence at this time. THE
6 COURT: Any objection?

7 MR. GROSE: No objection.

8 MR. HENDERSON: No objection.

9 MR. TINSLEY: No objection.

10 THE COURT: 128 will be in evidence.

11 Q Okay. Now, Dr. Shaw, if you could, let's start kind of
12 with the ultimate conclusion and work backwards. Were you
13 able to determine cause and manner of death on Mr. Alston?

14 A Yes.

15 Q Okay. What was that?

16 A My opinion of cause of death is gunshot wounds, two,
17 of left arm and chest.

18 Q Okay. And let's unpack that a little bit. Did you
19 take pictures when you did your autopsy?

20 A Yes. Either I take them, or some are taken under my
21 direction.

22 Q Okay, and were you able to document via picture these
23 entrance and exit wounds for those wounds?

24 A Yes.

25 Q Okay, if you could just describe for the jury first,

1 and then we may look at some photographs, but describe for
2 the jury on kind of maybe your body as you're sitting there
3 where the wounds were on Mr. Alston's body.

4 A Sure. So first there was a gunshot wounded entrance
5 to the outside of his left arm, roughly where I'm indicating
6 on my body. That bullet passed through soft tissue, and it
7 exited the inside part of his left arm fairly close to the
8 armpit area. So an entrance and exit with entry to soft
9 tissue, that was one gunshot wound. There is an additional
10 gunshot wound on the left side of his chest. That is a
11 gunshot wound of entrance to his chest. It passes through
12 his body. And to kind of understand that wound path a
13 little bit, it helps to understand just a little bit of
14 anatomy. So I'll try to describe basically, we have the
15 chest, which includes the lungs. Just below the lungs is
16 the diaphragm, which is a thin muscle, which basically helps
17 us breathe. It moves up and down, but it separates the
18 lungs from the abdomen. But it is curved. It has some
19 bumps to it, and one side can be a little higher than the
20 other. Just beneath the diaphragm, on one side is the
21 stomach, and on the other side is the liver. In this
22 particular case, the bullet through his chest went through
23 the lower part of his lung, sitting above the diaphragm, but
24 also went through the diaphragm itself, injured his stomach,
25 went through the diaphragm again. Then there in the

1 midline, there's the spine. It went through the front part
2 of the bone of his spine. There's the aorta, which sits
3 right in front of the spine. The aorta is a large blood
4 vessel that basically extends from the heart to the rest of
5 the body. It's a major blood vessel. The aorta was
6 injured, lacerated, torn, with about a one half inch defect
7 in that. And then again, the bullet continued across
8 through the lower part of his right lung, through the
9 diaphragm again, liver, diaphragm again, and into the soft
10 tissue of the right side of his chest.

11 Q I'm going to show you one of the back pages of your
12 report, which is actually the -- bring it out a little bit.
13 Do you commonly use these diagrams of the body to document
14 where the wounds are.

15 A Yes. So I generate the diagram, especially this front
16 part of the diagram, during the course of my external
17 examination of the outside of the body. And I use this
18 information to help me in later generating a report.

19 Q Okay. I'm going to refer you -- and I'm going to try
20 to zoom this in a little bit here, so the jury can see it a
21 little bit better. Can you see that from the stand?

22 A Most of it, yes.

23 Q Okay. If you need to step down, just make sure you
24 keep your voice up. If you need to step down here in front
25 of the jury box to see. Where I'm pointing --- "GSW" means

1 gunshot wound, right?

2 A Yes.

3 Q Where I'm pointing here. You're pointing now to,
4 looks like two holes there right on the inside of the armpit
5 on the arm side, and then on the torso side, there's another
6 hole right there together, is that correct?

7 A Correct.

8 Q All right. And describe for me the nature of those
9 particular wounds.

10 A So the little defect or hole that I've drawn in that
11 diagram on his arm is actually the exit wound of the left
12 arm. And then just beside that, on what would be the left
13 side of his chest is another little circle to represent the
14 gunshot wound of entrance to his left chest.

15 Q Okay, I'm going to scoot the page over here, and this
16 is documented on the back side. It's got gunshot, GSW. And
17 you're pointing to -- there's a little hole right on the
18 kind of backside maybe where the triceps area is on the left
19 arm?

20 A Correct. And again, these diagrams are just sort of
21 flat images, but that's the outside, or the back outside, of
22 his left arm. And that's basically approximate indication
23 of where the entrance wound to his left arm is located.

24 Q That would be, in your -- to a reasonable degree of
25 medical certainty, in your opinion, the entrance wound,

1 whereas this one that I'm pointing to here is the exit wound
2 before it enters the chest again?

3 A Correct.

4 Q Okay. Now you said gunshot wounds. To a reasonable
5 degree of medical certainty, can you tell for sure whether
6 this was one gunshot, or one bullet, or two?

7 A Not for sure, because of the mobility of the arm.
8 Basically, if that arm is extended far enough away and in
9 certain positions, it's possible that there could be two
10 different bullets or two different gunshots to create two
11 different wounds. However, because of the proximity of
12 these two wounds, with common positioning of the arm or the
13 upper extremity, and looking at the pathways through the
14 tissues of both of the wounds, it's quite reasonable that
15 this might have might represent a single bullet going
16 through the arm and then reentering the body.

17 Q Okay. How many projectiles did you recover out of Mr.
18 Alston's body?

19 A One.

20 Q And so based on that information and what you just
21 relayed to the jury, is it highly likely that it was just
22 one shot?

23 A It's very reasonable that it's just one shot.

24 Q Okay. But because an arm can go up and down, or the
25 left arm could have been in any position, you just can't say

1 that for sure?

2 A Correct.

3 Q Okay. All right. Thank you, Doctor. If you could
4 return to the stand, please. I'm going to show you what's
5 been marked just for ID at this point. And this would be
6 State's 83, State's 84. Do you recognize those images?

7 A Yes.

8 Q Are those x-rays?

9 A Yes, they are.

10 Q Okay. And those are fair and accurate copies of what
11 you've seen before as part of investigation in this case?

12 A Yes.

13 MR. STUMBO: Judge, we'd offer 83 and 84 into evidence.

14 THE COURT: No objection?

15 MR. GROSE: No objection.

16 MR. HENDERSON: No objection.

17 MR. TINSLEY: No objection, Your Honor.

18 THE COURT: 83 and 84 are in evidence.

19 Q I'm going to show you 83 first. And usually when you
20 do an x-ray, would you do different angles front and back of
21 the body?

22 A You can. It really depends on the individual case and
23 the purposes that you do with the x-ray fir, but we may take
24 -- certainly may take more than one, basically different
25 areas of the body. A lot of times, when the x-ray is

1 initially taken, we don't necessarily know what's inside and
2 what we're looking for, so we try to cover multiple areas.

3 Q And this, which is State's 83. What is it?

4 A If I could...

5 Q Yeah.

6 THE COURT: Go ahead.

7 A So this is an x-ray of the decedent's chest, Mr.
8 Alston's chest. In the middle, we can see a shadow that
9 would actually represent his heart, but mostly we can see
10 the outlines of the ribs and toward his right side, but our
11 left side, as we're looking at the image, is a white spot
12 representing a bullet or projectile that's in the soft
13 tissues of the right side of his chest.

14 Q And that would be that large bullet looking image there
15 on the left side, correct?

16 A Yes.

17 Q Left side of the screen as we're looking at it, but
18 this is taken looking at his chest, would be his right side.

19 A Correct. It's his right side, but our left side, as we
20 are looking at the image.

21 Q And this is just another maybe angle here of the x-ray
22 photo?

23 A Correct. So, this is going just a little bit lower,
24 covering a little bit more of his abdomen, but we can see
25 the same bullet or projectile in the image and basically the

1 same location in his body.

2 Q Thank you, Doctor. While you're down from the stand,
3 if you could just stay there. I'm going to show you what's
4 been marked for ID as 81 and 82.

5 MR. GROSE: Your Honor, can we approach?

6 (WHEREUPON, a sidebar was held.)

7 Q Dr. Shaw, I'm going to put 81(A) up on the screen. If
8 you could, describe what's here in 81(A).

9 A Sure. So, just before he zoomed in, I think you could
10 see that Mr. Alston's head is toward the right side of the
11 image. He's laying on his back in this position, and we're
12 looking at the outside of his left arm as well as the left
13 side of his chest. And his arm has just been lifted up a
14 little bit. So there in the corner area of the right angle
15 ruler is the gunshot wound of entrance to the outside of his
16 left arm. And then below that, we can see on the left side
17 of his chest, the entrance, the separate entrance wound
18 there, that goes into his body.

19 Q So these would be the two entrance wounds here;
20 correct?

21 A Correct.

22 Q All right. I'm going to maybe back this out just a
23 little bit to get a better perspective. Do you need to turn
24 it?

25 A I would maybe turn it around. All the way.

1 Q Let me just back it up a little bit so you can see the
2 whole picture. Got you.

3 A So, again, for explanation, this is Mr. Alston still
4 laying on his back. The middle part is basically his arm
5 pit. So, his left arm has been extended out, kind of as I'm
6 indicating on myself, his left arm has been extended out.
7 We're seeing an image of this direction and more towards the
8 right side of the image, as we're looking at it, we can see
9 sort of a slit like injury to the upper part of his arm,
10 very close to the armpit. That is the exit wound of his
11 left arm. So it entered the outside of his left arm, exited
12 the inside part of his left arm.

13 Q And you're talking about this little slit here?

14 A Correct. That was ---

15 Q That would be where it comes out the arm, and then if
16 it indeed was the same bullet, would have reentered here?

17 A Correct. Correct. So again, we see the entrance wound
18 on his left chest again and then, just by way of
19 explanation, a little bit higher up, there are some
20 markings.

21 Q Here?

22 A Yes. Where he's indicating with his pen. That is a
23 sutured incision that's basically just related to medical
24 efforts, resuscitative and treatment efforts.

25 Q Those would have been done before his body got to you

1 for examination?

2 A Correct.

3 Q Okay. Thank you, Doctor. Just this type of injury,
4 Doctor, in your expert opinion to a reasonable degree of
5 medical certainty, how long with this type of injury could
6 an individual retain consciousness and faculties of their
7 body?

8 A So, to go back a little bit to what this particular
9 projectile or bullet injured, if you remember, I did say
10 that the bullet went through part of the bone of the spine,
11 but there was not any obvious injury to the spinal cord
12 itself. Certainly if there was injury to the spinal cord
13 itself, I wouldn't expect him to be able to use his legs to
14 move in that fashion. But the spine, again, just by way of
15 explanation, the front part of the spine has quite a lot of
16 bones, a mass of bone. The back part of the spine, as I'm
17 indicating here, the spinal cord runs through that. So in
18 this case, the bullet goes through the front part of that
19 bone. So, there's no obvious injury directly to the spinal
20 cord itself. Beyond that, the most significant part of this
21 particular wound path is injury to the aorta. That's the
22 injury that would most likely or most rapidly inhibit his
23 ability to remain conscious or to continue moving. This
24 particular injury injured the aorta. Again, about a one
25 half inch injury or laceration tear to the aorta. Now,

1 individuals can actually lose blood at different rates, even
2 with similar size defects. The aorta itself is partly
3 covered with a little bit of soft tissue, which can slow the
4 amount of bleeding. But in this particular case, there's a
5 lot of injury to those soft tissues as well. So, the time
6 from receiving that sort of injury until ultimately losing
7 consciousness and later passing away, could range. It's
8 variable. I can't give a specific number as to exactly how
9 long that would be, but it could range anywhere from several
10 seconds to on the order of several minutes.

11 Q Okay, so up to several minutes?

12 A Up to several minutes is sort of the so-called best
13 case scenario.

14 Q Depending on how quickly blood loss from the aorta is
15 into the body cavity?

16 A Correct.

17 Q And at some point the body loses blood pressure and
18 that's when you lose consciousness.

19 A That's right.

20 Q But the tissue, I believe you said, around the aorta
21 and heart, could contain that for some amount of time?

22 A In some circumstances, it can. There are cases where
23 that has occurred.

24 MR. STUMBO: Dr. Shaw, thank you for being here this
25 morning. Please answer any questions the defense attorneys

1 may have.

2 THE COURT: And just so that the record is clear, 81(A)
3 and 82(A) are in evidence. The other two exhibits will
4 simply be for identification, 81 and 82.

5 MR. STUMBO: Yes, sir.

6 THE COURT: Mr. Tinsley?

7 MR. TINSLEY: Thank you, Your Honor.

8 CROSS EXAMINATION

9 BY MR. TINSLEY:

10 Q Dr. Shaw, you measured Mr. Alston, to be 5'11, 140
11 pounds?

12 A I measured to be 5'11, estimated to be about 140
13 pounds.

14 Q And that's a pretty close estimation, I would guess?

15 A For weight, weight is notoriously difficult to
16 estimate. It can be off, in someone this size, can easily
17 be off 20 pounds or so, one way or the other, but something
18 in that range.

19 Q And if I understood your testimony correct, you can't
20 testify one way or the other whether it was whether Mr.
21 Alston was hit with one bullet or two?

22 A Correct. Not definitively.

23 Q So you'd be speculating if you said one or the other
24 for sure?

25 A If I was definitive about it, yes.

1 Q And you can't tell how far away the shot that this
2 bullet, or bullets, where they came from?

3 A So, to better understand range of fire, which I believe
4 is the question being asked, distance. So, to understand
5 that question and the answer, it's best to understand what
6 exits the barrel of a gun when it is fired. Obviously,
7 there's the bullet. That's what we talk about and think
8 about most of the time. In addition to the bullet exiting
9 the barrel of the gun, there's also hot gases and there is
10 burned gunpowder in the form of soot, just really fine black
11 material, and even unburned gunpowder particles, which are
12 like tiny little grains of sand. So, if the end of the
13 barrel of the gun is close enough to exposed skin, then that
14 soot can layer on the surface of the skin, sometimes even be
15 burned into the skin if the barrel is close enough. And
16 those tiny little granules of gunpowder particles can impact
17 the surface of the skin and create tiny little punctate
18 abrasions on the surface. So, generally speaking, for
19 handguns, average handguns with average ammunition, and it
20 can vary with any one specific handgun with specific
21 ammunition, I can see soot deposition on the surface of the
22 skin out to a distance of around one foot. It's not a
23 precise number, again, because it varies so much weapon to
24 weapon and ammunition to ammunition. And I can see
25 gunpowder stippling out to somewhere around three or four

1 feet. Again, there's a lot of variables that go into that.
2 So, in this particular case, I did not see evidence of close
3 range discharge of a firearm. That can be obscured, or I
4 may not see that evidence if there is some sort of
5 intermediate target between the barrel of the gun and the
6 skin. That might be clothing, thin clothing, thick
7 clothing. It can be a wall, a pillow, what have you.
8 Glass, even thick hair in certain circumstances. But in
9 this case, I did not see evidence of close range discharge
10 of a firearm, which, to answer the question, means that I do
11 not have evidence of it being close. It could be close if
12 there was an intermediate target, such as thick clothing.

13 Q You're just not sure.

14 A Correct.

15 MR. TINSLEY: No further questions. Please answer any
16 questions Mr. Henderson has.

17 CROSS EXAMINATION

18 BY MR. HENDERSON: Hey, Doctor. Thank you for being here,
19 sir. Now, assuming Mr. Alston is shot, and you've said he
20 could survive for up to several minutes, because he had no
21 injuries to his spinal cord, but he could still move.

22 A Correct.

23 Q Now, considering that he got shot one or two times, you
24 would expect to see blood, wouldn't you?

25 A Not necessarily. In this particular case, the injury

1 to the left arm, you can see those defects are not large
2 defects. So some bleeding? Yes, out of those holes. The
3 entrance wound into the chest, again, we would expect some
4 bleeding from the surface, from the skin. The majority of
5 the bleeding in this particular case would be from the organ
6 damage and certainly his aorta, which is in the middle part
7 of the body. Most of that blood, at least initially, would
8 be likely to accumulate in the cavity or the chest cavity
9 itself. Eventually, once the blood fills up enough, it may
10 start spilling out of the defects in the chest. However,
11 sometimes those defects are effectively closed off by the
12 pressure of the soft tissues around it.

13 Q Okay, so it sounds like there would be a lot of
14 internal bleeding?

15 A Most likely.

16 Q And possibly some external bleeding from the arm?

17 A Yes.

18 Q Now, if you followed Mr. Alston's path for 10 feet, 20
19 feet, 50 feet, 100 feet, 200 feet, would you expect to see
20 some blood at some point?

21 A There's some variables I don't know here. So, clothing
22 can certainly absorb some blood, depending on the exact
23 circumstances, so not necessarily. And that can be a little
24 surprising, given significant injuries. It really depends
25 on the individual case. I would expect some bleeding

1 outside of the body, but that's different than making the
2 move from bleeding outside of the body to being visible on
3 the ground.

4 Q Okay. And again, you don't know how far Mr. Alston
5 moved after being shot, if at all.

6 A I do not.

7 Q Don't have a clue.

8 A I was not there and did not do a personal examination
9 of the scene.

10 MR. Henderson: I don't have anything further.

11 THE COURT: Mr. Grose.

12 CROSS EXAMINATION

13 BY MR. GROSE:

14 Q Good morning, Doctor.

15 A Good morning.

16 Q So if I understood that last answer correctly, or
17 series of answers, you would expect there to be a lot of
18 internal bleeding from this injury?

19 A Yes.

20 Q But you wouldn't necessarily expect to see external
21 bleeding?

22 A Not necessarily. There certainly could be, and I would
23 expect to see some from the surface, from the skin injuries
24 themselves. But a lot of the bleeding in this case, I would
25 expect to be internal, with the majority coming from the

1 aorta injury.

2 Q So, if he was taken to the hospital in a car, you might
3 not necessarily see bleeding where he was sitting.

4 A It depends on his positioning and a few different other
5 factors. So not necessarily. There could be a lot, but
6 there might not be very much at all.

7 Q Or none.

8 A Potentially. It depends, again, on a lot of factors
9 that I don't know. There's timing, there's his physical
10 positioning.

11 Q And nobody from law enforcement has asked you to make
12 that determination?

13 A No.

14 Q And nobody from the Solicitor's office has asked you to
15 make that determination.

16 A Again, we're still talking about the vehicle?

17 Q Yes, sir.

18 A No. They have not.

19 Q And also while he was walking? Nobody's asked you to
20 make that determination?

21 A In terms of blood outside of the ---

22 Q Yes, sir.

23 A No. Other than the questions just asked here.

24 Q All right. So, the first time that you've been asked
25 these questions about how much he would potentially be

1 bleeding externally, that was when the three of us asked you
2 that on cross examination?

3 A To my recollection, yes.

4 Q Okay, and just to be clear, when you're talking about
5 keeping consciousness for a while, because there's no
6 obvious spinal cord injury, he would still be able to walk
7 even though he had this pretty serious wound?

8 A Yes.

9 Q And obviously with somebody with a serious wound, it
10 would be best to try to get them to the hospital as quickly
11 as possible.

12 A Sure.

13 MR. GROSE: Thank you for being here, Doctor. I
14 appreciate it.

15 MR. STUMBO: Judge, just briefly.

16 REDIRECT EXAMINATION

17 BY MR. STUMBO:

18 Q Dr. Shaw, how commonly do you go out to crime scenes
19 that law enforcement has already examined?

20 A Not very common.

21 Q And you didn't do that in this case? The body was
22 brought to you, you were understanding, the day after he
23 was deceased?

24 A Correct. In this particular case, he was first
25 transported to the hospital, and generally speaking, I would

1 not -- sometimes the Coroner's office. It depends on their
2 particular involvement in a given case, but I was not asked
3 to go to the scene, and I usually would not, especially once
4 the decedent had already been transported.

5 MR. STUMBO: Thank you, Dr. Shaw. I appreciate you
6 being here today.

7 MR. HENDERSON: Nothing further from me, Your Honor.

8 THE COURT: Thank you for coming. Have safe travels.
9 And is the next witness Dr. Ladd?

10 MS. TAYLOR: Yes, sir.

11 THE COURT: All right, ladies and gentlemen,
12 thankfully, the attorneys in this case have agreed to allow
13 the next witness to appear by WebEx. So, they're going to
14 appear remotely, and what we're going to do is go ahead and
15 give you guys a break while we get all of that set up and
16 get the witness logged on, and knock on wood, with luck, we
17 should be able to have that done fairly quickly. Don't, of
18 course, talk about the case yet. We'll be off the record
19 for a few moments and we'll bring you back out here as soon
20 as the next witness is joining us by WebEx. If you need to
21 pop downstairs, let them know, they'll take you downstairs.
22 Okay, thank you.

23 (WHEREUPON, there was a recess held from to p.m.)

24 THE COURT: We're going back on the record, if we may.

25 Ms. Taylor, the next witness is Dr. Ladd?

1 MS. TAYLOR: Yes, sir. The State called Dr. Ladd.

2 All right, Doctor, if you could just raise your right hand.

3 Let me put you under oath.

4 WHEREUPON, Dr. Alan "Ricky" Ladd, having
5 first been duly sworn, testified as follows:

6 DIRECT EXAMINATION

7 BY MS. TAYLOR:

8 Q Good morning.

9 A Good morning.

10 Q Can you tell us your name for the record?

11 A Ricky Ladd.

12 Q And are you a medical doctor?

13 A Yes, ma'am.

14 Q Where do you work?

15 A I work at South Regional Healthcare in Greenwood, South
16 Carolina.

17 Q And what department? Are you employed in any specific
18 department?

19 A I'm an Emergency Room physician. Yes, ma'am.

20 Q Obviously, you went to college, medical school, and are
21 board certified in emergency medicine. Could you just
22 briefly tell the jury about your training and education?

23 A Yes, ma'am. I'm from Mississippi originally. I went
24 to undergraduate at a school called Milsapps College in
25 Jackson, Mississippi. I graduated there in 1990, and then I

1 attended University of Mississippi Medical School from 1993
2 to 1997, graduated with my MD degree, and then I came to
3 Palmetto Health Richland Memorial, I guess Prisma Health
4 Richland now, from '97 to 2000, and did my residency in
5 emergency medicine. And I worked in Louisiana for five
6 years. I married a girl from South Carolina. We were in
7 Louisiana. She was ready to come back to South Carolina.
8 I've been back in the state of South Carolina since 2005. I
9 worked at Baptist Hospital in Columbia from '05 until '14,
10 and I've been at Self for the last eight years now.

11 Q All right. Have you ever testified as an expert in the
12 field of emergency medicine?

13 A Yes, ma'am.

14 Q And approximately how many times?

15 A Probably six or seven total, over the last 20 plus
16 years.

17 MS. TAYLOR: Your Honor, the State offers Dr. Ladd as
18 an expert in the field of emergency medicine.

19 THE COURT: Any voir dire or any objections to that?

20 MR. TINSLEY: No, Your Honor.

21 MR. GROSE: No objection.

22 MR. HENDERSON: None.

23 THE COURT: All right. Ladies and gentlemen of the
24 jury, the parties agree that Dr. Ladd is an expert in the
25 field of emergency medicine, so he can give opinion

1 testimony, as I indicated, with the earlier expert witnesses
2 in that field that you can use as you deem appropriate.

3 Q Were you working in the emergency room here at Self
4 back on April 8, 2020?

5 A Yes, ma'am, apparently so. Yes, ma'am.

6 Q All right. Did you treat an individual named Justin
7 Parks?

8 A Yes, ma'am.

9 Q And when, Mr. Parks was brought in, what was he brought
10 into the emergency room for?

11 A Multiple gunshot wounds was what he was brought in for.
12 Emergent.

13 Q Emergent?

14 A Yes, ma'am.

15 Q Why do you say it was emergent?

16 A Well, we have a trauma system in our hospital, so
17 basically any gunshot wound is considered what we call a
18 level one trauma. And Mr. Parks was, I believe, shot at
19 least four times, from what we could tell as far as the
20 wounds that he presented with.

21 Q All right, the wounds that he presented with, where
22 were those wounds located?

23 A He basically was shot three times in the lower
24 extremity, one just beneath the right groin in the right
25 upper thigh with an exit wound in the right buttock. The

1 second bullet was around his right knee region, and then the
2 third bullet was in his left groin, just in the upper part
3 of the left thigh. And he had a grazed wound to his right
4 index finger. It just literally grazed. It didn't cause
5 any fracturing. It would just grazed the right index
6 finger, which is this finger here.

7 Q So the wound to his lower right leg as well as his left
8 leg, were those projectiles retained in his body?

9 A Yeah, the one in the right groin that exited the right
10 buttock was not -- the one in the right knee, hit him in the
11 distal or the lower part of the thigh bone, the femur,
12 causing it to be shattered. And the one in the left groin
13 area actually ended up all the way down in his calf. So it
14 traveled all the way down, literally to the lower leg.

15 Q And you said that I think you used the word shattered
16 for his femur.

17 A Yes, ma'am. When a bullet strikes a bone, especially a
18 long bone like the femur, tends to cause a lot of trauma.
19 So he had multiple fragmented fracture of the left distal
20 femur that required surgery the following day, I believe.

21 Q Now, in your experience and your expert opinion, to a
22 reasonable degree of medical certainty, would an individual
23 with a shattered femur be able to walk or run around?

24 A No, ma'am.

25 Q Now, you described injuries to his lower extremities.

1 The ultimate injuries themselves were not ultimately life
2 threatening. Is that correct?

3 A No, ma'am. I mean, they could have been, especially
4 the groin. Whenever you're shot about the groin, you have
5 some major blood vessels that run right through that area of
6 femoral artery and vein. And if you happen to injure the
7 femoral artery or vein, you can bleed to death pretty
8 quickly.

9 Q Okay, well, that was what I was getting at. That just
10 because he did not ultimately bleed out in this situation,
11 you would have considered these particular gunshot wounds
12 life threatening?

13 A Yes, ma'am.

14 Q Now, you saw Mr. Parks in the emergency room?

15 A Yes, ma'am.

16 Q And I guess made the decision, along with some other
17 physicians, to ultimately admit him to the hospital?

18 A Yes, ma'am.

19 Q And at that point, was his care turned over to a
20 different physician?

21 A Yes, ma'am.

22 Q One second, Dr. Ladd. And when Mr. Parks came in, Dr.
23 Ladd, did he have two tourniquets that had been applied
24 prior to coming into your care?

25 A Yes, ma'am. I believe the police had placed them

1 initially, I believe before even the EMS got there. But
2 they were placed before he arrived in the ER. Yes, ma'am.

3 Q And do you have any way of knowing whether the
4 placement of those tourniquets ultimately saved his life?

5 A Potentially. Luckily, he did not have a vascular
6 injury. We did what we call a CT angiogram to look at both
7 lower extremities, basically from the abdomen, pelvis, all
8 the way down, and he did not have any major arterial
9 bleeding. Anytime you have a gunshot wound to the lower
10 extremity, that's the biggest thing you want to worry about,
11 is if he injured an artery, because you can bleed. You can
12 lose your limb if you hit the artery and lose blood supply,
13 or you can die. Like I said, if you hit the femoral artery,
14 for sure.

15 MS. TAYLOR: Please answer any questions any of the
16 defense attorneys have for you.

17 CROSS EXAMINATION

18 BY MR. TINSLEY:

19 Q Dr. Ladd, you didn't recover any bullets from Mr.
20 Parks?

21 A No, sir.

22 Q So you don't have any knowledge about the bullets that
23 hit him?

24 A I know that he had retained around the distal femur.
25 There were multiple bullet fragments in that area, I guess

1 where the bullet kind of shattered. And then there was a
2 bullet fragment noted in the left calf medially that we
3 assume came from the left because there was air tracking all
4 the way down. That was from the left groin wound. The one
5 that was in the left up thigh.

6 Q All right. So do I understand you correctly that it
7 went down from the left thigh down his leg?

8 A Yes, all the way -- it ended up -- it was a bullet
9 fragment in the medial aspect of the left thigh. I'm sorry,
10 the left lower leg, left calf area.

11 Q And you don't have any knowledge of how far off the
12 bullets that hit him were?

13 A No, sir. Distance from shot? No, sir, I do not.

14 MR. TINSLEY: Thank you. I don't have any further
15 questions.

16 MR. HENDERSON: No cross, Your Honor.

17 MR. GROSE: No cross either.

18 THE COURT: Dr. Lad, the other two lawyers didn't have
19 any other questions for you and there's no redirect. So
20 thank you very much for accommodating us here today and have
21 a good day. It is 11:30 and I am closing WebEx. Recording
22 is stopping. Solicitor, any additional witnesses, sir?

23 MR. STUMBO: No, Judge. One thing I would before we
24 rest officially, I know State's 86 and 88, which are on the
25 poster board, we entered those before they were, and they

1 have some markings on them now via the witnesses. I think,
2 just for housekeeping purposes, to make sure they're in as
3 modified through the witnesses. Okay.

4 MR. GROSE: No objection to that.

5 MR. HENDERSON: We agree, Your Honor.

6 THE COURT: Very good. So noted.

7 MR. STUMBO: All right, Ms. Hoffman is going to just
8 double check real quick, I think. According to our list,
9 everything is in, but I want to make sure we check that.
10 Ladies and gentlemen, while they're just double checking
11 that, I'll let you adjourn to the back and we'll resume here
12 shortly. And don't talk about the case. Thanks.

13 (WHEREUPON, jury exited 11:39 a.m. Recess until 11:47
14 a.m.)

15 THE COURT: We're back on the record. All right,
16 Solicitor, you've had a chance to review the exhibits and
17 everything is good?

18 MR. Stumbo: Yes, sir.

19 THE COURT: Since we are almost at 12:00, why don't I go
20 ahead and release the jury and let them return after lunch
21 and we can address motions and such as that. I'll bring
22 them back in here, you can rest on the record. I'll release
23 them and we'll take it from there. Let's have the jury in,
24 please.

25 (WHEREUPON, jury entered 11:48 a.m.)

1 THE COURT: Solicitor, any additional witnesses, sir?

2 MR. STUMBO: No, sir. The State rests its case, Your
3 Honor.

4 THE COURT: Ladies and gentlemen, what I'm going to do
5 now is I've got to take up a few issues of law with the
6 attorneys involved in this case, and this may take a little
7 piece of time, so you're going to have an extended lunch
8 break today because I've got to make allowance for the
9 participants here to get something to eat, too. So I'm
10 going to go ahead and release you and I'll ask that you
11 could, if you could please, to be back here at the
12 courthouse, let's say at 2:00, and hopefully we'll be in a
13 position to move forward at that point in time. So be back
14 at 2:00. That'll give you well over 2 hours. You can run
15 some errands, do some other stuff. Whatever you do, though,
16 don't talk about the case. So, I'll see you back at 2:00.
17 And just feel free to leave your tablets, and we'll collect
18 those from you. You all have a great lunch. Thank you.

19 (WHEREUPON, the jury exited 11:50 a.m.)

20 THE COURT: The jury is out and my Court Reporter asked
21 me to just note something for the record quickly.
22 Apparently, as it relates to State's 97, 118 and 119, those
23 were pre-marked prior to trial. They were never introduced
24 and I think they're audio or DVDs or something like that --
25 or no, they're not, but whatever they are they're marked and

1 they're in the record.

2 COURT REPORTER: They were never marked. It was just
3 those we numbered ahead of time those, in sequence, but
4 there are no exhibits.

5 THE COURT: My Court reporter corrected me. They were
6 marked ahead of time, but they are not exhibits. They're
7 not in the record. So if the exhibit list is missing 97,
8 118 and 119, that's not a problem.

9 MR. STUMBO: Judge, just to supplement that point, 97
10 was a duplicate of 79 which was entered into evidence, I
11 think. So we never marked the 97, we just had it on our pre
12 numbered list when we realized it was a duplicate, that we
13 had marked it twice on our pre-numbered list. That never
14 went in. 118 and 119, Judge, were ones that we did mark
15 that are marked for ID, but we did not -- well, we didn't
16 put them in. We may have not even marked them, Judge, but
17 they're just on that pre-numbered list. So those three
18 numbers would be skipped, I guess, in the record.

19 THE COURT: Just so the record is clear, there are no
20 exhibits 97, 118 or 119 and we should be good. Of course,
21 all defendants renew all for our motions and ---

22 MR. GROSE: I do have a ---

23 THE COURT: And I'm going to go in order, but you're
24 already up here, Mr. Grose.

25 MR. GROSE: Well, I do have a couple of housekeeping

1 things before you get to the directed verdict. When we were
2 talking about the emails, I don't know what exhibit it was,
3 I mentioned in passing a reference to 126 and 127, State
4 exhibits, that were pictures of Mr. Hurley. I recall
5 mentioning at the sidebar that part of my objections to
6 those is that they were produced to us in discovery on
7 Monday. I know that Your Honor admitted those exhibits as
8 well as some other exhibits subject to all of the arguments,
9 but I just don't know that that argument had been made that
10 precisely on the record as it was at the sidebar.

11 The other thing that I want to do as a matter of
12 housekeeping, Mr. Henderson and Mr. Tinsley already have it.
13 I just want to put in as a Court's Exhibit. This is printed
14 from the Index Journal's website. I don't get their paper
15 subscription, but it appears, based on the photo of today's
16 paper that they put on the Index Journal, that this trial
17 was again on the front page of the paper today. And the
18 article references a number of things that happened in the
19 trial yesterday, including the DNA and the gunshot residue,
20 but it also references the defense objections to some of
21 these photographs regarding people using possible gang
22 signs. And for somebody who is reading this article who has
23 not been privy to all of those discussions, could interpret
24 it that it was me and Mr. Henderson and Mr. Tinsley talking
25 about gangs where all we were doing was trying to point out

1 the prejudice that comes from what the Solicitor and law
2 enforcement were arguing outside the presence of the jurors
3 before they were selected and sworn. And so I would just
4 ask that the Court take note of that and make certain that
5 none of the jurors have read any of the articles in the
6 paper this week. I'm going to shut up and then hand this to
7 the court reporter instead of trying to make her mark it
8 while I'm talking at the same time.

9 (WHEREUPON, Index Journal marked Court's Exhibit 29.)

10 MS. TAYLOR: And, Your Honor, just for the record ---

11 THE COURT: One second.

12 MS. TAYLOR: Your Honor, just for the record, there are
13 some inaccuracies in there that could cut both ways, so it's
14 not...

15 THE COURT: I'll be more than happy to inquire of the
16 panel generally when they come back and make sure that none
17 of them have read the story. And if any of them have, I'll
18 deal with it as I need to.

19 MR. GROSE: And just for the record, I realize it's a
20 double edged sword. I'm worried about the side that could
21 kill us. And with these guys facing the potential of life
22 in prison, I can't take any risk.

23 THE COURT: I understand.

24 MS. TAYLOR: And my point being, I agree that we do not
25 want the jurors reading that article.

1 THE COURT: We're in agreement on that. Mr. Tinsley, I
2 assume you're moving for a directed verdict, sir?

3 MR. TINSLEY: Yes, Your Honor. I would move for a
4 direct verdict on all charges for Mr. Xayvion Hill. As the
5 Court is aware, the standard is any direct evidence or
6 substantial circumstantial evidence that would prove guilt,
7 so that a jury could come back with guilt is what the court
8 has to look to. And I would submit that there's not
9 sufficient evidence against Mr. Hill in this case to convict
10 on any of these charges. I'll start with murder. As we
11 talked about earlier in the week, the State was abandoning
12 any so called felony murder argument and going to rely on
13 transferred intent as it relates to the death of Mr. Alston.
14 The State hasn't proved what bullet killed Mr. Alston, who
15 shot it. They said in opening that the theory was that Mr.
16 Hill shot himself and shot Mr. Alston and said, I think the
17 term was bad trigger discipline, which makes it sound like
18 an accident. So, it couldn't be transferred intent. The
19 evidence doesn't support that he was intending to kill
20 anyone and can transfer that intent to Mr. Alston's death.

21 And then, if you look at attempted murder of Mr. Parks
22 and Mr. Goode, the State has to prove that he was
23 specifically intending to kill these two men. And I don't
24 think there's sufficient evidence there. The State has
25 produced plenty of evidence that Mr. Hill, Mr. Reid, Mr.

1 Hurley, Mr. Alston, and Mr. Parker knew each other. They
2 certainly have proven that. And they've proved that Mr.
3 Parks and Mr. Goode knew each other, that they are
4 acquainted with Mr. Adams. But there's been no nexus
5 linking Group A to Group B that is in evidence here. So,
6 that's a big hole to get to specifically specific intent to
7 any evidence that Mr. Hill intended to kill these men. And
8 that would -- and given that hole, it can't go to the jury
9 because they can't possibly meet that burden of proving
10 specific intent.

11 And then when it comes to criminal conspiracy, they've
12 proved these guys know each other, but I have seen no
13 evidence of any agreement to commit any type of crime, any
14 criminal activity of any sort. They can't even put them
15 together. No evidence puts them together on April 8, 2020.
16 And then, so I don't think there's an underlying charge to
17 associate the possession of the weapon with that can
18 withstand directed verdict. So the verdict should be
19 directed on that charge as well, because if you look at it,
20 the evidence they have against Mr. Hill is that he got a
21 ride over there with a gentleman named Beezy. And he got
22 shot somewhere in the area and hobbled over to Gardens at
23 Parkway where Mr. Hawthorne gave him a ride to the hospital.
24 That is the only evidence they have.

25 They have nothing linking him to a gun, no DNA, no

1 fingerprints, no eyewitness testimony. They had gunshot
2 residue on his hand, which, as the SLED Agent Nates
3 testified yesterday, that basically means nothing. It was
4 expected for someone who was shot by a gun. So looking at
5 these facts, even as you're supposed to, in the light most
6 favorable to the State, there's just certainly no direct
7 evidence, and there may be weak circumstantial evidence that
8 requires a lot of leaps and bounds that just aren't
9 reasonable. So, that's certainly, whatever the definition
10 of substantial is, that certainly doesn't meet substantial
11 circumstantial evidence. So we would ask that you direct
12 the verdict for Mr. Hill on all charges.

13 THE COURT: All right. Mr. Henderson?

14 MR. HENDERSON: Yes, sir. Your Honor. And I will join
15 Mr. Tinsley's argument. And I think Mr. Grose will be
16 addressing more of the substantial circumstantial evidence.
17 But, Your Honor, I think you have to start your analysis for
18 directed verdict purposes here with the two groups of young
19 men that the state have identified. You know, the group
20 that includes Mr. Reid, Mr. Hill, Mr. Hurley, Mr. Alston.
21 Now the State, I think, has put up evidence that those young
22 men know one another, and specifically, they've done that by
23 photographs. They've also put up some photographs that
24 those young men knew Mr. Parker. In the light most
25 favorable to the State, I think they put evidence in front

1 of the jury that that's a fact.

2 On the other hand, they've also put up evidence that
3 Mr. Goode and Mr. Parks know one another. In fact, I
4 believe there's testimony that they're cousins, because most
5 of them testified. And the State also put up evidence that
6 they were acquaintances with Mr. Adams, so they did not
7 produce any photographs of Mr. Adams. And notably, the
8 State didn't produce any photographs of these two separate
9 groups of young men being in the same photograph, thereby
10 knowing that they -- showing that they know one another.
11 Mr. Goode and Mr. Parks were on the stand, and the State
12 never asked them, "Do you know Mr. Reid? Do you know Mr.
13 Hill? Do you know Mr. Hurley? Do you know Mr. Alston? Do
14 you know Mr. Parker?" They did not do that. So, Your
15 Honor, there is no evidence in the record that these two
16 groups of young men know one another at all. So, if you
17 look at the attempted murder charge, they are alleging that
18 my clients specifically intended to kill two specific
19 people, ie. Mr. Parks and Mr. Goode. Now, the State has put
20 forward no evidence that my client knew either one of those
21 young men at all. And the State had the opportunity to ask
22 that when Mr. Parks and Mr. Goode were on the stand. Not
23 whether or not they could ID Mr. Reid, but whether or not
24 they knew him. That evidence isn't in the record.

25 And, Your Honor, if we look at specific intent to kill

1 a specific person, I think the State has to show some sort
2 of nexus -- I think Mr. Tinsley used that word -- between
3 the purported shooter and the person that they're trying to
4 shoot, or trying to kill, in the State's eyes. And again,
5 we don't have that here, Your Honor. Any purported nexus
6 would be up to the jury to speculate about as to why the
7 State is saying that Mr. Reid went over there to kill
8 somebody, specifically. That the State has presented no
9 evidence that he knows.

10 And again, the next step of that, Your Honor, is the
11 identification side of it. And I'm listening closely to all
12 of this testimony. No witness has identified Mr. Reid at
13 all as being there. No witness identified Mr. Hurley as
14 being there. And even Mr. Hawthorne, who took Mr. Hill to
15 the hospital, didn't identify Mr. Hill in the courtroom as
16 the person that he took to the hospital. So, again, there
17 is no identification of either three of these young men
18 being at the crime scene. When I say the crime scene, I
19 mean the shooting at Hillcrest Apartments. Again, there is
20 no identification, no direct identification evidence of
21 that, Your Honor.

22 And if you look -- and again over beyond that, the
23 State has produced no evidence that Mr. Reid, Mr. Hurley,
24 and Mr. Hill were ever together that day, Your Honor, the
25 three of them, cumulatively. The State has produced no

1 evidence that those three cumulatively were with Mr. Alston
2 that day. If you look at the testimony of the various
3 witnesses, Your Honor, you've got a lady on the 911 call
4 saying she just saw an unidentified five people shooting.
5 You've got Mr. Jameel Wilson saying he saw three people, one
6 in the driver's seat, one in the front, two in the back, as
7 I recollect his testimony was. He could identify him.
8 Stephanie Moss sees one person get out of the car from the
9 back seat, and two people were in the front seat, according
10 to her. And again, we don't know whether or not those are
11 the same cars. They're talking about black cars. Laura
12 Bollinger, she testifies that she sees three people and the
13 person clearly that she tried to ID. She couldn't identify
14 my client.

15 And I guess the reason she couldn't identify my client,
16 it wasn't my client she was describing, you know, with
17 shaved sides of the head and one inch dreads standing up.
18 Don't think for a minute if the government had -- let's talk
19 about what they didn't introduce. If they had a photograph
20 of him, of my client around this time with a shaved sides of
21 both heads and one inch of dreads standing up, you don't
22 think they would have introduced it. They didn't. There's no
23 evidence of that, Your Honor. Again, that's why Ms.
24 Bollinger couldn't ID anybody, much less my client. Again,
25 you see, Mr. Hawthorne, he doesn't identify anybody at all.

1 He actually, it turns out, it looks like he took Mr.
2 Tinsley's client to the hospital, but he didn't identify Mr.
3 Hill at all. He sure didn't identify Mr. Reid as being in
4 that car. He didn't identify Mr. Hurley as being in that
5 car and didn't identify Mr. Alston as being in that car.

6 Your Honor, the government's theory, as best I can
7 tell, is that this murder is stemming from the attempted
8 murder. That they're attempting to kill these two people,
9 that the government's shown no nexus between, no reason why
10 my client or any of these other young men would have
11 specifically intended to specifically kill Mr. Goode and Mr.
12 Parks. And they're saying that that somebody accidentally
13 transferred this attempt into murder of Mr. Alston. Your
14 Honor, I think you have to go through the attempted murder
15 to get to the murder. And I'm not sure they ever get to the
16 attempted murder. That's my concern here.

17 Again, and just thinking of some other, because the
18 SLED ladies yesterday, I think Ms. Eichenmiller, if I'm
19 calling her name correctly.

20 THE COURT: I think you are.

21 MR. HENDERSON: The firearms analyst. The State
22 recovered three bullets from this crime scene. Only three.
23 They recovered 13 shell cases, even though there's testimony
24 of 20 shots being fired. But Ms. Eichenmiller can't say if
25 those bullets, the upstairs bullet, the downstairs bullet,

1 the bullet recovered from Mr. Alston's body, she can't say
2 whether or not they're fired from the same gun, two guns, or
3 three guns. She just doesn't know. And to a reasonable
4 degree of certainty she could not opine to that. The
5 government's got no evidence that any of these defendants
6 sitting out here fired a gun that killed Mr. Alston at all.
7 And for the jury to come to that conclusion would just
8 entail rank speculation, Your Honor. There's no way around
9 that.

10 Again, my client totally excluded from DNA on all these
11 items that were tested. No GSR on my client at all. He's
12 excluded from that, Your Honor. So, again, we're just
13 looking at there is nobody that has put my client at this
14 crime scene at Hillcrest Apartments. And going back to Mr.
15 Goode, he testified there was only one person that he saw
16 shooting, and that person had a tan gun and was wearing a
17 ski mask, a black ski mask. So everybody is seeing a
18 different number of people. Some people see them in cars,
19 some people see them out of cars. For the jury to sift
20 through this, it's just coming up to speculation inuendo,
21 whatever you want to call it, for the government trying to
22 put forth this evidence to prove them guilty beyond all and
23 any reasonable doubt. Then you've got the doctors today
24 saying that they can't offer opinions about how far any
25 shooter was away from any person that got shot. I think one

1 of the doctors testified today that at least he knows the
2 wounds weren't close range, but other than that, they don't
3 know if it's 5 feet 10 feet, 100 feet. Nobody has any
4 evidence or has opined or offered any testimony about how
5 far any shooter was from anybody that got hit by a gunshot.

6 So, Your Honor, I think you start with the attempted
7 murder. I think that leads you into the murder. The
8 conspiracy, again, the government hasn't put forth any
9 evidence that these three young men were together at all
10 anytime on April 8, 2020. And that would be my argument for
11 the conspiracy. And I think the gun charge just kind of
12 goes with the attempted murder and the murder charge.

13 Those would be my arguments for directed verdict.
14 Basically no direct evidence, and just weak weak weak
15 circumstantial evidence, and I think Mr. Gose will better
16 define and argue to the Court why there is no substantial
17 circumstantial evidence proving evidence of these crimes.

18 THE COURT: Mr. Grose, I'll give you the floor. I have
19 been thinking through that myself, and you're, of course,
20 going to cite Hepburn and let me hear you. It's one of my
21 favorite cases.

22 MR. GROSE: I know it is. That actually wasn't the
23 first case I was going to cite.

24 THE COURT: It wasn't the first? What was the first
25 one?

1 MR. GROSE: Schrock. Your Honor, I know when you --
2 we're having a moment of, sort of, I know levity there, but
3 I know that you're referencing a conversation that we had on
4 the record in another case several years ago in Abbeville
5 about the state of the law regarding the substantial
6 circumstantial evidence standard. It's a conversation that
7 we had then. I believe it's something that you yourself
8 have spoken on at continuing legal educations, and I believe
9 you told me during that conversation a few years ago in
10 Abbeville that it's been a matter of discussion by the
11 judges on their Listserve. And what we have is we have at
12 least two, if not, you know, three different standards that
13 are set forth in our case law. Shrock was a 1984 case,
14 that's 283 S.C. 129, 322 S.E.2d 450 (1984).

15 MR. STUMBO: How do you spell it?

16 MR. GROSE: It's S-c-h-r-o-c-k. And then there's State
17 v Mitchell, which is 322 S.C. 619 506 S.E.2nd, 523. That's
18 the Court of Appeals opinion that was also affirmed by the
19 Supreme Court at 341 S.C. 406 535 S.E.2nd (2000). And then
20 there's State v Arnold, which is a 2004 case, that's at 361
21 S.C. 386, 605 S.E.2nd 529. And then there's State v
22 Hernandez, which is a 2009 case, which is found at 382 S.C.
23 620, 677 S.E.2nd 603. Those are all cases, and we haven't
24 gotten to Hepburn yet, but those were all cases where
25 ultimately the South Carolina Supreme Court ruled that there

1 should be a directed verdict because substantial
2 circumstantial evidence wasn't submitted to the jury.

3 A case that is often cited is State v Cherry. C-h-e-r-
4 r-y, 361 S.C. 588, 606 S.E.2nd 574. And it's often cited
5 for the proposition if there is any direct evidence or any
6 substantial circumstantial evidence reasonably tending to
7 prove the guilt of the accused, the appellate court must
8 find that the case was properly submitted to the jurors.
9 The problem comes into place is the presence or the absence
10 of the word "any" regarding circumstantial evidence. And if
11 it is present, whether you emphasize "any" or you emphasize
12 "substantial". For example, I just mentioned the Cherry
13 case, which uses "any" before both direct and substantial
14 circumstantial evidence.

15 State v Land, which is 419 S.C. 191, 797 S.E.2nd 48.
16 When it talks about any substantial circumstantial evidence,
17 italicizes the word "any". Other cases like State v Odoms,
18 395 S.C. 582, 720 S.E.2nd 48 italicizes and places emphasis
19 on the word "circumstantial". In many cases, our Supreme
20 Court does not use the word "any" to modify "substantial"
21 when they're talking about circumstantial evidence. One of
22 those cases is Hernandez, which I gave the site to a minute
23 ago. Another case is State v Rosemond, 356 S.C. 426, 589
24 S.E.2nd 757. That's a 2003 case. And the conversation that
25 we had before and what we have to be cognizant of is the

1 United States Supreme Court has said in Jackson v Virginia,
2 which is 443 U.S. 307 from 1979. I believe they said this
3 on page 320 of the opinion, "But it could not seriously be
4 argued that such a modicum of evidence could by itself
5 rationally support a conviction beyond a reasonable doubt."
6 Ultimately, at least when we're talking about the law to be
7 applied, is the court has to direct a verdict when there's
8 not substantial circumstantial evidence, and the directed
9 verdict should be granted when the evidence is such as to
10 permit a jury to merely conjecture or to speculate. And
11 that's been said a number of times.

12 State v Kane, 419 S.C. 24, 795 S.E.2nd 846 (2017).
13 State v Brown, a 1976 case, 267, S.C. 311, 327 S.E.2nd 674.
14 And sometimes they also talk about the circuit court should
15 not refuse to grant a directed verdict motion when the
16 evidence merely raises a suspicion that the accused is
17 guilty. And that's in the Cherry case, that I already cited
18 at 594 of the South Carolina site, and 478 of the S.E.2nd
19 site. And what I asked you to do in that case a few years
20 ago, which you didn't do, I'm hoping you'll help us with
21 today, because the appellate courts haven't given us much
22 help, is to define what exactly is meant by substantial
23 circumstantial evidence. Because we do have those cases
24 like Schrock, like Mitchell, like Arnold, like Hernandez and
25 like Hepburn that you mentioned where the Court found that

1 there was not substantial circumstantial evidence.

2 And just to go through some of those cases. Schrock
3 was a case out of Orangeburg County where there was no
4 dispute that Mr. Schrock was in the area, and even some of
5 the things that identified him to be at the crime scene.
6 And there was things -- shoe boots were similar to shoe
7 prints at the crime scene. You could look at the case, but
8 there was a lot to it, and it certainly raised a suspicion
9 that Mr. Schrock was guilty. But the Supreme Court directed
10 a verdict. The Mitchell case was a case out of Newberry
11 County. It was the one that involved the fingerprint on a
12 screen. The accused fingerprint was on the screen. The
13 screen was off the window. The screen was outside of the
14 house. And the charge in that case was burglary. And I
15 think both courts said, the South Carolina Supreme Court
16 ultimately said that finding somebody's fingerprint on the
17 window screen outside of a building is not sufficient
18 evidence to prove that they had entered.

19 The Arnold case was somewhere out of the low country.
20 It was a murder case. It was one where I believe it was the
21 accused's car -- not an accused. The decedent's car was
22 stolen, and there was a fingerprint on the coffee lid when
23 the car was recovered in Tennessee. The Supreme Court said
24 that there should be a directed verdict in that case. The
25 Hernandez case was a drug trafficking case where, I don't

1 remember if they were in the same car or different car. It
2 seems like it was a different vehicle than the one that was
3 with the drugs, but there was a lot of evidence that the
4 three people were following the vehicle that was stopped
5 with the drugs in it. And I think this was out of Edgefield
6 County. And it was a case that former Chief Justice Tole
7 wrote the opinion in and sort of dropped that footnote
8 where, while we don't use the old Edwards charge, she did
9 use, sort of, the "exclude any other reasonable
10 possibilities" kind of language in her analysis, or as an
11 illustration of her analysis, on the directed verdict
12 motion. The Hepburn case ---

13 THE COURT: As far as the state of the law, I think
14 we've gone full circle almost all the way back to Edwards.

15 MR. GROSE: I think ---

16 THE COURT: -- any other reasonable hypothesis and must
17 be consistent with each other and point conclusively to the
18 guilt of the accused beyond a reasonable doubt. Maybe one
19 uses inductive reasoning, the other deductive reasoning, but
20 they're both, the end result is both, regardless how you
21 approach it.

22 MR. GROSE: And of course, I don't want to conflate the
23 jury instruction too much, but Chief Justice Tole did kind
24 of import Edwards into that a little bit. And I think
25 you're right. I think the Logan charge has taken us back

1 to, just using different language, back to the Edwards jury
2 instruction analysis. Hepburn, obviously, I know that
3 you're familiar with that case. I think it and Hernandez,
4 what they have in common is that both of those cases, there
5 was really undisputed evidence that the defendants were
6 present at the scene. I don't think that in Hepburn that
7 there was any evidence that she was not present during the
8 night when the child was killed. And of course, in
9 Hernandez, the three defendants were arrested at the same
10 time that law enforcement seized the narcotics from the
11 vehicle that was driving those.

12 And so now we finally get to sort of how this applies
13 to this case. And I don't know if I said this, but I do
14 adopt what Mr. Tinsley and Mr. Henderson argued before, and
15 they went through a lot of the facts as it applied to, I
16 guess, all of the defendants and their clients in
17 particular. Mr. Henderson, I think, made a comment about,
18 before you get to the murder, you have to look at the
19 attempted murder. And I don't have the names in front of
20 me. I could get them. But we have at least two cases from
21 the Court of Appeals of South Carolina that say that
22 transferred intent does not apply to attempted murder. Now,
23 I think in discussion of this, I think that both of those
24 cases involved persons shooting at "A" and missing and
25 hitting "B", and that the attempted murder could not apply

1 to "B". However, since we adopted the attempted murder
2 statute in around 2010, there's been a lot of uncertainty
3 around that. Our Court started to address some of that in
4 the King case, where they said that attempted murder
5 required specific intent and strongly suggested that it also
6 requires proof of express malice, that inferred malice would
7 not be sufficient to rise to the level of attempted murder.
8 I realized that Judge Hewitt in particular, has written some
9 cases on the Court of Appeals. One is State v Shelby
10 Taylor. I don't have the site for it, but Mr. Wise and I,
11 representing the South Carolina Association of Criminal
12 Defense Lawyers, have filed an amicus brief in that case
13 regarding whether or not a judge can give an instruction on
14 inferred intent in an attempted murder case.

15 I would argue that if the State's theory is that the
16 attempted murder was committed by express malice. And we
17 know that that's their theory, because that's the indictment
18 that they brought to trial, that in order for that intent to
19 transfer, it couldn't transfer. Because we have those cases
20 from the Court of Appeals suggesting that it cannot
21 transfer. We have to be careful when we start using some of
22 these legal doctrines that we're not lessening what the
23 State has to show, both at this stage at directed verdict,
24 and what they have to show to a jury beyond a reasonable
25 doubt.

1 And so, I want to kind of shift and talk about how some
2 of this applies to Mr. Hurley. But instead of starting with
3 attempted murder, I think what I want to do is I want to
4 start with section 16-23-490, the additional punishment for
5 possession of a firearm or knife during the commission or of
6 an attempt to commit a violent crime. And what the law says
7 is if a person is in possession of a firearm or visibly
8 displays what appears to be a firearm or visibly displays a
9 knife during the commission of a violent crime and is
10 convicted of committing or attempting to commit a violent
11 crime as defined by Section 16-1-60 he must be imprisoned
12 for five years in addition to the punishment. And then it
13 goes on with more sentencing.

14 I am aware, and I would call the Court's attentions in
15 particular to State v Jennings, which is a 1999 case from
16 the South Carolina Court of Appeals, 335 S.C. 82, 515
17 S.E.2nd 107. One can be convicted of possession of a
18 firearm based upon proof of either actual or constructive
19 possession. And I don't think that the government has
20 proven actual possession regarding any one of them. And
21 going back to the sidebar conference regarding the gunshot
22 residue as it pertained to Mr. Hill, it was our
23 understanding that that evidence was going to be presented,
24 that that was an exclusion, and it got a little more squishy
25 when we actually got in front of the jury. But I think that

1 the Court, even viewing that evidence and light most
2 favorable to the State, has to conclude that that evidence,
3 in and of itself, does not do anything more than raise a
4 suspicion that Mr. Hill had actual possession of a gun. The
5 gunshot residue, as far as Mr. Reid and Mr. Hurley was
6 concerned, there was none. There's not even a suspicion
7 that they were in actual possession of a gun.

8 So, then the Court has to get into whether or not they
9 were in constructive possession of a gun. And there has
10 been no testimony regarding Mr. Hurley that he was present
11 at the apartment or the grassy location where the shots were
12 fired. And the State, and the Solicitor, in their
13 representative capacity of the State, said their theory was
14 that probably Mr. Hurley was in the car. And you do have
15 evidence that Mr. Hurley was in the car at the hospital, but
16 you have, at the time that the crime was committed, there's
17 no evidence in this record that he actively or
18 constructively possessed a firearm. And State v Jennings is
19 the case that seems to talk a lot about actual and
20 constructive possession. Again, with Mr. Hurley not being
21 present when the shots are fired, there's been no evidence,
22 even if they're right, that he was in the car in another
23 building. There's been no evidence that Mr. Hurley had any
24 knowledge that anybody had a gun, any knowledge that any
25 shots were going to be fired. I think, as both Mr. Tinsley

1 and Mr. Henderson pointed out, while they've shown
2 association between Mr. Alston and the three defendants, and
3 association between Mr. Goode and Mr. Parks, they've not
4 established any nexus between those two groups as far as
5 what the motive could be.

6 And so, I think that if you begin with the directed
7 verdict on Mr. Hurley with regards to possession of a
8 firearm during the commission of a violent crime, the fact
9 that there's no evidence to prove that he was in active or
10 constructive possession of a firearm, the dominoes fall from
11 there. With regard to the two attempted murders, there's no
12 evidence that he knew that a gun was going to be used with a
13 specific intent to kill anybody. Assuming that you find
14 that there is a specific intent. I know the other two
15 defendants have not conceded that. There's no knowledge
16 that, you know, Mr. Alston -- there was no knowledge by Mr.
17 Hurley that Mr. Alston was going to be in any kind of
18 danger. And with regard to the charge of murder, I think
19 you've got to throw out any express malice on Mr. Alston.
20 The only way that you get to that is through an inferred
21 malice, through transferred intent. And I don't think
22 there's any way that you can put that inference on Mr.
23 Hurley. And for all the same reasons, the dominoes fall,
24 and you have to direct a verdict regarding Mr. Hurley on the
25 conspiracy.

1 I've gone on and on and on, and I know that you're well
2 versed in these concepts, because we talked about them
3 before in other cases, but I'd be happy to try to address
4 any questions Your Honor might have.

5 THE COURT: Thank you.

6 MR. HENDERSON: And, Your Honor, I adopt Mr. Grose's
7 arguments too.

8 MR. TINSLEY: As do I.

9 MR. HENDERSON: And to the extent they apply to Mr. Reid
10 too, I incorporate my argument for Mr. Reid the same way.

11 THE COURT: And Mr. Tinsley said the same thing. Mr.
12 Grose's argument is incorporated, the direct verdict motions
13 involved in this. Solicitor, let me hear from you.

14 MR. STUMBO: Judge, we may, kind of, split this up.
15 That was a lot from all three of them to digest there, but I
16 read some of the case law again on substantial
17 circumstantial evidence. I've read these cases before, but
18 I needed to obviously brush up on them a bit. The Logan
19 charge, I believe, is one that I've heard Your Honor give
20 most recently.

21 MR. GROSE: I'm sorry, did you say Logan?

22 MR. STUMBO: Yeah. That's right. Which is the 2013
23 case. I read that again, Judge. Obviously, you know, the
24 question Mr. Grose poses of what is substantial
25 circumstantial evidence, I think all of us probably are

1 wrestling with that to some degree based on all these cases.
2 And where do you draw the line. Certainly, that may be
3 difficult to ascertain reading this line of cases going back
4 to Schrock all the way through Hepburn and Logan.
5 Ultimately, Judge, Elizabeth is going to talk a little bit
6 about the -- I'm sorry, Ms. Taylor is going to talk a little
7 bit about some of the facts that we presented that are in
8 the record. But as far as the chain on murder here, just
9 the legal theory on murder, and we'll talk more about the
10 facts on that in a moment. Certainly, we don't always
11 charge murder when we have a participant in a case that
12 ultimately is deceased as a result of a shooting incident.
13 There's no question that -- we're not trying to pretend that
14 Mr. Alston -- certainly, we've presented plenty of evidence
15 in this case that he was one of the assailants, one of the
16 aggressors.

17 In fact, if he had been hit by a bullet in response
18 from one of the other two guys, if there was any evidence of
19 that, which there's not. But if Goode and or Parks had a
20 gun sitting on the steps, smoking their blunt, and it fired
21 back at these guys and shot and killed Mr. Alston instead of
22 them, which, again, zero evidence of that. We'd probably be
23 looking at a legitimate self-defense case on the part of
24 Goode and Parks. But that is not what we have here, Judge.

25 Ultimately, the theory is based on the -- and what

1 we've indicted them for, is because it's our theory that
2 these four individuals are driving through. I think Mr.
3 Wilson's testimony is critical here in terms of this
4 planning of the event, slow rolling through the parking lot
5 of the Cardinal Glen apartments. That's why we called him,
6 Judge. We believe that was extremely compelling
7 circumstantial evidence. Shortly before this event took
8 place. Describes the Camry. Describes seeing at least a
9 driver and two people in the back. And my recollection is
10 he said, I couldn't see anybody in the front passenger seat.
11 But that doesn't mean he didn't say he didn't see anybody in
12 the front passenger seat either. That's just the two in the
13 back. And he described their hairstyle as kind of twisties
14 sticking off their head was what he recalled from their
15 silhouettes as they were driving by him and away from him.

16 But Judge, that amount of planning, and as the car
17 clearly we believe the evidence has shown was driven by Mr.
18 Hurley that day. So, under a theory of accomplice liability
19 from that point until a few minutes later, when the shooting
20 take takes place, we don't believe Mr. Hurley got out of the
21 car. We think he was the getaway driver. Which ultimately
22 is the textbook case of your hand of one hand of all
23 scenario, Judge. You've got to have a getaway driver, and
24 that was Mr. Hurley's role. So, certainly putting a gun
25 actually or constructively in his hand is not our theory by

1 which he's been indicted in this case. He's been indicted
2 because there is evidence of the gun being with the other
3 three, the other two defendants and the deceased.

4 The hospital video, Judge, is critical here, because a
5 couple of minutes after this happens, you have getting out
6 of that same car, Mr. Hurley and Mr. Reid pulling Mr. Alston
7 out. And there again, the timing is such here, Judge, where
8 the jury can draw reasonable inferences from those facts.
9 And again, I probably need to sit down and let Ms. Taylor
10 argue some of this. But ultimately, Judge, there is
11 evidence in the record that there was an intent to kill by
12 way of ambush here, specifically, Parks and Goode sitting on
13 those steps. And, in the course of that incident, we
14 believe there's physical evidence, lack of physical evidence
15 showing that bullets came from the other direction, and
16 ultimately physical evidence through what we presented today
17 in the medical testimony, which would be consistent with Mr.
18 Alston being at the, kind of, point of this attack. And
19 when they turn to run the other direction, if there's fire
20 coming from behind him, going through his -- the left side
21 of his body and resting on the right.

22 So, Judge, the theory here is transferred intent.
23 Ultimately, that is what the murder case rests on. Doesn't
24 matter, I mean, if Mr. Alston is a participant in the event
25 or if he's just a random bystander being hit by a bullet

1 from one of his co-assailants. And under the doctrine of
2 transferred intent, if they're shooting at other people and
3 there's express malice or malice express or inferred to kill
4 those guys, Judge, we do believe that under the doctrine of
5 transferred intent, his death is solidly a murder case.
6 Now, of course, Judge, that's on a pure legal theory.

7 If this jury determines that Mr. Alston's death, he had
8 it coming to some extent because he was one of the co-
9 assailants or co-conspirators in this case, and we've
10 actually named him in the conspiracy indictments as one of
11 the co-conspirators, certainly they could nullify us for
12 that matter. But I think, Judge, there is enough evidence
13 in the record applying the case law to this case in South
14 Carolina for them to find that these three individuals under
15 accomplice liability theory are guilty of his murder.

16 Judge State v King, and I believe that was the cases
17 that Mr. Grose was referring to. I think State v Williams
18 State v King, there's a line of cases that deals with
19 specific intent. Clearly that attempted murder is a
20 specific intent crime. And you can't transfer intent to
21 another potential assailant that wasn't or excuse me,
22 potential victim that wasn't killed. I think that that
23 would be the principle of those cases. And here, we're not
24 dealing with that. It's a murder charge. So transferred
25 intent in this case solely applies to the death of Mr.

1 Alston. We're not alleging that transferred intent applies
2 to Mr. Goode if they were specifically -- it's one of the
3 reasons, Judge, we've just named one indictment that they're
4 shooting at both Goode and Parks in this case. I mean,
5 certainly we could have split those up and had two separate
6 indictments for Goode and Parks. We did not do that here.
7 We believe that they were shooting at both of them. We
8 decided to go forward with just one indictment with both of
9 these specific targets in that one indictment for all three
10 defendants, but because they were specifically intending and
11 it's really transferred malice more than transferred intent,
12 I think if you get right down to it. The malice that they
13 intended for Parks and Goode is transferred in a colloquial
14 sense. That malice follows the bullet to the one bullet
15 hit, which was -- well, there again, the bullets hit Goode
16 and Parks as well, but one of the bullets ends up hitting
17 their co-conspirator. I don't think there's any prohibition
18 in the law for applying transferred intent to a co-
19 conspirator, at least as far as I can tell, Judge. Maybe
20 there's a case out there that is on point with that. I've
21 never seen it. But certainly these three defendants,
22 because of their conspiracy with the fourth individual, Mr.
23 Alston, ultimately causes Mr. Alston's demise. We do
24 believe transferred intent applies here. We believe the
25 murder charge under the law of the State and the facts of

1 this case is there can be reasonable inferences drawn from
2 the evidence from the evidence presented in the case for the
3 jury to find these defendants guilty of the murder of Mr.
4 Alston.

5 THE COURT: Ms. Taylor?

6 MS. TAYLOR: Your Honor, I think first of all, I want
7 to talk about the facts of the case. The defense hit a lot
8 on what we don't have. What they didn't want to mention is
9 what we do have. We have, taking it from the top, Jameel
10 Wilson, as early as his 911 call, saying that a black Camry
11 that was later a black Camry was later linked to Mr. Hurley,
12 is driving around acting suspicious, to use his own words.
13 He then, in his testimony the other day, stated that he sees
14 three individuals, but it can be reasonably inferred that
15 there is a fourth individual because of the location of the
16 individuals that he sees in the car. He sees the silhouette
17 of two people in the backseat with he described it as
18 twists. There has been testimony in the record that Mr.
19 Hill had twists. There are pictures in the record where Mr.
20 Reid has twists. And, as he sits here today, Mr. Hurley has
21 twists.

22 Your Honor, there's also in Mr. Wilson's testimony, he
23 states that that car comes through two or three times. It
24 comes to that gate. It sits there. The jury can reasonably
25 infer that they are sitting there looking for a way to get

1 into that apartment complex where they won't be seen. He
2 then says that it comes to the stop sign and turns left and
3 goes back in the direction of the apartment. It is from
4 there that a few minutes later, he hears the gunshots.

5 Then you take the next witness, Ms. Moss. Her
6 testimony on direct was that three people got out of that
7 car. And one of the individuals who got out of the car had
8 on a shirt that she described as having anchors. If you
9 look at the shirt that's in evidence that was taken from
10 Xayvion Hill, that shirt, from a distance, looks an awful
11 lot like anchors, Your Honor. So that is really direct
12 evidence that puts Mr. Hill getting out of that car in front
13 of Ms. Moss's house. I think on cross, she kind of walked
14 that back a little bit. You know, she still lives there,
15 and she's looking at three guys on trial for murder. So,
16 she walks back a little bit. Three people got out and says
17 one person got out, but there were other guys in the car.
18 And I think she said maybe she saw one guy get out and then
19 got distracted in her own house. Didn't expect there to be
20 a shooting.

21 Then you have Ms. Bollinger, and she testified that she
22 sees two individuals. One is a little bit bigger than the
23 other one. In her mind, what she remembered, there's
24 testimony in the record that Mr. Alston is bigger than these
25 defendants. She sees them crouch behind a bush. She sees

1 an individual who is shirtless with twists that stand up
2 about an inch from his head, run past her window holding a
3 gun. Mr. Reid is seen minutes later, shirtless at the
4 hospital with hair that, on the video to me, looks like it
5 matches that description.

6 You have Mr. Hawthorne who sees that black Camry, that
7 there was a black Camry beforehand. This is a black Camry
8 after, parked in the same location where Ms. Moss sees it,
9 sees it take off at a high rate of speed with feet hanging
10 out the passenger door. They didn't even take time to shut
11 the door. And those feet, the State has later proven,
12 belong to Mr. Alston, the shoes he was wearing that day.
13 You have Mr. Hawthorne also getting Mr. Hill at the scene
14 close to where that gun was located, the tan gun that was
15 found in the tree line. The reasonable inference to be
16 drawn therefrom is that he drops the gun in the tree line
17 and hobbles over to Mr. Hawthorne to get a ride to the
18 hospital. And this is contemporaneous with the Camry taking
19 off with Mr. Alston in it.

20 You have Mr. Reid and Mr. Hurley showing up at the
21 hospital with Mr. Alston. And the testimony was it is less
22 than a minute they are at the hospital, and it is clear from
23 the video they are in a hurry. It is clear from the video
24 they are not really interested in going in and talking to
25 anyone. It was clear from the testimony that they did not

1 give the hospital any information. They just dumped him off
2 and took off as fast as they can, or as fast as they could.
3 It is clear from the record that they did not go back to the
4 scene. And, Your Honor, flight is evidence of guilt, and
5 we're looking at substantial circumstantial evidence from
6 which their guilt can reasonably be determined. Any one of
7 these things is just a puzzle piece. But when you start
8 putting the big picture together, it's leading to there's
9 only really one conclusion that can be drawn from this. And
10 they were there beforehand. Their buddies went and did the
11 shooting, and then they went to the hospital to drop the
12 buddy off who died.

13 Your Honor, we have gunshot residue on the two people
14 who were in the car that were located that day. Obviously
15 didn't have an opportunity to test Mr. Reid or Mr. Hurley.
16 We do not have gunshot residue on the two victims and DNA on
17 the gun that is right beside where that black Camry was
18 parked. DNA on that gun coming back to Mr. Alston.

19 We have the associations of these individuals before
20 this happened, the knowledge of the murder on the part of
21 Mr. Parks and Mr. Goode, and there is the evidence in front
22 of the jury, although it was very limited, the Facebook post
23 and that there was a Facebook post from Mr. Hill that was
24 concerning. So, Your Honor, we're taking all of that into
25 consideration to paint this picture to the jury. It's no

1 one bit.

2 THE COURT: Okay, let's let's approach it this way.
3 Let's look at circumstantial evidence the same way that
4 Arthur Cuning Doyle did Sherlock Holmes. If you eliminate
5 the impossible, whatever remains, however improbable, has to
6 be the case. So, how has the State eliminated the
7 possibility? Because if Mr. Alston were alive, you've got
8 good evidence on him. You've got DNA, you've got GSR, so,
9 you've got pretty good evidence on Mr. Alston. How do you
10 eliminate the possibility that Mr. Alston shot himself and
11 Mr. Hill?

12 MS. TAYLOR: Your Honor, I think ---

13 THE COURT: How is that eliminated as a possibility?

14 MS. TAYLOR: The way that the gunshot wound goes
15 through Mr. Alston that the doctor testified this morning,
16 the entrance is actually on this back. I physically could
17 not hold a gun up, and I don't know if anyone could. To
18 have the gunshot come through the back of the arm, or
19 assuming it's two separate wounds, through the back of the
20 arm and through the back of the chest right here. That
21 would seem to be a physical impossibility.

22 THE COURT: All right. Where is the evidence? You've
23 got two guns out there and three people. What definitively
24 links -- I assume it's the State's case that Alston is one
25 of the shooters?

1 MS. TAYLOR: Yes, sir.

2 THE COURT: Okay, so you've got two guns, three people,
3 and one shooter accounted for. Where is -- to follow up on
4 Mr. Grose's and Mr. Henderson's point, where is there
5 evidence that either Mr. Hill or Mr. -- Sorry, Mr. Hurley or
6 Mr. Reid were in possession of the firearm?

7 MS. TAYLOR: That would be more of a constructive
8 possession, Your Honor. The direct evidence is that Mr.
9 Alston and Mr. Hill had the firearms. Mr. Reid, we cannot
10 prove that he was shooting. There is evidence in the record
11 the person who matches his description is seen with a silver
12 and black gun.

13 THE COURT: Are you familiar with any case where hand
14 of one, hand of all is applied to a possession of a weapon
15 during the commission of a violent crime sort of thing? If
16 you have to have the violent crime being the underlying
17 violent crime has to be committed. There's case law out
18 there saying that the weapon must further the violent crime
19 in some way, shape or form. That presupposes that the
20 person who is in possession of the weapon is the one that is
21 furthering using it to further the violent crime which is
22 committed. Can you point me to any law that says hand of
23 one, hand of all is going to apply to a firearm charge like
24 that? Or can you give me any case where that sort of thing
25 has been affirmed on a constructive possession?

1 MS. TAYLOR: Ms. Hoffman is checking on that. What I
2 can say is I don't see why it wouldn't apply. Because if
3 you take that, if Ms. Hoffman and I are going to commit a
4 crime and she's got the gun and I don't, but we're both
5 going to benefit equally from the crime, anything that
6 results from the crime is going to be imputed to both of us.
7 Why would the mere fact that the gun is just in her hand not
8 come back to me? If she's using that gun to further my
9 goals.

10 MR. STUMBO: Judge, on the converse, I don't know if
11 there's any case that we can point to where there is
12 multiple defendants and, say, an armed robbery case where
13 the getaway driver probably is charged equally with the same
14 number of indictments. I mean, I'm sure we could go back
15 through the archives and find those. I don't know of any
16 case where the actual weapon charge was -- if there was a
17 conviction that there was a reversal on that particular
18 charge for the getaway driver who there's no proof that they
19 actually had the gun in their hand. I guess if the theory
20 is there's a conspiracy and a planning to go shoot at people
21 or to rob a store or whatever with a gun, that accomplice
22 liability should apply to all the co-conspirators.

23 THE COURT: How far are you stretching accomplice
24 liability in this case, though? And that's part of my
25 concern here, because, yeah, you do have to have specific

1 intent to kill with attempted murder. And understand,
2 murder just requires malice and general intent to harm. But
3 it seems as if you are stretching hand of one hand of all
4 accomplice liability very, very, very far, at least as it
5 relates to Mr. Hurley, because he's not at the scene. You
6 have to demonstrate malice. How are you imputing malice to
7 Mr. Hurley, or for that matter, any of the people for the
8 homicide of Alston? None of them intended malice. And if
9 you can't use transferred intent for that malice to transfer
10 from the attempted murder to the murder, then legally they
11 are correct.

12 And the case law is clear that transferred intent, at
13 least the current state of the case law is, and I know that
14 the Supreme Court is revisiting this, I think that maybe
15 some of those cases are going up on appeal to the Supreme
16 Court and will be argued. But the current state of the law
17 is the transferred intent does not apply to attempted
18 murder. Ergo, there had to have been no malice towards
19 Alston, and by all accounts, even under the State's theory,
20 all these people were friends. And as you rightfully said,
21 Solicitor, if Goode had returned fire and Alston had been
22 killed, you would not be prosecuting this case.

23 MR. STUMBO: Correct. Well, we wouldn't be prosecuting
24 Goode, but if we had evidence that these guys initiated the
25 ambush and shot at them, we'd still be prosecuting them, not

1 necessarily for the murder of Alston. If we had evidence
2 that Goode's bullet killed him.

3 THE COURT: That's a kind of my point entirely. How
4 does it matter who killed Alston?

5 MR. STUMBO: I think, here's -- let's go down the
6 hypothetical trail here. Say, in the Five Point shooting,
7 which is the State v Smith case, which is another one that
8 piggybacked off some of the State v King, State v Williams
9 case law. The Supreme Court seemed to be focused on, to me,
10 the state of the way the attempted murder law was written.
11 We didn't have anybody killed in any one of those three
12 cases. Okay? Now, assuming the young lady who was hit from
13 this bullet that paralyzed her in the State v Smith case,
14 she's still alive. The Supreme Court in that case reversed
15 the attempted murder of convictions, I believe, on the young
16 men that were convicted.

17 But if she had died, Your Honor, I think what they said
18 is if she had perished, that the transferred intent would
19 apply and it would be a murder case. So I guess if we were
20 to apply, as the Court is suggesting here, transferred
21 intent and say it never can transfer to another person, I
22 don't think we could ever prosecute someone for murder on a
23 transferred intent theory. I mean, it's what I'm hearing.
24 In other words, the transferred intent theory in this case
25 only applies to the murder charge, not the attempted murder

1 charge. And it's just the same as the Smith case. If the
2 young lady who was hit by the bullet had been killed, I
3 think the Court was pretty clear that the State could have
4 proceeded on a theory of murder, but because she was not
5 killed, it was an ABHAN, not an attempted murder, because
6 attempted murder is a specific intent crime.

7 THE COURT: Fair enough, but in that case, of course,
8 she was an innocent bystander, whereas Alston here is a co-
9 conspirator. And again, there was no malice between these
10 people. I mean ---

11 MR. STUMBO: Well, I agree, but there was no malice in
12 the Smith case as towards the young lady that was hit.
13 There was malice towards the people they were shooting at
14 here. It's the same principle. They're shooting at Goode
15 and Parks. And I think the jury can draw reasonable
16 inferences from the evidence we presented that the target of
17 their conspiracy to shoot was those two guys.

18 THE COURT: Well, I'm going to instruct them that
19 malice also has to exist in the mind of the person at the
20 moment that the trigger is pulled. My understanding is that
21 the shooting was over with towards Goode and Parks, and that
22 it was the intention or the State's theory that Hill
23 negligently or recklessly, was trying to holster his gun
24 when Alston and he were shot.

25 MR. STUMBO: That's not our theory, Judge. We believe

1 Alston was shot right there where they were shooting. If
2 you can imagine if they come around the corner, the first
3 few shots were probably on target. You're coming around a
4 corner to ambush people, you start to shoot, and then as you
5 start to move away, all of the casings that were found were
6 in this pretty small area. So Judge, our theory is one of
7 those casings. We know from the forensic testimony from the
8 SLED expert that all 13 casings come back to these two guns.
9 And so Judge ---

10 THE COURT: I appreciate that's your theory. We now
11 move over to the circumstantial evidence thing and with the
12 question to you again. Have you been able to definitively
13 exclude the possibility that Hill was negligently holstering
14 the weapon at the time that Alston was shot? Have you been
15 able to definitively prove that Alston was shot at that
16 location as opposed to somewhere else where they were
17 fleeing to or whatever and Hill shoots himself and Alston?

18 MR. STUMBO: Judge, just that we've excluded the
19 possibility because they did search the area, they didn't
20 find any other shell casings between the location of the
21 shooting and where the tan gun was found and over by the
22 car. So Judge, I believe by the lack of casings in that
23 area, it's reasonable to believe if you're shooting this
24 way, if Alston is the first guy and Hill and Reid are behind
25 him, particularly the one shooting the tan gun, because we

1 can link the silver and black gun to Alston that falls in
2 the parking lot. But if you're turning after shooting
3 accurate shots at your targets and you turn to start to run
4 and your arm drops, you're not shooting accurately at that
5 point, but you're still shooting.

6 Judge, obviously I don't think it's reasonable to
7 believe that all 13 shots were fired in that accurate manner
8 towards Parks and Goode. We believe that as they turn to
9 run that's when Mr. Hill shoots Mr. Alston. And as the
10 pathologist testified this morning, he could be a couple of
11 minutes, up to minutes, to where he could with that
12 particular injury, make it back to the car. So, we believe
13 he was shot not where Hill was shot, holstering his gun when
14 he shot himself. So that would be our theory, Judge. That
15 Mr. Alston was killed in essentially crossfire between his
16 own guy and the targets of their shooting. And I think the
17 path of the bullet, the way he struck it makes it and I
18 think it's physically impossible.

19 If you look at where that first entry wound is on the
20 back of his arm, on his left side, that he shot himself
21 either with his right or left hand. Mr. Alston, that is.
22 So, it had to be the person that was carrying this tan gun.
23 There's no other reasonable hypothesis that I could draw
24 from that physical evidence. And of course, the gun that
25 Ms. Laurel Bollinger describes in the guy that doesn't have

1 a shirt on, that is a third gun, Judge. But based on the
2 casings we have, it doesn't appear that that gun was fired.
3 If there is a third gun, the casings we have all attribute
4 come back to these two guns. But there is evidence in the
5 record ---

6 THE COURT: It could be a revolver.

7 MR. STUMBO: Well, that's true as well.

8 THE COURT: If we're doing if's and maybe's and
9 perhaps's, then it sounds like we're lacking substantial
10 circumstantial evidence to at least some of these charges.

11 MR. STUMBO: Well, Judge, my response to that would be if
12 it was a revolver that Mr. Reid made out with and destroyed,
13 he could have shot that gun. If it was a revolver,
14 certainly. But if he shot -- here again, he's on trial
15 under an accomplice liability theory for the murder of Mr.
16 Alston too. We're essentially taking the physical evidence
17 we have, Judge, and we believe that excludes anybody but
18 that day, Reid or Hill as the ones that killed Alston. We
19 don't believe Hurley got out of the car. And Judge,
20 obviously our theory on him is based entirely on a hand of
21 one hand of all theory as to the conspiracy to shoot Goode
22 and Parks in this case. He's the getaway driver. And there
23 again, Judge, I know you made the statement that he wasn't
24 on the scene. I don't know how -- where he -- this is all
25 pretty close. I went out there last week where that car was

1 parked. You can walk that distance to the corner of
2 Building G in less than a minute. If you're running it's a
3 lot faster than that. It's not that far away. So them
4 parking in that strategic spot where they can't be seen
5 behind those trees, I don't see that any different than a
6 getaway driver in an armed robbery case parking around the
7 back of the building where they can't be seen, or where it's
8 in a covert spot. Maybe a little bit further away, but I
9 would dispute the contention that the Court has that the
10 getaway driver here, Mr. Hurley, in the black Camry, was not
11 on the scene. We believe he was. It's very close to where
12 this happened. Mr. Jameel Wilson's testimony is, I think,
13 very powerful to that end that there was not some decision
14 at the time that they got out of the car to shoot. That
15 they were slow rolling through these parking lots to try to
16 find the best place to park. Judge, I think that strong and
17 substantial circumstantial evidence that they're planning
18 this event.

19 THE COURT: All right, we're going to break for lunch.
20 We'll be back at 2:00. When jury comes back, tell them to
21 hold on one second. Have you all decided on whether you are
22 going to present a defense yet? I know Mr. Tinsley
23 introduced an exhibit yesterday. Were you -- what were you
24 thinking?

25 MR. GROSE: I haven't decided finally yet, Your Honor.

1 I'm leaning towards it, but I haven't decided finally.

2 MR. HENDERSON: Same way. We're going to see what the
3 Court does with the directed verdict rulings.

4 THE COURT: Ditto, Mr. Tinsley?

5 MR. TINSLEY: Correct, Your Honor.

6 THE COURT: All right. I'll see you all back around
7 2:00. Ask the jury to come back at 3:00. When they come
8 back, leave word downstairs. We'll be at ease.

9 (WHEREUPON, recess from 1:11-2:43 p.m.)

10 THE COURT: We're back on the record. Before I turn
11 back to that side, I had a question of the Solicitor. I
12 think most of my comments focused on Mr. Hill and Mr. Hurley
13 earlier, but can you give me an overview of the evidence
14 that the state contends, be it direct or circumstantial,
15 implicates Mr. Reid in this? Obviously, I've got to
16 consider the evidence separately as to each defendant, and
17 just give me an overview of what the State's position is in
18 terms of the evidence that demonstrates that Mr. Reid has
19 any culpability in this, please.

20 MR. STUMBO: Judge I'll start with kind of, I guess,
21 the part that builds to what happened on April 8. I think
22 the pictures that are introduced that were admissible as to
23 relationships are important circumstantial evidence. As to
24 relationships, as to motive, as to why these guys did this.
25 The majority of the pictures, as you will observe, Judge,

1 Mr. Reid is right there in the middle of all of them and
2 he's a prominent figure in this group of friends, shall we
3 call, since obviously we're not referring to gangs per the
4 court's ruling on Monday.

5 Moving into the day of the 8th. Obviously, Judge there
6 is nobody that, prior to the time of the shooting, can
7 affirmatively say Narkevious Reid is in that black Camry.
8 We do believe, though, that the Self ER video afterwards,
9 and there's testimony before, that there's multiple males in
10 the car that have these kind of short cropped hair around
11 the side and twisties from Jameel Wilson in Cardinal Glen
12 apartments. Judge, that ultimately the biggest eye witness
13 as it pertains to Mr. Reid is Laurel Bollinger. Judge,
14 Laurel Bollinger is in apartment ■. And I think, as Your
15 Honor remembers from the map, apartment ■ is essentially
16 catty corner. It's here. The individuals would, if they
17 were parked in this parking lot, would have to run past
18 apartment ■ to get to this building G and to get back to
19 the car. Her apartment here has a window that she said she
20 was looking at along this side of the apartment, which had a
21 direct view, unimpeded, from her testimony, to the corner of
22 Building G where all these shell casings are found. Judge,
23 she says when she hears the gunshots, right after that, if
24 you recall her testimony, she sees a young shirtless black
25 male with hair that was cropped closely around the sides and

1 about an inch off his head, had little baby dreads or
2 twisties. And if you look at State's 79, Judge, which is
3 the still shot just mere minutes later after the shooting at
4 the Self ER Bay, that is a description that matches Mr.
5 Reid, Judge.

6 I think if you put those two pieces of strong evidence
7 together, one from a what I believe I would say is direct
8 evidence as an eyewitness, she's looking out the window at
9 the time of the shots or shortly thereafter. He runs right
10 by her window. And she describes him, Judge, as having a
11 gun in his hand, which is a black gun with a silver line on
12 it. Of course, Judge, I know you indicated earlier, well,
13 that could have been -- say there was a revolver out there
14 that didn't deposit any shells that may have been shot by
15 Mr. Reid, potentially. Certainly there are -- and I did
16 this research over lunch with Investigator Moore. I didn't
17 believe that there were any nine millimeter revolvers, but I
18 thought those were all semi automatic. There is a Ruger, or
19 Luger nine millimeter revolver that exists.

20 THE COURT: They are very rare.

21 MR. STUMBO: Very very rare.

22 THE COURT: I think it's very expensive.

23 MR. STUMBO: Right. Judge, and that description from
24 Ms. Bollinger, to me, sounds like a slide. If you have a
25 line, most revolvers are rounded off. There's not a lot of

1 straight lines on a revolver. There are straight lines
2 along the slide of a semiautomatic. So, Judge, that would
3 indicate to me, since there was a shirtless male that runs
4 by first with a gun in his hands that matches Mr. Reid's
5 description, that he was hanging back. That Hill and Alston
6 were in front of him taking the lead on this shooting.
7 There again, I think the jury could draw reasonable
8 inferences from those facts alone that Mr. Reid was hanging
9 back.

10 And basically these two guys, who are younger than him
11 by three or four years, we've got their ages into the
12 record, were essentially acting at his direction. He was
13 kind of the backup, because he runs by first, and that makes
14 sense. Judge, if you look at the map from where the car is
15 parked, if he's hanging back behind Hill and Alston, then
16 Laurel Bollinger would have seen him run by first. And then
17 two males, she says, are crouched over. One's a little bit
18 larger than the other, which we believe the larger one would
19 be the taller one, the 5'11. Although he's slender, she
20 said he was bigger. But anybody who glances at somebody, if
21 it's a taller person crouched over, they would look thicker.
22 But she says, there's a white shirt. So again, Judge, to
23 me, Laurel Bollinger is the closest thing to an eyewitness
24 to this crime that I think we're ever going to have that you
25 don't catch on video. She sees these guys looking around

1 the corner at the kind of corner of that bush. At the time,
2 we believe Hill and Mr. Alston take the lead. They go to
3 shoot at Goode and Parks the steps, and as soon as they
4 shoot, I believe they start running away. And as detective,
5 I think, Davis testified, to, he finds the casing. He
6 described for the jury, Judge, kind of a half moon shape
7 around the edge of the corner of the apartment. I don't
8 know if you remember that from your notes. I asked him,
9 were these casings in any kind of pattern? And he said,
10 essentially around the corner of that bush, they kind of
11 were in a circle pattern, but they were working away.

12 And so, Judge, I think that's consistent with there
13 again, our theory, which Ms. Taylor has already given the
14 jury our theory in opening statements that Hill and Alston
15 come around the corner, start opening fire on Goode and
16 Parks. And as soon as they start shooting, they start
17 moving away from that corner and running back towards the
18 car around the corner of the building. And it's our theory,
19 Judge, and again, there's no shell casings found anywhere
20 else below Ms. Bollinger's window over where the tan gun is
21 found. Ultimately, though, and we believe that Mr. Alston
22 was essentially caught in the crossfire between Mr. Hill and
23 the targets of this shooting. That's how he was shot.
24 Which, to me, a jury could, based on the physical evidence,
25 draw that reasonable inference from the facts that we have,

1 that as they're moving around the corner, looking at where
2 they're running, but shooting back the last few rounds
3 towards the targets, that one of those wild shots was the
4 one that caught Alston and killed him.

5 Judge, that's our theory of the case. But ultimately,
6 Mr. Reid, we believe the primary witness and we think the
7 closest eye witness to this scene, Ms. Bollinger describes
8 seeing him first. Describes him with a gun in his hand.
9 And even if he doesn't fire that gun in the course of this
10 act, Judge, we believe there is a strong inferences from
11 what we believe to be substantial circumstantial evidence to
12 draw the conclusion that these three individuals were acting
13 in concert. Well, four individuals, counting Mr. Alston, to
14 go specifically shoot at with the intention of killing Parks
15 and Goode. And in the course of that action, there was a
16 transferred intent to the death of Mr. Alston. Judge,
17 ultimately, we believe the legal theory is sound here. Now,
18 again, as I acknowledged earlier, this jury could very well
19 determine that Mr. Alston, because of his actions as being a
20 co-conspirator, may not be deserving of having his friends
21 convicted of murder for his death. They may decide that.

22 But Judge, I think if we sit on this case and you direct
23 the verdict of not guilty on the murder indictment for each
24 of these individuals, essentially what we're saying then is
25 that individuals could conspire to go specifically shoot at

1 and kill somebody. That bullet could find a completely
2 innocent target, and we couldn't use the theory of
3 transferred intent to bring a murder charge. That seems to
4 be what I'm what I would take away from a directed verdict
5 on the theory being argued by the defense. Because the
6 Williams, the King, the Smith case that deals with
7 transferred intent not applying to attempted murder, none of
8 those cases have a dead body, Judge. And the Court was very
9 clear that murder is a general intent crime. And so a
10 transferred intent theory would be absolutely applicable to
11 the murder indictment in this case. If it's not ---

12 THE COURT: And that's really what I'm trying to sort
13 through in my mind, because if you're going to use a general
14 intent, you're going to have a transferred intent theory for
15 a general intent crime, which is totally copasetic. Not a
16 problem with that under the law. But the intent that's
17 being transferred is a specific intent. I think you
18 understand what I'm struggling with.

19 MR. STUMBO: Yes. And I think in that regard, Judge, it
20 would be the same intent that is transferred, if instead of
21 a co-conspirator being shot, it was a two-year-old child
22 that's standing 50 feet away. I think the theory, legal
23 theory at least, would be the same in both cases.

24 THE COURT: And let me be let me be candid here that I
25 have issues with some of the -- it makes sense intuitively

1 to me that, you know, it's -- and I can't remember which
2 judge wrote it. But it's the evil intent coupled with the
3 evil hand that should give rise to criminal liability and
4 malice should follow the bullet, regardless of whether it's
5 a specific intent crime or a general intent crime. So
6 regardless of whether the person is merely injured by the
7 gunfire or they are killed, it would seem that transferred
8 intent would apply. So, it should theoretically, if you're
9 looking to hold people responsible for what their intentions
10 are, if there are evil intentions, it would stand to reason
11 that transferred intent should apply to specific intent to
12 kill and to a general intent crime like murder. That's kind
13 of a horse of a different color, though, because I was
14 really wanting to focus on just Reid and the evidence that
15 you have. The photos, okay. It's relationships and made
16 motives. I'm having some problem with whether there's
17 enough there, in terms of Bollinger's identification. Reid
18 was the one that went with Alston to the hospital, right? I
19 am remembering that, correctly?

20 MR. STUMBO: Yes, sir. He comes out of the back
21 passenger door immediately when they pull in. So I believe
22 that video -- Ms. Bollinger's testimony, in isolation, may
23 not be enough, Judge.

24 THE COURT: But, coupled with the video ---

25 MR. STUMBO: Coupled with the video a couple of minutes

1 later.

2 MS. TAYLOR: Your Honor, he gets out of the same back
3 door as Mr. Alston. He clearly jumps in there right with
4 him. It's clearly a ---

5 MR. STUMBO: Again, you couple ---

6 MS. TAYLOR: --- it happened quickly.

7 MR. STUMBO: --- Mr. Bill Hawthorne's testimony was
8 that as soon as he pulls in, the first thing he sees, hears
9 what he thought were firecrackers when he was further away
10 at the maintenance building. Comes around, first thing he
11 sees is the black Camry peeling out of that parking place
12 with the back passenger door open and a pair of blue shoes
13 sticking out of it. Which we know from the physical
14 evidence now, that's Mr. Alston. So, they were in a hurry
15 to leave. So much so, that the back door wasn't even closed
16 at the time it peels out of that parking place. Obviously,
17 they closed it between there and the time they pull in the
18 ER bay. But that's where Mr. Reid gets out of. Out of the
19 back seat with Alston. So, I think all of those facts
20 together, Judge, just Ms. Bollinger's testimony in isolation
21 might not be enough for substantial circumstantial evidence.
22 But when you put the surveillance video on top of that and
23 then you layer on top of that, Mr. Hawthorne's testimony
24 about the black Camry pulling out with the blue shoes
25 sticking out and the door being open, and it's this hurry

1 rush to get Alston to the hospital. All of that together,
2 Judge, we believe meets that substantial circumstantial
3 evidence. Honestly, Judge, I think Ms. Bollinger's
4 testimony is as close to maybe direct evidence as you're
5 going to get. Granted, she didn't make a firm
6 identification of Mr. Reid. They show her the photo line
7 up, and we didn't put this in front of the jury. It's not
8 in the record. I get it that she said she was 90 percent
9 sure it was him, but didn't want to circle because she
10 couldn't say a hundred percent. But ultimately, the person
11 she describes matches Mr. Reid to a "T" as he gets out of
12 this car at the hospital. Just there again, we've done the
13 time line on this. The first 911 call comes in 2:11, Judge.
14 About 2:12 and 58 seconds that Camry is pulling into the ER
15 at Self. And we know because the apartments are so close.
16 There again, after what Ms. Bollinger saw, we're talking
17 about two to three minutes before Reid pulls up in the
18 hospital ER bay looking the same that she seems to describe.

19 THE COURT: And disagree with me too, I thought the
20 testimony was that the passenger seat, the one who saw the
21 Toyota pulling through, they seem to imply that there were
22 three occupants in the car, not four.

23 MR. STUMBO: You're talking about Mr. Wilson?

24 THE COURT: Yes.

25 MR. STUMBO: Beforehand? Yes, and I think you can

1 clear that up.

2 MS. TAYLOR: Your Honor, my recollection of the
3 testimony was that he definitely saw two people in the back.
4 I think Ms. Hoffman asked the question, presumably there was
5 a driver, and that he couldn't tell whether there was
6 somebody on the passenger seat or not due to the windows
7 being tinted.

8 MR. HENDERSON: So, three people, Your Honor.

9 MS. TAYLOR: Well, that can be interpreted multiple
10 ways, but two people generally don't ride in the back of a
11 car if the front seat is unoccupied.

12 MR. STUMBO: My experience, Judge, is most people,
13 somebody's calling shotgun, so to speak, for that front
14 seat.

15 THE COURT: I know. All right, we've been talking about
16 your client, Mr. Henderson.

17 MR. HENDERSON: Let's talk about something else that's
18 not before the jury, but Your Honor will be very familiar
19 with it, because the Solicitor just brought up stuff not
20 before the jury. You remember in the Greenwood Police
21 Department gang manual that they hand out, that big tattoo
22 on somebody's back? When Officer Blackwell first testified
23 that, hey, he wasn't aware of my client having any tattoos.
24 And when he came back, he testified to, hey, that big back
25 tattoo is actually Mr. Reid. So Mr. Reid's got a full body

1 back tattoo on him. Now, Ms. Bollinger testified that she
2 could reach out and basically touch the person. She even
3 ID'd the color of the gun. What didn't she say? A huge
4 tattoo on somebody's back. I know that's not the record,
5 but I want you to -- it's in the Court's record, but not
6 before the jury. I just want you to keep that in the back
7 of your brain.

8 THE COURT: I'm surprised you didn't bring that out, Mr.
9 Henderson. I don't know, Mr. Henderson. Go ahead. I'm
10 sorry.

11 MR. HENDERSON: That may come, but again, I don't think
12 it was appropriate to bring out yet. But if you look at
13 what Ms. Bollinger actually testified to, I think the
14 Solicitor is kind of misstating what she testified to. She
15 testified that the person had no shirt on, had absolutely
16 shaved both sides of their head, and the only thing they had
17 on the crown of their head was -- she pointed. She said the
18 only hair on that person was inch high dreads or baby dreads
19 on the crown of her head.

20 THE COURT: His head.

21 MR. HENDERSON: Again, I don't think I'm misstating
22 that testimony, because, I mean, I walked her through that
23 very clearly. That's not Mr. Reid then. I mean, if you
24 look at the Self Regional video that's not him then. She
25 said the person that she saw had on blue jeans. You can't

1 see Mr. Reid wearing blue jeans on the Self Regional video.
2 She said the person that she saw had on blue boxers. You
3 can't see any blue boxers on the Self video. So them saying
4 that Ms. Bollinger basically identified Mr. Reid is just not
5 accurate. I mean, I think that's improper argument. That's
6 conjecture. That's speculation. And again, what's on the
7 Self Regional video, I'm not dealing with that. I'm dealing
8 with what Ms. Bollinger can say happened on the scene. She
9 cannot identify Mr. Reid. Nobody else there on the scene
10 can identify Mr. Reid. Mr. Hawthorne can't identify Mr.
11 Reid. And you're absolutely right, Mr. Jameel Wilson
12 testified to three people being in the video. Not the
13 video, in the car. Ms. Moss over at the Gardens at Parkway
14 testified to three people being in the car and only seeing
15 one get out.

16 So, yes, we don't have any testimony of putting four
17 people, ie. my client, Mr. Hill, Mr. Hurley, and Mr. Alston
18 together. There is no testimony at all in the record about
19 that. Again, for the government to try to pick and choose
20 who are out here, I mean, it's pure conjecture to just say,
21 pick which three. We're just guessing, eenie, meenie,
22 miney, moe. So those are the three that were in the car.
23 Those are the three that got out of the car. We can't prove
24 it, so we're guessing. We're speculating about it. And,
25 your honor, I just want you to look back at your notes on

1 what Ms. Bollinger actually testified to.

2 THE COURT: Mr. Grose, you were standing a minute ago.

3 MR. GROSE: I was partly standing to speak to Mr.

4 Henderson, but I did want to respond to something that Ms.

5 Taylor said earlier regarding Mr. Hurley, that he has

6 twisties today. First, they're not twisties. Second, what

7 he has today is not relevant, and he doesn't appear to have

8 twisties in the photograph from the hospital.

9 MR. STUMBO Judge, just so you have in front of you --
10 that's why I pulled it out. I know we could play the video
11 and we could do that, but State's 79 is a still shot. I
12 know we mentioned it a second ago, Judge. The description
13 was just shaved around the head. What I'm seeing there with
14 Reid is a hairstyle, even though it's somewhat blurry, close
15 cropped around the head with hair coming off the top. Not
16 like he has today, which obviously wouldn't be -- but the
17 day of, Judge. There again, that's something we can play
18 the whole video where you can see him a little bit better,
19 running around the car and jumping out and that sort of
20 thing.

21 MR. HENDERSON: But, Your Honor, again, Dr. Shaw
22 testified earlier today that it was perfectly reasonable for
23 people to take Mr. Alston to the hospital. And again, Your
24 Honor, I want to talk about, again, what's not in evidence.
25 I think I actually have mentioned this before. The

1 Solicitor's Office and law enforcement have had some
2 contacts with my client in the past.

3 THE COURT: I'm aware. We don't need to go there.

4 MR. HENDERSON: No, no ---

5 THE COURT: You probably don't want to bring that up in
6 this context?

7 MR. HENDERSON: No, no, no, but think about it. If
8 they had a photograph of him, a mug shot, again, we've seen
9 mug shots introduced against these other guys. If they had
10 a mug shot of my client at any point in time with shaved
11 sides of his head and the only hair on his head is going to
12 be inch high dreads on the crown of his head, they would be
13 beating us over the head with that, Your Honor. The reason
14 they're not beating us over the head with that, it doesn't
15 exist. And again, I know that's not in the record, but it's
16 kind of like the tattoo. But, I want you to ---

17 MS. TAYLOR: Your Honor, just to respond to that one
18 point, we have a lot of mug shots of Mr. Reid that do match
19 that description. The most contemporaneous is the one where
20 he was arrested on this case, where he had changed his
21 hairstyle.

22 MR. STUMBO: It was four months later, right?

23 MS. TAYLOR: It was four months later.

24 THE COURT: Let me get 79 back from you, Solicitor.

25 Let's have a little more discussion on the law that applies

1 here. I'm beginning to get -- and I apologize for taking up
2 so much time on this, but this is probably one of the more
3 unusual cases that I've tried. Thankfully, the ones I try
4 are a bit more straightforward. In terms of accomplice
5 liability, I'm trying to figure out precisely how far, and
6 this relates maybe more to Mr. Hurley than the other two
7 defendants. But the State is using a transferred intent
8 theory to transfer the malice from the shooting at Goode and
9 Parks to the killing of Alston. And then the State is using
10 a hand of one hand of all theory to transfer that malice
11 that was initially transferred from Parks and Goode to
12 Alston and to create criminal liability on behalf of Hurley,
13 who was in the car at the time all this malice was
14 expressed. I'm feeling like that might be a bit of a reach.

15 If I'm going to be instructing the jury that malice has
16 to exist at the moment that the trigger is pulled and that
17 malice follows the bullet. Oh, and by the way, anybody
18 who's involved in this can be implicated in that malicious
19 thought. Assuming that the death is the natural improbable
20 or natural and reasonably expected consequence of the act,
21 how far does accomplice liability extend out here? I felt
22 like over lunch we all had to learn about the Palsgraf
23 plaintiff problem. You know, the fireworks being unloaded
24 from the train, P-a-l-s-g-r-a-f. Fireworks being unloaded
25 from the train, dropped by the baggage handlers, then the

1 explosion causes a scale to tip over at the other end of the
2 station, which then hits Mr. Palsgraf in the head.

3 MR. STUMBO: First year of Torts. Causation. I get
4 it. Judge, I think the best way I can think to describe it
5 would have to be through other cases that we have, obviously
6 in the criminal realm, worked. I think the classic example,
7 obviously the law school textbook example of accomplice
8 liability, would be the three guys, or four guys, and pick
9 your number, that go to rob a bank, or rob a store, or hold
10 up a store at gunpoint. There's always going to be one guy
11 typically that's a lookout, and there's sometimes going to
12 be a getaway driver.

13 And Judge, I think that even though the intent
14 obviously here was not to rob anybody but it was to shoot at
15 them and kill them. The same legal theory would apply here.
16 If the one guy that goes in with a gun ends up killing
17 somebody in that convenience store, what are the three or
18 four individuals involved charged with? And every time, in
19 my experience, the driver of the car who may never have
20 handled a gun, may never have gone out and approached
21 anybody, would be charged with armed robbery. And murder if
22 that store clerk was killed. So, even though they didn't
23 intend that to start with, there was no malice to start
24 with. But that malice that is expressed by their co-
25 conspirator through the shooting of someone inside the store

1 was imputed to the guy behind the wheel of the getaway car.

2 And that's Hurley in this case.

3 THE COURT: I understand, but that's dealing with a hand
4 of one hand of all theory separate from a transferred intent
5 theory where you're -- what I'm what I'm saying is that
6 these legal fictions that we created, hand of one hand of
7 all, transferred intent, that the law has, in order to hold
8 these people responsible or culpable for criminal intent, do
9 you get to bootstrap one on top of the other? I mean, hand
10 one at hand at all is perfectly logical.

11 The example you gave is textbook and classic. What if
12 the driver in your example, they decide, they say, okay,
13 we're going to go and we're going to -- three guys there.
14 We're going to go and we're going to do a strong armed
15 robbery of this convenience store and the driver is sitting
16 outside that's the plan. We're going to do a strong arm.
17 The driver is sitting outside. Two people go inside.
18 Unbeknownst to any of the other two, guy pulls out a gun,
19 aims it at the clerk, but then bats it away and he fires
20 into his co-defendant. That seems like what we've got here.
21 I mean, to what extent are we going to impute knowledge of
22 an unintended homicide to someone who isn't present? We
23 don't have evidence of exactly what the nature of this
24 conspiracy was. No direct evidence. So the Court has to
25 infer from the facts and circumstances some sort of

1 circumstantial conspiracy.

2 MR. STUMBO: And maybe, Judge, just to give another
3 hypothetical here, and I know we're rolling with a lot of
4 hypotheticals, but stay with me on this. Say, in this
5 instant case, and I think I mentioned this earlier that
6 shooting is at Parks and Goode, and one of the bullets,
7 instead of catching a co-conspirator, catching a completely
8 innocent resident of Parkway Apartments, could be a child,
9 could be an adult, whoever. In the course of shooting at
10 these guys, somebody gets hit and killed. I would hope in
11 that scenario, if I could prove a conspiracy between four
12 individuals to kill Parks and Goode, that I could charge all
13 four of them and indict all four of them with murder under a
14 transferred intent theory.

15 THE COURT: And hand of one hand of all.

16 MR. STUMBO: Yes. And I get the fact that it's
17 unorthodox, because one of -- the guy that's killed is one
18 of them. And, Judge, quite honestly, I could tell you this
19 as a prosecutor for over 20 years, or close to 20 years now,
20 I generally would take a case like this, and I think in the
21 past, a lot of prosecutors would look at this and say, you
22 know what. We're not going to charge with murder for this
23 guy, because he kind of assumed the risk when he went out
24 there. And make a prosecutorial discretionary decision not
25 to charge with murder for Alston's death. But at the end of

1 the day, Judge, the more we thought about this and Mr.
2 Thomas had this case before Ms. Taylor did, and Mrs.
3 Hoffman, and I remember having this conversation with Mr.
4 Thomas when he had this case. He talked about it with the
5 Sheriff's Office. I think Deputy Solicitor Brown was
6 involved with those conversations. And that was the
7 question. Do you charge with murder in this case? And the
8 more we looked at it and the more we started analyzing that
9 theory of, well, if this was an innocent bystander at the
10 apartments, we would definitely charge all three or four.
11 If Alston was still alive, he'd be sitting right here with
12 these guys, and we would charge all of them with the murder
13 of the innocent bystander under a transferred intent, hand
14 of one hand of all theory.

15 And quite honestly, Judge, just looking at this
16 strictly on a legal -- under the legal theories and taking
17 out of it the assumption of risk, and maybe this guy
18 shouldn't have gone out there to commit this act or he'd
19 still be alive. If you take all that out, which the jury
20 obviously will be thinking about and considering,
21 understandably so. But under a strict legal theory, these
22 guys can be charged with the murder of their co-conspirator,
23 and I just don't see it as any different. I don't know of
24 any case law that exists that says that cannot be done. And
25 I know we're dealing with maybe an odd scenario, because we

1 don't try these cases very often, but Judge, we do believe
2 it's appropriate legally.

3 THE COURT: I understand your position. Are you
4 standing because you need to tell me something, Mr.
5 Henderson?

6 MR. HENDERSON: No, no, no. I was looking for
7 something, Your Honor.

8 THE COURT: Mr. Tinsley, anything that you want to tell
9 me that hasn't been covered here?

10 MR. TINSLEY: I think everything's been covered pretty
11 well. I think they're making a lot of assertions that
12 aren't factually backed by this record.

13 THE COURT: And I fully appreciate that. And I'm sure
14 that's what Mr. Grose was rising to point out to me the
15 issues, as he sees it, with substantial circumstantial
16 evidence and in his view. Perhaps it's the correct view,
17 who knows? His view that there's simply insufficient
18 evidence, circumstantially of a lot of stuff.
19 Identification, conspiracy. Did you need to supplement the
20 record or anything, Mr. Grose?

21 MR. GROSE: Well, I was just going to mention that with
22 regard to the conspiracy that you just covered. I think you
23 referred to it as circumstantial conspiracy. In a lot of
24 cases, particularly, I think the State Grand Jury and the
25 federal courts handle a lot more conspiracy cases than we do

1 in state court. And they usually have somebody from inside.

2 THE COURT: You've always got the rat that's going to
3 testify for the conspiracy.

4 MR. STUMBO: Well, ultimately, Judge, we have the
5 authority to give immunity and compel testimony and that
6 sort of thing. We didn't feel like that was appropriate
7 here. Even if I was in a State Grand Jury setting, I don't
8 know if it would have been.

9 THE COURT: That's all well and good, but that means
10 your case rises or falls on what the circumstances.

11 MR. HENDERSON: Your Honor, I do want to add something I
12 thought about. I know before we broke for lunch, Solicitor
13 Taylor was mentioning, talking about motive. This Facebook
14 post. I want to go back to our testimony where the
15 Solicitor asked the question, Detective Blackwell, did you
16 see something on social media that caused you concern about
17 possible retaliation. We objected immediately. You struck
18 that question from the record. There was no answer. They
19 did not follow that question up. Meaning, so any reference
20 to that Facebook post should not be in the Court's --

21 THE COURT: It's not evidence from which the jury could
22 reasonably conclude that -- yeah. I understand.

23 MR. HENDERSON: I just want to make sure when you're
24 thinking about directed verdict, then you're not including
25 that in your analysis.

1 THE COURT: No. I have to go with the evidence that's
2 before the jury. I'm sure the jury is here. I know we're
3 close on the instructions. I really feel like I need to do
4 a little bit more research on this. I say we reconvene on
5 Tuesday. I wanted to avoid that, but...

6 MR. STUMBO: Judge, I would say if we're going to be in
7 the -- and I think we are. I'm anticipating we may have
8 defense, defenses, put up. I don't see there's any way we
9 get it to the jury today based on that anyway.

10 THE COURT: Right. I would tend to agree. We're off
11 the record.

12 (WHEREUPON, jury entered 3:33 p.m.)

13 THE COURT: The jury is back and seated. Ladies and
14 gentlemen, I'm going to bring you up to speed on where we
15 are. When we took a break today around noon, I was
16 anticipating that an hour's worth of work on the motions of
17 law would be sufficient. And understand, this was not --
18 I'm having to do some additional research and I had the
19 lawyers back at 2:00. The Clerk was supposed to call you
20 and tell you to come at 3:00, and we've continued to work
21 through the law and discuss the law in this particular case.
22 And we're not done yet. I'm not done yet. And I know that
23 I told you, I gave you my word, that I would make every
24 reasonable effort to get this case to you by today, but
25 realistically, that's simply probably not going to happen

1 for a number of reasons, okay?

2 So, what I'm going to need you to do is comeback on
3 Tuesday at 9:30, and at that point in time, we'll be in a
4 position to continue this case. This will not, I don't
5 think, go past Tuesday. Wednesday is the worst case
6 scenario and I couldn't get out of that thing on Monday.
7 So, Tuesday is when I'm going to need you back at 9:30,
8 please. All right? I need you all to stay healthy this
9 evening, this weekend, all right? So I need you all to make
10 sure you drink your orange juice, you take your vitamin
11 pills. Do not engage in bungee jumping, skydiving, or any
12 other hazardous recreational activity, please.

13 And again, I appreciate your attention. I appreciate
14 your dedication to this case. I genuinely do, and I'm going
15 to need you back on Tuesday at 9:30, all right? I hope you
16 have a lovely weekend. I hope you enjoy yourselves. If any
17 issue should arise, you know how to call the Clerk's office.
18 But again, vitamin C. No bungee jumping. Stay healthy and
19 have a very pleasant weekend. All right? I'll see you at
20 9:30 on Tuesday. Thank you.

21 (WHEREUPON, jury exited 3:40 p.m.)

22 THE COURT: The jury is out. One last quick thing, for
23 the record. Before lunch, the Sheriff came up and provided
24 me with the copy of the incident report from the incident at
25 the jamboree last Friday, and it's my intention to make it a

1 sealed exhibit for a variety of reasons. First, there are a
2 lot of juvenile names that are mentioned in here, and
3 obviously that's confidential. And secondly, obviously the
4 investigation is ongoing. But I mentioned to the attorneys
5 that if you want to review this, it's going to be for your
6 eyes only. Not for your clients eyes only. And it's
7 understood that you're bound by a confidentiality thing that
8 you can't talk about anything that you read in here.

9 If you feel the need to satisfy yourself about what's
10 being placed in the sealed envelope, I'll put it over here
11 on council table and trust that you all can look at it and I
12 have read it myself. There is reference to allegations of
13 gunshots, but no evidence of gunshots, nothing of that
14 nature in the official report. Okay, so that'll be made
15 Court's exhibit, sealed Court's Exhibit 30.

16 I will contact you all, probably sometime tomorrow,
17 about my ruling on the directed verdict motions. The email
18 will also include the instructions that I have thus far, and
19 feel free to go ahead and comment on those and offer
20 suggestions over the weekend if you desire. I think that's
21 got it.

22 MR. STUMBO: Judge, just one more thing. Just, if you
23 could, again remind everybody in the courtroom not to make
24 any attempts whatsoever to contact jurors? I know that
25 should go without saying, Judge, but it is the weekend and

1 we have several days between now and the next time.

2 THE COURT: I trust that will not be an issue and it's
3 only arisen once or twice in my career and I was never happy
4 about it, but thankfully everybody seems to be very
5 conscientious of their obligations in this case and I don't
6 see it happening.

7 MR. STUMBO: Thank you, Judge.

8 (WHEREUPON, proceedings recessed at 4:00 p.m.)

9 TRIAL DAY 6: August 23, 2022

10 (WHEREUPON, proceedings resumed 10:08 a.m. The Court
11 in chambers with attorneys prior to going on the record.)

12 THE COURT: If we may, we'll go back on the record. And
13 the record should reflect that I've had a conversation with
14 the attorneys in the chambers and currently we are in a
15 position to move forward. My understanding is, Mr. Tinsley,
16 Mr. Hill was not intending to present a defense. Is that
17 correct?

18 MR. TINSLEY: Correct, Your Honor. We're not going to
19 call any witnesses.

20 THE COURT: Mr. Henderson and Mr. Grose, your clients do
21 intend to testify. Is that correct?

22 MR. HENDERSON: That's correct, Your Honor. And I
23 guess before we start going into further detail, I had some
24 more directed verdict, some more directed verdict material,
25 and you said we might go into that a little bit. I'd at

1 least like to file something with the Court and perhaps a
2 little bit of additional argument.

3 THE COURT: Certainly. And Mr. Grose, your client
4 doesn't intend to testify.

5 MR. GROSE: Yes, sir, and we do need to not only
6 resolve the directed verdict issues, we also need to resolve
7 the juror issue that you have under advisement.

8 THE COURT: Right. We have all 14 back there. Mr.
9 Henderson, you want to supplement the record?

10 MR. HENDERSON: I do, Your Honor. I'll give this to
11 Madam Court Reporter. And that will be Defendant Reid's
12 Exhibit 16 for ID. And, Your Honor, looking at your
13 comment to Mr. Grose about how you define substantial
14 circumstantial evidence, you said the kind of evidence which
15 would cause a reasonable Appellate Court Judge to hesitate
16 to reverse and I think you need to look at it more from a
17 juror's standpoint and not from an Appellate Judge's
18 standpoint. And I just pulled some language from this Paula
19 Reid Rose case where the Court says that, "This Court must
20 determine whether the evidence presented is sufficient to
21 allow a reasonable juror to find the defendant guilty beyond
22 a reasonable doubt." And again, that evidence presented has
23 to be substantial, even though the word substantial is not
24 in that definition.

25 If you're defining substantial circumstantial evidence,

1 you've got to read the word substantial into that language.
2 I mean, I just went to dictionary.com, looking at what is
3 substantial. You know, is it of considerable importance.
4 Or, you know, it's important. It's essential. It is
5 significantly great. And again, as I went into great detail
6 this past Friday, I just do not believe that the evidence is
7 substantial, indicating guilt toward Mr. Reid.

8 And just a couple of additional things, Your Honor, to
9 kind of flesh out my argument. Looking at this car, and I
10 would call the Court's attention to State's Exhibit 73 and
11 that's the photograph that shows this vehicle's tag number.
12 And again, anybody who mentioned a black car, be it Mr.
13 Jameel Wilson. He didn't offer any tag numbers. You know,
14 at first he said he thought it was Camry. Then I don't
15 think he's that sure what it is. Ms. Moss did not offer any
16 type, did not offer a tag number. And again she said her
17 sister drove a Camry and she thought it was her sister and
18 when it turned out not to be her sister, I don't think she
19 can tell you what type of car it is. At the hospital, there
20 is no tag number on the vehicle that's identified, so at
21 that point in time there is no tag number, Your Honor.
22 Investigator Murdoch recognizes my client on the hospital
23 video. I think he reaches out to Detective McClinton with
24 the City, who recognizes Mr. Hurley. Detective McClinton
25 ultimately stops a vehicle. I think the one shown in

1 State's Number 73, and Mr. Hurley's not in that vehicle. So
2 again, there's nothing linking that vehicle that got
3 stopped, that we have the photograph of, to any vehicle that
4 was in Cardinal Glen, that was at Hillcrest, at the Gardens
5 at Parkway. Again, nothing linking this car up, because
6 nobody's been able to determine the tag number. Nobody has
7 actually testified as to who owns this vehicle. All
8 Detective McClinton said that he knows that Mr. Hurley
9 drives either this vehicle or a similar vehicle. So, again,
10 we're dealing with speculative issues, Your Honor.

11 And going back to Jameel Wilson's testimony that when
12 he saw this black car come to the stop sign at Cardinal Glen
13 where he testified, it took a left. He said within a couple
14 of minutes he heard gunshots, or firecrackers, or whatever
15 he thought it was at that point in time. And your Honor, if
16 you've looked at the maps, and the maps are in evidence, if
17 you're taking a left right there coming out of Cardinal
18 Glen, if you believe the State's version of events, this
19 vehicle would have had to pass Hillcrest Apartments. Would
20 have had to turn into the Gardens at Parkway, pull around to
21 the back, park in front of Ms. Moss's apartment, get out of
22 the car, walk through this path, run through this path, go
23 over there at the building G at Hillcrest, engage in some
24 sort of shootout, run back, you know. All this he said in a
25 couple of minutes. No humanly possible way this happens in

1 a couple of minutes, Your Honor.

2 And I think when you're judging directed verdict,
3 substantial circumstantial evidence, I mean, you don't have
4 to, you don't have to throw the laws of physics out the
5 window. The laws of timing out the window. There's just no
6 possible way for this to have happened. If Mr. Jameel
7 Wilson's testimony is believed. And I don't think anybody
8 has said that he was wrong about this two minutes, couple of
9 minutes. And again, Your Honor, I would just reincorporate
10 all of my prior arguments.

11 And again, Your Honor, it ties back into that because
12 the State did a sloppy investigation on this matter. Law
13 enforcement did. They just, they never investigated the
14 possibility that there were other shooters out there. They
15 just never -- they just dropped the ball on that, and these
16 three defendants are suffering because of that. Because,
17 now we're in -- we're into this speculation world and -- and
18 again, Your Honor, that the only person who puts three
19 people at the scene is Ms. Bollinger who testified. She
20 can't ID anybody, but she said she saw three black males.
21 The State's government -- the State's theory is that another
22 black male, perhaps Mr. Hurley, is in the car as the getaway
23 driver. There's been no evidence to suggest that, Your
24 Honor, because everybody who testified, they saw the car
25 only sees three people in the car.

1 And again, I think I said the other day it's almost,
2 like, eenie, meenie, miney, moe. Which three are we
3 picking. You know, I just don't think that -- it's
4 speculative. Speculative to pick three of the four and say,
5 yeah, those people are shooting and the other one stayed in
6 the car, when there just is no evidence to support that
7 contention. And again, I don't want the State standing up
8 here arguing that's our theory when there is no evidence in
9 the record to support that.

10 THE COURT: I do understand you. I do understand your
11 position and it goes without saying that Mr. Hill and Hurley
12 join in your supplemental motion, and the argument that
13 you've offered. Obviously, what I what I said about
14 circumstantial evidence, and my definition of it, is meant
15 -- or it was my intention that that being interpreted as
16 tongue-in-cheek, and perhaps that's not the best way to
17 communicate by e-mail, because tonal inflection obviously
18 gets lost, but it was a tongue-in-cheek reference, taken
19 from the similarity of the charge.

20 I did actually discuss this with a couple of other
21 judges over the weekend about what is their view of
22 substantial circumstantial evidence and the consensus was
23 that it is obviously an objective, sorry. It's a subjective
24 standard, as opposed to an objective standard, and it would
25 have to be a case by case basis on which to decide whether

1 there's sufficient substantial circumstantial evidence
2 present. I don't know that it would be possible to devise
3 an objective test for that. And that's where we basically
4 concluded that maybe my definition is probably the best one.

5 As far as the -- as I indicated in the e-mail, Mr.
6 Henderson, I was leaning towards denying your motion for a
7 directed verdict for the simple reason that there has been
8 identification of your client at the hospital. There was
9 somewhat of an identification at the scene, and if you are
10 correct, and of course I'm going to instruct the jury that
11 basically they have to exclude, as far as circumstantial
12 evidence, that all the circumstances have point consistently
13 towards the guilt of the accused beyond a reasonable doubt.
14 And if it's just suspicious, then they must acquit. And if
15 your view of the evidence is accurate, and if they share
16 your view, then obviously Mr. Reid will be acquitted. Same
17 goes for Mr. Hurley and everyone else involved in this
18 litigation.

19 Mr. Grose, you wanted to add something?

20 MR. GROSE: Well, I did. I mean, you already pointed
21 out that I join in Mr. Henderson remarks. I took your
22 definition as tongue-in-cheek. However, and I'm glad you
23 clarified that for the record, because the Attorney
24 General's office takes tongue-in-cheek comments -- I've had
25 them do it in other cases, and try to turn those into

1 something substantial for the Appellate Court. That being
2 said, I also take it that you're declining to define what
3 circumstantial evidence means. Regardless of whether it's a
4 subjective analysis, I think we need to. The bench and the
5 bar, particularly the defense bar, would benefit from
6 knowing what is required to establish substantial
7 circumstantial evidence. And so, I would renew our request.

8 Your e-mail also said you were inclined to direct a
9 verdict on one charge with Mr. Hurley. Is that still the
10 case?

11 THE COURT: Right. The gun charge, yes.

12 MR. HENDERSON: And, Your Honor, I'm not ---

13 THE COURT: That e-mail string was what you made a part
14 of the record a few months ago, Mr. Henderson?

15 MR. HENDERSON: Right. Just your e-mail to us, not any
16 responses. That's Reid's 16 for identification, and Your
17 Honor, not begrudging ---

18 MR. GROSE: Just so the record is clear, the e-mail is
19 only part of the exhibit. The case that you cited and the
20 dictionary.com definition are also part of the exhibit.

21 MR. HENDERSON: That's correct, Your Honor. And again, I'm
22 not begrudging you directing a directed verdict for Mr.
23 Hurley at all, but again, I think it goes back to this
24 eenie, meenie, miney, Moe. You know, and again you're
25 adopting, I think, the State's theory of the case that there

1 was actually, you know, four people there. And again, I
2 just want to call that to the Court's attention. Again, I'm
3 not knocking that ruling. I think that ruling ought to be
4 with everybody. But again, you're adopting, I think, the
5 State's theory that Mr. Hurley is the getaway driver when
6 there's been no evidence of a fourth person in the car.

7 THE COURT: Well, I'm simply doing it because essentially,
8 it's not so much the Court adopting the State's theory, it's
9 that obviously, Mr. Hill, because he was injured, had to
10 have been present when the shots were fired. The indications
11 are that your client matches the description of the
12 shirtless individual at the hospital, and at the scene.
13 That leaves Mr. Alston being deceased. He had to have been
14 there too. And by process of elimination, Mr. Hurly,
15 following that logic, would be the driver. Meaning that he
16 couldn't possess a gun. I appreciate everyone's position.
17 Do I need to review your clients' rights to testify with
18 them or are you all comfortable having already done that
19 with them? Mr. Henderson?

20 MR. HENDERSON: Your Honor, I have, but again, I always
21 think that the Court needs to address that with the client
22 as well.

23 THE COURT: Mr. Hill, Mr. Reid, and Mr. Hurley, let me
24 just explain where we are right now. Basically, the State
25 has rested, so we've gotten to that part of the trial where

1 you and your attorneys may present defenses if you wish to.
2 And understand that obviously you all have the right to
3 testify in these cases if you choose to do so. Understand,
4 if you choose to testify, you have to answer any relevant
5 questions put to you by any of the attorneys. Understand
6 also that under the laws of the United States, and if this
7 State, if you choose not to testify, I will be more than
8 happy to instruct the jury that they cannot use your failure
9 to testify as evidence of guilt. They can't even discuss
10 it, and that no inference of guilt or anything should arise
11 from your not testifying.

12 So again, the Fifth Amendment right that you have is a
13 personal right. It belongs to the Defendant. It doesn't
14 belong to anybody else. Only you can waive it. And
15 obviously there are benefits and there are hazards to
16 choosing the testify in a case where you are on trial.

17 Now, Mr. Hill, I'm sure you've discussed all this with
18 Mr. Tinsley, is that correct?

19 DEFENDANT HILL: Yes, sir.

20 THE COURT: And it's still your desire not to present a
21 case. Is that correct?

22 DEFENDANT HILL: No, sir.

23 THE COURT: So, you do not want to present a case. Is
24 that correct?

25 DEFENDANT HILL: No, sir. Yes, sir.

1 THE COURT: All right. And Mr. Reid, Mr. Henderson
2 tells me that you want to testify. Is that correct?

3 DEFENDANT REID: Yes, sir.

4 THE COURT: And that's your decision?

5 DEFENDANT REID: Yes, sir.

6 THE COURT: Mr. Hurley, Mr. Grose indicated to me that
7 you also were wanting to testify and waive your Fifth
8 Amendment rights; correct?

9 DEFENDANT HURLEY: Yes, sir.

10 THE COURT: All right. Very good. Do y'all have any
11 questions? Does anybody have any questions? Raise your
12 hand if anybody has any questions of me about your right to
13 testify or your Fifth Amendment rights. No hands are going
14 up.

15 I assume the way that we'll proceed, if it's okay with
16 y'all, is when the jury comes out I'll ask Mr. Tinsley.
17 I'll call on you, and you can just rest on the record. And
18 then I'll call on Mr. Henderson, and then Mr. Grose, and we
19 will go on the same order. Is that Okay, guys?

20 MR. HENDERSON: That's more than fine, Your Honor.

21 THE COURT: As it relates to that juror. I think the
22 juror we're discussing was Juror Number 180. And we have
23 all 14 back there.

24 MR. HENDERSON: And, Your Honor, another point. I
25 don't know, is that, you know, since we last were here,

1 there's been some inflammatory articles in the newspaper.

2 THE COURT: Yeah, I need to ask them about that.

3 MR. GROSE: And I have the one from Saturday.

4 "Autopsies, injuries at the forefront during the trial of
5 Greenwood men", that I'd like to mark as a Court's exhibit.
6 And there may be more, but that's the one I saw.

7 THE COURT: I'm going to ask Juror 180 to step out, Ms.
8 Laughlin, and I'll just simply release her, and we'll pick
9 one of the two alternates as the substitute. Ask Ms.
10 Laughlin to step out, please.

11 (WHEREUPON, Juror Number 180, Laughlin, entered
12 courtroom.)

13 THE COURT: Ms. Laughlin, how are you?

14 JUROR 180: Doing great.

15 THE COURT: I just want to let you know I really
16 appreciate your service, and I appreciate your honesty last
17 week when I was asking about which way you were leaning. I
18 obviously didn't ask in a way, you know, guilty or innocent
19 or whatever the case may be, but after discussing the matter
20 with the attorneys, you know, we feel like it's best and
21 probably the safest thing to do is just to go ahead and let
22 you go, Okay. And let you return home and go about your
23 business. So, you're good to go. Did you take any notes?

24 JUROR 180: I did.

25 THE COURT: You did? All right. Find your tablet. Go

1 ahead and pull those notes out and then you will be free to
2 go, ma'am.

3 JUROR 180: And I'm giving one of the girls a ride.

4 THE COURT: Oh, okay. If you want to just sit out here
5 or you can get lost until around lunchtime. Whatever you
6 want to do. Does she have your cell number?

7 JUROR 180: Oh, does she need to stay?

8 THE COURT: One of the other jurors?

9 JUROR 180: Uh-huh.

10 THE COURT: Yeah, they'll be sticking around. We're
11 continuing with trial, so...

12 CLERK OF COURT: Judge Addy, we can have an officer
13 bring her home. That's what we were doing at the beginning
14 until she stepped up and offered.

15 THE COURT: Okay, so we will have an officer take her
16 home. So, we should be good. Yeah, go ahead and take your
17 notes with you. And did you leave anything back here?

18 JUROR 180: No.

19 (WHEREUPON, Juror 180 was excused from service.)

20 THE COURT: Which alternate did we put on?

21 CLERK OF COURT: Steele. Numbers 66 and 134 are the
22 alternates.

23 THE COURT: Pick one.

24 CLERK OF COURT: 134.

25 THE COURT: The Clerk picked 134, Cory Henderson. Go

1 ahead and ask the jury to step out, please.

2 (WHEREUPON, jury entered 10:33 a.m.)

3 THE COURT: All right, ladies and gentlemen of the
4 jury, welcome back. The Court has excused Ms. Laughlin from
5 further service on this jury and in her stead, Juror Number
6 134, Cory Henderson. Who is Cory Henderson? Mr. Henderson,
7 you're now going to be a full member of this jury. So,
8 you'll take the place of Ms. Laughlin. I know that Ms.
9 Laughlin was giving one of you a ride to and from the
10 courthouse. We will have a Deputy provide transportation
11 for y'all today when, for whoever that is. Who is that that
12 she was given a lift to? We'll have a Deputy give you a
13 ride today and take you home. So, don't worry about that.
14 But I didn't want her to have to stick around and shuttle
15 you back and forth. So we will take care of that.

16 One other quick housekeeping matter, ladies and
17 gentlemen. As I mentioned previously, there were some
18 stories in the Index Journal about this case. Is there any
19 member of the jury panel who saw or read those stories? If
20 so raise your hand. No hands are up. All right, ladies and
21 gentlemen, where we are is basically the State has rested.
22 So, at this point in time, Mr. Tinsley?

23 MR. TINSLEY: Xayvion Hill rests, Your Honor.

24 THE COURT: Thank you. Mr. Henderson, your case, sir.

25 MR. HENDERSON: Your Honor, I call Jadasha Bryant, please.

1 THE COURT: Ms. Bryant, come forward to be sworn.

2 WHEREUPON, Jadasha Bryant, having
3 first been duly sworn, testified as follows:

4 DIRECT EXAMINATION

5 BY MR. HENDERSON:

6 Q Ms. Bryant, how are you?

7 A Good. How about you.

8 Q If you're comfortable, I think His Honor would probably
9 be okay with you removing your mask, because His Honor's got
10 his mask on. The Bailiff's got his mask on. And it might
11 make it easier for the Court Reporter to hear you. We need
12 everybody to speak, you know, loudly and clearly. You don't
13 have to yell at anybody, but loudly and clearly, okay?

14 A Uh-huh.

15 Q Is that a yes?

16 A Yes.

17 Q I'm going to need you to answer yes and no, so Madam
18 Court Reporter can take take this down. For the record,
19 please spell your first name and your last name.

20 A J-a-d-a-s-h-a B-r-y-a-n-t.

21 Q And, Jadasha, I don't know if this machine is on or
22 not.

23 MR. STUMBO: It is. Just turn the TV off.

24 MR. HENDERSON: Thank you, Solicitor.

25 Q And I'm going to show you a document that's already

1 into evidence that is Mr. Reid's Number 17. Do you
2 recognize that document?

3 A Yes, sir.

4 Q Let me see that document back. I'm going to put it up
5 on the screen.

6 MR. STUMBO: Judge, we don't have any objections to
7 this. I don't think it's in yet, but no objection.

8 MR. HENDERSON: Reid's 17 and 18, and I believe we also
9 did 19, 20, 21, and 22 Reid's exhibits and the State is not
10 objecting to them, Your Honor.

11 THE COURT: No objections from the other parties?

12 MR. STUMBO: That's correct.

13 THE COURT: Hearing none, Reid's 17 through 22 are in
14 evidence.

15 Q Jadasha, can you hear me okay?

16 A Yes, sir.

17 Q And can you see th photograph on on the TV screen?

18 A Yes, sir.

19 Q Who is the person on the left?

20 A Narkevious Reid.

21 Q And that's my client in the courtroom; correct?

22 A Yes, sir.

23 Q And who is that person on the right?

24 A Myself.

25 Q And when was that photo taken? Or where was that photo

1 taken?

2 A It was taken in Abbeville at our baby shower. I think
3 it was May or June, 2018.

4 Q Do you and Narkevious have a child?

5 A Yes, sir.

6 Q How many children?

7 A Just one.

8 Q Do you recognize the clothes that Narkevious is wearing
9 in this baby shower picture?

10 A Yes, sir.

11 Q Do you remember August -- excuse me. April 8, 2020?

12 A Yes, sir.

13 Q And we're going to go there in a little bit. I just
14 want to know do you remember that day?

15 A Yes, sir.

16 Q I want to show you what's been marked as State's --
17 excuse me. Reid's Number 18. Do you recognize that
18 photograph?

19 A Yes, sir.

20 Q And what is that?

21 A A tattoo on his back.

22 Q On who's back?

23 A Narkevious Reid's.

24 Q And Narkevious has a rap group or rap band, doesn't he?

25 A Yes, sir.

1 Q And what's that band called?

2 A Contraband Gang.

3 Q And he makes rap music for a living?

4 A Yes, sir.

5 Q I want to turn your attention back to April 8, 2020,
6 and you testified you remember that day?

7 A Yes, sir.

8 Q At that point in time were you working anyplace?

9 A Yes, sir.

10 Q And where was that at?

11 A Hardee's in Abbeville.

12 Q And what did you do there?

13 A I was a shift leader.

14 Q Prior to going to work that day, on April 8, 2020, did
15 you drop Narkevious off any place?

16 A Yes, sir.

17 Q And can you tell the jury where you dropped him off?

18 A Cardinal Glen.

19 Q Are those apartments?

20 A Yes, sir.

21 Q Apartments here in Greenwood?

22 A Yes, sir.

23 Q Are you familiar with the apartments?

24 A Not really.

25 Q Did Narkevious have to give you directions to get there

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1 that day?

2 A Yes, sir.

3 Q Do you know why he was going to Cardinal Glen.

4 A Because I was going to work, and he went to hang with
5 his friend.

6 Q Do you know the friend's name?

7 A They call him Snoop.

8 Q Do you know Snoop's real name?

9 A No, sir.

10 Q Do you recall what time you dropped Narkevious off?

11 A Around 12:30.

12 Q Would that have given you plenty of time to get to work

13 A Yes, sir.

14 Q Now, subsequently you learned that some people had
15 gotten shot that day; correct?

16 A Yes, sir.

17 Q So, is that why that day stands out to you?

18 A Yes, sir.

19 Q Do you remember what clothes Narkevious was wearing at
20 the time you dropped him off at Cardinal Glen Apartments?

21 A Yes, sir.

22 Q And I want to show you, or again, I want to put Reid's
23 17 on the screen. Are those the same clothes?

24 A Yes, sir.

25 Q Any doubt about that?

1 A No, sir.

2 MR. HENDERSON: If I may have one moment, Your Honor.

3 Nothing further from this witness, Your Honor.

4 THE COURT: If it's acceptable, I'll let the State

5 cross and then let y'all ask any questions. Is that okay?

6 We didn't discuss that beforehand. Are you good with that,

7 Mr. Grose?

8 MR. GROSE: No problem with that.

9 THE COURT: Solicitor, any questions?

10 MS. TAYLOR: Yes, sir.

11 CROSS EXAMINATION

12 BY MS. TAYLOR:

13 Q Good morning.

14 A Good morning.

15 Q I just have a few questions for you. You testified
16 that you and Mr. Reid have a baby together. Were you with -
17 - you and your baby were with Mr. Reid when he got picked up
18 on these charges, right?

19 MR. HENDERSON: Objection, Your Honor. Relevancy.

20 MS. TAYLOR: I'm getting there, Your Honor.

21 THE COURT: Overruled.

22 Q You were with him?

23 A Yes, sir. I'm sorry. Yes, ma'am.

24 Q Okay. I understand. And he wasn't sitting in the
25 front seat with you, was he?

- 1 A No, ma'am.
- 2 Q He was in the back seat?
- 3 A Yes, ma'am.
- 4 Q And y'all were in SUV?
- 5 A Yes, ma'am.
- 6 Q And the windows were kind of tinted in the back of that
- 7 SUV. Is that right?
- 8 A Yes, ma'am.
- 9 Q Now, you said you remember dropping Mr. Reid off at an
- 10 apartment in Cardinal Glen. Which apartment?
- 11 A I don't know.
- 12 Q You don't know?
- 13 A No, ma'am.
- 14 Q Well, do you remember which building?
- 15 A I know it's the last building.
- 16 Q The last building? The last building as you come in or
- 17 the last building as you leave?
- 18 A As you leave.
- 19 Q How long have you and Mr. Reid been together?
- 20 A Probably, about to be three years now.
- 21 Q Did you know Jakevius Parker?
- 22 A I know of him, but I don't know him.
- 23 Q Did you know him to hang out with Mr. Reid?
- 24 A Yes, ma'am.
- 25 Q Did Mr. Hurley and Mr. Hill also hang out with that

1 group?

2 A Yes, ma'am.

3 Q Do you know when Mr. Parker got murdered?

4 A Yes, ma'am.

5 Q Do you know Ji'Tavius Adams did it?

6 A No, ma'am.

7 MS. TAYLOR: Thank you.

8 THE COURT: Mr. Tinsley?

9 MR. TINSLEY: I don't have any questions, Your Honor.

10 THE COURT: Mr. Grose?

11 MR. GROSE: No questions.

12 THE COURT: Any redirect?

13 REDIRECT EXAMINATION

14 BY MR. HENDERSON:

15 Q Jadasha, let me have you step off the stand, please,
16 because we're going to come down and look at this exhibit.
17 And, for the record, Your Honor, I'm pointing at State's
18 Exhibit Number 88, at the bottom right. Jadasha, I will
19 represent ---

20 MS. TAYLOR: Objection to leading, Your Honor.

21 MR. HENDERSON: No, I think I could, because this is
22 not marked on the exhibit.

23 MS. TAYLOR: Your Honor, I think if she's familiar with
24 it, she can point it out herself.

25 THE COURT: Let's see if she can point it out herself,