

STATE OF SOUTH CAROLINA

COUNTY OF Sumter

STATE

VS.

Joquell Wayne Myers

AKA:

Race: Black Sex: M Age: 26

DOB: 06-21-1996 SS#: 249-99-6123

Address: 103 McCutcheon St

City, State, Zip: Mayesville, SC 291048888

DL# 103620632 SID#

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE# 2022-GS-43-0920

A/W#: 2019A4320100742

Date of Offense: 9/8/2019

S.C. Code §: 16-03-0029

CDR Code #: 3410

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS

TO: Attempted Murder

In violation of § 16-03-0029 of the S.C. Code of Laws, bearing CDR Code # 3410

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ § 17-25-45
(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: ☐ As indicted, ☒ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

John P. Meador 10429
Solicitor SC Bar # Defendant

SCB05741

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Correction ☐ County Detention Center,

for a determinate term of 20 days/months/years/Time Served ☐ Youthful Offender Act not to exceed years

and/or to pay a fine of \$; provided that upon the service of days/months/years/Time Served and or payment of \$ plus costs and assessments as applicable; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDOP. days/months

☐ To include time spent on monitored house arrest prior to trial and sentencing.

☐ The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

STATE VS. Joquell Wayne Myers INDICTMENT/CASE# 2022-GS-43-0920

SPECIAL CONDITIONS:

☐ PTUP after _____ months/years

And Other Terms Listed Below:

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing
☐ Attend Voc. Rehab. Or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program
☐ Mental Health Counseling ☐ May serve W/E beginning: _____
☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment _____ days/hours
☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
☐ Other: _____

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total \$ _____ plus 20% fee: _____ \$ _____

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

*Fine:		\$
Fine may be pd. in equal consecutive weekly/monthly prnts. of \$ _____ Beginning _____		
\$14-1-206 (Assessments 107.5%)		\$
\$14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$ 100.00
\$14-1-211 (A)(2)(DUI Surcharge)	\$100	\$
\$56-5-2995 (DUI Assessment)	\$12	\$
\$56-1-286 (DUI Breath Test)	\$25	\$
\$14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
\$14-1-213 (Drug Court Surcharge)	\$150	\$
\$34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41	\$
\$50-21-114 (BUI Breath Test Fee)	\$50	\$
\$56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)	TBD	\$ 3.15
☐ Appointed PD or appointed other counsel, Provviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees	\$500	\$
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD	\$
TOTAL		\$ 128.75

Clerk of Court/Deputy Clerk:
Court Reporter:

James C. Campbell
Sharon Jones

Presiding Judge:
Judge Code:
Sentence Date:

Kush Antu
2762
10-4-22

STATE OF SOUTH CAROLINA

COUNTY OF Sumter

STATE

VS.

Joquell Wayne Myers

AKA:

Race: Black Sex: M Age: 26DOB: 06-21-1996 SS#: 249-99-6123Address: 103 McCutcheon StCity, State, Zip: Marysville, SC 291048888DL# 103620632 SID#

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE# 2022-GS-43-1050A/W#: 2019A4320100743Date of Offense: 9/8/2019S.C. Code §: 16-23-0020CDR Code #: 0044

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☒ PLEADSTO: Weapons / Unlawful carrying of pistolIn violation of § 16-23-0020 of the S.C. Code of Laws, bearing CDR Code # 0044☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ § 17-25-45

(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury (def. s initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Solicitor

SC Bar #

Defendant

Attorney for Defendant

SCB05741

SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Correction ☐ County Detention Center,for a determinate term of one days/months/years/Time Served ☐ Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____ provided that upon the service of _____ days/months/years/Time Served and or payment

of \$ _____ plus costs and assessments as applicable*, the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDOC. _____ days/months☐ To include time spent on monitored house arrest prior to trial and sentencing☐ The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

STATE VS. Joquell Wayne Myers INDICTMENT/CASE# 2022-GS-43-1050

SPECIAL CONDITIONS:

☐ PTUP after _____ months/years

And Other Terms Listed Below:

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing
☐ Attend Voc. Rehab. Or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program
☐ Mental Health Counseling ☐ May serve W/E beginning: _____
☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment _____ days/hours
☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
☐ Other: _____

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total \$_____ plus 20% fee: _____ \$_____

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

*Fine:		\$
Fine may be pd. in equal consecutive weekly/monthly pmts. of \$_____ Beginning _____		
§14-1-206 (Assessments 107.5%)		\$
§14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$ <u>100.00</u>
§14-1-211 (A)(2)(DUI Surcharge)	\$100	\$
§56-5-2995 (DUI Assessment)	\$12	\$
§56-1-286 (DUI Breath Test)	\$25	\$
§14-1-212 (Law Enforce. Funding)	\$25	\$ <u>05.00</u>
§14-1-213 (Drug Court Surcharge)	\$150	\$
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41	\$
§50-21-114 (BUI Breath Test Fee)	\$50	\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)	TBD	\$ <u>2.15</u>
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees	\$500	\$
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD	\$
TOTAL		\$ <u>1,281.15</u>

Clerk of Court/Deputy Clerk: Thomas C. Campbell Presiding Judge: Kristin Luth
Court Reporter: Sherry Jones Judge Code: 2762
Sentence Date: 10-4-22

STATE OF SOUTH CAROLINA

COUNTY OF Sumter

STATE

VS.

Joquell Wayne Myers

AKA:

Race: Black Sex: M Age: 26DOB: 06-21-1996 SS#: 249-99-6123Address: 103 McCutcheon StCity, State, Zip: Mayesville, SC 291048888DL# 103620632 SID#

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE# 2020-GS-43-0624A/W#: 2019A4320100744Date of Offense: 9/8/2019S.C. Code §: 16-23-0490CDR Code #: 0549

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☒ PLEADSTO: Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or deathIn violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549
☐ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ § 17-25-45
 (CSC w/minor 1+ or CSC w/minor 3+)
The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State

ATTEST:

John P. Meador
Solicitor

SC Bar #

Defendant

Attorney for Defendant

SCB05741

SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Correction ☐ County Detention Center,for a determinate term of 5 days/months/years/Time Served ☐ Youthful Offender Act not to exceed yearsand/or to pay a fine of \$ provided that upon the service of days/months/years/Time Served and or paymentof \$ plus costs and assessments as applicable*: the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: ☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDOP.
days/months☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

STATE VS. Joquell Wayne Myers INDICTMENT/CASE# 2020-GS-43-0624

SPECIAL CONDITIONS:

☐ **PTUP** after _____ months/years

And Other Terms Listed Below:

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing
☐ Attend Voc. Rehab. Or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program
☐ Mental Health Counseling ☐ May serve W/E beginning: _____
☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment _____ days/hours
☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135
☐ Other: _____

☐ **RESTITUTION:** ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total \$ _____ plus 20% fee: _____ \$ _____

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

*Fine:		\$ _____
Fine may be pd. in equal consecutive weekly/monthly pmts. of \$ _____ Beginning _____		\$ _____
§14-1-206 (Assessments 107.5%)		\$ _____
§14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$ <u>100.00</u>
§14-1-211 (A)(2)(DUI Surcharge)	\$100	\$ _____
§56-5-2995 (DUI Assessment)	\$12	\$ _____
§56-1-286 (DUI Breath Test)	\$25	\$ _____
§14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
§14-1-213 (Drug Court Surcharge)	\$150	\$ _____
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41	\$ _____
§50-21-114 (BUI Breath Test Fee)	\$50	\$ _____
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$ _____
3% to County (if paid in installments)	TBD	\$ <u>3.75</u>
☐ Appointed PD or appointed other counsel. Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees	\$500	\$ _____
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD	\$ _____
TOTAL		\$ <u>128.75</u>

Clerk of Court/Deputy Clerk:
Court Reporter:

James C. Campbell
Shern Jones

Presiding Judge:
Judge Code:
Sentence Date:

Kirk Clark
2762
10-4-22

State of South Carolina	)	
	)	Circuit Court
County of Sumter	)	2020-GS-43-0624

State of South Carolina	)	
	)	
vs.	)	Transcript of Record
	)	
Joquell Myers	)	

September 26, 2022
Sumter, South Carolina

B E F O R E:

The Honorable Kristi F. Curtis, Judge; and a jury.

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

Attorney for the State:

John P. Meadors, Esquire
W. Jason Corbett, Esquire

Attorney for the Defendant:

Lewis H. Warr, Esquire
Kenneth R. Young, Jr., Esquire

Jamie Gallagher
Transcriber



I N D E X

<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
Det. William McFadden				
Mr. Meadors	61			
Mr. Young		108		
Det. Natalie Kelly				
Mr. Meadors	110			
Mr. Young		116		



E X H I B I T S

NO.	DESCRIPTION	ID.	EV.
S-1	Document	110	



1 (Whereupon, the jury came into open court at
2 approximately 10:11 a.m.)

3 THE COURT: Good morning, ladies and gentlemen. Okay.
4 First of all, I'm going to thank you very much for your
5 presence here this morning. We appreciate very much. We know
6 that this is probably not your first choice of places to be
7 this Monday morning, but our system cannot function without
8 citizen being willing to come and serve.

9 We had a long period of time in 2020 when we were not
10 able to convene jury panels, and our system really bogged down
11 and suffered as a result of it, and it's made us appreciate
12 even more citizens being willing to come and serve. So I
13 thank you first of all for being here. We're going to try to
14 make the best possible use of your time this week. There will
15 be times where you will not see us working, but I promise you,
16 we will be working the entire time. There are times when
17 we're going to have to excuse you to take up certain matters.
18 We're not drinking coffee and, like, reading the newspaper. I
19 can promise you that we will be working. And we're going to
20 try to be very cognizant of your time this week.

21 Your service will start today. It will be done by Friday
22 afternoon. We don't anticipate anything going into next week
23 at this point. This term, again, is just for one week. We're
24 going to go through the qualification process this morning and
25 then we're going to select the jury for the first trial that



1 we've got lined up.

2 So our purpose this morning is to determine your
3 qualification and eligibility to serve as a juror. As the
4 first part of this process, we're going to do what's called
5 roll call. I'm going to ask you to please stand, give us some
6 information about yourself. You've got the information on
7 your card there in front of you. So for example, my name is
8 Kristi Curtis. I'm a circuit court judge in Sumter County.
9 I'm married to Warren Curtis. He's an attorney with Curtis &
10 Croft Law Firm. That's the information that we're looking for
11 from you this morning.

12 If you will please tell us if you're currently unemployed
13 or you're retired, that's fine. If you'll please tell us your
14 last place of employment, what sort of business you were in
15 before you retired, your last place of employment if you're
16 currently unemployed.

17 Mr. Campbell, I'll turn it over to you.

18 THE CLERK: Thank you, Your Honor. May it please the
19 Court, ladies and gentlemen, would you please stand to be
20 sworn? Ladies and gentlemen at this time, will you raise your
21 right hand, please?

22 (Prospective jurors sworn.)

23 THE BAILIFF: You may be seated. Are there anyone who
24 did not took the oath? Your Honor, the panel has been sworn.

25 THE COURT: Thank you.



1 THE CLERK: May it please the Court, Your Honor. Ladies
2 and gentlemen, when your name is called simply stand where you
3 are and recite that information off the blue card. Juror No.
4 176, Pamela Winfrey.

5 JUROR NO. 176: My name is Pamela and I live in the
6 Horacio community. I am currently employed by Von Render and
7 Company, CPAs, in Columbia, and my job title is office
8 manager. I am not married.

9 THE CLERK: Thank you, ma'am. That was absolutely
10 perfect. Juror No. 6, Shaina Berno Epps (phonetic).

11 JUROR NO. 6: My name is Shaina Barno Epps. I live in
12 the Sumter community. I am currently employed by Metro by T-
13 Mobile, (indiscernible) manager, and I am not married.

14 THE CLERK: Thank you, ma'am. Juror No. 7, William Bell.

15 JUROR NO. 7: My name is William T. Bell. I currently --
16 I live in Sumter County. I'm currently employed by Santee
17 Print as a floor supervisor. And I am married, and my wife is
18 retired.

19 THE CLERK: Where did she retire from?

20 JUROR NO. 7: Doctor care.

21 THE CLERK: Thank you, sir. Juror No. 12, Megan Bomar.

22 JUROR NO. 12: My name is Megan Bomar. I live in Sumter
23 community. My previous job was at J&L gas station. My job
24 title was a cashier. I am married. My husband is retired
25 military.

1 THE CLERK: Thank you, ma'am. Juror No. 14, Timothy
2 Bottema.

3 JUROR NO. 14: Bottema.

4 THE CLERK: Bottema. Sorry.

5 JUROR NO. 14: My name is Tim Bottema. I live in the
6 Sumter community. I am currently employed by the Air Force,
7 and my job title is a training manager. I am married. My
8 wife works at Fort Jackson as a financial counsel.

9 THE CLERK: Thank you, sir. Juror No. 18, Timothy
10 Bradley.

11 JUROR NO. 18: My name is Timothy Bradley. I live in the
12 (indiscernible) community. I'm currently employed at Ace
13 Parker Tires. My job title is general manager. I am a
14 widower.

15 THE CLERK: Thank you, sir. Juror No. 22, Tyler Burke.

16 JUROR NO. 22: My name is Tyler Burke, and I live in the
17 Sumter community. I'm currently unemployed. I am not
18 married.

19 THE CLERK: Thank you, sir. Juror No. 23, Connie Butler.

20 JUROR NO. 22: My name is Connie Butler. I live in the
21 Sumter community. I am employed by BD. My job title is
22 molding utility, and I am not married.

23 THE CLERK: Thank you, ma'am. Juror No. 25, Joanne
24 Carter.

25 JUROR NO. 25: My name is Joanne Carter. I live in the



1 Sumter community. I am currently medically -- how would I put
2 it -- on medical leave from Lowes. My job title was customer
3 service, and I am not married.

4 THE CLERK: Thank you, ma'am. Juror No. 34, Robert
5 Crossett.

6 JUROR NO. 34: My name is Robert Crossett. I taught
7 school for 35 years. We live in Sumter. My wife worked at
8 Dartmouth College, an on-campus program, and I'm glad to be
9 here.

10 THE CLERK: Thank you, sir. Glad to have you. Juror No.
11 37, Lakeisha Davis.

12 JUROR NO. 37: My name is Lakeisha Davis, and I live in
13 the Sumter community. I am currently employed by Cargill Meat
14 Solutions, and my job title is a packer, and I am not married.

15 THE CLERK: Thank you, ma'am. Juror No. 41, Reuben
16 Disher.

17 JUROR NO. 41: My name is Reuben Disher. I'm employed at
18 Myson Tires. I'm mechanic/assistant manager. I'm married.
19 My wife's been unemployed for about three or four months.

20 THE CLERK: Thank you, sir. Juror No. 43, Jeremy DuBose.

21 JUROR NO. 43: My name is DuBose. I live in the Catchall
22 community. I work at Prisma Health Tuomey as a bio-med lay
23 tech. I am divorced.

24 THE CLERK: Thank you, sir. Juror No. 45, Kiana Dukes.

25 JUROR NO. 45: My name is Kiana Duke. I live in the



1 Sumter community. I'm currently Safe Federal Credit Union as
2 a (indiscernible) support specialist, and I am not married.

3 THE CLERK: Thank you, ma'am. Juror No. 47, Zachary
4 Feather.

5 JUROR NO. 47: My name is Zach Feather. I live in the
6 Sumter community. I'm currently employed at Armstrong
7 Contractors. I'm a local driver, and I am not married.

8 THE CLERK: Thank you, sir. Juror No. 50, Lydia Ford.

9 JUROR NO. 50: Lydia Ford. I live in Sumter County. And
10 I'm employed by the Sumter School District. I'm the
11 secretary.

12 THE CLERK: Are you married? Are you married, ma'am?

13 JUROR NO. 50: And I'm not married.

14 THE CLERK: Thank you so much. Juror No. 53, Kornitha
15 Fuller.

16 JUROR NO. 53: Good morning. My name is Kornitha Fuller,
17 and I live in the Sumter community. And I am currently
18 employed by Tommy's Put & Take Cleaners, and my husband -- and
19 I am married, and my spouse works at (indiscernible) keeps the
20 machine up.

21 THE CLERK: Thank you, ma'am. Juror No. 60, Janice
22 Glover.

23 JUROR NO. 60: My name is Janice Glover, and I live in
24 the River community area. I'm currently employed. The last
25 job I had was at Lexus (indiscernible) factory. And I'm not

1 -- I'm a widow.

2 THE CLERK: Thank you, ma'am. Juror No. 66, Mary Groves.

3 JUROR NO. 66: I'm Mary Groves, and I live in Sumter.

4 I'm a homemaker. Some would say I'm unemployed or what. My
5 husband is a retired colonel from the Army.

6 THE CLERK: Thank you, ma'am. And for the bar, No. 181.
7 Juror No. 181, Tracy Hampton, Jr.

8 JUROR NO. 181: My name is Tracy Hampton. I live in the
9 Sumter community. I'm employed as a truck driver, and I'm not
10 married.

11 THE CLERK: Thank you, sir. And for the bar, back to 74.
12 Juror No. 74, Pamela Henry.

13 JUROR NO. 74: Yes. I am Pamela Henry and I live in the
14 Sumter County area. I am currently not employed due to a
15 medical illness (indiscernible), and I am not married.

16 THE CLERK: Ma'am, could you just remove your mask or
17 drop it a little bit? We just couldn't hear you up here where
18 we need to.

19 JUROR NO. 74: I'm sorry. My name is Pamela Henrey. I
20 live in the Sumter County area. I am not employed due to a
21 medical illness that I have. And I am not married.

22 THE CLERK: Thank you so much. Juror No. 80, George
23 Hunter.

24 JUROR NO. 80: My name is George Henry. I live in
25 (indiscernible) community. I'm employed by L.E. Smith. Not



1 married.

2 THE CLERK: Thank you, sir. Juror No. 83, Harlene
3 Jefferson.

4 JUROR NO. 83: My name is Harlene Jefferson, and I live
5 in the Sumter community. I'm employed by KFC, and I am not
6 married.

7 THE CLERK: Thank you, ma'am. Juror No. 88, Martha
8 Kelly.

9 JUROR NO. 88: My name is Martha Kelly and I live in the
10 Sumter community. I'm currently employed by the Sumter School
11 District and my title is Medicaid Manager. My husband is also
12 employed by the school district and he's a master electrician.

13 THE CLERK: Thank you, ma'am. Juror No. 90, Timothy
14 Kennedy.

15 JUROR NO. 90: My name is Timothy Kennedy. I currently
16 stay in Sumter County. I'm employed by Continental Tires, and
17 I'm a machine operator. And I'm not married.

18 THE CLERK: Thank you, sir. Juror No. 93, Mya Lardner.

19 JUROR NO. 93: My name is Mya Lardner. I live in the
20 Sumter community. I currently work at Lehman Mortgage of
21 South Carolina, and I am a property manager. I am married.
22 My husband works for Waste Management. He's a truck driver.

23 THE CLERK: Thank you, ma'am. Juror No. 99, Dana
24 Mansour.

25 JUROR NO. 99: My name is Dana Mansour. I live in the



1 Sumter community. I'm currently employed with McLeod Regional
2 Medical Center. I'm an ICU nurse. I'm not married.

3 THE CLERK: Thank you, ma'am. Juror No. 103, Shayla
4 McCoy.

5 JUROR NO. 103: Hi, my name is Shayla McCoy. I live in
6 Sumter community. I'm currently employed at First Citizens
7 Bank as a customer service rep. And I'm not married.

8 THE CLERK: Thank you, ma'am. Juror No. 104, Wanda
9 McCoy.

10 JUROR NO. 104: I'm Wanda McCoy. I live in the Sumter
11 community. I'm currently employed at TCBY as an operations
12 manager, and my husband is (indiscernible) truck driver.

13 THE CLERK: Thank you, ma'am. Juror No. 107, Monica
14 McElvain.

15 JUROR NO. 107: My name is Monica McElvain. I live in
16 the Sumter community. I am currently unemployed, and I am not
17 married.

18 THE CLERK: Thank you, ma'am. Juror No. 110, Brianna
19 McMillan.

20 JUROR NO. 110: My name is Brianna McMillan. I live in
21 the Sumter community. I'm currently unemployed, and I'm not
22 married.

23 THE CLERK: Thank you, ma'am. Juror No. 114, Jason
24 Mosley.

25 JUROR NO. 114: My name is Jason Mosley, and I live in



1 the (indiscernible) community. I am currently employed at
2 Affordable Ventures in Columbia, South Carolina, and I'm not
3 married.

4 THE CLERK: Thank you, sir. Juror No. 115, Michael
5 Murphy.

6 JUROR NO. 115: My name is Michael Murphy. I'm from the
7 (indiscernible) community. Employed at Johnson Concrete. I'm
8 not married.

9 THE CLERK: Thank you, sir. Juror No. 119, Michael
10 Norman, Sr.

11 JUROR NO. 119: My name is Michael Norman, Sr. I live in
12 Sumter County. Retired military Army. Right now, I'm
13 divorced.

14 THE CLERK: Thank you, sir. Juror No. 121, Ashley
15 Olberding.

16 JUROR NO. 121: My name is Ashley Olberding, and I live
17 in the Sumter community. I am currently employed at
18 (indiscernible) for my mom. My job title is cashier/manager,
19 and I'm not married.

20 THE CLERK: Thank you, ma'am. Juror No. 126, Cassandra
21 Peay.

22 JUROR NO. 126: My name is Cassandra Peay. I live in
23 Sumter County. I work at Otis Elevator in Florence. And I'm
24 a (indiscernible).

25 THE CLERK: Thank you, ma'am. Juror No. 130, Stewart

1 Pressley.

2 JUROR NO. 130: My name is Stewart Pressley. I'm
3 employed by the City of Sumter Fire Department. My job title
4 is Master Firefighter. I am married. My wife's employed by
5 the Sumter School District. She's a 3rd grade school teacher.

6 THE CLERK: Thank you, sir. Juror No. 131, Alison
7 Pringle.

8 JUROR NO. 131: My name is Alison Pringle. I live in
9 (indiscernible) community. I'm currently employed by Blue
10 Cross Blue Shield. My job title is Customer Service Advocate
11 III, and I'm not married.

12 THE CLERK: Thank you, ma'am. Juror No. 132, Patricia
13 Pringle.

14 JUROR NO. 132: My name is Patricia Pringle. I live in
15 the Sumter community. I'm currently employed at
16 (indiscernible). I'm not married.

17 THE CLERK: Could you pull your mask down and just say a
18 little bit louder for me?

19 JUROR NO. 132: My name is Patricia Pringle. I live in
20 the Sumter Community. I'm employed at (indiscernible), and
21 I'm not married.

22 THE CLERK: Thank you very much. Juror No. 138, Ruthie
23 Ray.

24 JUROR NO. 138: My name's Ruthie Ray, and I live in
25 Dalzell, and I'm employed with the State, working for the



1 National Army Guard, and I work for American Bingo, and I'm
2 divorced.

3 THE CLERK: Thank you, ma'am. Juror Number 139, Willie
4 Ray.

5 JUROR NO. 139: My name is Willie Ray. I'm employed
6 with -- I live in the Dalzell community. I'm employed with
7 Morris Pest Control as a pest control technician. I'm not
8 married.

9 THE CLERK: Thank you, sir. Juror No. 144, Diamond Rain.

10 JUROR NO. 144: My name is Diamond Rain. I live in the
11 Sumter community. I'm currently employed with True Blue. My
12 job title is a screener. I am married and my husband is a
13 manager at Walmart.

14 THE CLERK: Thank you, ma'am. Juror No. 147, Gregory
15 Rogers.

16 JUROR NO. 147: Good morning. My name is Gregory Rogers.
17 I work at Continental Tires (indiscernible). I do live in the
18 Sumter community, where I am -- at Continental, I'm sorry, I'm
19 special projects, logistics. I am married. My wife works for
20 the Sumter County HR director.

21 THE CLERK: Thank you, sir. Juror No. 149, Jay
22 Scharfenburg.

23 JUROR NO. 149: Good morning. My name is Jay
24 Scharfenburg and I live in the (indiscernible) community. I'm
25 currently -- a retired from Robert E. Wood operations, and I'm

1 divorced.

2 THE CLERK: Thank you, sir.

3 JUROR NO. 149: I mean, I'm widowed.

4 THE CLERK: Thank you, sir.

5 JUROR NO. 149: Sure.

6 THE CLERK: Juror No, 154, Joan Simon.

7 JUROR NO. 154: My name is Joan Simon. I live in the
8 Dalzell community. I'm employed with (indiscernible)
9 Department of Social Services as an adoption case manager, and
10 my husband is a veteran of the United States Army.

11 THE CLERK: Thank you, ma'am. Juror No. 155, Adasia
12 Singleton.

13 JUROR NO. 155: My name is Adasia Singleton. I live in
14 Sumter community. I am employed by American Eagle, and I am
15 not married.

16 THE CLERK: Thank you, ma'am. Juror No. 158, Samuel
17 Spencer.

18 JUROR NO. 158: My name is Samuel Spencer. I live in the
19 Sumter community. I have a nonprofit program called Saving
20 the Mind. I'm the president, and I'm not married.

21 THE CLERK: Thank you, sir. Juror No. 168, Gloria
22 Washington.

23 JUROR NO. 168: My name is Gloria Washington. I live in
24 the Sumter community. I'm currently unemployed, and I'm not
25 married.

1 THE CLERK: Thank you, ma'am. Juror No. 169, Leonard
2 Watson.

3 JUROR NO. 169: I'm Leonard Watson. I live in Sumter
4 community. I'm DOD Army, medically retired, and my wife works
5 at Tuomey as a CNA.

6 THE CLERK: Thank you, sir. Juror No. 170, Michael
7 Whittaker.

8 JUROR NO. 170: I'm Michael Whittaker. I'm from the
9 Sumter community. I am retired from MW Reynolds. I am
10 married. My wife is a secretary.

11 THE CLERK: Thank you, sir. Juror No. 171, LeShawn
12 White.

13 JUROR NO. 171: My name is LeShawn White. I live in the
14 Horatio community. I'm currently employed by City of Columbia
15 Parks and Recreation, Recreation Coordinator, as well as the
16 (indiscernible) County School District 21 as a therapeutic
17 assistant. I am separated.

18 THE CLERK: Thank you, sir. Juror No. 173, Kim Wilson.

19 JUROR NO. 173: My name is Kim Wilson. I live in the
20 Sumter community. I'm currently employed by (indiscernible).
21 My job title is custodian. I am married. My husband works at
22 Caterpillar. He's a machine operator.

23 THE CLERK: Thank you, ma'am. Juror No. 174, Renee
24 Wilson.

25 JUROR NO. 174: Good morning. My name is Renee Wilson.



1 I live in the Sumter community. I currently work for the USPS
2 as a logistics manager, and I am single.

3 THE CLERK: Thank you, ma'am. Juror No. 175, Donald
4 Laverne Weinfeld.

5 JUROR NO. 175: I'm Donald Weinfeld. I live in the
6 Sumter community. I'm currently self-employed, Weinfeld
7 Painting. I am married. My spouse is employed by Weinfeld
8 Panting (indiscernible).

9 THE CLERK: Thank you, sir. Juror No. 183, Gail Zorich.

10 JUROR NO. 183: My name is Gail Zorich, and I live in the
11 Suffolk community. I'm employed by Riverside Ford, outside
12 sales. And I'm not married.

13 THE CLERK: Thank you, ma'am. If you were summoned to
14 appear in this courtroom today and your name was not called,
15 if that applies to anybody, would you please stand? Thank
16 you, ladies and gentlemen.

17 Your Honor, that appears to be it.

18 THE COURT: Thank you. Okay. Ladies and gentlemen, I
19 now have certain questions to ask you to determine your
20 eligibility to serve as a juror. It's not my intention to
21 embarrass anyone or put you on the spot, but I am required by
22 law to ask these questions. So I'm going to ask these next
23 eight or nine questions individually. I'm going to ask if
24 you'll please stand in response to the question if it applies
25 to you. However, if you're not comfortable responding to the

1 individual question, then at the end of this series of
2 questions, I'm going to give you an opportunity to come
3 forward in response to any of these questions and give us some
4 information a little bit more privately up here at the bench.
5 Our court monitor will need to hear your response. I'll need
6 to hear your response and the attorneys will need to hear your
7 response. But again, if you prefer a little more privacy in
8 giving me your response to any of these nine questions, I'll
9 be glad to take your information up here at the bench at the
10 end.

11 First of all, ladies and gentlemen, is there any member
12 of the jury panel who is not a citizen of the United States?
13 If so, please stand.

14 Is there any juror who is not a resident of Sumter
15 County? If so, please stand.

16 Is there any juror who is unable to read, write, speak,
17 or understand the English language? If so, please stand.

18 Is there any juror with less than a 6th grade education
19 or its equivalent? If so, please stand.

20 Is there any juror who has a disability, either a
21 physical disability or a mental disability, which would
22 prevent you from serving as a juror? If so, please stand.

23 Yes, ma'am. Do you want to come forward and give me that
24 information?

25 (Pause.)

1 (Juror No. 74 approached the bench.)

2 (Indiscernible)

3 THE COURT: Is there any member of the jury panel who's
4 been convicted in either a state or federal court of record of
5 a crime punishable by more than one year in prison, and your
6 civil rights have not been restored by either plea -- excuse
7 me, by either pardon or amnesty? So punishable by more than
8 one year means that if you pled guilty or if you were
9 convicted of an offense that carried over a year, but instead,
10 let's say, got probation, that would still disqualify you from
11 service. If any of that applies to you, if you'd please
12 stand.

13 You may come forward.

14 (Juror No. 37 approached the bench.)

15 (Indiscernible).

16 THE COURT: Okay. Is there any member of the jury panel
17 who is a clerk or deputy clerk of court, constable, sheriff,
18 or other commissioned law enforcement officer, probate judge,
19 county commissioner, magistrate, or other county officer, or
20 if you are employed within the walls of any courthouse, if any
21 of that applies to you, if you'd please stand.

22 Is there any juror who has previously served on jury duty
23 here in circuit court during 2022? If so, please stand.

24 Is there any member of the jury panel who has been on the
25 Sumter County Grand Jury during either 2021 or 2022? If so,



1 please stand.

2 Okay. Ladies and gentlemen, that is -- those are our
3 questions pertaining to qualification. Again, is there anyone
4 who needs to come forward and give me any information
5 regarding those questions? Okay. We're going to move to jury
6 exemptions.

7 State law provides for several exemptions for jury
8 service. This means you are perfectly qualified to serve as a
9 juror, but if you fall within one of these categories, you get
10 to choose whether or not you want to stay and serve with us
11 this week.

12 The first category is those who have reached the age of
13 65 years of age or older. If you've reached 65, you get to
14 choose whether you want to stay and serve with us. We would
15 love to have you stay. We think you are uniquely qualified by
16 your life experience and common sense to stay and serve with
17 us. But again, you get to choose whether or not you want to
18 serve. So if you fall within that category and you don't mind
19 everybody knowing it, and you want to be exempt, if you'd
20 please stand.

21 Another exemption concerns prior jury service. No one is
22 required to serve as a juror here in circuit court more than
23 once every three calendar years. So if you've already served
24 here in circuit court within the past three years and you want
25 to exercise that exemption, if you'd please stand.



1 There's a similar exemption if you have served on the
2 Sumter County Grand Jury within the past five years. Again,
3 that's actually a year-long service when you're on the Grand
4 Jury, and so you get a five-year exemption for that. If that
5 applies to you and you'd like to be exempt, if you'd please
6 stand.

7 Another jury exemption concerns those of you with small
8 children. If you have a small child or children under the age
9 of seven, you've got custody of the child, you're the
10 caregiver for the child, and you do not have child care
11 arrangements if you are required to be here for jury duty. If
12 that applies to you and you'd like to be exempt, if you'd
13 please stand.

14 Okay. Let me just start over here with you, sir. If
15 you'll tell me your name.

16 JUROR NO. 18: (Indiscernible). She is 11. I'm a
17 widower, a single parent, and primary caregiver.

18 THE COURT: I'm sorry. Tell me your name, sir.

19 JUROR NO. 18: Timothy Bradley.

20 THE COURT: Mr. Bradley, what do you do for childcare
21 while you're working?

22 JUROR NO. 18: I pick her up from school. I take her to
23 school, because I am her childcare.

24 THE COURT: Okay. Mr. Bradley, let me see where we end
25 up here. If you'll just bear with us while we get through all

1 of the exemptions, and I'll see what I can do. Thank you,
2 sir.

3 Okay. Yes, ma'am, on the front row. If you'll tell me
4 your name first, ma'am.

5 JUROR NO. 144: Diamond Rain.

6 THE COURT: Juror No. 144. Yes, ma'am.

7 JUROR NO. 144: I have a one-year-old and I work from
8 home, so I have her most of the day -- well, all day.

9 THE COURT: Okay. Mr. Rains, I'm going to go ahead and
10 excuse you, ma'am. Thank you so much for being here.

11 JUROR NO. 144: Thank you.

12 THE COURT: Yes, ma'am.

13 JUROR NO. 131: I have triplets, one-year-olds, and I
14 work from home.

15 THE COURT: Tell me your name, ma'am.

16 JUROR NO. 131: Alison Pringle.

17 THE COURT: Ms. Pringle?

18 JUROR NO. 131: Yes, ma'am.

19 THE COURT: I just have to ask you. How in the world is
20 Blue Cross Blue Shield getting any work out of you whatsoever,
21 working at home with triplets? But you don't have to answer
22 that.

23 JUROR NO. 131: It's rough. It's rough. And I work for
24 mental health. I do research for mental health all day, so --

25 THE COURT: Well, who's going to help you? I'm going to



1 go ahead and excuse you, ma'am. Thank you so much for being
2 here.

3 JUROR NO. 131: Thank you.

4 THE COURT: No. 131 is excused.

5 THE BAILIFF: Come to order, please.

6 THE COURT: And yes, ma'am. If you'll tell me your name,
7 please.

8 JUROR NO. 12: Megan Bomar, and my reason is because I'm
9 in a retired military family, and I have an eight-year-old,
10 and I'm a stay-at-home mom, because my husband works. He owns
11 his own lawn service, so he's out during the day.

12 THE COURT: So you have an eight-year-old. She's in
13 school, but you're the caregiver.

14 JUROR NO. 12: He's in school. Yes, ma'am. And I take
15 him and I pick him up from school.

16 THE COURT: Okay. I'm going to go ahead and excuse you,
17 Ms. Bomar, No. 12, and Mr. Bradley, No. 18, I'm going to go
18 ahead and excuse you too.

19 The next exemption deals with those of you who are either
20 attending school full time or if you work in some capacity
21 within the school. I can't excuse you from service, but I can
22 transfer you to a term either in the month of December or in
23 the summertime, that will not conflict with your school
24 responsibilities. So if you fall within that category and you
25 would like a transfer, if you'd please stand.

1 Is there any member of the --

2 JUROR NO. 25: You mean go to school?

3 THE BAILIFF: Stand up.

4 JUROR NO. 25: You say if go to school fulltime.

5 THE COURT: If you're a full-time student? Yes, ma'am.

6 JUROR NO. 25: Yes, ma'am. I am.

7 THE COURT: And tell me your name.

8 JUROR NO. 25: Joanne Carter.

9 THE COURT: Okay. Ms. Carter, you -- my notes just said
10 that you were on medical leave from a customer service job.

11 JUROR NO. 25: Yes, but I do go to school --

12 THE COURT: You're --

13 JUROR NO. 25: I go to (indiscernible).

14 THE COURT: And are you a full-time student?

15 JUROR NO. 25: Yes, ma'am.

16 THE COURT: Okay. Ms. Carter, we'll go ahead and
17 transfer you to another term of court. It's going to be
18 either December or summertime.

19 JUROR NO. 25: Okay.

20 THE COURT: Thank you so much for being here.

21 Is there any juror who is employed with the Department of
22 Corrections at a penitentiary and you would like to be exempt?
23 I don't think we have anybody.

24 Is there any juror who performed services for a business,
25 commercial, or agricultural enterprise which are so essential

1 to the functioning of that business that if you were required
2 to perform jury duty, the business would have to close or stop
3 functioning? I can't exempt you from service, but I can
4 transfer you to another term of court. Tell me your name,
5 sir.

6 JUROR NO. 175: John Weinfeld. I'm self-employed. John
7 Weinfeld. Self-employed.

8 THE COURT: Okay. Mr. Weinfeld, if you'll bear with us.
9 Our numbers are fairly small this morning, and we need a
10 minimum number to be able to go forward. So let me see where
11 we end up after I've heard from everyone who needs to be
12 excused. You're Juror No. 175; is that correct?

13 JUROR NO. 175: Yes, ma'am.

14 THE COURT: Okay. Thank you, sir.

15 Is there any juror who is a primary caretaker of either a
16 severely disabled person or a person over the age of 65 who
17 cannot be left unattended for you to be here for jury duty?

18 Tell me your name first, sir.

19 JUROR NO. 41: Reuben Disher. My mother's got the -- the
20 starting of dementia and Alzheimer's. She ain't got bad
21 enough where she don't know anybody yet, but I take -- I go to
22 Manning every morning to make sure she eats some breakfast and
23 takes her medicine every day at lunchtime. I go to Manning
24 every afternoon. I go to Manning to make sure she's taking
25 her medicine, ain't left nothing on or anything like that.

1 THE COURT: Mr. Disher, you work full time with Myson
2 Tires?

3 JUROR NO. 41: Fifty hours a week.

4 THE COURT: Okay. Again, let me see where we stand with
5 our numbers, once I get through everybody I need to get
6 through. Thank you so much. Yes, sir.

7 JUROR NO. 158: Samuel Spencer. I just acquired my
8 father about two weeks ago from New York, and we're trying to
9 get all of his medical these things transferred down here, and
10 I'm going to be his primary caregiver. We don't know at the
11 moment right now what exactly is about to be going on, and if
12 he's going to be picked up by transit or if I have to take him
13 back and forth to the doctor's office or whatever.

14 THE COURT: Okay. Again, Mr. Spencer, if you'll just
15 bear with us while we get through this and let's see if we've
16 got the number that we need to be able to go forward. Yes,
17 ma'am.

18 JUROR NO. 6: I currently live with my grandparents.

19 THE COURT: Tell me your name, please.

20 JUROR NO. 6: Shayna.

21 THE COURT: I'm sorry.

22 JUROR NO. 6: Shayna Barno-Epps.

23 THE COURT: Okay. Yes, ma'am.

24 JUROR NO. 6: I currently stay with both of my
25 grandparents. (Indiscernible). I'm also assisting my

1 grandmother. She's (indiscernible). He has to go to dialysis
2 on Mondays, Wednesdays, and Fridays, and I'm there to
3 (indiscernible) taking care of my seven-year-old daughter.

4 THE COURT: Okay. Thank you, ma'am. Let me -- again,
5 let me see where we end up at the end here.

6 Ladies and gentlemen, we have one last category, and that
7 is if you have some particular hardship, and I'm talking about
8 a true hardship, that just makes it very difficult for you.
9 It usually turns out when you've got, let's say, a surgery
10 scheduled, that that's the week that you get a juror summons
11 in the mail. Whatever's the most inconvenient time is
12 generally when you get that juror summons. We don't plan it
13 that way, Mr. Campbell, right?

14 THE CLERK: No, ma'am. We do not.

15 THE COURT: But if you have some particular hardship that
16 you need to bring to my attention, this is the time for you to
17 do that.

18 Okay. Mr. Finney, if I could get you, I think we have a
19 few people we need to hear from.

20 THE SOLICITOR: Your Honor, I've checked your list.
21 Everything is fine.

22 THE COURT: Okay.

23 (Off the record conversation.)

24 THE COURT: Mr. Meadors and Mr. Young, would you all mind
25 coming forward?

1 UNIDENTIFIED SPEAKER: Yes, ma'am.

2 (Bench conference begins.)

3 UNIDENTIFIED SPEAKER: Your Honor, we've got a matter
4 that we need to take up with the Court.

5 (Off the record conversation.)

6 (Bench conference ends.)

7 THE COURT: Okay. Juror No. 41, Mr. Disher, I'm going to
8 go ahead and excuse you, sir. Juror No. 158, Mr. Spencer, I'm
9 going to go ahead and excuse you. And Juror No. 6, Ms. Barno-
10 Epps, I'm going to go ahead and excuse you, ma'am. Thank you
11 so much for being here.

12 Mr. Weinfeld, I'm going to have you hang on for us at
13 least through the voir dire, and let me see how many folks we
14 end up with, if you'll just be patient.

15 UNIDENTIFIED SPEAKER: Your Honor, what was his number?
16 I'm sorry.

17 THE COURT: No. 175.

18 UNIDENTIFIED SPEAKER: Thank you.

19 THE COURT: Okay. If I can get the voir dire from the
20 attorneys.

21 UNIDENTIFIED SPEAKER: Judge, are you going to take a
22 break before we pick?

23 THE COURT: I can.

24 UNIDENTIFIED SPEAKER: If you don't mind.

25 (Indiscernible).



1 THE COURT: Okay. Okay. Ladies and gentlemen, we're
2 going to take about a ten-minute break, so we'll be ready for
3 you when you get back. When you get back, we're going to ask
4 you some questions specific to the trial that is first up, to
5 determine whether you know anybody connected with the trial.
6 So we'll have those questions ready for you when you return.
7 Again, if you'll be back in your seats in about ten minutes.
8 Thank you.

9 (Recess.)

10 THE COURT: I understand that there's a few of you who
11 needed to address some of your issues with me, but we're going
12 to get through the voir dire first, so I can see who we'll
13 need to excuse for cause, and then I'll address anybody that
14 needs to bring something to my attention. If I could get
15 y'all to approach with your proposed voir dire.

16 (Whereupon, a bench conference was held on the record in
17 the presence of the jury, but out of the hearing of the
18 jury.)

19 UNIDENTIFIED SPEAKER: Now, there is our witness list.
20 Now, again, (indiscernible). Now, the last name over there,
21 and I told (indiscernible) but I just, out of an abundance of
22 caution, I just put him on there. I don't know why. I don't
23 think it's going to hurt. His name's going to come up anyway.

24 THE COURT: Okay. So in addition to (indiscernible).

25 UNIDENTIFIED SPEAKER: Thank you for saying that. Yes.

1 During the indictment (indiscernible).

2 UNIDENTIFIED SPEAKER: My daughter-in-law was supposed to
3 send me (indiscernible).

4 (Thereupon, counsel returned to counsel tables and the
5 following ensued:)

6 (Open court.)

7 THE COURT: Okay. Solicitor Finney, Solicitor Meadors,
8 if you want to call your first case, please.

9 MR. MEADORS: May it please, Your Honor. The State of
10 South Carolina now does call the State of South Carolina v.
11 Joquell Wayne Myers, represented by Mr. Ken Young and Mr.
12 Lewis Warr. Sumter County true bill of indictment 2020-GS-43-
13 624, indictment for murder and possession of a firearm during
14 the commission of a violent crime. Sumter true bill of
15 indictment 2022-GS-43-920, attempted murder. Sumter true bill
16 of indictment 2022-GS-43-148, attempted murder. 2022-GS-43-
17 1050, unlawful carrying of a pistol.

18 THE COURT: Thank you. Okay. Ladies and gentlemen, the
19 case that we are going to select a jury for first is the State
20 of South Carolina v. Joquell Wayne Myers. I'm going to read
21 to you from the indictments in this case. I want you to keep
22 in mind that the indictment is simply the written document by
23 which this case comes into trial. It's the allegations that
24 the State is making against Mr. Myers. It's not evidence in
25 any way, shape, or form. At this point, it's just the



1 allegations against the Defendant, Mr. Myers.

2 And the first indictment alleges that the defendant did
3 in Sumter County on or about September 8th, 2019, willfully,
4 feloniously, and intentionally killed the victim, Gregory
5 Middleton, with malice aforethought, either express or
6 implied, by means of shooting the victim with a firearm.

7 The second count of that indictment alleges that the
8 defendant, Joquell Myers, did in Sumter County on that same
9 date, September 8th, 2019, possess a firearm or visibly
10 display what appeared to be a firearm during the commission or
11 attempted commission of a violent crime.

12 The next indictment alleges that Joquell Myers did in
13 Sumter on or about September 8th, 2019, with intent to kill,
14 attempt to kill another person, Michael Lucas, with malice
15 aforethought, either express or implied, by firing shots at
16 the victim.

17 The next indictment alleges that the defendant, Joquell
18 Myers, did in Sumter County on or about September 8th, 2019,
19 with intent to kill, attempt to kill another person,
20 Christopher Fordham, with malice aforethought, either express
21 or implied, by shooting the victim in his leg with a firearm.

22 The final indictment alleges that Joquell Myers did in
23 Sumter County on or about September 8th, 2019, carry about his
24 person a pistol, such carrying not being authorized by the
25 laws of the State of South Carolina.

1 So ladies and gentlemen, let me first ask, is there any
2 member of the jury panel who has any personal knowledge about
3 the facts of this case? If so, please stand. Yes, ma'am. If
4 you'll tell me your name.

5 JUROR NO. 155: Adasia Singleton.

6 THE COURT: Okay. And, Ms. Singleton, I'm going to ask
7 you to give me that information up front, if you'll come up
8 here, please.

9 (Juror No. 155 approached the bench.)

10 (Indiscernible.)

11 THE BAILIFF: Juror No. 99, Your Honor.

12 (Juror No. 99 approached the bench.)

13 (Indiscernible.)

14 THE BAILIFF: One more, Your Honor. 138. 138.

15 (Juror No. 138 approached the bench.)

16 Paul Held, that's my husband's bankruptcy lawyer at the
17 time, and I didn't know (indiscernible).

18 THE COURT: This is Mr. Young.

19 PROSPECTIVE JUROR NO. 138: Oh, oh, see, I should have
20 noticed. I am so sorry. Well, he wasn't my lawyer, right.
21 He --

22 THE COURT: We're going to get to that question. So I'd
23 ask you this, so Mr. Young has represented you in the past?

24 PROSPECTIVE JUROR NO. 138: Yes.

25 THE COURT: Is he currently representing you?



1 PROSPECTIVE JUROR NO. 138: No. Not now.

2 THE COURT: How long ago? Do you think that would
3 prevent you from being fair and impartial?

4 PROSPECTIVE JUROR NO. 138: My heart is beating real fast
5 right now. I'm nervous. I'm going to tell you that.

6 THE COURT: You're not going to jail.

7 PROSPECTIVE JUROR NO. 138: I know I ain't going to jail.

8 THE COURT: Like, no matter what you tell me, you're not.
9 We're not mad at you. I just want to know, do you think you
10 could be fair and impartial in this case?

11 PROSPECTIVE JUROR NO. 138: I've never done
12 (indiscernible).

13 THE COURT: Stick with us for a few minutes, and we'll
14 see where we end up.

15 THE DEPUTY CLERK: Juror 181, Your Honor.

16 (Counsel confer.)

17 THE COURT: Come on up. (Indiscernible).

18 JUROR NUMBER 181: (Indiscernible).

19 THE COURT: I don't know unless you tell me. So you tell
20 me.

21 JUROR NUMBER 181: You want me to be honest with you?

22 THE COURT: Yeah. I want you to be honest.

23 JUROR NUMBER 181: Yeah. (Indiscernible).

24 THE COURT: And Mr. Hanson, I'm going to excuse you from
25 this trial. If you will have a seat.



1 JUROR NUMBER 181: Okay.

2 THE DEPUTY CLERK: I'm sorry. Mr. Clerk, 181.

3 THE COURT: Okay. Ladies and gentlemen, the State in
4 this case is being represented by Attorney John Meadors.

5 Mr. Meadors, if you'll please introduce yourself to the
6 jury panel?

7 MR. MEADORS: Yes. May it please the Court? My name is
8 John Meadors. I'm an assistant solicitor and work for your
9 elected solicitor's office. (Indiscernible) Chip Finney III,
10 who will also be here, and Jason Corbett, also an assistant
11 solicitor to Mr. Finney.

12 THE COURT: Mr. Corbett, if you don't mind standing as
13 well?

14 MR. CORBETT: Yes, ma'am.

15 THE COURT: Thank you. And the defendant is present in
16 the courtroom today, Mr. Joquell Myers, represented by
17 attorneys Ken Young and Lewis Warr.

18 Mr. Young, Mr. Warr, if you would please introduce
19 yourself to the jury panel along with your client?

20 MR. YOUNG: May it please the Court?

21 THE COURT: Yes, sir.

22 MR. YOUNG: Stand up, Joquell.

23 Ladies and gentlemen, this is my client, Joquell Myers.
24 I'm Kenneth Young, and I practice law (indiscernible). This
25 is Lewis Warr; he practices law with me in our law firm.

1 THE COURT: Okay. Ladies and gentlemen, I have some
2 questions to ask you about these folks. First of all, is
3 there any member of the jury panel related by blood or
4 marriage, or do you have a close personal or business
5 relationship with Mr. Meadors or Mr. Corbett, with the State,
6 with Mr. Young or Mr. Warr with the defense?

7 Is there any member of the jury panel related by blood or
8 marriage or with a close personal or business relationship
9 with the defendant, Joquell Wayne Myers?

10 Is there any member of the jury panel that you, yourself
11 or a member of your family are a current or former client of
12 any of these lawyers, Mr. Meadors, Mr. Corbett, Mr. Young, or
13 Mr. Warr?

14 And if you'll just stand and give me your name.

15 PROSPECTIVE JUROR NO. 170: Michael Whittaker.

16 THE COURT: I'm sorry. Your last name?

17 PROSPECTIVE JUROR NO. 170: Whittaker.

18 THE DEPUTY CLERK: 170.

19 THE COURT: Okay. Mr. Whittaker is Juror Number 170.

20 PROSPECTIVE JUROR NO. 170: Yes.

21 THE COURT: And sir, can you tell me who has represented
22 you?

23 PROSPECTIVE JUROR NO. 170: He represented my brother's
24 ex-wife. Mr. Young.

25 THE COURT: And who is that, Mr. Young?



1 PROSPECTIVE JUROR NO. 170: Yes, ma'am.

2 THE COURT: And can you tell me about how long ago?

3 PROSPECTIVE JUROR NO. 170: Oh, 25 years ago.

4 THE COURT: Okay.

5 PROSPECTIVE JUROR NO. 170: It was a long time ago.

6 THE COURT: Mr. Whittaker, is that going to keep you from
7 being a fair and impartial juror in this case?

8 PROSPECTIVE JUROR NO. 170: No, ma'am.

9 THE COURT: Can you listen to the facts, follow my
10 instructions on the law, and give both the State and the
11 defendant a fair trial?

12 PROSPECTIVE JUROR NO. 170: Yes, ma'am.

13 THE COURT: Thank you for that information. We
14 appreciate it.

15 Yes, ma'am?

16 PROSPECTIVE JUROR NO. 138: My name is Ruthie Ray and
17 I --

18 THE COURT: Okay. And Ms. Ray, I'm actually going to go
19 ahead and excuse you from this case since you are a very
20 recent client. If you could just have a seat. Thank you,
21 ma'am.

22 Is there any member of the jury panel that you, yourself
23 or a member of your family has been employed either in the
24 past or currently is an employee of either the Third Circuit
25 Solicitor's Office or of the Law Firm of Young & Warr?

1 Yes, ma'am. If you'll tell me your name.

2 PROSPECTIVE JUROR NO. 93: Mia Lardner.

3 THE COURT: I'm sorry. Your last name?

4 PROSPECTIVE JUROR NO. 93: Lardner.

5 THE COURT: Okay. If you can tell us, who are you -- was
6 it yourself or a member of your family?

7 PROSPECTIVE JUROR NO. 93: A member of my family, my
8 mother-in-law currently works for Young.

9 THE COURT: Okay. I'm going to excuse her, I would
10 think, from this trial.

11 Ms. Lardner, I'm going to excuse you from this particular
12 trial, if you'll just have a seat. Thank you.

13 Ladies and gentlemen, I'm going to give you the names of
14 some potential witnesses in this case.

15 MR. MEADORS: Judge, before we do that, could I approach
16 about one other matter?

17 THE COURT: Sure.

18 (Bench conference begins)

19 MR. MEADORS: Judge, (indiscernible). Okay. I've got
20 (indiscernible). Number 23.

21 THE COURT: (Indiscernible).

22 MR. YOUNG: (Indiscernible).

23 MR. MEADORS: (Indiscernible).

24 THE COURT: (Indiscernible).

25 MR. MEADORS: (Indiscernible) I wanted to disclose

1 (indiscernible) supposed to do.

2 THE COURT: (Indiscernible).

3 (Bench conference ends)

4 THE COURT: Okay. Ladies and gentlemen, we have a number
5 of potential witnesses in this case. I've got quite a few
6 names to ask you about. I don't want you to get nervous and
7 think this trial is going to last until Halloween. These are
8 potential witnesses. I can pretty much guarantee you not
9 everybody on this list is going to testify. But there's the
10 potential for these folks to testify. And so we need to know
11 if you have any relationship with them.

12 For each of these witnesses, I'm going to ask the same
13 question: Are you related by blood or marriage? We don't
14 want anybody having an awkward Thanksgiving after you've been
15 a juror on the case and then you have to go and have
16 Thanksgiving dinner with this family member.

17 So are you related by blood or marriage? Do you have a
18 close personal or business relationship? I'm going to give
19 you about ten names at a time. The first is Det. Staff Sgt.
20 Natalie Kelly with the City of Sumter Police Department.
21 She's in the courtroom with us today standing. Thank you.

22 Michael Austin with the Sumter Police Department; Sgt.
23 Amanda Snapp and Lead Det. James Kearney IV, both with the
24 Sumter Police Department. Det. William McFadden, who's with
25 us today. Lt. Culick, Lt. Irene Culick, also with the Sumter

1 Police Department. Ofc. Dan Buck with the Sumter Police
2 Department. James Allsbrook, Lead Det. Jeffrey Hansen with
3 the Sumter Police Department, who is in the courtroom with us
4 today. Det. Jamie Brunson with the Sumter Police Department
5 and Det. Staff Sgt. John Melton with the police department.

6 Let's start with those folks. Anyone related by blood or
7 marriage or with a close personal or business relationship
8 with those potential witnesses?

9 Okay. Continuing on, I've got Dep. Thomas West of the
10 Sumter County Sheriff's Office. Ms. Shirlene Skipper, who is
11 our 911 director for the County. SA Paul Greer with the South
12 Carolina Law Enforcement Division, also known as SLED. SA
13 Doris (sic) Yarbrough and SA Kelly Bugden with the South
14 Carolina Law Enforcement Division.

15 Dr. Nicholas, I'm going to say, Batalis, who is a
16 pathologist. Timothy Scarbough, Tyrell Billups, Michael
17 Lucas, Ellquin Williams, and Linda McDowell.

18 Once again, anyone related by blood or marriage, or do
19 you have a close personal or business relationship with any of
20 those potential witnesses?

21 THE DEPUTY CLERK: You've got a hand back there.

22 PROSPECTIVE JUROR NO. 47: Number 47. John Melton.

23 THE COURT: Mr. Melton?

24 PROSPECTIVE JUROR NO. 47: Yes, ma'am.

25 THE COURT: And tell me your name, sir?



1 PROSPECTIVE JUROR NO. 47: Zach Feather.

2 THE COURT: I'm sorry. I didn't hear your last name.

3 PROSPECTIVE JUROR NO. 47: Feather, F-E-A-T-H-E-R.

4 THE COURT: Number 47. And Mr. Feather, would that
5 prevent you from being a fair and impartial juror in a case --

6 PROSPECTIVE JUROR NO. 47: No.

7 THE COURT: -- where he's testifying? Do you believe
8 that you can listen to the facts, the you can follow my
9 instruction as to the law and give both the State and the
10 defendant a fair trial?

11 PROSPECTIVE JUROR NO. 47: Yes, ma'am.

12 THE COURT: Okay. Thank you for that information, Mr.
13 Feather.

14 Okay. Additional witnesses are potentially Tyrek Shannon
15 (phonetic), Sheldon Benjamin, Joshua Christmas, Brandon
16 Abrams, Jerry Wilson, Tyrek Archie, Brad Benenhaley, Cheyenne
17 Brown. Alhagi Chom or Cham, and that first name is
18 A-L-H-A-G-I, last name is C-H-A-M. Devante Wilson, Perry Van
19 Buren, Torey Shropshire, and Chelsea Rogers.

20 Again, anyone related by blood or marriage or with a
21 close personal or business relationship?

22 THE COURT: Yes. Will you please stand? If you'll tell
23 me your name?

24 PROSPECTIVE JUROR NO. 23: Connie Butler.

25 THE COURT: Okay. Ms. Butler is Juror Number 23. Tell



1 me who you are acquainted with, ma'am.

2 PROSPECTIVE JUROR NO. 23: I'm a blood relative to Tyrek
3 Archie.

4 THE COURT: And how are you related to Mr. Archie?

5 PROSPECTIVE JUROR NO. 23: First cousins -- second
6 cousins. His mom and I are first cousins.

7 THE COURT: Okay. I'm going to go ahead and excuse her
8 for cause.

9 Okay. Ma'am, if you'll just have a seat, I'm going to
10 excuse you from this particular case.

11 Monita Robinson. Rasheen Ritch (phonetic), Laurente
12 (phonetic) Port or Porte; it's P-O-R-T-E, is the last name.
13 Eric Philips, Rodriguez Lewis, Rodney Lewis, Christopher
14 Fordham, Kendall Dow, Christopher Hodge, Shannon Isaac
15 (phonetic), Dejea Jackson (phonetic). Ayinde Lancaster, and
16 that first name is A-Y-I-N-D-E, last name, Lancaster. Dervin
17 Lancaster, Romeo Davis, or Jordan Dennis.

18 Again, are you related by blood or marriage, or do you
19 have a close personal or business relationship with any of
20 those folks?

21 Continuing on. Gabrielle Myers, Trinity George
22 (phonetic), Sarah Barwick, Nadifa Brown (phonetic), Demetrius
23 McDonald, Linda McDonald, Jovanna Myers (phonetic), Rakira
24 Myers (phonetic), Detron Mickens (phonetic), Shaheed Muhammad,
25 Sarah Barwick (phonetic), Rasheen Rich (phonetic), Leon Brown

1 (phonetic), Marcia Wright (phonetic), Deonta Epps, and Michael
2 Lucas.

3 Again, anyone related by blood or marriage or with a
4 close personal or business relationship?

5 We also mentioned the name earlier, Gregory Middleton.
6 Mr. Middleton is the deceased, so I need to ask if there's
7 anyone related by blood or marriage or the close personal or
8 business relationship with Mr. Middleton?

9 Ladies and gentlemen, a few additional questions to ask
10 you. Is there any member of the jury panel who is related by
11 blood or marriage to a current or former law enforcement
12 officer? For each of this, I'm going to ask you the same
13 question: Who is the person you're related to, and what
14 agency do they work for?

15 PROSPECTIVE JUROR NO. 104: My son. He works for the
16 city.

17 THE COURT: And tell me your name, ma'am.

18 PROSPECTIVE JUROR NO. 104: Wanda McCoy (phonetic).

19 THE COURT: Okay. Ms. McCoy is Juror Number 104. And
20 can you tell us your son's name?

21 PROSPECTIVE JUROR NO. 104: Tony McCoy.

22 THE COURT: And he works for the City of Sumter Police
23 Department?

24 PROSPECTIVE JUROR NO. 104: Yes, ma'am.

25 THE COURT: Is he involved in this case in any way?

1 MR. MEADORS: No, ma'am.

2 PROSPECTIVE JUROR NO. 104: Not to my knowledge.

3 THE COURT: Let me ask, ma'am. Would that prevent you
4 from being fair and impartial in this case?

5 PROSPECTIVE JUROR NO. 104: No, ma'am.

6 THE COURT: Do you believe that you can listen to the
7 facts, that you can follow my instructions on the law and give
8 both the State and the defendant a fair trial?

9 PROSPECTIVE JUROR NO. 104: Yes, ma'am.

10 THE COURT: Okay. Thank you for that information.

11 Okay. Yes, ma'am?

12 PROSPECTIVE JUROR NO. 88: Martha Kelly. My nephew works
13 for the sheriff's department.

14 THE COURT: And I'm sorry. Tell me your last name again.

15 PROSPECTIVE JUROR NO. 88: Kelly.

16 THE COURT: Okay. Ms. Kelly, your nephew worked for the
17 Sumter County Sheriff's Office?

18 PROSPECTIVE JUROR NO. 88: Yes.

19 THE COURT: And can you tell us his name?

20 PROSPECTIVE JUROR NO. 88: Curtis Hice.

21 THE COURT: Curtis Hice, H-I-C-E. Ms. Kelly, would that
22 prevent you from being a fair and impartial juror in this
23 case? He is not on our list of witnesses, but there are some
24 sheriff's office employees who are on our list.

25 PROSPECTIVE JUROR NO. 88: No. I don't believe it would.



1 THE COURT: Do you believe that you can listen to the
2 facts, that you can follow my instructions on the law and give
3 both the State and the defendant a fair trial?

4 PROSPECTIVE JUROR NO. 88: Yes.

5 THE COURT: Thank you, ma'am, for that information. Yes,
6 ma'am?

7 PROSPECTIVE JUROR NO. 176: Yes, ma'am. My name is
8 Pamela Whitfield, Juror Number 176. And I have a cousin with
9 Suffolk County Sheriff's Department, Petrina Wiley.

10 THE COURT: And you're number 176?

11 PROSPECTIVE JUROR NO. 176: Correct.

12 THE COURT: Okay. Got you. And your familial
13 relationship with Ms. Wiley, would that prevent you from being
14 a fair and impartial juror in this case?

15 PROSPECTIVE JUROR NO. 176: No.

16 THE COURT: Do you believe that you can listen to the
17 facts, that you can follow my instructions on the law and give
18 both the State and the defendant a fair trial?

19 PROSPECTIVE JUROR NO. 176: Yes.

20 THE COURT: Thank you for that information.

21 Anyone else?

22 Okay. I need to ask a few questions. I understand that
23 some of these questions can be a little emotional for you,
24 might seem a little intrusive. If you want to give us this
25 information at the bench, I'm glad for you to come up and give

1 us this information a little bit more privately. But I need
2 to know if there's any member of the jury panel that either
3 you, yourself or a member of your immediate family has ever
4 been charged with a crime of violence, charged with committing
5 a crime of violence, or if you have been the victim of a crime
6 of violence. And so again, I understand if you want to come
7 forward and give us that information, I'm glad to hear from
8 you up at the bench.

9 THE DEPUTY CLERK: Juror 132, Your Honor.

10 (Bench conference begins)

11 (Indiscernible)

12 (Bench conference ends)

13 THE DEPUTY CLERK: Juror 53, Your Honor.

14 (Bench conference begins)

15 (Indiscernible)

16 (Bench conference ends)

17 THE DEPUTY CLERK: Juror 104, Your Honor.

18 (Bench conference begins)

19 (Indiscernible)

20 (Bench conference ends)

21 THE DEPUTY CLERK: Juror 170, 1-7-0, Your Honor.

22 (Bench conference begins)

23 (Indiscernible)

24 (Bench conference ends)

25 THE DEPUTY CLERK: Juror 175, Your Honor.



1 (Bench conference begins)

2 (Indiscernible)

3 (Bench conference ends)

4 THE COURT: Okay. Ladies and gentlemen, those are all of
5 your questions to ask you pertaining to this case. I know
6 that during the break there were a few of you who approached
7 Mr. Campbell, that you have some issues that you needed to
8 address with me. I'm glad to let you approach, if you need to
9 approach with some information for me?

10 THE DEPUTY CLERK: Juror 110.

11 (Bench conference begins)

12 (Indiscernible)

13 (Bench conference ends)

14 THE COURT: Okay. Come on up.

15 THE DEPUTY CLERK: Juror 139, Your Honor.

16 (Bench conference begins)

17 (Indiscernible)

18 (Bench conference ends)

19 THE DEPUTY CLERK: Juror 154, Your Honor.

20 (Bench conference begins)

21 (Indiscernible)

22 (Bench conference ends)

23 THE DEPUTY CLERK: Juror 168, Your Honor.

24 (Bench conference begins)

25 (Indiscernible)



1 (Bench conference ends)

2 THE DEPUTY CLERK: Juror 1-3-0, Your Honor.

3 (Bench conference begins)

4 (Indiscernible)

5 (Bench conference ends)

6 THE DEPUTY CLERK: Juror 176, Your Honor.

7 (Bench conference begins)

8 (Indiscernible)

9 (Bench conference ends)

10 THE COURT: Okay. Juror Number 110, Ms. McMillan, I'm
11 going to go ahead and excuse you from this trial. And Juror
12 Number 130, Mr. Presley, I'm going to excuse you as well.
13 Thank y'all both for being here.

14 Ladies and gentlemen, we're going to move into the jury
15 selection. If you will give us just a minute while we
16 generate the random list of jurors. While the clerks are
17 doing that, just a little bit of information. If you're
18 selected for this particular jury, we're going to seat you in
19 the jury box and then we're immediately going to take a little
20 bit of a break so I can figure out what our timing is going to
21 be for the rest of the afternoon.

22 And so we'll give you some idea. We'll probably go ahead
23 and excuse you for lunch. I'll let you know when we'll need
24 you back this afternoon or if we'll need you back in the
25 morning.



1 If you are not selected for this particular trial, then
2 we're going to give you a number to call after 6 p.m. this
3 evening. And you'll call tonight, and it'll give you your
4 instructions about when to call back or when to report back to
5 the courthouse.

6 THE DEPUTY CLERK: Ladies and gentlemen, when your name
7 is called, please come forward to the podium, turn around and
8 face the back of the courtroom. And please bring with you any
9 of your personal belongings.

10 Juror Number 171, LaShawn White. What says the State?

11 MR. MEADORS: Please present the juror.

12 MR. YOUNG: Please swear the juror.

13 THE DEPUTY CLERK: Juror Number 119, Michael Norman, Sr..
14 What says the State?

15 MR. MEADORS: Please excuse the juror.

16 THE DEPUTY CLERK: Please return to your seat. You've
17 been excused from this trial, sir.

18 Juror Number 154, Joan Simon.

19 MR. MEADORS: You said 154?

20 THE DEPUTY CLERK: Yes, sir. What says the State?

21 MR. MEADORS: Please present the juror.

22 THE DEPUTY CLERK: What says the defendant?

23 MR. YOUNG: Please swear Ms. Simon.

24 THE DEPUTY CLERK: Please have a seat in the jury box,
25 ma'am.

1 Juror Number 139, Willie Ray. Come on back a little bit,
2 sir. Come on back. There you go. Thank you.

3 What says the State?

4 MR. MEADORS: Please excuse the juror.

5 THE DEPUTY CLERK: Please return to your seat. You've
6 been excused from this trial.

7 Juror Number 147, Gregory Rogers. What says the State?

8 MR. MEADORS: Please present the juror.

9 THE DEPUTY CLERK: What says the defendant? 147.

10 MR. YOUNG: Please swear Mr. Rogers.

11 THE DEPUTY CLERK: Please have a seat in the jury box,
12 sir.

13 Juror Number 7, William Bell. What says the State?

14 MR. MEADORS: Please present the juror.

15 MR. YOUNG: Please excuse Mr. Bell for this trial.

16 THE DEPUTY CLERK: Please return to your seat, sir.
17 You've been excused from this trial.

18 Juror Number 14, Timothy Bottema. What says the State?

19 MR. MEADORS: Please present the juror.

20 MR. YOUNG: Please excuse Mr. Bottema for this trial.

21 THE DEPUTY CLERK: Please return to your seat, sir.
22 You've been excused from this trial.

23 Juror Number 114, Jason Mosley. What says the State?

24 MR. MEADORS: Please present the juror.

25 What says the defendant?



1 MR. YOUNG: Please swear Mr. Mosley.

2 THE DEPUTY CLERK: Please have a seat in the jury box,
3 sir.

4 Juror Number 121, Ashley Olberding. Sorry. What says
5 the State?

6 MR. MEADORS: Please present the juror.

7 MR. YOUNG: Please swear Ms. Olberding.

8 THE DEPUTY CLERK: Please have a seat in the jury box,
9 ma'am.

10 Juror Number 174, Renee Wilson. What says the State?

11 MR. MEADORS: Please present the juror.

12 THE DEPUTY CLERK: What says the defendant?

13 MR. YOUNG: Please excuse Ms. Wilson for this trial.

14 THE DEPUTY CLERK: Please return to your seat. You've
15 been excused from this trial.

16 Juror Number 103, Shayla McCoy. What says state?

17 MR. MEADORS: What was that number again, please?

18 THE DEPUTY CLERK: 1-0-3, 103.

19 MR. MEADORS: Thank you.

20 THE DEPUTY CLERK: Yes, sir.

21 MR. MEADORS: Please present the juror.

22 THE DEPUTY CLERK: What says the defendant?

23 MR. YOUNG: Please swear Ms. McCoy.

24 THE DEPUTY CLERK: Please have a seat in the jury box,
25 ma'am.



1 Juror Number 53, Kornitha Fuller. What says the State?

2 MR. MEADORS: Please present the juror.

3 THE DEPUTY CLERK: What says the defendant?

4 MR. YOUNG: Please swear Ms. Fuller.

5 THE DEPUTY CLERK: Please have a seat in the jury box,
6 ma'am.

7 Juror Number 47, Zachary Feather. What says the State?

8 MR. MEADORS: Please present the juror.

9 THE DEPUTY CLERK: What says the defendant?

10 MR. YOUNG: Please excuse Mr. Feather for this trial.

11 THE DEPUTY CLERK: Please return to your seat, sir.
12 You've been excused from this trial.

13 Juror Number 80, George Hunter. What says the State?

14 MR. MEADORS: Please present the juror.

15 THE DEPUTY CLERK: What says the defendant?

16 MR. YOUNG: Please excuse Mr. Hunter for this trial.

17 THE DEPUTY CLERK: Please return to your seat, sir. So
18 you've been excused from this trial.

19 Juror Number 90, Timothy Kennedy. What says the State?

20 MR. MEADORS: Please present the juror.

21 THE DEPUTY CLERK: What says --

22 MR. MEADORS: Please swear Mr. Kennedy.

23 THE DEPUTY CLERK: Please have a seat in the jury box,
24 sir.

25 Juror Number 34, Robert Crossett.

1 MR. WARR: Could you say the number again, please?

2 THE DEPUTY CLERK: 34.

3 What says the State?

4 MR. MEADORS: Please present the juror.

5 MR. YOUNG: Please excuse Mr. Crossett.

6 THE DEPUTY CLERK: Please return to your seat, sir. You
7 have been excused from this trial.

8 Juror Number 115, Michael Murphy.

9 THE DEPUTY CLERK: What says the State?

10 MR. MEADORS: Please present the juror.

11 THE DEPUTY CLERK: What says the defendant?

12 MR. YOUNG: Please swear Mr. Murphy.

13 THE DEPUTY CLERK: Please have a seat in the jury box
14 room.

15 Juror Number 149, Jay Scharfenburg.

16 What says the State?

17 MR. MEADORS: Please present the juror.

18 MR. YOUNG: Please excuse Mr. Scharfenburg.

19 THE DEPUTY CLERK: Please return to your seat. You've
20 been excused from this trial.

21 Juror Number 126, Cassandra Peay.

22 What says the State?

23 MR. MEADORS: Please present the juror.

24 THE DEPUTY CLERK: What says the defendant?

25 MR. YOUNG: Please swear Ms. Peay.



1 THE DEPUTY CLERK: Please have a seat in the jury box,
2 ma'am.

3 Juror Number 169, Leonard Watson. 169.

4 What says the State?

5 MR. MEADORS: Please present the juror.

6 MR. YOUNG: Please excuse Mr. Watson from this trial.

7 THE DEPUTY CLERK: You've been excused from this trial,
8 sir. Please return to your seat.

9 Juror Number 173, Kim Wilson.

10 What says the State?

11 MR. MEADORS: Please present the juror.

12 THE DEPUTY CLERK: What says the defendant?

13 MR. YOUNG: Please swear Ms. Wilson.

14 THE DEPUTY CLERK: Please have a seat in the jury box.

15 Juror Number 88, Martha Kelly.

16 What says the State?

17 MR. MEADORS: Please present the juror.

18 MR. YOUNG: Please excuse Ms. Kelly from this trial.

19 THE DEPUTY CLERK: Please return to your seat, ma'am.
20 You've been excused from this trial.

21 Juror Number 168, Gloria Washington.

22 What says the State?

23 MR. MEADORS: Please excuse the juror.

24 THE DEPUTY CLERK: Please return to your seat, ma'am.
25 You've been excused from this trial.



1 Juror Number 50, Lydia Ford.

2 What says the State?

3 MR. MEADORS: Please excuse the juror.

4 THE DEPUTY CLERK: Please return to your seat, ma'am.

5 You've been excused from this trial.

6 Juror Number 60, Janice Glover.

7 What says the State?

8 MR. MEADORS: Please present the juror.

9 MR. YOUNG: Please swear in Ms. Glover.

10 THE DEPUTY CLERK: Please have a seat in the jury box.

11 This is the first alternate, John.

12 Juror Number 176, Pamela Winfrey.

13 MR. CORBETT: I'm sorry. What did you say the number is?

14 THE DEPUTY CLERK: 176.

15 What says the State?

16 MR. MEADORS: Please present the juror.

17 THE DEPUTY CLERK: What says --

18 MR. YOUNG: Please excuse Ms. Winfrey to this trial.

19 THE DEPUTY CLERK: Please return to your seat, ma'am.

20 Juror Number 22, Tyler Burke.

21 What says the State?

22 MR. MEADORS: Please present the juror.

23 MR. YOUNG: Please swear in Mr. Burke.

24 THE DEPUTY CLERK: Please have a seat in the jury box,

25 sir.

1 THE DEPUTY CLERK: Do I have correctly that he's our
2 first alternate?

3 MR. MEADORS: That's right.

4 MR. YOUNG: Yeah.

5 THE DEPUTY CLERK: Juror Number 66, Mary Groves.
6 What says the State?

7 MR. MEADORS: Please present the juror.

8 MR. YOUNG: Please excuse Ms. Groves.

9 THE DEPUTY CLERK: Please return to your seat, ma'am.
10 You've been excused from this trial.

11 Juror Number 99, Dana Mansour.

12 What says the State?

13 MR. MEADORS: Please present the juror.

14 MR. YOUNG: Please swear her.

15 THE DEPUTY CLERK: Please have a seat in the jury box.

16 THE COURT: Any motions with respect --

17 MR. MEADORS: If you'll give us a moment, please?

18 THE COURT: Sure.

19 MR. MEADORS: No, ma'am.

20 THE COURT: And Mr. Young, any motion with respect to the
21 impaneling of the jury?

22 MR. YOUNG: No, ma'am. Thank you very much.

23 THE COURT: Okay. Ladies and gentlemen, if you are not
24 selected to be on this particular jury, we're going to go
25 ahead and excuse you. Again, please call back after 6 p.m. on

1 the number that you've been provided. Thank you so much.

2 Have a good day.

3 And Mr. Meadors and Mr. Young, can I have y'all approach,
4 and let's talk about scheduling?

5 MR. YOUNG: Yes, ma'am.

6 (Whereupon, a bench conference was held off the record in
7 the presence of the jury, but out of the hearing of the
8 jury.)

9 (Thereupon, counsel returned to counsel tables and the
10 following ensued:)

11 (Open court.)

12 THE COURT: Okay. Ladies and gentlemen, let me make sure
13 I've got my microphones. Okay.

14 So you've been selected as the jury in this particular
15 case. We have a number of pre-trial matters that we need to
16 take up this afternoon outside of your presence. So we're not
17 going to keep you waiting around here while we do that. I'm
18 going to go ahead and release you to return tomorrow morning
19 at 9:30 with a little bit of instruction. When you come back
20 in the morning, if you'll please check in downstairs. The
21 folks at security will know to expect you. They're going to
22 give you instructions about where to report. Our bailiffs
23 will be waiting for you. You'll get a badge, and you'll get
24 escorted up to the jury room.

25 We prefer that you not bring your cell phone, but I



1 understand some folks have family issues, elderly parents -- I
2 don't know -- that you feel like you can't part with it. But
3 I am going to tell you. During the course of the trial, the
4 only thing that you should be considering during your
5 deliberations is what you've heard within this courtroom.
6 There have been issues in the past where jurors have done
7 research, gone on Google, called -- phoned a friend. That
8 would result in a mistrial, and that means we have to start
9 this entire process over again. So if you do bring your cell
10 phone, we're going to ask that you just don't use it to try to
11 do any independent research or call anybody about the case
12 during the course of the trial.

13 So it's going to be very natural that your friends and
14 family will want to know what kind of case you're hearing, who
15 the parties are, who the people are involved in the case. I'm
16 instructing you not to discuss the case with anyone at this
17 point. The reason for that is because everybody now believes
18 that you are objective, fair, impartial jurors, that you're
19 able to hear this case and give both sides a fair trial.
20 Sometimes just when you tell people, okay, here's what the
21 case is about or here's who's involved, you might
22 unintentionally elicit back from them a response that's going
23 to compromise your ability to be fair and impartial.

24 When this case is over, you can talk about it with
25 anybody you want to, or you can decline to talk about it. It

1 will be entirely up to you. But while the case is pending, we
2 ask that you don't discuss it with anyone, including your
3 fellow jurors.

4 So again, we're going to release you for the rest of the
5 day. We will see you back tomorrow morning at 9:30. Thank
6 you. And if you'll follow our bailiff here, he will escort
7 you out.

8 (Whereupon, the jury exited the courtroom at 12:38 p.m.)

9 THE COURT: There was just one issue I wanted to bring to
10 your attention. I just shot y'all an email. I had gotten an
11 email from Warren Anderson from Williamsburg that he had maybe
12 an uncle who contacted him who was on the jury panel who was
13 trying to get out of jury duty basically, and he said he just
14 got off the phone with him as quickly as possible, but he
15 wanted to give us that information.

16 I did not see this individual's name in the jury pool at
17 all. His family member was a Mike Scott. I saw we had a
18 Leonard Scott. I did not see a Mike. He said that the family
19 member lives in Dalzell. We do have a Leonard Scott who was
20 on Pike Road in Sumter. We didn't have any Scotts in our pool
21 that showed up today, so I've responded to him that, and I've
22 copied you on the response. I just wanted to bring that to
23 your attention. I don't think it's an issue in any way. We
24 didn't have any Scotts in the jury panel.

25 Anything before we adjourn for lunch?

1 MR. MEADORS: No, ma'am.

2 MR. YOUNG: No, ma'am.

3 THE COURT: Again, I thank y'all for coming. I'm going
4 to try to run over to a doctor's appointment at 1:20. We'll
5 be back then I'm going to say 2:30. I should not have any
6 trouble being back if we can start at 2:30.

7 MR. MEADORS: Yes, ma'am.

8 MR. YOUNG: Yes, ma'am.

9 THE COURT: All right. Thank you.

10 (Thereupon, a luncheon recess was taken.)

11 A F T E R N O O N S E S S I O N

12 THE COURT: Thank, y'all. Please have a seat. We're
13 being so dramatic with our entrances.

14 THE BAILIFF: You may be seated.

15 (Pause.)

16 MR. MEADORS: If it pleases the Court?

17 THE COURT: Yes, sir.

18 MR. MEADORS: Talking with defense counsel, I believe the
19 first issue that should be addressed is a statement by the
20 defendant, Joquell Myers. We are prepared are to call Det.
21 William McFadden at this point.

22 THE COURT: Okay. Come on up.

23 THE DEPUTY CLERK: Put your left hand in your pocket and
24 raise your right hand. State your name.

25 DET. MCFADDEN: William McFadden.

1 DET. WILLIAM MCFADDEN, after being duly sworn,
2 testified as follows:

3 THE DEPUTY CLERK: Thank you, sir. Step forward, please.
4 State your name for the record and spell your last name,
5 please.

6 THE WITNESS: Willie McFadden. M-C-F-A-D-D-E-N.

7 DIRECT EXAMINATION

8 BY MR. MEADORS:

9 Q Detective, I think we all (indiscernible). Just being
10 brief, how long have you been in law enforcement?

11 A Since 2005.

12 Q Okay. What are your different positions you've held with
13 the Sumter Police Department?

14 A I worked patrol. I worked -- after patrol, I worked in
15 investigations since 2014.

16 Q All right. Now, what's your job in investigation?

17 A I work violent crimes.

18 Q Okay. Is part of that interviewing potential witnesses
19 and/or suspects?

20 A That is correct.

21 Q And I'm going to direct your attention today, if you will
22 allow me, to an opportunity you had to talk with Joquell Myers
23 on September 25th, 2019 and then again on September 26th,
24 2019. Do you know what I'm talking about?

25 A That is correct. Yes, sir.



1 Q Now, when you first met with the defendant, Joquell
2 Myers, on September 25th of 2019, tell the Court, where was
3 that?

4 A That was at -- well, I -- I met -- we picked him up from
5 his residence in Mayesville and brought him back to Sumter
6 Police Department.

7 Q And why had you picked in his --

8 MR. YOUNG: If it pleases the Court, I'm going relocate
9 over here because you're standing in between me and the
10 witness, and I --

11 MR. MEADORS: Well, I can --

12 MR. YOUNG: -- can't see.

13 MR. MEADORS: I'll stand over here.

14 MR. YOUNG: It'll keep you from moving. That way you
15 don't have to get close to him. Well, I don't mean that bad,
16 but --

17 MR. MEADORS: Well, I understand.

18 MR. YOUNG: You never know --

19 THE COURT: Mr. Young, you go --

20 MR. YOUNG: -- when a karate chop will come.

21 THE COURT: You go wherever you're comfortable.

22 MR. YOUNG: Thank you. Yeah, I'm just going to go there
23 because he's blocking my way.

24 MR. MEADORS: If that's not good, I'll move. I
25 apologize. I wanted trying to --



1 MR. YOUNG: Thank you.

2 Q And I'm sorry. Why did you go there to his residence in
3 Mayesville?

4 A We had outstanding warrants for his arrest.

5 Q Okay. And what was he arrested for on September 25th?

6 A For attempted murder and also some weapon charges as
7 well.

8 Q Okay. Attempted and weapon charge, unlawful carrying?

9 A Correct.

10 Q Possession of a weapon during a violent crime?

11 A That is correct.

12 Q Okay. Was there another attempted murder charge also?

13 A Yes. The other one was brought at a different date. On
14 the same date he was arrested, he was also charged with murder
15 as well for Gregory Donta Middleton.

16 Q Okay. So once you got him from his residence in
17 Mayesville, you took him to the police department?

18 A Yes, sir.

19 Q Now, is the new one or the old one?

20 A The new one.

21 Q Okay. And specifically, where did you go in the police
22 department?

23 A Sir?

24 Q Where did you go? What room?

25 A Oh, in an interview room.



1 Q Okay. And where was that?

2 A It's in our Investigations Service Division.

3 Q Tell the judge -- describe it to the judge.

4 A It's a room. It has a table in the middle of the room,
5 two seats. It has a reflective glass in there just like a
6 normal interview room you see on TV.

7 Q And who was present in there besides you and Mr. Myers?

8 A It was me and Det. Natalie Kelly.

9 Q Okay. And at this point, you had served him with these
10 warrants? You'd served him warrants already?

11 A Correct, we served him with his warrants.

12 Q And did you have an occasion to read him Miranda rights
13 when you first met with him at the Sumter Police Department on
14 September 25th of 2019?

15 A Yes, that is correct.

16 Q And I'm going to show what's marked State's 1 for
17 identification at this point.

18 MR. YOUNG: No objections.

19 Q Okay. State's 1, are you familiar with this?

20 A Yes, I am.

21 Q Tell the judge what that is, please.

22 A That's our Sumter Police Department interview form. It's
23 a standard form that we read to everybody that we are
24 interviewing.

25 Q And can you read it to Your Honor as you read it to Mr.



1 Myers on September 25th?

2 A Yes. It says, "Sumter Police Interview form. Before we
3 ask you any questions, you must understand your rights. You
4 have the right to remain silent. Anything you say can be used
5 against in a court. You have the right to talk to a lawyer
6 for advice before we ask you any questions and have him/her
7 with you during the questioning. If you cannot afford a
8 lawyer, one will be appointed for you before any questions if
9 you wish. If you decide to answer any questions now without a
10 lawyer present, you will still have the right to stop
11 answering at any time until you talk with a lawyer". And
12 then --

13 Q Now, as you're reading him these rights, did he appear to
14 you to understand them?

15 A Correct, he did.

16 Q Did he have any trouble based on your opinion -- based on
17 your experience in being right there with him, did he seem to
18 understand what you were asking?

19 A He seemed to understand it, yes, sir.

20 Q All right. Did you read him what's called his waiver of
21 rights?

22 A That is correct.

23 Q Could you read those like you did them?

24 A Yes. Then the next one, it says waiver of rights.

25 "Before questions I was furnished the above statements on my



1 rights at 11:01 a.m. on 9/25/2019 at Sumter Police Department
2 by Ofc./Det. W. McFadden of the Sumter Police Department".

3 And then it goes down to the bottom. It says, "I have
4 read or had read to me the statements on my rights. I
5 understand what my rights are. I am willing to answer
6 questions at this time without a lawyer present. No promises
7 or threats have been made to me and no pressure has been used
8 against me".

9 Q Did you ask Joquell Myers to sign that?

10 A Yes, sir, I did.

11 Q And did he sign it?

12 A Yes, he did.

13 Q And what's the date there?

14 A He signed his name Joquell Myers. The date 9/25/19 and
15 time 11:03 a.m.

16 Q All right. Let me ask you. Did he actually -- he signed
17 his name, correct?

18 A Correct.

19 Q Did he fill in the date?

20 A He did.

21 Q And was that date correct?

22 A That is correct.

23 Q Okay. And it was 9/25/2019?

24 A Yes, sir.

25 Q And filled in the time, 11:03?



1 A That is correct.

2 Q And was that the correct time?

3 A That was --

4 Q Did he give you the correct time?

5 A That was the correct time as well.

6 Q Okay. And did you and/or anybody else witness this?

7 A Yes. I witnessed it, along with my -- along with Det.
8 Natalie Kelly.

9 Q At any time during the reading of the rights or the
10 reading of the waiver of rights did defendant Joquell Myers
11 tell you, I don't want to talk to you?

12 A Yes, he did. On this first interview, he said he didn't
13 want --

14 Q Now, at any time when you read him first the rights --

15 A Right.

16 Q -- the first time, you read him the waiver of rights,
17 just after he signed and any time during that period, did he
18 say, I don't want to talk?

19 A Oh, no, not during the time I was reading the rights, but
20 afterwards, yes, sir.

21 Q All right. So you read him his rights. Did he appear to
22 be under the influence of alcohol or drugs or anything?

23 A No, sir.

24 Q Okay.

25 A Normal.



1 Q Did you have any trouble understanding him?

2 A No, sir.

3 Q And were his responses to you timely? And by that, I
4 mean, did he wait a long time before he answered it, or did he
5 ask you to answer questions in a timely manner?

6 A No, it was a timely manner.

7 Q Okay. Were they subject-matter appropriate?

8 A Yes, sir.

9 Q It made sense, his answers to your questions?

10 A Correct.

11 Q Okay. Now, at this point and any time you dealt with Mr.
12 Myers that day or the next day, if he asked you or if he had
13 asked you if he wanted any food or beverage or bathroom
14 privileges, would you have allowed him to do that?

15 A I would have.

16 Q Okay. And is that your practice?

17 A Yes, sir.

18 Q Okay. Did you ever threaten, coerce, or hold out any
19 hope or reward to Mr. Myers in exchange for a statement?

20 A Not at all.

21 Q Did you promise him anything?

22 A No, sir.

23 Q Okay.

24 MR. MEADORS: And Your Honor, at this point, we have
25 marked State's 3 for identification, which is a copy of the

1 interview on the 25th and the 26th with Mr. Myers. We also
2 have them on my computer, which I think will be easier for
3 everybody if Mr. Caulfield (phonetic) could just play the
4 portion of the advice of rights. That's all I'm asking for at
5 this point with the Court's permission.

6 THE COURT: Sure.

7 (Audio playback begins)

8 DET. MCFADDEN: This is Willie McFadden.

9 (Indiscernible).

10 (Audio playback ends)

11 MR. YOUNG: There's no video?

12 THE COURT: Mr. Meadors, this is just audio?

13 MR. MEADORS: No, there's no video. Yes, ma'am, it's
14 just audio.

15 MR. YOUNG: Okay.

16 (Audio playback begins)

17 DET. MCFADDEN: (Indiscernible). Before we ask you any
18 questions, you must understand your rights. All right. You
19 have the right to remain silent. Okay? Anything you say can
20 be used against in court. You have a right to talk to a
21 lawyer for advice before we ask you any questions
22 (indiscernible). If you cannot afford a lawyer,
23 (indiscernible). If you decide to answer these questions now,
24 (indiscernible) you have the right to stop answering them at
25 any time until you talk to a lawyer (indiscernible).

1 (Audio playback ends)

2 BY MR. MEADORS:

3 Q Now, as you were going through each of those rights, was
4 he indicating to you either by body language or something,
5 yeah, I understood these?

6 A Yes, he was just quiet. He was like, all right. He just
7 wanted to get the process over with.

8 Q So he was indicating to you as you went through each one
9 of them, I understand it?

10 A Correct.

11 Q Okay. And after the waiver of rights, you said --

12 MR. MEADORS: Go ahead now.

13 (Audio playback begins)

14 DET. MCFADDEN: As to the waiver of rights, now, before I
15 go through the questions (indiscernible) on September 25th,
16 2019, at Sumter Police Department, by Det. McFadden
17 (indiscernible) of my rights. I understand what my rights
18 are. I'm going to ask questions at this time (indiscernible)
19 made to me, no pressure (indiscernible). Do you understand
20 (indiscernible)? Right here (indiscernible).

21 MR. MEADORS: And stop it, please.

22 (Audio playback ends)

23 Q And after you said that to him, you understand all your
24 rights and do you have any questions, he indicated to you he
25 did not, and he understood his rights?

1 A That's correct. He understand -- he understood the
2 rights and didn't have any questions.

3 Q And you did ask him to sign after that?

4 A Correct.

5 MR. MEADORS: Go ahead.

6 (Audio playback begins)

7 DET. MCFADDEN: (Indiscernible).

8 Q Can you hear him writing?

9 A You can hear him write down on the paper.

10 Q That wasn't you signing his name. That was him writing,
11 correct?

12 A That is correct.

13 (Audio playback continues)

14 THE DEFENDANT: (Indiscernible).

15 DET. MCFADDEN: Hold on one second with your statement.

16 Okay? (Indiscernible). It states 21/92.

17 MR. MEADORS: Stop, please.

18 (Audio playback ends)

19 Q Did he have any trouble giving you his date of birth?

20 A No, he didn't.

21 Q Okay. And how old was he then on September 25th of 2019?

22 A He was 23 at the time.

23 MR. MEADORS: Go ahead, please.

24 (Audio playback begins)

25 DET. MCFADDEN: (Indiscernible).



1 THE DEFENDANT: (Indiscernible).

2 MR. MEADORS: Stop there.

3 (Audio playback ends)

4 Q Did you ask him his phone number?

5 A Yes, I did.

6 Q Okay. And did he provide you with the phone number?

7 A He did.

8 Q And could you understand him when he was doing that?

9 A Yes, sir.

10 MR. MEADORS: Go ahead.

11 (Audio playback begins)

12 THE DEFENDANT: (Indiscernible).

13 DET. MCFADDEN: And that address is (indiscernible)?

14 Q Did he give you an address of where he was staying or an
15 address for him?

16 A He did.

17 (Audio playback continues)

18 DET. MCFADDEN: And the reason why (indiscernible) is
19 because one is you can see him on video and two
20 (indiscernible).

21 THE DEFENDANT: (Indiscernible).

22 MR. MEADORS: Stop.

23 (Audio playback ends)

24 MR. MEADORS: Your Honor, I think it's important to play
25 this whole interview -- it's just a few more minutes --



1 because at the end of this interview, he says he doesn't want
2 to talk anymore. He initiates conversation later, so that's
3 why I wanted to play it. It's very short just to play the
4 rest of it.

5 THE COURT: Sure. Go ahead.

6 MR. MEADORS: Okay.

7 (Audio playback begins)

8 DET. MCFADDEN: (Indiscernible) we know it was you.
9 There's no doubt about that. (Indiscernible). That's what
10 I'm trying to do right now is I'm trying to find out
11 (indiscernible).

12 THE DEFENDANT: (Indiscernible).

13 DET. KELLY: (Indiscernible)?

14 THE DEFENDANT: No.

15 DET. MCFADDEN: You don't (indiscernible)?

16 THE DEFENDANT: No.

17 DET. MCFADDEN: So in other words, you (indiscernible) go
18 to jail. You don't want to say that?

19 (Audio playback ends)

20 MR. YOUNG: Excuse me. Do you have a transcript of this
21 because I'm having difficulty understanding what they're
22 saying?

23 MR. MEADORS: We made notes. It's not an official
24 transcript. It's nothing we -- and we still haven't finished
25 it, so I mean, no. Have y'all not taken notes of it and have

1 a transcript of it yourself? Have you got a transcript?

2 MR. YOUNG: No. We've got your recording. I've had
3 difficulty from day one understanding what was being said.

4 MR. MEADORS: Your Honor, if we have a transcript
5 available at trial and we can plan to turn it over, but --

6 MR. YOUNG: Honestly, that's the reason I asked for it,
7 yeah.

8 THE COURT: Well, I mean, the problem with the transcript
9 is whoever's listening to it is going to have the same issue
10 that we have of trying to understand what's being said. I
11 think --

12 MR. YOUNG: Well, the reverberations in this courtroom --

13 MR. MEADORS: The sounds.

14 MR. YOUNG: -- you hear him over here, you hear over
15 here, you hear him here. It's just I'm having difficulty
16 understanding what they're saying.

17 THE COURT: You can go ahead, Mr. Meadors.

18 MR. MEADORS: Go ahead, please.

19 (Audio playback begins)

20 DET. KELLY: (Indiscernible).

21 THE DEFENDANT: (Indiscernible).

22 DET. KELLY: Okay. But that is (indiscernible).

23 THE DEFENDANT: (Indiscernible).

24 DET. KELLY: (Indiscernible).

25 THE DEFENDANT: (Indiscernible)



1 DET. MCFADDEN: Okay.

2 DET. KELLY: (Indiscernible).

3 DET. MCFADDEN: (Indiscernible).

4 DET. KELLY: You don't want to talk about it at all?

5 THE DEFENDANT: (Indiscernible).

6 (Audio playback ends)

7 MR. YOUNG: If it please the Court, did I just hear, you
8 do not want to talk about it all? The question of -- I didn't
9 understand what was said before that. But if that question's
10 put to him, then clearly he's indicated he didn't want to talk
11 to them. And they persisted in that, so I'd move to strike
12 all of it.

13 MR. MEADORS: Your Honor, according to the notes we have:

14 "You really don't want to tell your" -- let me go back.

15 "You don't want to tell us what you're doing there?"

16 Joquell Myers, "No, man, I ain't. Listen, man, I be real
17 with y'all. Just go ahead and get me up out of here. Okay?"

18 Kelly says, "You really don't want to tell your side of
19 the story? You don't want to get your information out there
20 about what's happening? You will let these other folks tell
21 their side of the story?"

22 Myers, "I'm cool with it."

23 McFadden, "If he is, let them have a -- I don't have a
24 problem with it."

25 Kelly, "You don't want to talk about it at all?"

1 Then it has, Myers no response.

2 McFadden, "I'll be right back."

3 And that's where it ends. And they don't talk to him
4 anymore that day on September 25th.

5 THE COURT: Okay.

6 BY MR. MEADORS:

7 Q Now getting back to the recording, we had an objection or
8 an insert that we filed about a video. Was there a video at
9 the time at the police department?

10 A Yes, sir.

11 Q A video of this statement? Did you videotape this?

12 A Oh, no, no, no, no. No video of the statement, just an
13 audio recording.

14 Q Okay.

15 A I'm sorry about that.

16 Q That's okay. So there was no video. Was it audio
17 recorded? We just listened to it.

18 A Yes, sir, audio recorded.

19 Q Explain to the judge. Did you have a machine on you to
20 record?

21 A Yes, we have --

22 Q A boom wired from -- how did we get this sound?

23 A We didn't have it wired into the room, but we had, like,
24 a digital audio recording device that we recorded it from.

25 Q So it was audio recorded by yourself?



1 A Yes.

2 Q Okay. Was the room also audio recorded?

3 A No, sir.

4 Q Now, once Mr. Myers told y'all he didn't want to talk
5 anymore, I didn't have anything else to say, what did y'all
6 do?

7 A Transported him to the jail.

8 Q And did you get word back at some point that Mr. Myers
9 did want to talk to you?

10 A Yes, sir, I did.

11 Q All right. And when was that?

12 A That was either the same day or the very next morning. I
13 don't recall which -- what time it was.

14 Q And once you got word of that, what did you do?

15 A We went to pick him up from the jail.

16 Q And where did you take him? Is this on September 26th of
17 2019?

18 A Yes, this is the very next day.

19 Q Okay. Where did you take him?

20 A Back to Sumter Police Department.

21 Q Were you in the same interview room?

22 A Yes, sir, the same interview room.

23 Q Now, is it your procedure and did you have an occasion to
24 read Mr. Myers his advice of rights, Miranda rights again?

25 A Yes, I did.



1 Q And I'm going to show you what's -- here it is. May bad.

2 A No, I don't have it.

3 Q Show you what's State's Number 2 for identification. Is
4 this the advice of rights you read to Mr. Myers on the 26th of
5 2019 -- September 26th?

6 A Yes, it is.

7 Q And will you read to Your Honor -- and again, who was
8 present with you and Mr. Myers on September 26th of 2019 when
9 you read this?

10 A It was me and Det. Natalie Kelly.

11 Q Please read to Your Honor how you read it to Mr. Myers
12 that day, Det. McFadden.

13 A This is the Sumter Police Department interview form.
14 "Before we ask you any questions, you must understand your
15 rights. You have the right to remain silent. Anything you
16 say can be used against in court. You have the right to talk
17 to a lawyer for advice before we ask you any questions and to
18 have him/her with you during the questioning. If you cannot
19 afford a lawyer, one will be appointed for you before any
20 questions if you wish. If you decide to answer any questions
21 now without a lawyer present, you will still have the right to
22 stop answering at any time until you talk to a lawyer".

23 And then went down to the waiver of rights. "Once again,
24 before any questions, I was furnished the above statements on
25 my rights at 9:33 a.m. on 9/26/2019 at Sumter Police



1 Department by Ofc./Det. W. McFadden of the Sumter Police
2 Department. I have read or had read to me the statement of my
3 rights. I understand what my rights are. I'm willing to
4 answer questions at this time without a lawyer present. No
5 promises or threats have been made to me and no pressure has
6 been used against me".

7 And then he signed his name, date, and time, and then I
8 signed my name along with -- Det. Natalie Kelly signed her
9 name as well.

10 Q Okay. So this was the next day?

11 A That was the very next day, yes, sir.

12 Q Let me take this (indiscernible).

13 A Okay.

14 Q Again, for Your Honor, when you were reading the rights,
15 Miranda rights to Mr. Myers, did he appear to understand them?

16 A Yes, he did.

17 Q Okay. And were his answers to you timely and subject-
18 matter appropriate?

19 A Yes, they were.

20 Q He'd been in jail overnight, but did he appear to be
21 under the influence of alcohol or drugs or any other
22 intoxicant?

23 A No, sir.

24 Q And I may have forgotten to ask you last time. Was he
25 handcuffed on the 25th? When you first started. And I'm just

1 throwing this out of the blue. I apologize.

2 A I don't recall, to be honest with you.

3 Q Was he handcuffed on the 26th? You brought him from
4 jail.

5 A Most likely.

6 Q Okay. Probably handcuffed?

7 A Correct.

8 Q Okay. After you read him his rights, did he indicate to
9 you in some similar fashion that he understood them?

10 A That's right. He -- he stated he understood.

11 Q And the waiver of rights, you read. And again, on
12 State's 2 for identification, 9:33 a.m. did you fill that out?

13 A I did.

14 Q Okay. 9/26/2019?

15 A Correct, I filled that information out.

16 Q And where were you?

17 A At Sumter Police Department.

18 Q And then you read him his waiver of rights?

19 A Correct.

20 Q Did he appear to you to understand them?

21 A Correct. He did.

22 Q You asked him if he'd that he understood them?

23 A Yes, sir.

24 Q And waived them?

25 A Correct.



- 1 Q And did he do that?
- 2 A He did.
- 3 Q Did you, Det. William McFadden, watch him sign his name?
- 4 A I did.
- 5 Q And who filled in the date?
- 6 A He did.
- 7 Q Okay. And what date did he fill in?
- 8 A He filled in 9/26/19.
- 9 Q And what time is on there?
- 10 A 9:34 a.m.
- 11 Q And did you witness it?
- 12 A Yes, sir, I did.
- 13 Q And did Natalie Kelly witness it?
- 14 A Yes, she did.
- 15 Q At any time during the taking of this statement -- well,
- 16 let me go back. At any time of reading the rights and the
- 17 waiver of rights, did he say, I don't want to talk to you?
- 18 A No, he didn't.
- 19 Q Did he say, I want a lawyer?
- 20 A No, sir.
- 21 Q Okay. Did you or Natalie in your presence threaten,
- 22 coerce, or hold any hope of reward to Mr. Myers in exchange
- 23 for a statement?
- 24 A Not at all.
- 25 Q And again, for these purposes, he had asked to speak to



1 y'all again?

2 A Yes, sir.

3 Q So he initiated this conversation?

4 A Correct.

5 Q At approximately 30 minutes, 28 seconds into the
6 interview, do you remember -- were you present when Natalie
7 Kelly asked him, now you want to talk to us, right?

8 A Yes, sir.

9 Q You remember that?

10 A Correct.

11 Q And then he said, yes, correct?

12 A He said, yes.

13 Q Okay.

14 MR. MEADORS: Judge, I'm now prepared to play this whole
15 statement. I'm not sure what defense counsel wants. There is
16 an acknowledgement in there, 30 minutes and 28 seconds, where
17 Natalie said, okay, you wanted to talk to us now, didn't you?
18 He says, yeah, and then keeps talking. He'd been talking
19 before that, but I think we'd offer that -- or I know we'd
20 offer that as corroboration of he reinitiated it. Your Honor,
21 do you just want me to publish it?

22 MR. YOUNG: That's fine.

23 THE COURT: Sure.

24 MR. MEADORS: Can I sit down?

25 (Audio playback begins)



1 DET. MCFADDEN: Mr. Myers, start talking to you again.
2 Of course, I've got to do the same thing we did yesterday and
3 advise you of your rights again.

4 THE DEFENDANT: That's fine.

5 DET. MCFADDEN: Same thing as yesterday, the Sumter
6 Police Department interview form. Before we ask you any
7 questions, you must understand your rights. You have the
8 right to remain silent. Anything you say can be used against
9 you in court. You have the right to talk to a lawyer for
10 advice before we ask you any questions and to have him or her
11 with you (indiscernible) questions. If you cannot afford a
12 lawyer, one will be appointed for you for any questions if you
13 wish. If you decide to answer questions now without a lawyer
14 present, you still would have the right to stop answering at
15 any time that you call for a lawyer.

16 And this right here is a waiver of rights. Before any
17 questions, I first want to (indiscernible) rights at -- it is
18 9:33 a.m. on September 26, 2019, at Sumter Police Department
19 by Ofc./Det. McFadden of the Sumter Police Department. Right
20 here at the bottom it says, I have -- I have read or had read
21 to me the statements of my rights. I understand what my
22 rights are. I am willing to answer questions at this time
23 without a lawyer present. No promises or threats to me, and
24 no pressure has been used against me. And this is where you
25 sign, date, and time right here, and this is (indiscernible).

1 (Audio playback ends)

2 BY MR. MEADORS:

3 Q And is that Mr. Myers writing his name?

4 A Yes, sir.

5 (Audio playback begins)

6 DET. MCFADDEN: Can you tell us what happened that night
7 at the gas station?

8 THE DEFENDANT: Well, I don't know.

9 DET. MCFADDEN: Who (indiscernible)?

10 THE DEFENDANT: Man, I don't know. I don't know who
11 (indiscernible). I don't know who -- I don't know.

12 DET. MCFADDEN: And who (indiscernible)?

13 THE DEFENDANT: (Indiscernible). I promise you that.

14 DET. MCFADDEN: Who were you shooting at?

15 THE DEFENDANT: I didn't shoot at nobody. I don't even
16 know how it all started. (Indiscernible). I ran. Then I saw
17 my brother get hit, so I (indiscernible). I see him got hit.
18 I don't even know --

19 DET. MCFADDEN: Did you see who shot the gun?

20 THE DEFENDANT: No, I swear to God I didn't. I wasn't
21 close enough. I didn't see who shot him. I didn't because I
22 was (indiscernible) turn around. I said -- I said, woah.
23 (Indiscernible). You know what I'm saying? Then my mother
24 came.

25 DET. MCFADDEN: Yeah.



1 THE DEFENDANT: (Indiscernible).

2 DET. MCFADDEN: Did you see that (indiscernible)?

3 THE DEFENDANT: I (indiscernible).

4 DET. MCFADDEN: (Indiscernible) hospital?

5 THE DEFENDANT: Yeah, I'd taken him to the hospital.

6 DET. MCFADDEN: Who drove the car to the hospital?

7 THE DEFENDANT: I don't remember. All I remember is
8 (indiscernible).

9 DET. MCFADDEN: Where you sitting at in the car?

10 THE DEFENDANT: I was sitting in the back seat.
11 (Indiscernible) in the front seat (indiscernible). I was in
12 the back seat. (Indiscernible).

13 DET. MCFADDEN: So how many of y'all were
14 (indiscernible)?

15 THE DEFENDANT: Like three, four.

16 DET. MCFADDEN: So it was you, your brother,
17 (indiscernible)?

18 THE DEFENDANT: No, (indiscernible).

19 DET. MCFADDEN: (Indiscernible).

20 THE DEFENDANT: (Indiscernible).

21 (Indiscernible).

22 DET. MCFADDEN: (Indiscernible)? You were shooting at
23 nobody?

24 THE DEFENDANT: No, I swear I didn't (indiscernible)
25 trying to tell y'all. I don't even know how it started. You



1 know what I'm saying? I don't know -- I don't know

2 (indiscernible).

3 DET. MCFADDEN: (Indiscernible) shooting at somebody, you
4 were shooting at, you know (indiscernible).

5 THE DEFENDANT: (Indiscernible). I swear to God.
6 (Indiscernible).

7 DET. MCFADDEN: Everybody (indiscernible). That's -- you
8 don't do that. That's the reason why (indiscernible).

9 (Indiscernible).

10 THE DEFENDANT: What time you got?

11 DET. MCFADDEN: (Indiscernible).

12 THE DEFENDANT: (Indiscernible).

13 DET. MCFADDEN: You draw and (indiscernible).

14 MR. MYERS: Yeah.

15 DET. MCFADDEN: Is that what you're doing?

16 (Indiscernible)?

17 MR. MYERS: (Indiscernible)

18 DET. MCFADDEN: I mean, after that (indiscernible).

19 MR. MYERS: (Indiscernible) was pulling up.

20 DET. MCFADDEN: (Indiscernible) pulled up? What was
21 (indiscernible) doing?

22 (Indiscernible 3:23:21 to 3:24:56)

23 MR. MYERS: I mean, I didn't -- I didn't even do nothing,
24 so I didn't -- I didn't (indiscernible), you know what I'm
25 saying, when -- we looked when we could.

1 (Indiscernible 3:25:08 to 3:26:24)

2 DET. MCFADDEN: So you don't get out of the car?

3 MR. MYERS: What, to help?

4 DET. MCFADDEN: Yeah.

5 MR. MYERS: (Indiscernible) he would have took -- he
6 would have (indiscernible), like, I was on -- everyone's in
7 that car. You see that (indiscernible)? Yeah, you see, you
8 want to get (indiscernible). When they say -- when they say
9 where he was at, I was over there, by him. (Indiscernible)
10 outside of the car, but we was in the car.

11 DET. MCFADDEN: Yeah, but --

12 MR. MYERS: But I told him, (indiscernible 3:27:01 to
13 3:27:25) my opinion, everything happen right there because
14 everything happened at the front of the store, though. And
15 then out of nowhere, I ran (indiscernible).

16 DET. MCFADDEN: You seen the red Charger pull up?

17 MR. MYERS: Yeah, I seen the red Charger pull up.

18 DET. MCFADDEN: Who was in the red Charger?

19 MR. MYERS: Those other -- that's what I'm trying to say,
20 though. I don't know whose red Charger that is. That might
21 have been (indiscernible) red Charger. (Indiscernible). But
22 when he pulled up in it, everybody saw (indiscernible) pulled
23 up. They looking at the car. (Indiscernible 3:27:58 to
24 3:28:28).

25 DET. MCFADDEN: All right. So you go inside

1 (indiscernible 3:28:31 to 3:28:52).

2 MR. MYERS: And as soon as I had the cigarette, that's
3 when shots are being fired. I'm (indiscernible). You feel
4 me? I ran because (indiscernible).

5 THE COURT: (Indiscernible)? Would you like to keep
6 going?

7 MR. MEADORS: (Indiscernible) keep going, but I think
8 it's our speaker is too close to her speaker.

9 THE COURT: Okay. We're going to go off the record for a
10 minute, but she's -- I need you to play it. We're trying to
11 figure out with this feedback all --

12 (Recess.)

13 (Thereupon, the audio recording was played as transcribed
14 herein to the best of our ability.)

15 MR. MYERS: We needed to (indiscernible). Once you tell
16 somebody you know that -- I knew for a fact (indiscernible).
17 I see him on the camera right there. I see you fighting with
18 him. I'm telling you that you did have a gun. Don't tell me
19 (indiscernible) because then all you want to do is sit there
20 and lie. I don't do that. I'm telling you the truth on
21 everything. (Indiscernible) talking to. You're talking to
22 everybody (indiscernible) the other stuff. I mean,
23 (indiscernible) for attempted murder (indiscernible). But
24 please don't say I killed nobody, brother. What I did --

25 DET. MCFADDEN: How do you know you didn't kill somebody

1 when you fired numerous shots up there?

2 MR. MEADORS: Are we on the record?

3 THE COURT: Yes.

4 MR. MEADORS: Could you start it back where -- can we go
5 back and start it? I didn't think we were. I apologize.

6 Can you go back to 6:33?

7 (Counsel confer.)

8 (Thereupon, the audio recording was played as transcribed
9 herein to the best of our ability.)

10 MR. MYERS: We needed to (indiscernible). Once you tell
11 somebody you know that -- I knew for a fact (indiscernible).
12 I see him on the camera right there. I see you fighting with
13 him. I'm telling you that you did have a gun. Don't tell me
14 (Indiscernible) because then all you want to do is sit there
15 and lie. I don't do that. I'm telling you the truth on
16 everything. (Indiscernible) talking to. You're talking to
17 everybody (indiscernible) the other stuff. I mean,
18 (indiscernible) for attempted murder (indiscernible). But
19 please don't say I killed nobody, brother. What I did --

20 DET. MCFADDEN: How do you know you didn't kill somebody
21 when you fired numerous shots up there?

22 MR. MYERS: I did, but I -- I mean -- I mean --

23 DET. MCFADDEN: How is it you know you didn't hit nobody?
24 Excuse me.

25 MR. MYERS: (Indiscernible) my attorney

1 (indiscernible) --

2 DET. MCFADDEN: But how do you know you didn't kill
3 nobody? (Indiscernible). How do you know you don't hit
4 nobody? (Indiscernible). Tell me how you didn't hit nobody
5 when you fired numerous shots out there, and how do you know
6 you didn't hit nobody? Tell me that.

7 MR. MYERS: (Indiscernible).

8 DET. MCFADDEN: Look. Tell me -- you tell me that, that
9 it wasn't (indiscernible) you didn't kill nobody. You fired
10 numerous shots off.

11 MR. MYERS: I didn't kill nobody. Wasn't nobody
12 (indiscernible).

13 DET. MCFADDEN: There's a whole group (indiscernible).

14 MR. MYERS: I didn't kill nobody. No. But see, but
15 (indiscernible) y'all would see all that (indiscernible),
16 y'all (indiscernible); that's all it's going to take,
17 (indiscernible)? How did I kill (indiscernible)? How
18 (indiscernible)? (Indiscernible). You know, I did not kill
19 him, and I never did -- never seen (indiscernible) school that
20 he was dead. But after that, (indiscernible) everybody
21 (indiscernible), but I don't -- listen. I don't
22 (indiscernible).

23 DET. MCFADDEN: I didn't say you meant to, but --

24 MR. MYERS: I never want -- I didn't want to kill him.

25 I -- I know I didn't kill nobody. I swear to God on my life.

1 Y'all (indiscernible) I shot him (indiscernible), but how can
2 I shoot somebody with intent, but -- if I didn't even see him?

3 DET. MCFADDEN: How do you know who was there?

4 MR. MYERS: (Indiscernible).

5 DET. MCFADDEN: You should know that.

6 MR. MYERS: Hold on.

7 DET. MCFADDEN: That's when (Indiscernible) --

8 MR. MYERS: (Indiscernible) who's shooting, right?

9 DET. MCFADDEN: Tell us who was shooting.

10 MR. MYERS: I don't know. How -- how would I know who
11 all's shooting? (Indiscernible)? How would I know who all's
12 shooting?

13 DET. MCFADDEN: (Indiscernible)?

14 MR. MYERS: I mean, but I didn't saw nobody with a gun;
15 that's all I'm trying to say to y'all, but come on, man.

16 DET. MCFADDEN: Look. (Indiscernible), you know you're
17 not the first person we talked to. We talked to a bunch of
18 people, and they told us you all had guns out there. I just
19 wanted to see if you would say anything.

20 (Indiscernible 3:34:50 to 3:35:05)

21 DET. MCFADDEN: Then (indiscernible) how do you know you
22 didn't kill him when you fired shots off?

23 MR. MYERS: I know I didn't kill him because he was
24 nowhere around. That's what I'm saying to y'all, he wasn't
25 around. He was not around.

1 DET. MCFADDEN: (Indiscernible).

2 MR MYERS: That's what I'm trying to tell you all.

3 Listen. The altercation happened in the front of the store,
4 right.

5 DET. MCFADDEN: You talking about the --

6 MR. MYERS: (Indiscernible).

7 DET. MCFADDEN: (Indiscernible).

8 MR. MYERS: Exactly. The altercation happened in the
9 front of the store. Not with those -- not even in front of
10 the store, up on the side of the -- (indiscernible) side,
11 (indiscernible) exactly, but on the side of the store. I
12 ain't got no (indiscernible). I didn't kill that man, but
13 (indiscernible). Everybody, they think I'm a killer.

14 DET. KELLY: (Indiscernible)?

15 MR. MYERS: Come on, man, I knew (indiscernible).

16 DET. KELLY: All right. So I understand (indiscernible).
17 I told you that.

18 MR. MYERS: I didn't know that I was going to put blood
19 on you. I (indiscernible). I mean, before (indiscernible)
20 the blood off of him. (Indiscernible), but I didn't see
21 (indiscernible). So that's how I know (indiscernible)
22 shooting the gun.

23 DET. MCFADDEN: (Indiscernible).

24 MR. MYERS: That's what I'm trying to say. How do we
25 (indiscernible) -- how -- so listen, brother.

1 (Indiscernible).

2 DET. MCFADDEN: You was shooting at him.

3 MR. MYERS: No (indiscernible). I told you
4 (indiscernible). I told you that's a lie. I swear to God on
5 my life that's a lie. So (indiscernible), that's a lie,
6 though.

7 DET. MCFADDEN: Who were you shooting at?

8 MR. MYERS: That's a lie, though.

9 DET. KELLY: Tell us what (indiscernible). Tell us what
10 you did.

11 MR. MYERS: I mean, (indiscernible) --

12 DET. KELLY: Tell us what you did.

13 MR. MYERS: But that's all I said, (indiscernible).

14 DET. KELLY: That's y'all were saying, that's all.

15 MR. MYERS: Man, I mean, they know if I --

16 DET. KELLY: That you (indiscernible). Well, tell us
17 what happened. Tell us (indiscernible). Tell us what you
18 did. Tell us why you did it.

19 MR. MYERS: I don't even know. (Indiscernible). I mean,
20 I was in the corner. I was in the corner, and I didn't even
21 (indiscernible). Man, I swear (indiscernible). I didn't have
22 guns. I was (indiscernible) and nobody was (indiscernible).
23 Ain't nobody was (indiscernible) and I see y'all
24 (indiscernible) to the murder. Well, then (indiscernible),
25 but I didn't tell nobody what -- I told you that I didn't kill

1 nobody, (indiscernible).

2 DET. KELLY: (Indiscernible).

3 MR. MYERS: Ma'am, I'm not playing (indiscernible). I
4 (indiscernible), you see what I'm saying? And I just
5 (indiscernible). I didn't even -- but I'm telling you, I now
6 for a fact, I told you for a hundred percent, for a fact, I
7 know that I didn't kill nobody.

8 DET. KELLY: Y'all (indiscernible) kill nobody?

9 MR. MYERS: I didn't even know.

10 DET. KELLY: Well, (indiscernible) --

11 MR. MYERS: Actually, no. I ain't saying that. I ain't
12 saying that. It was, like, the (indiscernible). I'll -- I'll
13 tell you that (indiscernible), but I'm not -- you know, man, I
14 seen Michael get shot. I didn't even -- (indiscernible), he
15 was all -- coming to tell us that they had (indiscernible),
16 that they about to shoot.

17 (Indiscernible 3:38:32 to 3:39:10)

18 DET. KELLY: Who was in the car? Who was inside of that
19 Charger?

20 MR. MYERS: I don't -- I don't know.

21 DET. KELLY: You don't know?

22 MR. MYERS: I don't know. I don't know who was in there.
23 He wasn't in there. Or he left. He wasn't -- he left, so I
24 didn't kill him. That's why I say I didn't kill him. Come
25 on, man. (Indiscernible). I wasn't even the only one. If I

1 was going to be let off with attempted murder -- all that
2 other stuff, man, please don't (indiscernible).

3 DET. MCFADDEN: But nobody (indiscernible)?

4 MR. MYERS: I don't know. (Indiscernible). I do not
5 know; that's (indiscernible).

6 DET. KELLY: You said you didn't know.

7 MR. MYERS: All I can do (indiscernible), but I am a
8 hundred percent.

9 DET. MCFADDEN: (Indiscernible)?

10 MR. MYERS: That's right.

11 (Indiscernible 3:40:08 to 3:40:30)

12 MR. MYERS: Yeah, you can look at it.

13 DET. MCFADDEN: Okay.

14 (Indiscernible 3:40:32 to 3:41:57)

15 MR. MYERS: I don't know. I'm telling you I don't know
16 nothing. (Indiscernible)? No.

17 (Indiscernible 3:42:07 to 3:42:44)

18 MR. MYERS: And that -- so if I didn't shoot him -- if I
19 didn't shoot him, in a sense I (indiscernible).

20 (Indiscernible 3:42:51 to 3:42:59). I don't know what to
21 do if I didn't know about it.

22 (Indiscernible 3:43:03 3:43:56)

23 MR. MYERS: I didn't kill nobody, bro.

24 DET. MCFADDEN: So there's a part where they're -- y'all
25 take Trae to the hospital. You said that Trae (indiscernible)

1 with (indiscernible).

2 MR. MYERS: I -- I didn't ever (indiscernible). I didn't
3 even -- come on, man. (Indiscernible). Y'all are pinning on
4 me with the -- y'all put the (indiscernible) on me before the
5 incident. Come on, man.

6 DET. MCFADDEN: All right. Trae didn't respond, so did
7 you see where Trae was shot at?

8 MR. MYERS: No, man. He was shot (indiscernible).

9 (Indiscernible 3:44:55 to 3:45:40)

10 MR. MYERS: Man, I'm telling you the God's honest truth,
11 bro. Y'all can go look at the gun. I didn't kill nobody,
12 bro.

13 (Indiscernible 3:45:46 to 3:46:20)

14 BY MR. MEADORS:

15 Q And did you hear Det. Kelly just saying you wanted to
16 come down here and talk to us, right, and he said yes?

17 A That is correct.

18 (Thereupon, the audio recording was played and
19 transcribed herein to the best of our ability.)

20 DET. KELLY: Yeah, and I don't know how many times
21 (indiscernible) here over and over and over.

22 MR. MYERS: This is why I'm saying, I didn't know I would
23 be going out (indiscernible), but I didn't do that. Come on.
24 This is what I don't understand. All those times
25 (indiscernible) I didn't do. I didn't do. You know what I'm

1 saying? I didn't do (indiscernible), but come on.
2 (Indiscernible) that I didn't do. Then y'all put
3 (indiscernible) for murder yesterday. (Indiscernible). Come
4 on. I didn't kill nobody. I did not kill nobody.
5 (Indiscernible) nobody can see I didn't kill nobody.
6 (Indiscernible). I didn't shoot anything (indiscernible) why
7 (indiscernible)?

8 DET. KELLY: That's what we're here to find out; that's
9 why we want to come down here and talk to you.

10 MR. MYERS: I'm telling you I didn't do it. How come
11 y'all (indiscernible) every day, ma'am, like, this is not
12 something (indiscernible). (Indiscernible) please don't
13 (indiscernible).

14 DET. MCFADDEN: (Indiscernible) you did that?

15 MR. MYERS: I don't know; that's why I'm trying to figure
16 out what y'all (indiscernible) because I probably -- I
17 (indiscernible). I don't know. That's why I say I don't
18 know, but I probably do (indiscernible). I swear to God I
19 don't know (indiscernible).

20 DET. KELLY: I can see it in the video.

21 MR. MYERS: I don't (indiscernible). I just want to tell
22 you, I didn't kill him.

23 (Indiscernible 3:48:14 to 3:49:25)

24 MR. MYERS: See, that's what I've been -- I know; that's
25 what I'm telling you all. I didn't have no (indiscernible).

1 DET. MCFADDEN: Who did?

2 MR. MYERS: I don't know, but (indiscernible). See, this
3 is what I'm trying to say. I didn't do it.

4 (Indiscernible 3:49:40 to 3:54:14)

5 DET. MCFADDEN: Y'all seen the (indiscernible), but you
6 didn't see him (indiscernible)?

7 MR. MYERS: I didn't see none of that. I swear to God.
8 I didn't see none of that.

9 (Indiscernible 3:54:25 to 3:55:18)

10 DET. MCFADDEN: Come on, man. (Indiscernible) blood,
11 saying I killed a man.

12 (Indiscernible 3:55:25 to 3:59:44)

13 MR. MYERS: Please don't let me (indiscernible) I didn't
14 do. I didn't do it, man.

15 DET. KELLY: So after you (indiscernible) --

16 MR. MYERS: I leave him in the car; that's what I said, I
17 get him in the car.

18 DET. KELLY: In which car?

19 MR. MYERS: The police officer. I said I get him in the
20 car, (indiscernible). I take him to the hospital. And
21 (indiscernible) that's when he start (indiscernible) stuff.
22 Dang. You know what I'm saying? (Indiscernible) talking
23 about shooting somebody, and I never even saw him. Y'all --
24 y'all have to -- I mean, it's not even really (indiscernible),
25 but y'all got the wrong person, (indiscernible).

1 (Indiscernible 4:00:29 to 4:00:49)

2 DET. KELLY: Okay. This is the argument between
3 (indiscernible)?

4 MR. MYERS: That's exactly what I was trying to tell you;
5 I didn't see none of that.

6 (Indiscernible 4:00:58 to 4:01:15)

7 DET. MCFADDEN: Did anybody say anything about the jeans,
8 (indiscernible)?

9 MR. MYERS: I don't wear (indiscernible).

10 DET. MCFADDEN: (Indiscernible) jeans on?

11 MR. MYERS: And how could you tell somebody
12 (indiscernible).

13 (Indiscernible 4:01:28 to 4:02:46)

14 DET. KELLY: You shot him.

15 MR. MYERS: No. (Indiscernible) gun. And this is what
16 I'm saying, like, (indiscernible).

17 MR. MYERS: How what? How you shot him? You pulled the
18 trigger.

19 (Indiscernible 4:02:58 to 4:03:26)

20 MR. MYERS: Because I ain't seen nobody -- I ain't seen
21 nobody helping nobody. But how would I do that? That's what
22 I'm trying to tell you all.

23 (Indiscernible 4:03:31 to 4:04:55)

24 MR. MYERS: Even if I said -- y'all said that he was
25 (indiscernible) and I shot (indiscernible), it's a lie.

1 That's a lie, brother. That's a lie (indiscernible).

2 (Indiscernible 4:05:10 to 4:05:20)

3 DET. KELLY: You did, by firing (indiscernible).

4 MR. MYERS: But how?

5 DET. KELLY: Because you shot to him.

6 MR. MYERS: No. That's what I'm trying to say. I didn't
7 (indiscernible). I didn't mean to (indiscernible).

8 (Indiscernible 4:05:30 to 4:06:14)

9 DET. KELLY: But you were shooting.

10 DET. MCFADDEN: (Indiscernible), you shot him.

11 MR. MYERS: But no, that's what I'm saying. I was
12 (indiscernible).

13 DET. KELLY: Where is the gun? (Indiscernible) you're
14 going to have consequences if you're trying to
15 (indiscernible); that's what you're trying to do.

16 MR. MYERS: I don't try to (indiscernible).

17 DET. MCFADDEN: (Indiscernible).

18 MR. MYERS: (Indiscernible) saying was I didn't do
19 nothing.

20 (Indiscernible 4:06:50 to 4:07:16)

21 DET. MCFADDEN: This is what I'm saying, though. This is
22 what I'm saying, though. We do a pre-investigation.

23 (Indiscernible). We want to know everything. And all the
24 evidence will go together, so any (indiscernible) --

25 MR. MYERS: (Indiscernible). But I didn't kill -- I

1 didn't kill nobody, brother. Come on, man. I didn't shoot
2 that man. (Indiscernible). (Indiscernible) I didn't kill
3 that boy. I didn't kill that boy. I mean, I don't mean to
4 kill nobody. (Indiscernible). I didn't kill nobody, but come
5 on. Come on, man. (Indiscernible).

6 DET. MCFADDEN: (Indiscernible). Let me ask you this.
7 (Indiscernible). How do you know the shots that fired didn't
8 kill him? Tell us that.

9 MR. MYERS: Because nobody (indiscernible); that's why
10 I'm saying, though, how. (Indiscernible) how I killed
11 somebody when the shot (indiscernible).

12 DET. KELLY: You said (indiscernible) before.

13 MR. MYERS: Like I said, though --

14 DET. KELLY: (Indiscernible)?

15 MR. MYERS: No. Listen. (Indiscernible). That's
16 what -- that's what I'm trying to (indiscernible).
17 (Indiscernible) the shot fire, but I didn't see him.

18 (Indiscernible 4:08:28 to 4:08:48)

19 MR. MYERS: Come on, man. Murder? (Indiscernible), but
20 I didn't kill nobody, man.

21 (Indiscernible 4:08:59 to 4:19:12)

22 DET. KELLY: How many shots did you fire?

23 MR. MYERS: No, man; that's (indiscernible).

24 (Indiscernible 4:09:16 to 4:09:34)

25 MR. MYERS: You just said come on back. I didn't -- I

1 ain't talked to nobody yet.

2 (Indiscernible 4:09:42 to 4:10:15)

3 DET. KELLY: How many shots did you fire?

4 MR. MYERS: I don't know, ma'am. I don't own any gun.
5 Please, sir.

6 DET. KELLY: (Indiscernible) and you don't know where
7 your gun is and you (indiscernible)?

8 MR. MYERS: But I didn't kill nobody (indiscernible).

9 DET. KELLY: I'm not asking -- I'm asking if you were
10 involved (indiscernible).

11 (Indiscernible 4:10:35 4:11:55)

12 DET. KELLY: (Indiscernible) you out there, target
13 shooting at people.

14 (Indiscernible 4:11:57 to 4:15:05)

15 DET. KELLY: You shot (indiscernible).

16 MR. MYERS: How?

17 DET. KELLY: You put your hand on that trigger and you
18 pulled it.

19 (Indiscernible 4:14:15 to 4:18:09)

20 DET. KELLY: So what (indiscernible) were you shooting
21 at?

22 MR. MYERS: I didn't shoot at no (indiscernible).

23 (Indiscernible 4:18:15 to 4:18:47)

24 DET. KELLY: How many times did you shoot that gun?

25 MR. MYERS: I don't know, ma'am. I don't know, but

1 probably (indiscernible).

2 DET. KELLY: (Indiscernible)?

3 MR. MYERS: I don't know; that's what I said.

4 (Indiscernible)

5 (Audio playback ends)

6 (Pause.)

7 MR. MEADORS: Judge, at this point, I've just talked to
8 Mr. Young about this. Det. McFadden goes out with his
9 recorder to talk to -- (indiscernible) for someone else. And
10 this is something that I didn't realize until today or -- I
11 think today. The room does have a separate room recording in
12 this recording he has. You can hear much better on this
13 recording. So that's what we used to listen to it. I think
14 there's an extra seven to eight minutes when he comes back in.
15 The time he was out, there is a recording from the room where
16 Ms. Natalie Kelly was still talking to the defendant, while
17 he's out. I think I have it. I think we've given it to them,
18 quite frankly. I don't think any of us ever listened to it
19 because we didn't realize it. Mr. Young knows that, and we're
20 going to all listen to it tonight. And I don't think it has
21 anything in there that's going to affect either way, but we
22 will review that this afternoon and put that on the record in
23 the morning. But I think that's as clear as I can be. We're
24 not trying to hide anything.

25 We used this one because you can hear this much better

1 than the room recording, which you can't hear it all. But the
2 room recording and his recording device are the exact same
3 thing up to this point.

4 MR. YOUNG: It's my understanding that my client denies
5 the shooting and repeatedly says he didn't kill him. And that
6 goes on continuously.

7 MR. MEADORS: I just want to make that clear. There's a
8 little extra there, but there's nothing different from --

9 MR. YOUNG: No surprise?

10 MR. MEADORS: No, sir.

11 THE COURT: Okay. So I understand, there's a room
12 recording that has been going on this entire time?

13 MR. MEADORS: Simultaneously.

14 THE COURT: This is his separate device. He walks out of
15 the room at this point -- that -- where you stop the recording
16 and then -- so what are you getting ready?

17 MR. MEADORS: Let me clarify that. When he's walking out
18 of the room, he goes to talk to some of his superiors. I
19 think his recording is still on. They have that; we have
20 that. We can listen to it another six minutes if you want to.
21 But you can just hear him whispering.

22 THE COURT: But it's outside of the room?

23 MR. MEADORS: No question about it.

24 THE COURT: Okay. So is there a recording -- is there
25 any questioning that's going on while Det. McFadden is outside

1 of the room that I need to listen to?

2 MR. YOUNG: Yes, it is.

3 MR. MEADORS: I think you do.

4 THE COURT: And that's what you all are going to review
5 tonight?

6 MR. MEADORS: Well, that's -- you don't -- do you have it
7 right there with you, and I can play it?

8 MR. YOUNG: Let's play it right now.

9 MR. MEADORS: If you can give us a short --

10 THE COURT: Sure.

11 MR. MEADORS: Could you give us a short break to get it?
12 Can you get it right now?

13 Can we take a quick break?

14 THE COURT: Uh-huh.

15 MR. MEADORS: Just for him to --

16 THE COURT: Sure.

17 MR. MEADORS: -- find it? And it may save time, and we
18 need to mark it as another exhibit.

19 MR. YOUNG: Okay.

20 THE COURT: Okay. Let's stand down for a minute.

21 Det. McFadden, you're still on the stand, so don't
22 discuss your testimony with anyone during the break.

23 THE WITNESS: Okay.

24 THE COURT: Thanks.

25 (Recess.)

1 MR. MEADORS: May it please the Court? Judge, I think
2 Mr. -- Inv. Caulfield is prepared and what we'd like the Court
3 to do, he's prepared to play it from when Det. McFadden went
4 out of the room, until the end of the room tape. And we'd
5 like to add it on to State's 3 this evening.

6 THE COURT: Okay.

7 MR. MEADORS: So there won't be -- so everything will be
8 on State's 3.

9 THE COURT: Okay.

10 MR. MEADORS: Is that correct?

11 If that's okay with --

12 MR. YOUNG: No objection. That's fine.

13 MR. MEADORS: So at this point, then I think we'll
14 publish the interview room recording of the statement from the
15 defendant, Joquell Myers, to Det. McFadden and Natalie Kelly.
16 We're picking up when Det. McFadden left the room.

17 Correct?

18 MR. YOUNG: Correct. So this is what, seven, eight
19 minutes?

20 UNIDENTIFIED SPEAKER: It's roughly 22 minutes.

21 MR. YOUNG: 22. Okay.

22 MR. MEADORS: And because I think the time he was talking
23 earlier, was the seven minutes that he was out of the room,
24 that we've --

25 MR. YOUNG: Okay.



1 MR. MEADORS: I apologize.

2 MR. YOUNG: I don't think we will be surprised by
3 anything.

4 THE COURT: Okay. So wait, let me stop you. This is --
5 we're going back to, this is the interview room recording for
6 the whole time?

7 MR. MEADORS: No, ma'am. Just from where he walked out.

8 THE COURT: Okay.

9 MR. MEADORS: We've all agreed it's going to be pick
10 up -- because the rest of it was the same.

11 THE COURT: Okay.

12 MR. MEADORS: This may be hard to believe, but the
13 quality we heard was much better than the interview room. And
14 that's the reason we used that tape.

15 MR. YOUNG: Okay. Can I go over there, because I can
16 hear a lot better?

17 MR. MEADORS: Your Honor, for the record, at 1:12:34 is
18 when Det. McFadden basically -- you stop hearing him talk.
19 This is at 1:12:41, where you've got the recording from the
20 room. And that is where we are.

21 THE COURT: Okay.

22 (Thereupon, the audio recording was played but not
23 transcribed herein.)

24 BY MR. MEADORS:

25 Q Det. McFadden, does that tape accurately reflect the



1 conversation that you had with the defendant?

2 A That is correct.

3 Q On September 26th of 2019?

4 A Yes, sir.

5 Q You've been around. And you spent that time with him
6 that day. In your opinion, based on the time you spent with
7 him and interacted with him and listening to him, was that a
8 free and voluntary statement you had with the defendant on the
9 26th?

10 A Yes, it was.

11 Q September 2019? And for the record, would you please
12 tell Her Honor, is the person who talked to you on the 25th
13 and the 26th present in the courtroom today?

14 A Yes, he is.

15 Q Please point him out for Her Honor.

16 A Mr. Joquell Myers, sitting over there in the orange.

17 Q Next to Mr. Warr?

18 MR. MEADORS: Thank you, Judge. That's all we have.

19 THE COURT: Mr. Young?

20 CROSS-EXAMINATION

21 BY MR. YOUNG:

22

23

24

25



1 Q Detective, did Mr. Myers tell you anything other than he
2 did not kill anybody?

3 A He said, he shot at the red Charger. He said he'll take
4 the attempted murder charge. But he did not kill Donta'
5 Middleton -- D-Black.

6 Q He shot at the red car?

7 A That's what he said.

8 Q He said he didn't shot anybody, didn't he -- repeatedly?
9 I didn't kill anybody. Told you that you had the wrong dude,
10 right?

11 A Yes. Yes, sir.

12 MR. YOUNG: Nothing further.

13 MR. MEADORS: Your Honor, I can call Natalie Kelly, who
14 is also present. And be very short with her going through the
15 rights, if you -- I guess you can't answer that. But she's
16 here and prepared to do that if we're prepared.

17 Natalie Kelly.

18 THE BAILIFF: State your name.

19 MS. KELLY: Natalie Kelly.

20 NATALIE KELLY, after being duly sworn, testified as
21 follows:

22 UNIDENTIFIED SPEAKER: Is it okay if I stay here?

23 UNIDENTIFIED SPEAKER: Certainly.

24 THE BAILIFF: State your name for the record and
25 spell your last name, please.

1 THE WITNESS: Natalie Kelly, K-E-L-L-Y.

2 DIRECT EXAMINATION

3 BY MR. MEADORS:

4 Q You okay if I stand here? Natalie Kelly, just for the
5 record, tell Her Honor, how long have you been in law
6 enforcement?

7 A Over 22 years.

8 Q And how long have you been in investigations?

9 A 12 years.

10 Q Part of that -- how long of that 12 years was here in
11 Sumpter?

12 A All 12.

13 Q And what are your duties as an investigator?

14 A I am a detective staff sergeant assigned to the
15 Investigative Service Division.

16 Q As part of that, you interview witnesses and suspects?

17 A I do.

18 Q And on September 25th, 2019, were you with Det. McFadden
19 when Joquell Meyers was interviewed at the Sumpter Police
20 Department?

21 A I was.

22 Q And I'm going to show you what's marked as State's 1 for
23 identification only at this point. Are you familiar with that
24 document?

25 A I am.

1 Q And were you present, and did you hear Det. McFadden read
2 the rights and waiver of rights to Mr. Joquell Myers?

3 A I did.

4 Q And in your opinion, did Mr. Myers appear to understand
5 the rights as they were read to him?

6 A Yes.

7 Q As they were read to him? I'm sorry. For the record.

8 And were you also present -- do you believe Mr. Myers
9 understood the waiver of rights that were read to him?

10 A Yes, he did.

11 Q And did you see or were you present when Mr. Myers signed
12 State's 1 for identification, that he understood it -- were
13 you present for that?

14 A Yes, I was.

15 Q And did you also sign as a witness?

16 A I did.

17 Q At any time during the reading of those rights in State's
18 1, on September 25th of 2019, and the waiver of rights, did he
19 indicate to you at that point, he didn't want to talk to you?

20 A He did not.

21 Q Did he say, I want a lawyer?

22 A He did not.

23 Q Did you appear to understand him on the 25th, when he was
24 answering your questions or Det. McFadden's questions?

25 A I did.

1 Q And were his responses, timely and appropriate to the
2 questions, in your opinion?

3 A Yes, they were.

4 Q And at some point, during the short discussion on the
5 25th, he said he didn't want to talk to you anymore, right?
6 Or says, I don't want to talk?

7 A That's correct.

8 Q And what did you all do?

9 A We stopped talking to him.

10 Q And did you have an -- and did he appear to be under the
11 influence on September 25th of 2019?

12 A No, he did not.

13 Q And if he had asked, or did ask, for bathroom privileges
14 or something to eat for nourishment or drink, would you have
15 given it to it?

16 A Yes.

17 Q Now, the State's 2, we've already handed you that?

18 A No, sir.

19 Q Of course, I lost it.

20 A Yes.

21 Q You've got it, Ms. Kelly?

22 As tempting as it would be --

23 Here's State's 2. It's right in front of me. Let me ask
24 you this. How did you and Det. McFadden -- why did you all go
25 back and talk to him again -- him being Joquell Myers -- on

1 September 26th, of 2019?

2 A He sent a request to Det. McFadden in reference to
3 wanting to speak with us again.

4 Q Would you have talked to him again if there had not been
5 the request by the defendant?

6 A No.

7 Q And when you talked with Mr. Myers again, where were you?

8 A At the Sumpter Police Department.

9 Q Was it the same room you had been in the evening -- the
10 day before?

11 A That's correct.

12 Q And were you present when Mr. McFadden did read the
13 defendant his rights?

14 A Yes.

15 Q And the waiver of rights?

16 A Yes.

17 Q Did he appear to understand those?

18 A He did.

19 Q And did he indicate he understood those?

20 A He did.

21 Q Any doubt in your mind, he understood what he was doing?

22 A No doubt.

23 Q And were you present when he signed a waiver of rights on
24 September 26th?

25 A Yes, I was.

1 Q And did you watch him sign it?

2 A I did.

3 Q Actually hear him sign on the audio, don't you?

4 A Yes.

5 Q Okay. And did you sign State's 2 for identification,
6 witnessing the rights and waiver of rights by Mr. Myers?

7 A Yes, I did.

8 Q That is your lovely signature there?

9 A That is my signature.

10 Q And of course I waived that in front of the jury. You
11 know that. I'm sorry. I'll try.

12 Under the influence -- was Mr. Myers under the influence
13 of alcohol, drugs, or any other intoxicant on September 26th,
14 of 2019, in your opinion?

15 A No.

16 Q Could you understand what he was saying to you and/or
17 detective on the 26th?

18 A Yes.

19 Q On the 25th or the 26th, did you or Det. McFadden
20 threaten, coerce, hold out any hope or reward, to Mr. Myers in
21 exchange for him talking to you?

22 A No.

23 Q On the 26th, if he wanted to use the bathroom or to get
24 something to eat, would you have let him?

25 A Yes.

1 Q Was he handcuffed on both of these days -- or do you
2 remember?

3 A Yes.

4 Q He was handcuffed?

5 A I mean, he was brought in in handcuffs. Yes.

6 Q In your opinion, based on your training and experience
7 and your time with Mr. Myers on the 25th and the 26th, but
8 more specifically, the 26th here, was the statement he gave
9 you and Det. McFadden freely and voluntary?

10 A Yes, it was.

11 Q And I noticed he mentioned in there one time, at 56
12 something, I might want to get his -- I might want to get my
13 mother to talk to a lawyer. But there never was a follow up.
14 And he never asked you all or told you I don't want to talk,
15 or I want a lawyer, correct?

16 A No, he did not.

17 Q Okay. And so does the recording that we've all heard in
18 here today, accurately reflects the conversation that you and
19 Det. McFadden had? Does that accurately reflect what happened
20 in that room?

21 A Yes, it does.

22 Q When Det. McFadden left, was there a separate record --
23 was there a recording in the room and a separate recording
24 Det. McFadden had?

25 A That's correct.

1 Q And when Det. McFadden left, I believe we hear -- it's
2 almost like the defendant's just talking, and then you
3 interject at some point after that, correct?

4 A That's correct.

5 Q So was somebody in the room with the defendant the whole
6 time?

7 A Yes.

8 Q And is the individual that gave you a Det. McFadden in
9 the courtroom here today?

10 A Yes, he is.

11 Q And would you point him out for Her Honor?

12 A He's sitting over there beside attorney Warr.

13 MR. MEADORS: At the Court's indulgence?

14 THE COURT: Okay.

15 MR. MEADORS: Thank you, Judge. That's all.

16 THE COURT: Mr. Young?

17 CROSS-EXAMINATION

18 BY MR. YOUNG:

19 Q Det. Kelly, do you think Mr. Myers' statement to you on
20 the 25th and the 26th, of September '19 -- 2019, are truthful?

21 A I mean, it was his statement.

22 Q It was his statement. All right. In fact, you tried to
23 trick him by telling him that you saw him on video, shoot
24 somebody, didn't you?

25 A No, sir. That wasn't a trick. We did see him on video

1 shooting a gun.

2 Q Shooting a gun. But you didn't see him shoot any one
3 individual, did you?

4 A I saw him shooting, and the individual go down. Yes,
5 sir.

6 Q You saw an individual go down?

7 A Yes, sir.

8 Q We'll have some fun with that. Okay.

9 MR. YOUNG: Nothing further, thank you.

10 THE COURT: Thank you. You can step down.

11 THE WITNESS: Thank you.

12 MR. MEADORS: Judge, that is all we have on this issue.

13 THE COURT: Okay. Do you all want to be heard at all?

14 MR. YOUNG: I don't object to it. Okay.

15 THE COURT: Okay. Well --

16 MR. MEADORS: We'd ask Her Honor, to find this reading
17 --

18 THE COURT: -- I do still need to make findings. So I
19 do, of course, find that the defendant was in custody at the
20 time that he made the statements. Was a result of custodial
21 interrogation. I find the State's met its burden of proving
22 by preponderance of the evidence, that the statement was
23 voluntary. Looking at the totality of the circumstances, he
24 was certainly read his Miranda rights on September 25th. He
25 invoked his right to silence at that time and the questioning

1 stopped.

2 He then requested to talk to law enforcement the next
3 day, knowing that the previous day, when he invoked his right
4 to silence, the questioning stopped. So certainly, by
5 inference, he would know that on the next day when he started
6 talking, that he could stop talking at any point.

7 Of course, he was reread his Miranda rights a second
8 time. I find it was a reasonable duration. I don't find any
9 unduly coercive or improper coercion on the part -- on the
10 part of law enforcement. And again, I don't find it was an
11 unreasonable duration, the questioning, or any particularly
12 coercive circumstances.

13 So I do find that the statement is admissible.

14 Do we have anything else that we need to discuss pre-
15 trial?

16 MR. YOUNG: I don't know what the plan was -- Solicitor's
17 office said that they have a video that shows some people
18 rapping.

19 Are you going to try to put that in?

20 MR. MEADORS: Yes, sir.

21 MR. YOUNG: Well, we would object to that, Your Honor.

22 MR. MEADORS: Certainly, Your Honor, we'll have a hearing
23 prior to trying to get that in.

24 MR. YOUNG: Okay. Yeah, that's fine.

25 MR. MEADORS: I wouldn't try to throw that in without

1 bringing it to the Court's attention.

2 MR. YOUNG: Okay. All right. We would object to that.

3 MR. MEADORS: And I won't mention that, or it won't be
4 mentioned.

5 THE COURT: That was going to be my next question.

6 So in the morning, other than this little bit of video
7 that you all need to look at this evening, nothing else that
8 we're going to need to discuss before we bring the jury in?

9 MR. YOUNG: I don't think so.

10 MR. MEADORS: Well, maybe I'm confused. I thought that
11 was the audio that we just listened to. So I think we took
12 care of that.

13 THE COURT: Okay. I thought that you all were going to
14 produce to him the audio for the entire time that we just
15 heard Det. McFadden's audio recording of, that he was going to
16 review the separate --

17 MR. YOUNG: I don't think it's necessary, Your Honor.
18 Quite frankly, my client denies his involvement to that extent
19 of killing somebody. And so -- and that's throughout
20 everything as far as I know.

21 MR. MEADORS: Your Honor, I think we've now played the
22 entire video. Just the first part that we listened on
23 McFadden's was also in the recording room. So it's the same
24 thing.

25 MR. YOUNG: Okay.

1 THE COURT: I understand. I just didn't know if he
2 wanted to review that separately --

3 MR. MEADORS: And I think he had --

4 THE COURT: -- to see if there was something --

5 MR. YOUNG: We have it.

6 THE COURT: -- easier to understand.

7 MR. YOUNG: I don't need to review it.

8 MR. MEADORS: He can --

9 MR. YOUNG: We're good.

10 MR. MEADORS: I'm on the record like he does have that.
11 I just --

12 MR. YOUNG: No --

13 THE COURT: You indicated that he had it. I didn't know
14 if anybody had listened to it. Okay.

15 MR. MEADORS: Thank you. I appreciate it.

16 THE COURT: Then I'll see you all in the morning.

17 MR. MEADORS: Thank you, Judge.

18 MR. YOUNG: Thank you. Good evening.

19 MR. MEADORS: You said, 10 o'clock, Judge?

20 THE COURT: No, sir, I did not. Well, the jury will be
21 here at 9:30, so I mean, let's be ready by, like, 9:15.

22 MR. YOUNG: Yes, ma'am.

23 MR. MEADORS: Judge, from my understanding, he's been --
24 he's been housed in Manning. The co-defendant's in Sumpter.
25 I think they're going to take him back to Manning. It's my

1 understanding. I didn't know if you all --

2 MR. YOUNG: I have no idea.

3 MR. MEADORS: I think Ms. Herod (phonetic) had arranged
4 that. So we need to somehow figure that -- he doesn't need to
5 go back here, is what I'm saying.

6 MR. YOUNG: Okay.

7 MR. MEADORS: So you may need to get an order from Your
8 Honor, I guess what I'm -- I'm sorry.

9 (Counsel confer.)

10 (End of Transcript of Record)

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

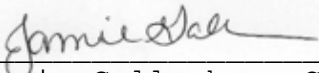
CERTIFICATE OF TRANSCRIBER

State of South Carolina)
)
County of Sumter)

I, JAMIE GALLAGHER, a court-approved transcriber, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Sumter County, South Carolina, on the 26th day of September, 2022.

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

August 9, 2023



Jamie Gallagher, CET-1243
Transcriber

State of South Carolina	)	
	)	Circuit Court
County of Sumter	)	2020-GS-43-0624

State of South Carolina	)	
	)	
vs.	)	Transcript of Record
	)	
Joquell Myers	)	

September 27, 2022
Sumter, South Carolina

B E F O R E:

The Honorable Kristi F Curtis, Judge.

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

Attorney for the State:

John P. Meadors, Esquire
W. Jason Corbett, Esquire

Attorney for the Defendant:

Lewis H. Warr, Esquire
Kenneth R. Young, Jr., Esquire

Laurel Panday
Transcriber



1	<u>I N D E X</u>				
2	Opening statement by Mr. Meadors				18
3	Opening statement by Mr. Young				31
4					
5	<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
6	Shirlene Skipper				
7	Mr. Meadors	35			
8	Mr. Young		45		
9	Tyrek Archie				
10	Mr. Meadors	52			
11	Mr. Young		68		
12	Timothy Scarbough				
13	Mr. Meadors	75			
14	Mr. Warr		86		
15	Mr. Meadors			99	
16	Willie McFadden				
17	Mr. Meadors	101			
18					
19					
20					
21					
22					
23					
24					
25					

1	<u>E X H I B I T S</u>			
2	NO.	DESCRIPTION	ID.	EV.
3	S-2	Waiver of rights		119
4	S-3	Audio of Miranda rights		114
5		and waiver of rights		
6	S-4	911 Records		36
7	S-5	Cell phone video		58
8	S-6	Sunoco video		58
9	S-7	Rostec video		58
10	D-1	911 Audio		51
11				
12				
13				
14				
15				
16				
17				
18				
19				
20				
21				
22				
23				
24				
25				

1 THE COURT: Thank you all, please have a seat.

2 THE BAILIFF: The Honorable Judge Kristi presiding. All
3 jurors are all present, Your Honor.

4 THE COURT: Okay, one of the jurors brought the matter to
5 my attention this morning. Juror Number 126, Cassandra Peay,
6 P-E-A-Y. She indicated yesterday when she left the building,
7 she realized that she did know the victim's family. She said
8 she didn't know him by his legal name. She knew him as
9 D-block, and so I'm trying to look back and see who that would
10 be. So I did tell her that we would bring her out this
11 morning, let her put that on the record, told her she did the
12 exact right thing. Nobody's mad at her at all. That's
13 exactly what we would want her to do, that I was going to
14 bring her out and let her give us that information on the
15 record. And of course, I'll ask her whether she can still be
16 fair and impartial.

17 THE BAILIFF: What number was she, please?

18 THE COURT: 126. If you want to, go ahead and bring her
19 out for me?

20 UNIDENTIFIED SPEAKER: Yes, sir. Yes, ma'am, I'm sorry.

21 THE COURT: It's okay. Okay.

22 Good morning.

23 JUROR NO. 126: Good morning.

24 THE COURT: You are Cassandra, is it Peay?

25 JUROR NO. 126: Peay.

1 THE COURT: So I've just shared with them our briefly our
2 discussion that we had back in the hallway and like we talked
3 about, I'm just going to get that information from you for the
4 record. So if I can get you to raise your right hand.

5 CASSANDRA PEAY, after being duly sworn, testified as
6 follows:

7 THE COURT: Okay. So if you'll just share with us what
8 you told me just a few minutes ago, back in the hallway.

9 JUROR NO. 126: I know the victim --

10 THE COURT: And you don't have to bend down, you can
11 just --

12 JUROR NO. 126: Okay.

13 THE COURT: -- stand near it.

14 JUROR NO. 126: I know the victim's family.

15 THE COURT: And which victim are you referring to?

16 JUROR NO. 126: Donta'.

17 THE COURT: Okay. Do you know the last name?

18 JUROR NO. 126: No.

19 THE COURT: And you know him by a different name?

20 JUROR NO. 126: Right.

21 THE COURT: Can you tell me about how long you've known
22 the family?

23 JUROR NO. 126: Oh, I've known the family for some years.
24 I haven't seen them in a long, long time, but I know them for
25 some years.

1 THE COURT: Do you have either a close personal or
2 business relationship with anybody in his family?

3 JUROR NO. 126: Yes, I have a close relationship with
4 someone in his family.

5 THE COURT: Well, your acquaintance with the family. Do
6 you think that that will keep you from being a fair and
7 impartial juror in this case?

8 JUROR NO. 126: No.

9 THE COURT: Do you believe that you can listen to the
10 facts, that you can follow my instructions on the law, and
11 that you can give both the State and the defendant a fair
12 trial?

13 JUROR NO. 126: Yes.

14 THE COURT: Have you talked with any of the other jurors
15 back there --

16 JUROR NO. 126: No.

17 THE COURT: -- about realizing that you know somebody in
18 the family?

19 JUROR NO. 126: No, ma'am, not at all.

20 THE COURT: Okay.

21 JUROR NO. 126: I haven't talked to anybody but you this
22 morning.

23 THE COURT: Okay. Okay. I'm going to ask if you want to
24 go on back to the jury room and if you'll please don't have
25 any discussions with the other jurors --

1 JUROR NO. 126: Yes, ma'am.

2 THE COURT: -- about what we just talked about.

3 JUROR NO. 126: Yes, ma'am.

4 THE COURT: Okay. Thank you so much. Well, first, let
5 me ask just one more question.

6 Is it anything else that you want me to ask Ms. Peay
7 before I send her back?

8 UNIDENTIFIED SPEAKER: Nothing from the State.

9 MR. YOUNG: When did she realize that she knew the
10 victim?

11 JUROR NO. 126: When I went outside yesterday.

12 THE COURT: You saw some of the --

13 JUROR NO. 126: They was in the hallway.

14 THE COURT: -- you saw some of the family members when
15 you left?

16 JUROR NO. 126: Yes. Right, that's correct.

17 THE COURT: Did you have any conversation with them?

18 JUROR NO. 126: No.

19 THE COURT: Okay. Anything else you want me to ask?

20 MR. YOUNG: She says she thinks she can be fair and
21 impartial, but knowing the family, she says she's got a close
22 personal relationship --

23 THE COURT: And Mr. Young, I'm going to have discussion
24 with you all about that --

25 MR. YOUNG: Okay.

1 THE COURT: -- outside of her presence. Any other
2 question you want me to ask her?

3 MR. YOUNG: No ma'am, that's all.

4 THE COURT: Okay. Thank you so much.

5 JUROR NO. 126: You're welcome.

6 THE COURT: Okay. Now, I'm glad to hear anything you
7 want about what you want me to do as a result of getting this
8 information.

9 MR. YOUNG: If it pleases the Court. Yesterday, she was
10 the 19th juror called. I had plenty of strikes left, and I
11 certainly would have used one against her if I had known that
12 she was a close personal friend in the family of the victim.
13 And because we did not know that, I didn't have the
14 opportunity to use the strike against her, and I would have.
15 And when we finished striking, I still have one regular strike
16 left. I struck nine people.

17 THE COURT: I'm showing that at the time Cassandra Peay
18 was called, we had seated nine jurors and you had exercised
19 seven of your strikes. So you had --

20 MR. YOUNG: Yes, ma'am.

21 THE COURT: -- you had three strikes remaining at the
22 time her name was called, and she was our 10th juror who was
23 seated.

24 MR. YOUNG: Well, like I said, I had juror strikes left.

25 THE COURT: So are you asking me to release her as a

1 juror and use one of our alternates?

2 MR. YOUNG: I am.

3 THE COURT: Mr. Meadors?

4 MR. MEADORS: I don't have anything to add. She said she
5 could be fair and impartial, that's all I need. Thank you.

6 THE COURT: You know, I am going to go ahead and set her
7 aside. She thought enough of it to bring it to my attention
8 this morning. And then I think we get into the issue of
9 whether she is going to have some independent knowledge of the
10 victim and his character or anything like that. So I'm going
11 to go ahead and set her aside. We've got to alternates for a
12 reason. Do y'all want me to bring her out here? Otherwise,
13 I'm just going to have her come out into the hallway and tell
14 her that nobody's mad at her, we're just going to set her
15 aside.

16 MR. CORBETT: And thank her for doing the right thing

17 MR. MEADORS: Trust your -- trust your judgment on that.

18 THE COURT: All right. I just don't want to put her on
19 the spot.

20 (Pause.)

21 THE BAILIFF: Come to order and remain seated.

22 THE COURT: Okay so we have in a cup there the names of
23 both of our alternates and so Mr. Campbell is going to shake
24 it up. Sam's (phonetic) going to draw a name for us if that
25 procedure suits you all.

1 MR. MEADORS: That's fine.

2 MR. YOUNG: Do we trust Sam?

3 THE DEPUTY CLERK: Danna Manzer (phonetic) will be the
4 primary juror.

5 THE COURT: Okay. Thank you.

6 THE DEPUTY CLERK: Judge, do we know that number?

7 THE COURT: She is Number 29. I'm sorry. She was Number
8 99. She was Number 29 on the left-hand side. She was Number
9 99 -- was her juror number. Anything else before we bring in
10 the jury?

11 MR. MEADORS: Nothing for the state.

12 MR. YOUNG: Nothing at this time.

13 THE COURT: Okay, we're ready for them.

14 (Whereupon, the jury came into open court at
15 approximately 10:03 a.m.)

16 THE BAILIFF: Jurors are seated, Your Honor.

17 THE COURT: Okay, thank you.

18 Ladies and gentlemen, the case we're about to try this
19 morning is the State v. Joquell Wayne Myers. You heard just a
20 little bit about the allegations in this case yesterday, but
21 before we begin the trial, I want to tell you that the trial
22 may be very different from what you've seen on television or
23 in movies or read about in books where the trial is full of
24 high drama and intense, riveting action. A lot of people
25 don't get the chance to see a real trial, and the actual trial

1 is probably going to seem very different. It may seem very
2 slow at times from where you're sitting. It might seem
3 repetitive, basically the opposite of what you've seen on
4 television. But of course, the trial is not for entertainment
5 purposes. It is a fundamental part of our democracy.

6 The Court process may seem slow, but this courtroom is a
7 place of honor that's dedicated to the protection and
8 preservation of citizens' rights and what many have called the
9 greatest justice system ever created. The attorneys that are
10 appearing before you are advocates for the clients that they
11 represent. But first and foremost, they're officers of the
12 Court, and they're sworn to uphold the integrity and the
13 fairness of our judicial system. You should expect them to be
14 professional, competent, and ethical in the representation of
15 their clients' interests.

16 And of course, remember that you each are taking an oath
17 today to try this case and reach a verdict based on the
18 testimony and the evidence presented. So you're also expected
19 to be professional, reasonable, and ethical.

20 So I thank you first for accepting this very important
21 responsibility.

22 What I say now to you is intended to serve as an
23 introduction to the trial of the case. These remarks are not
24 a charge on the law. I'll instruct you on the law that
25 applies at the end of the trial before you retire to consider

1 your verdict. This is just an explanation of the procedure
2 that will follow so you can better understand what's
3 happening.

4 The defendant is charged by an indictment filed in this
5 Court with the crimes of murder, attempted murder, unlawful
6 carrying of a pistol, and possession of a weapon during a
7 violent crime. The elements of those offenses will be
8 explained to you later.

9 And the indictment this -- these pieces of paper that I
10 read from yesterday are not evidence of any of the
11 allegations. The defendant has pled not guilty to the
12 indictment, and the State therefore has the burden of proving
13 each of the elements of the indictments beyond a reasonable
14 doubt. It it'll be your duty, ladies and gentlemen, to decide
15 whether the State has met that burden.

16 Your purpose as jurors is to find and determine the facts
17 of the case. You are the sole judges of the facts. If at any
18 time I make any comment regarding the facts, please don't
19 think that it's me trying to tell you my opinion about the
20 facts. I'm not permitted to have an opinion. That is solely
21 for you to determine.

22 You're going to determine the facts from the testimony
23 that you hear, sworn testimony from this witness stand and any
24 other evidence which is admitted into evidence during the
25 trial. It's up to you to determine the inferences that you

1 feel may be properly drawn from the evidence.

2 It's particularly important that you perform your duty of
3 determining the facts diligently and conscientiously, because
4 ordinarily there is no way to correct an erroneous
5 determination of the facts by a jury. The same law that makes
6 you the judges of the facts makes me the judge of the law, and
7 the law as I instruct you at the end is the only law that you
8 can consider. You must accept that law and follow it, even if
9 you personally disagree with what the law is. I can't tell
10 you what the facts are, and you can't disagree with me about
11 what the law is or should be. Your job is to take the law as
12 I instruct you, apply it to the facts as you find them, again,
13 from the testimony of the witnesses and any other evidence
14 that's admitted, and after doing that, you'll be in a position
15 to render your verdict.

16 Until I advise you to begin your deliberations, you
17 should not discuss the case with anyone, including your fellow
18 jurors, friends, family, coworkers, and certainly not with
19 anyone involved in the case. After the case is submitted to
20 you, you must discuss it only in the jury room with all of
21 your fellow jurors present. The attorneys and the parties in
22 this case, know that they are not to have any contact with you
23 whatsoever, so if you should see them coming and going from
24 the courthouse or at lunch and they don't speak to you at all,
25 please don't think that they're being unfriendly or rude.

1 They're just following my instructions to just give you a wide
2 berth and not have any contact with you.

3 During the trial, I'm instructing you not to read, listen
4 to or watch any news reports about the case. And this would
5 include anything in the newspapers or on the internet, radio,
6 television, anything on social media. I don't anticipate a
7 lot of coverage about the case, but in the event that there is
8 some kind of a news coverage or something on social media, I
9 am instructing you that you must not consider anything that
10 you may have read or heard about the case outside of this
11 courtroom, whether before or during the trial. So it is your
12 duty as jurors that if something were to come up on the news,
13 it's your duty to change the channel. If there's something
14 that came up on social media, it's your duty to not read and
15 not look at anything that would appear.

16 It's important that you keep an open mind and not decide
17 any issue in this case until all of the evidence has been
18 presented, the parties have made their closing arguments, and
19 I've instructed you on the law. It is your solemn
20 responsibility to determine the guilt or innocence of the
21 defendant, and your verdict must be based solely on the
22 evidence as it's presented to you in the trial and on the law
23 as I instruct you during and at the close of trial.

24 In just a moment, the solicitor will make what's called
25 an opening statement, in which he will tell you about the

1 facts of the case, what he believes the issues are in the
2 case, maybe give you a little preview of the testimony that
3 you're going to hear during this trial. When he's done, then
4 the defendant may also make an opening statement, although he
5 is not required to do so.

6 What the attorneys tell you during their opening
7 statements and in their closing arguments, however, is not
8 evidence. It's their contention as to what the issues are,
9 but in and of themselves, it's not evidence. The evidence,
10 again, sworn testimony from this witness stand. But of
11 course, please give them your undivided attention at all
12 times.

13 From time to time during the trial, you may hear one of
14 the attorneys make an objection or ask to speak with me at the
15 bench. We may have to send you out of the courtroom while we
16 take up an issue of law, particularly pertaining to the
17 admissibility of evidence, because obviously, we've got to
18 have some discussions outside of your presence before I rule
19 on whether or not you're going to see that particular
20 evidence. It's not necessarily that we're trying to keep
21 anything from you. It's just that our rules of evidence
22 provide boundaries to make sure that you get the best evidence
23 presented. And so we may dismiss you from the jury room while
24 we're having those discussions.

25 In determining what the facts are in this case, you have

1 to decide whether or not the testimony of the witnesses is
2 believable or credible. It's my responsibility to rule as a
3 matter of law as to whether certain testimony is admissible,
4 but whether or not you believe the testimony is entirely up to
5 you.

6 In deciding whether to believe a witness, you have the
7 right to consider the interest of any witness, the bias of any
8 witness, the prejudice of any witness, the opportunity that
9 the witness had to see and hear the things the witness is
10 testifying about. You can consider the witness' demeanor, how
11 they act on the witness stand.

12 You have a right to consider anything that's in the
13 record that will help you evaluate the testimony of the
14 witnesses. So of course, that means it's your duty to pay
15 close attention to them, watch them, observe them, listen to
16 them, pay close attention to the attorneys and to the Court.
17 Please don't let your thoughts wander, but give strict
18 attention to the testimony in this case so that at the end of
19 all the testimony and after the arguments of counsel and my
20 instruction on the law. You'll be in a position to determine
21 what the facts are, apply the law to those facts, and render
22 your verdict.

23 A couple of housekeeping matters, I am going to ask, when
24 we have a break, if you'll please select a foreperson. I have
25 dismissed Ms. P as a juror this morning and so we have drawn,

1 honestly, from a bucket from the two remaining alternates.

2 And Ms. Manzer, you will now be our 12th juror.

3 And Mr. Burke (phonetic), you'll be our alternate juror.

4 That means, Mr. Burke, you're not eligible to be foreperson.

5 I know that's going to be crushingly disappointing for you.

6 But if you all will please select a jury foreperson. You

7 don't need any particular training or skillset or experience.

8 You have all the skills you need just from your life

9 experience and your good common sense to be the foreperson.

10 Your job as a foreperson will be to preside over the

11 deliberations. You'll fill out the jury verdict form on

12 behalf of the jury panel and you'll sign the verdict form on

13 behalf of the entire jury panel.

14 Some of you have inquired about if you need a break or if

15 you need to stand and kind of stretch your back, stretch your

16 legs. You are more than welcome to stand at any point if you

17 just need to move around, stretch your legs. You're free to

18 stand right where you are. If you need a break at any time,

19 just get my attention or get the attention of one of the

20 bailiffs and we'll take a break if you are needing a break,

21 we're glad to do that.

22 So again, if you'll select a foreperson, just at the next

23 break.

24 Any objections or additional comments?

25 MR. YOUNG: None, Your Honor.

1 MR. MEADORS: None.

2 THE COURT: Okay. If you'll swear the jury?

3 THE BAILIFF: May I please the Court, Your Honor?

4 THE COURT: Yes, sir.

5 (Jury sworn)

6 THE BAILIFF: You may be seated.

7 Your Honor, the jurors have been sworn.

8 THE COURT: Thank you, sir.

9 Okay, Mr. Meadors?

10 MR. MEADORS: May it please the Court, Mr. Young, Mr.
11 Warr.

12 OPENING

13 MR. MEADORS: Gregory Middleton is dead. Gregory
14 Middleton is dead. He did nothing wrong. He did nothing
15 wrong. He's dead. He went to the aid of Michael Rogers who'd
16 been shot. He went to the aid to help him after he's been
17 shot. And about the same time, Joquell Myers is coming around
18 the side of Sunoco, firing, firing, firing. Gregory
19 Middleton's hit in his arm and in his chest and he dies.

20 Shortly thereafter, Michael Lucas driving away in a red
21 Charger, shortly after Michael Rogers was shot, is driving
22 away and Joquell Myers is firing and firing and firing at
23 Michael Lucas in a red Charger as he drives away -- as he
24 leaves.

25 Short while after that, Joquell Myers, Diontrae Epps, and

1 two other individuals are leaving Sunoco and they stop as
2 Christopher Fordham is trying to pull Michael Rogers away and
3 a shot is fired from that vehicle at Michael Rogers that hits
4 Christopher Fordham who was trying to take Michael Rogers out
5 of the firing, out of the gunshots.

6 That's what this case is about, ladies and gentlemen.
7 The murder of Gregory Middleton, the attempted murder of
8 Michael Lucas, and the attempted murder of Christopher
9 Fordham.

10 Now, I want to say, good morning. Good morning.

11 IN UNISON: Good morning.

12 MR. MEADORS: Thank you all for being here. And I mean
13 that, thank you. Thank you all for being here. Thank you for
14 the attention that I know you're going to give me, you're
15 going to give Mr. Young, you're going to give Mr. Warr.

16 Being a juror is not easy as Her Honor said, but without
17 all of you, the system would fail. I heard a judge from
18 Columbia years ago say, and I believe this, we're in here
19 pretty much day in and day out, except the pandemic. That did
20 put us behind as Your Honor said yesterday. That's one reason
21 this case is so old. Court would just shut down, rightfully
22 so by the chief justice, I want the record to reflect. But it
23 was shut down, we couldn't try anything. We're trying cases
24 now. We'll catch up, but we're going through.

25 But we all realized then how important you are and what

1 that judge in Columbia said, we're doing this week in and week
2 out, but we get jurors who come in, it's almost like a game,
3 but I can assure you there's nothing -- this isn't a game.
4 The jurors come in, you're picked, who we all believe you'll
5 be fair and listen to the evidence.

6 And you're like the most valuable player that comes in
7 and decides the outcome. It's not a game, but you decide what
8 the result would be. That's why this system is so pure.
9 That's why we have the best judicial system in the world,
10 because citizens from this community are selected, come in,
11 and decide what the truth is and decide whether the State has
12 met its burden of beyond a reasonable doubt. And that's all
13 we can ask you, that's the judge is going to ask you, that's
14 all Mr. Young and Mr. Warr and I are going to ask you. So
15 thank you for being here and thank you for the attention.

16 Our clerk -- your clerk, Danny Campbell (phonetic),
17 handles something in almost every county in the state. And
18 I'm not just saying this because I'm here in front of him,
19 you've got the best clerk in the state. He cares about
20 keeping your schedule, he care about jurors, he does an
21 excellent job, but what Mr. Campbell can't do, and there
22 wasn't a pamphlet for you all when you were here yesterday
23 that says, hey, this is how you are -- this is what you're
24 supposed to do as a juror. This is how you're supposed to
25 act. There's not a pamphlet for that. That pamphlet, you

1 have been writing for yourself your whole life.

2 You have been preparing for this moment your whole life
3 and it's called life. It's your everyday experiences you have
4 with your spouse, with your children, with people you work
5 with, interactions, evaluating people, listening to people.
6 You're going to use those attributes and those skills you've
7 gathered through your life, collectively, and decide what the
8 truth is in this case. Isn't that beautiful? And that's what
9 you're going to do and we know you're all going to do it and
10 that's all we can ask. So thank you for being here.

11 Her Honor briefly mentioned in our -- I'm not sure, but I
12 want to briefly mention it and you all know what it is, the
13 burden on the State in this case is the same burden that's on
14 every case, every prosecutor across this country, it's beyond
15 a reasonable doubt.

16 We've got to prove the defendant guilty of murder,
17 attempted murder, attempted murder, possession of a firearm to
18 the commission of a line of crime, an unlawful carrying of a
19 pistol, beyond a reasonable doubt. Not beyond all doubt. The
20 law does not require that and the judge will tell you that in
21 the end. We wouldn't leave this courthouse if that's true.
22 But beyond a reasonable doubt, beyond a doubt that would make
23 reasonable -- reasonable folks hesitate to act. We'll talk
24 about that more in the end.

25 There's some other basic concepts, legal theories that

1 Her Honor has talked about and we'll fill you in more. This
2 right now is called opening statements. As Her Honor said, it
3 gives me a chance to give you an overview of what we believe
4 the evidence will show. It gives me a chance to briefly talk
5 about the law and briefly tell you what we think the evidence
6 will show. But the only evidence that counts here and the
7 only evidence you consider, is evidence that comes in through
8 witnesses at this witness stand or other recordings, pictures,
9 documents, that Her Honor finds are relevant, that she lets
10 in. That's all you can consider. And that's what the State
11 will be presenting today, tomorrow, Wednesday, maybe
12 Thursday -- excuse me, today, tomorrow, Thursday, for your
13 consideration.

14 What's one of the key concepts here, every case? Your
15 Honor mentioned it. And I submit in this case, this is as big
16 as important as any case I've ever tried. It's credibility,
17 believability. All I can do is ask you to listen, evaluate
18 the testimony you hear from the stand, evaluate testimony you
19 may hear from a recording. You decide what's credible and
20 what's believable. And then you decide if we've met our
21 burden, beyond a reasonable doubt. Credibility,
22 believability.

23 Ladies and gentlemen, there's some other concepts Your
24 Honor will tell and has told you, will tell you again. The
25 State will submit what's called direct evidence. Evidence

1 that a person perceives with one of their senses. They heard
2 it, they saw it, they felt it, they touched it, they smelled
3 it, and then they come in here and tell you this is what I
4 heard, felt, saw, touched, direct evidence. I saw this and
5 I'm telling you, you all decide if it's true, but that's
6 direct evidence.

7 Circumstantial evidence is proof of a fact and another
8 fact which leads to a fact in question. Both of them are just
9 as strong. The old example, we went to bed last night and it
10 wasn't snowing. You wake up this morning and there's snow on
11 the ground. You know it snowed, you didn't see it. They'll
12 be some examples of circumstantial evidence in this case.

13 There's going to be documentary evidence. There's an
14 audio recording of the defendant's statement to law
15 enforcement you're going to hear and you'll be able to
16 evaluate. You'll hear that this afternoon or tomorrow or
17 maybe both.

18 There's some other concepts you're going to hear about,
19 the hand of one is the hand of all. If you're acting in
20 concert with other individuals and a result happens, you're
21 just as guilty as they are, whether you fired the shot or not.
22 Mutual combat may be something that you'll consider. Two or
23 more persons are engaged in a combat where it's reckless,
24 shootout, total depraved heart of what happens and where the
25 bullets go. You may be able to consider under mutual combat

1 that they're all guilty when an innocent bystander gets shot
2 who wasn't involved in the melee.

3 All these concepts you may be able to consider, hand on
4 hand of all, mutual combat. It's going to be up to you. It's
5 going to be your decision based on the law the judge gives you
6 and what you decide the truth is.

7 Ladies and gentlemen, I'm here today -- I just left this
8 out -- representing -- honorably representing your elected
9 solicitor, Earnest A. "Chip" Finney III, with senior assistant
10 solicitor, William Jason Corbett, representing the Sumter
11 Police Department with Chief Roark and all his staff. And
12 you'll meet some of those during this trial. And the family,
13 Lavandia Wilson and their family, representing Gregory
14 Milton -- Middleton. I'm here representing them today.

15 Now, folks, we see stuff on TV and you think, well, this
16 case would last forever. This case will finish this week, but
17 the fact that it's a short case, does not take away from the
18 importance of this case. This case, this week, is as
19 important a case that will be tried in this country, this
20 week. And that's the truth. It's important to Mr. Myers and
21 it's important to Gregory Middleton's family, it's important
22 to the State. So don't let the fact we'll finish this week
23 take away from that. Some of you may think that's a long
24 time, but we'll finish this week.

25 So what happened? We believe the evidence will show and

1 we will take you back to around 1 o'clock in the morning on
2 September 8th of 2019. A little over three miles from where
3 you're sitting right now, 1083 Broad Street. It's the Sunoco,
4 also called the hop in on the right, right before Wendy's as
5 you're heading out of town. We believe the evidence will show
6 that there was a dispute between an individual who got shot
7 and killed, Michael Rogers, and a fellow named Diontrae Epps
8 and Joquell Myers.

9 And we believe the evidence will show that around 1
10 o'clock in the morning on September 8th of 2019, Mr. Epps, Mr.
11 Myers, some other individuals were at Sunoco, that the victim,
12 Gregory Middleton, was at Sunoco. And that Michael Rogers and
13 Michael Lucas, Timothy Scarborough, and another individual
14 came in, in a red Charger. Actually, backed their car in, in
15 front of the Sunoco. So if they were backed in, the Wendy's
16 is on the right, the Rite Aid would be on the left, Broad
17 Street would be in front.

18 Shortly after that, around 1 a.m., there's a
19 confrontation between Diontrae Epps and Michael Rogers. We
20 believe the evidence will show that Diontrae Epps swang at
21 Michael Rogers, then pulled out a gun and started shooting at
22 Michael Rogers and shot and killed Michael Rogers. Now,
23 Michael Rogers -- excuse me, Diontrae Epps is a codefendant in
24 this case. His day in court will come later. This week, this
25 day, is Lavandia Wilson's family's day in court and Mr. Myers'

1 day in court. But to tell the story, we have to tell the
2 whole story for you to see the whole picture.

3 As Diontrae Epps is firing at Michael Rogers, Michael
4 Rogers is going back. Michael Rogers at some point pulls a
5 gun out and you see his gun going out. We believe the
6 evidence will show he fired several times, but he's downed,
7 he's on the ground. And that's when Gregory Middleton,
8 nothing wrong, goes to aid Michael Rogers. Red Charger's
9 blocking his -- kind of protecting him right now, we think the
10 evidence will show. It's where Michael Lucas is. As he's
11 doing that, at about the same time, Joquell Myers comes around
12 from the Sunoco side, fires, fires, fires. We submit the
13 evidence will show he was firing at Michael Rogers who was
14 being helped by Gregory Middleton.

15 At that time after that, we think the evidence will show
16 the red Charger driven by Michael Lucas, that Michael Rogers
17 came in and some other individuals left. Actually, hits
18 Michael Rogers when he's on the ground, but he's leaving this
19 gun battle. It's a gun fight, folks we're going to take you
20 and take you to a gun battle at 1083 Sunoco at the hop in.
21 But Michael Lewis -- Michael Lucas leaves. As he's leaving,
22 we believe the evidence will show that Joquell Myers is firing
23 at him, firing. He leaves. Doesn't get any more serious than
24 this. We believe the evidence will show a short while after
25 that, a car that has Diontrae Epps, Joquell Myers, they're

1 related, and two other individuals is leaving the front of the
2 Sunoco.

3 And now Christopher Fordham comes in and he's trying to
4 help Michael Rogers and the car stops. And a shot comes from
5 that vehicle, we submit aimed at Michael Rogers, trying to
6 finish him off, and it hits Christopher Fordham about here.

7 The car then heads to Tuomey Hospital. Now, you say,
8 solicitor, how you know all that? We're going to present a
9 video to you and it's going to show, you're going to be able
10 to see and then you'll decide what happened. A video that
11 shows leading up to 1 o'clock on September 8th, the tension,
12 the atmosphere, and then the gun battle. And when the smoke
13 cleared, there were two dead, one on the way to the hospital,
14 and approximately 50 shell casings in and around the Sunoco
15 parking lot.

16 The Sumter Police Department responds. Great response
17 time. They get to the scene, they're two down. Mr. Middleton
18 has crawled into a car, you'll see that. He's dead. Michael
19 Rogers is outside of that car, you'll see that. He's dead.
20 Law enforcement begins processing the scene. You're going to
21 hear Amanda Snapp and Jason Corbett, probably staying close to
22 a day, going over a crime scene, showing you where shell
23 casings were, what time of gun shot him, potentially. But
24 they're going to take you through the crime scene, show you
25 what the crime scene was, what she gathered, along with James

1 Kearney of the Sumter Police Department.

2 Law enforcement develops Mr. Epps and Mr. Myers as a
3 suspect. On September 25th of 2019, William McFadden, the
4 lead detective -- raise your hand, Det. McFadden -- and
5 Natalie Kelly -- Ms. Kelly, would you mind raising your
6 hand -- talked to Mr. Myers.

7 And I want to say something here at this point, Your
8 Honor has initially ruled that we can present this case -- the
9 statement to you. It will ultimately be your decision to
10 decide, was this statement freely and voluntarily given.
11 We're going to go through that. His Miranda rights were read
12 to him on 25th and on the 26th. That'll be your decision to
13 decide the statement's freely and voluntarily given.

14 And he gave an audio statement, which you're going to be
15 able to hear, maybe starting this afternoon, maybe tomorrow.
16 And we believe the audio statement will show that Mr. Myers
17 initially said, I didn't shoot. Credibility, believability.
18 I didn't shoot. And then we believe it'll show that he said,
19 well, I'm big, I'm 6'3", 428. I don't need to shoot, I fight.
20 I'm a fighter. If I'd had a gun, why would I have run? And
21 then believe the evidence will show, when he's confronted by
22 these fine officers with the evidence, well, okay, I shot, but
23 I didn't know -- I didn't know that -- I didn't know
24 Middleton. And I got -- Middleton was cool, I didn't know he
25 was there. But okay, I shot him.

1 And folks, I believe you'll hear that he said, okay, all
2 right, I shot at that red Charger. I'll take the attempted
3 murder. I'll take that. I'll take the attempted murder, but
4 I didn't shoot no one. I shot at the Charger. Credibility,
5 believability. Listen to his statement as he goes through it.
6 This case is an intent case. I didn't intentionally do this,
7 but I'm glad I did now.

8 What are the elements? He's charged with malice, murder.
9 Murder is the unlawful killing of an individual with malice or
10 forethought. What's malice? You've all heard it. You can
11 almost feel that word, can't you? Malice is a meanness, a
12 evilness, a spitefulness, one person shows to another. It can
13 be expressed, it can inferred under the circumstances.
14 Multiple shots, shootout at a convenient store where people
15 are pumping gas and going in to get food and beverages.
16 Malice, meanness, that's what we've got to prove. Malice can
17 be direct, it can be inferred. Hand of one, hand of all,
18 mutual combat, several ways to show malice. We going to argue
19 these in our closing. Attempted murder.

20 The other charge we have is he's charged with possession
21 of a weapon during a violent crime. If you find that he's
22 guilty of murder or some lesser offense, then you'd be able to
23 consider, was he also possessing a weapon during that violent
24 crime? That'll be up to you. Attempted murder.

25 And this is a case where the State must prove specific

1 intent. You intended to kill somebody. Attempted to kill
2 somebody. Attempted to with specific intent. Thank God, no
3 more than two died. In this case, he's accused of killing
4 one. Specific intent to kill; how do you show that? Well,
5 you can't open up somebody's brain and look in there even with
6 all this technology we got, so you look at the surrounding
7 circumstances. And the law says you can consider the rounding
8 circumstances, but you can also consider, and the best
9 evidence of, is direct evidence of intent.

10 He told the officers, I intended to kill Lucas. I'll
11 take the attempted murder. And I'll argue more or we'll be
12 arguing in our closing, intent's out there. And that intent
13 can go to the murder, the other attempted murder, I'll take
14 the attempted murder.

15 And he's also charged with the attempted murder of
16 Christopher Fordham with a specific intent to kill --
17 attempted to kill Christopher Fordham. And that's where he's
18 in the car with three other individuals. You're going to see
19 it on video. And a shot comes from that car and hits
20 Christopher Fordham. Aiming at Michael Rogers, we submit, it
21 hits Christopher Fordham. We believe under the law,
22 transferred intent in that circumstance, a zone of danger,
23 you'll be able to consider he -- whether he's guilty of
24 Christopher Fordham for attempted murder, whether he fired the
25 shot or not. And I'll be arguing and we'll be arguing that in

1 our closing.

2 I apologize if I talk too long, but this is a case that's
3 it's tough to give an opening on. But we believe that's what
4 the evidence will show. And you're going to hear from some
5 witnesses and I want you to watch them. And you're going to
6 hear from some who may be reluctant to testify. You wonder
7 why. But listen to these witnesses, watch their demeanor.
8 Listen to all the evidence and we respectfully submit, ladies
9 and gentlemen, and again, thank you for being here.

10 After you've heard all the evidence, we're going to ask
11 you to return a verdict that says on September 8th, 2019,
12 Joquell Myers is guilty of the murder of Gregory Middleton,
13 the attempted murder of Michael Lewis, and the attempted
14 murder of Christopher Fordham. Thank you.

15 THE COURT: Thank you, Mr. Meadors.

16 Mr. Young?

17 MR. YOUNG: Yes, ma'am. Your Honor, I have difficulty
18 standing for any period of time, do you mind if I sit at my
19 chair?

20 THE COURT: No problem at all.

21 MR. YOUNG: Okay.

22 OPENING

23 MR. YOUNG: Good morning, ladies and gentlemen.

24 IN UNISON: Good morning.

25 MR. YOUNG: They brought their oldest and most trusted

1 and most experienced prosecutor in order to prosecute this
2 against my client. And they should, they're going to need it.

3 I can't believe that people can look at the same video
4 and listen to the same audio and come away with such
5 completely different interpretations of what you hear and what
6 you see. We've heard that audio of the interrogation of my
7 client. He says, I didn't kill anybody, I didn't shoot
8 anybody, over and over and over again. And that's what you'll
9 hear tomorrow or this afternoon, whenever they decide to play
10 it.

11 I've always wanted to tell a jury this, my client says,
12 man, you've got the wrong fellow. You've got the wrong dude
13 or dude, you've got the wrong man. Because they do have the
14 wrong man. The best thing that my client has going for him in
15 this situation is the video, which you're going to see from
16 two different cameras.

17 Let me deal with Middleton first, but one of things that
18 I think it was left out of here, and this is why you got to
19 get the whole picture, how this thing started. At the Sunoco
20 station, early in the morning, they're getting ready to go to
21 a show across the street; it's a club. Everything is fine
22 until the red Charger shows up and that's Mr. Rogers.

23 And what you're going to see and what you're going to
24 find out is Rogers gets out of the car and Mr. Epps and he
25 start fighting. Rogers is the one who pulled the pistol.

1 Rogers is the one who shot first. Epps fires back. Epps is
2 shot in the stomach, right there. He's on the ground,
3 bleeding. You didn't hear that a minute ago. Wonder why?
4 They don't want you to hear that part. Rogers started this.
5 Everybody was cool and chilling to go across the street, until
6 the red Charger shows up. That's when it all started with
7 guns hanging out the door and everything else.

8 Watch the video. You'll see my client come around the
9 corner. You'll see him check his brother who's down on the
10 ground, wounded. You will see Middleton out in the parking
11 lot there and you'll see him get hit. You'll see him go down.
12 You will see him literally crawl to the car that he gets into.
13 Watch the video and watch the timing and watch my client's
14 hand. When Middleton goes down, the first shot has not come
15 from my client's gun.

16 They got an evidence problem there because of timing and
17 you'll see that on the video. It's physically impossible for
18 my client to have shot Middleton. From a time standpoint
19 because he was shot in the chest and his back was towards my
20 client and the wrist shot. No, it didn't happen. My client
21 did not shoot Middleton. And that video will prove that.
22 They'll prove it for us when they show it to you. Did he
23 shoot at the red car? Yes. He did shoot at the red car to
24 get it out of there, because that's the car that caused all
25 the trouble to begin with and started all this.

1 But to take the next one, which he claims he shot as they
2 were leaving. No. Again, the video comes to the aid of my
3 client. Because what you'll find out during this trial is
4 that my client takes his brother, who's wounded, puts him in
5 the front seat, holds his hand over the wound from the back
6 seat passenger side. They're leaving and you'll see, from
7 that car, the driver reach out and shoot. That's where that
8 other shot comes from.

9 The only thing my client was interested in at that moment
10 in time was to get his brother to Toumey Hospital. That's it.
11 You'll see them at Toumey Hospital getting out of the car.

12 Is this a perfect situation? No. Is this something that
13 shouldn't happen in our community? Yes, this is something
14 that should not happen in our community. And it's a shame
15 that it had to happen this way. But I understand law
16 enforcement has got to find somebody and pin the tail on the
17 donkey on somebody. But they pin the tail on the wrong donkey
18 this time. Joquell Myers is not guilty of these things.

19 You asked about the pistol. The pistol was out there
20 lawfully. He had every right and every reason to pull the
21 pistol out of its lawful place to engage these people who just
22 shot his brother and come to his defense. He had that right.
23 We all have that right to come to the aid of someone like
24 that.

25 We look forward to trying this with you. It's going to

1 be a bit longer than I think you were led to believe but by
2 the same token. Watch the videos carefully. Watch the timing
3 on the video. They can't change that. And you'll notice
4 Middleton goes down before Joquell fires the first shot.
5 You'll see that. Okay? Stick with me on that. Watch it.
6 The entire interview that they have with him is I didn't shoot
7 anybody. I didn't hurt anybody. I didn't kill anybody.
8 Because he didn't kill anybody. He didn't shoot anybody. He
9 shot a car. Yes, he did. These indictments here, every one
10 of them, they can't prove the case beyond a reasonable doubt.
11 And I submit that when the end of this trial, all of them, not
12 guilty. That's what we'll show you. Thank you.

13 THE COURT: Thank you, Mr. Young. Okay, Mr. Meadors.

14 MR. MEADORS: May it please the Court, the State calls
15 Shirlene Skipper.

16 THE DEPUTY CLERK: State your name.

17 THE WITNESS: Shirlene Skipper.

18 SHIRLENE SKIPPER, after being duly sworn, testified
19 as follows:

20 THE DEPUTY CLERK: Thank you, ma'am. Step around,
21 please. Watch your step over here. State your name for the
22 record and spell your last name please.

23 THE WITNESS: Shirlene Skipper, S-K-I-P-P-E-R.

24 MR. YOUNG: That's fine. No problem.

25 DIRECT EXAMINATION

1 BY MR. MEADORS:

2 Q Ms. Skipper.

3 A Morning.

4 Q Good morning. Tell these folks what you do.

5 A I'm the 911 emergency service director.

6 Q And what does that mean?

7 A That me and my staff answer 911 and nonemergency calls.
8 We dispatch fire, EMS, all law enforcement for Sumter City and
9 County.

10 Q And as a part of that role, is it fair to say you're the
11 custodian of the records of 911?

12 A Yes, that's accurate.

13 MR. MEADORS: Your Honor, I showed this to Mr. Young.
14 This is States 4 and is 911 calls that are put on a disk and
15 we are now going to offer it through Ms. Skipper's as the
16 custodian of the records of 911.

17 MR. YOUNG: No objection.

18 THE COURT: That's State's Exhibit 1?

19 MR. MEADORS: 4.

20 THE COURT: Okay, it is admitted.

21 (WHEREUPON, State's Exhibit No. 4 was received into
22 evidence.)

23 MR. MEADORS: With the Court's permission, we asked that
24 the calls be published?

25 THE COURT: Yes, sir.

1 (Thereupon, the audio recording was played and
2 transcribed to the best of the transcriber's ability.)
3 UNIDENTIFIED SPEAKER: Hello, I'm calling from the Sunoco
4 on Broad Street.
5 911 OPERATOR: What's going on over there?
6 UNIDENTIFIED SPEAKER: (Indiscernible) outside the store
7 (indiscernible). If you can help them, too.
8 911 OPERATOR: All right. Is this Mr. Patel?
9 UNIDENTIFIED SPEAKER: No, this is Charlie. I'm the
10 (indiscernible) at the store.
11 911 OPERATOR: All right, Charlie, I'll get somebody over
12 there.
13 UNIDENTIFIED SPEAKER: Yeah, (indiscernible) outside, you
14 know.
15 911 OPERATOR: All right. Not a problem.
16 (indiscernible).
17 (Thereupon, the audio recording ended.)
18 (Thereupon, the audio recording was played and
19 transcribed to the best of the transcriber's ability.)
20 911 OPERATOR: Sumter 911.
21 UNIDENTIFIED SPEAKER: (Indiscernible).
22 911 OPERATOR: At the Hop In?
23 UNIDENTIFIED SPEAKER: Yeah. (Indiscernible).
24 911 OPERATOR: What did they look like?
25 UNIDENTIFIED SPEAKER: We're just at the Sunoco gas

1 station.

2 911 OPERATOR: Who's shooting.

3 UNIDENTIFIED SPEAKER: At the Sunoco gas station at Broad
4 Street by Wendys.

5 911 OPERATOR: I understand that. Who is shooting.

6 UNIDENTIFIED SPEAKER: It was a group of people over
7 there. (Indiscernible). (Indiscernible). Somebody got hit.

8 911 OPERATOR: Okay. Okay. Stay with me. Okay. Tell
9 me what's going on. Who is on the ground?

10 UNIDENTIFIED SPEAKER: I really can't tell.
11 (Indiscernible) in the store.

12 911 OPERATOR: You're at the Wendys?

13 UNIDENTIFIED SPEAKER: Yes, ma'am, but they are shooting
14 (indiscernible). Somebody (indiscernible) got hit.
15 (indiscernible).

16 911 OPERATOR: I need y'all to stay away from the windows
17 and stay safe where you are behind the counter. Okay? What's
18 your name, hun?

19 UNIDENTIFIED SPEAKER: Jasmine (phonetic).

20 911 OPERATOR: Jasmine? Okay. I need you all to make
21 sure everybody is safe and keep them inside. Okay?

22 UNIDENTIFIED SPEAKER: All right. All right.

23 911 OPERATOR: Thank you. Bye-bye.

24 UNIDENTIFIED SPEAKER: All right.

25 (Thereupon, the audio recording ended.)

1 (Thereupon, the audio recording was played and
2 transcribed to the best of the transcriber's ability.) 911

3 OPERATOR: 911?

4 UNIDENTIFIED SPEAKER: (Indiscernible) gas station.
5 (Indiscernible) remember the name of the gas station. It's
6 right beside the mall.

7 911 OPERATOR: Okay. What's your name, sir?

8 UNIDENTIFIED SPEAKER: (Indiscernible). I just heard
9 (indiscernible). They're still shooting everywhere.

10 911 OPERATOR: Okay. That's by the Sunoco, the Hop In?

11 UNIDENTIFIED SPEAKER: Yeah.

12 911 OPERATOR: How many shots did you hear?

13 UNIDENTIFIED SPEAKER: I -- it's been over a dozen and a
14 bunch of people just (indiscernible) car and they taking off
15 (indiscernible).

16 911 OPERATOR: What color's the car?

17 UNIDENTIFIED SPEAKER: It's a silver, gray looking four-
18 door car. It's an older model car. They going through the
19 mall parking lot now.

20 911 OPERATOR: Let me tell them. Hold on.

21 UNIDENTIFIED SPEAKER: (Indiscernible) parking lot.
22 (Indiscernible). I see cars (indiscernible).

23 911 OPERATOR: Can you still see that silver car?

24 UNIDENTIFIED SPEAKER: No, it's gone. (Indiscernible).

25 911 OPERATOR: There's multiple units coming. Okay?

1 UNIDENTIFIED SPEAKER: Okay. I'm in the parking lot of
2 the mall and I just heard (indiscernible) cars and people
3 running everywhere.

4 911 OPERATOR: Okay. I'll let them know. Okay?

5 UNIDENTIFIED SPEAKER: All right. Thank you, ma'am.

6 911 OPERATOR: Thank you. You're welcome. Bye-bye.

7 UNIDENTIFIED SPEAKER: (Indiscernible).

8 (Thereupon, the audio recording ended.)

9 (Thereupon, the audio recording was played and
10 transcribed to the best of the transcriber's ability.)

11 911 OPERATOR: Sumter 911?

12 UNIDENTIFIED SPEAKER: (Indiscernible).

13 911 OPERATOR: They're on their way.

14 UNIDENTIFIED SPEAKER: I called (indiscernible).

15 911 OPERATOR: They're on their way. And you said
16 somebody's on the ground?

17 (Thereupon, the audio recording ended.)

18 (Thereupon, the audio recording was played and
19 transcribed to the best of the transcriber's ability.) 911

20 OPERATOR: Sumter 911?

21 UNIDENTIFIED SPEAKER: Yes, ma'am. I'm (indiscernible)
22 over here on (indiscernible) and -- and (indiscernible).

23 There -- somebody's shooting. I'll -- about 15 shots

24 (indiscernible) right up here. (Indiscernible) freaking me
25 out. Pow, pow, pow, pow.

1 911 OPERATOR: Okay. We've gotten calls on it ma'am.
2 UNIDENTIFIED SPEAKER: Okay.
3 911 OPERATOR: (Indiscernible). Thank you.
4 UNIDENTIFIED SPEAKER: (Indiscernible).
5 911 OPERATOR: You're welcome. Bye-bye.
6 (Thereupon, the audio recording ended.)
7 (Thereupon, the audio recording was played and
8 transcribed to the best of the transcriber's ability.) 911
9 OPERATOR: Sumter 911.
10 UNIDENTIFIED SPEAKER: Please, ma'am. I don't know
11 (indiscernible). And this man, somebody shoot him or
12 (indiscernible) something.
13 911 OPERATOR: Okay.
14 UNIDENTIFIED SPEAKER: He's laying on the ground. Please
15 hurry up.
16 911 OPERATOR: Okay. Ma'am. Ma'am.
17 UNIDENTIFIED SPEAKER: And he's (indiscernible). I'm at
18 the Sunoco.
19 911 OPERATOR: Yes, ma'am. Are you by him? Are you by
20 the man's that hurt?
21 UNIDENTIFIED SPEAKER: (Indiscernible, simultaneous
22 speech).
23 911 OPERATOR: Is he bleeding? (Indiscernible).
24 UNIDENTIFIED SPEAKER: Yes.
25 911 OPERATOR: Can you -- can you find something to put

1 on the wound to keep it from bleeding?

2 UNIDENTIFIED SPEAKER: I don't know. No. No. I'm just
3 trying to make him be all right. (Indiscernible). The cops
4 are coming. The cops (indiscernible). (Indiscernible) cops
5 coming.

6 911 OPERATOR: Okay.

7 UNIDENTIFIED SPEAKER: He can't even hardly breathe.

8 911 OPERATOR: Okay. I'll get -- I'll get.

9 UNIDENTIFIED SPEAKER: (Indiscernible).

10 911 OPERATOR: All right.

11 UNIDENTIFIED SPEAKER: (Indiscernible) here.

12 911 OPERATOR: Okay. Okay.

13 UNIDENTIFIED SPEAKER: Don't leave me. Okay?

14 911 OPERATOR: Just keep talking to him. Keep talking to
15 him, hun.

16 UNIDENTIFIED SPEAKER: (Indiscernible). Don't leave me.
17 Okay. Just (indiscernible). You hear me? Stay alive. You
18 hear me. (Indiscernible).

19 911 OPERATOR: Ma'am?

20 UNIDENTIFIED SPEAKER: (Indiscernible). Chill out.

21 (Indiscernible). Just do it. Okay? The officer's are here.
22 Okay?

23 911 OPERATOR: All right, then. All right.

24 UNIDENTIFIED SPEAKER: Okay.

25 911 OPERATOR: All right. Bye.

1 (Thereupon, the audio recording ended.)

2 (Thereupon, the audio recording was played and
3 transcribed to the best of the transcriber's ability.) 911

4 OPERATOR: Sumter 911.

5 UNIDENTIFIED SPEAKER: Yes, hi. I'm an Uber driver and I
6 was just about to pull up at Marcos Pizza, and there's a
7 shooting going on right by the Sunoco gas station.

8 911 OPERATOR: Okay.

9 UNIDENTIFIED SPEAKER: I don't know if it's coming out of
10 cars, but there's cars fleeing all over the place.

11 911 OPERATOR: All right. I'll let them know.

12 (Thereupon, the audio recording ended.)

13 (Thereupon, the audio recording was played and
14 transcribed to the best of the transcriber's ability.) 911

15 OPERATOR: Sumter 911.

16 UNIDENTIFIED SPEAKER: Yes, ma'am. I called about that
17 shooting at the Sunoco I just past. Someone's one the ground.
18 Someone's hit.

19 911 OPERATOR: We have the ambulance --

20 UNIDENTIFIED SPEAKER: We need an ambulance.

21 911 OPERATOR: They're en route.

22 UNIDENTIFIED SPEAKER: All right. Thank you.

23 (Thereupon, the audio recording ended.)

24 MR. MEADORS: I thank the Court's indulgence.

25 BY MR. MEADORS:

1 Q Do you have the time of the calls with you, Ms. Skipper?

2 A Yes, sir.

3 Q Okay. Can you tell us that when the first call came in,
4 please, ma'am?

5 A The very first call where the store clerk called and said
6 he had a large crowd.

7 Q Right.

8 A Was 01:00:18 seconds.

9 Q So is that 1 a.m.?

10 A Yes, it is.

11 Q Okay, and was that -- what date would that be?

12 A This was on September 8th of 2019.

13 Q Okay, and when was the second call that came in?

14 A At 01, 03:15 seconds later.

15 Q And then the call after that?

16 A There was multiple after that on top of each other, 3 and
17 27 seconds, 4 minutes and 43 seconds, so forth.

18 MR. MEADORS: I thank the Court's indulgence.

19 Q Do you have with you -- and if you don't, it's not your
20 fault -- when the law enforcement arrived?

21 A First officer arrived on scene at 01:06:37 seconds. So
22 it would have been 6 -- 1:06 a.m.

23 Q And that's the first officer arriving at the Sunoco?

24 A First officer notified us that he was on scene.

25 Q And again, I apologize, Ms. Skipper, do your records

1 reflect as a custodian of calls from Toumey Hospital?

2 A Yes, sir. There was a call. Let me find it. We did
3 notate that we got a call from the emergency room at 0120, so
4 it would have been 1:20 a.m. that they had two gunshot victims
5 and another was covered in blood in their emergency room.

6 Q And that's from Toumey to 911?

7 A Yes, sir.

8 Q Okay. And is that standard practice or is that --

9 A Yes, sir.

10 Q Okay.

11 A As soon as somebody -- yes, that is standard practice.

12 MR. MEADORS: That's all. Thank you.

13 THE COURT: Mr. Young?

14 MR. YOUNG: If it please the Court.

15 CROSS-EXAMINATION

16 BY MR. YOUNG:

17 Q Ms. Skipper, in these 911 calls, isn't it true that you
18 also had a call that reported that a red Charger was shooting?

19 A We had a off duty officer that was working security
20 found -- noted that he reported a red Charger was leaving the
21 scene and headed toward Brewers.

22 Q Let me show you this.

23 A Okay.

24 Q Did that call come in at 1:05:14?

25 A I have it as 1:06:44.

1 Q Okay. Does that say also a red Charger is shooting?

2 A Yes, sir, it does.

3 Q Okay. So you got a report from an off-duty police
4 officer reporting that he witnessed a red -- gunfire coming
5 out of the red Charger?

6 MR. MEADORS: Objection --

7 A No, sir. That's not what it notes. My dispatcher wrote
8 a red Charger going 10/8, which means leaving, headed toward
9 Brewers.

10 Q Okay.

11 A But there was not anything about shooting in the
12 comments.

13 Q Charger shooting? Red Charger shooting?

14 A Not in the -- not in the comments, no.

15 Q Okay. And who took that call?

16 A It's notated that Kevin Brooks (phonetic) -- dispatcher
17 Kevin Brooks, typed it in the call.

18 Q Okay. One second, please.

19 MR. YOUNG: Would y'all play that call?

20 MR. MEADORS: Your Honor, we'd be happy to. That just
21 goes beyond the 911 testimonial. We didn't think it was
22 appropriate under the -- we wanted to play it if they have no
23 objection.

24 MR. YOUNG: I'm asking for it.

25 THE COURT: Sure.

1 MR. MEADORS: It goes beyond the -- it's an off-duty
2 deputy, but that's fine.

3 MR. YOUNG: That's fine.

4 THE COURT: Okay.

5 (Thereupon, the audio recording was played and
6 transcribed to the best of the transcriber's ability.)

7 911 OPERATOR: Sumter Law Enforcement. How can I help
8 you?

9 UNIDENTIFIED SPEAKER: Hey it's (indiscernible).

10 911 OPERATOR: Yes, sir.

11 UNIDENTIFIED SPEAKER: We just had a 1075 at Beacon
12 Theatre and Sonic. There's three cars sitting there in the
13 Beacon parking lot. It's a red car. I -- I can't the 28
14 (indiscernible), but they pulled after we heard all the
15 gunshots, like multiple -- like --

16 911 OPERATOR: (Indiscernible).

17 UNIDENTIFIED SPEAKER: And they -- they're hopping in
18 their car now (indiscernible). (Indiscernible) bullet holes
19 all in the side of their car.

20 911 OPERATOR: Okay. (Indiscernible) did the shooting
21 happen at the Beacon as well or no?

22 UNIDENTIFIED SPEAKER: They were shooting at Sonic, I
23 think, because we could hear all the gunshots and then we saw
24 cars (indiscernible). And then the three cars that got shot
25 at, pulled into hear and we could hear them talking and

1 (indiscernible). They shot my (indiscernible). They shot my
2 car. Now, they're (indiscernible).

3 911 OPERATOR: (Indiscernible).

4 UNIDENTIFIED SPEAKER: Yeah, the -- the cars that were
5 shooting (indiscernible) went towards Brewers.

6 911 OPERATOR: (Indiscernible).

7 UNIDENTIFIED SPEAKER: (Indiscernible).

8 911 OPERATOR: Did (indiscernible) vehicle?

9 UNIDENTIFIED SPEAKER: Yeah.

10 911 OPERATOR: (Indiscernible).

11 UNIDENTIFIED SPEAKER: Yeah, one was a red charger, but
12 the car that got shot (indiscernible) -- one of the cars that
13 got shot, looked like it (indiscernible) turned into the bank
14 right there on the corner (indiscernible) over there.

15 911 OPERATOR: (Indiscernible) hold on just a second.

16 UNIDENTIFIED SPEAKER: (Indiscernible).

17 911 OPERATOR: Yeah, we got -- we got (indiscernible).

18 Hold on just a second. (Indiscernible).

19 UNIDENTIFIED SPEAKER: Yeah, if you get a unit to come up
20 here, I will give them a description (indiscernible).

21 911 OPERATOR: Sure. Okay. I'll (indiscernible) now.
22 (Indiscernible).

23 UNIDENTIFIED SPEAKER: Oh my goodness. (Indiscernible).

24 911 OPERATOR: (Indiscernible).

25 UNIDENTIFIED SPEAKER: It was pretty bad.

1 911 OPERATOR: Yeah. We were getting blown up. We're
2 still getting blown up.

3 UNIDENTIFIED SPEAKER: (Indiscernible).

4 911 OPERATOR: (Indiscernible).

5 UNIDENTIFIED SPEAKER: (Indiscernible) at least 20 to 30
6 rounds coming out of there.

7 911 OPERATOR: Good God.

8 UNIDENTIFIED SPEAKER: (Indiscernible). Multiple cars
9 there. There wasn't just one car. It was like four or five
10 cars shooting.

11 911 OPERATOR: Okay. (Indiscernible).

12 UNIDENTIFIED SPEAKER: (Indiscernible) 20 to 30 shots.

13 911 OPERATOR: (Indiscernible). Well, I'll let them know
14 that you can give them descriptions as well. But I've got
15 what you told me in here so far.

16 UNIDENTIFIED SPEAKER: 10/4

17 911 OPERATOR: All right. I appreciate it.

18 (Thereupon, the audio recording ended.)

19 MR. YOUNG: Thank you.

20 MR. MEADORS: Your Honor, I would like the record to
21 reflect that was defense that wanted that in.

22 We had not offered it because we didn't think it met the
23 excited utterance, but anyway.

24 MR. YOUNG: I wanted it in, I wanted the jury to hear it.

25 MR. MEADORS: So did I, but it wasn't under the rules.

1 Thank you.

2 THE COURT: Thank you.

3 Any redirect for Ms. Skipper?

4 MR. MEADORS: No, ma'am. Thank you.

5 THE COURT: Thank you, ma'am. You can step down.

6 THE WITNESS: Can I be excused?

7 THE COURT: Okay. Any objection to her being excused.

8 MR. MEADORS: Wait, Your Honor, did he offer that call,
9 since he played it, into evidence? Because he needs to offer
10 that. He said he wanted it in evidence.

11 MR. YOUNG: I'll offer it at the time it's appropriate,
12 which would be in my case.

13 MR. MEADORS: Actually, Your Honor, he played it. I
14 think he's got to offer it.

15 THE COURT: I'll get y'all to approach for a minute, if
16 you don't mind, please.

17 (Whereupon, a bench conference was held off the record in
18 the presence of the jury, but out of the hearing of the
19 jury.)

20 (Thereupon, counsel returned to counsel tables and the
21 following ensued:)

22 (Open court.)

23 THE COURT: Okay. Thank you, ma'am. You can step down.
24 Any objection to her being excused?

25 MR. YOUNG: Not at this time. No, I don't mind.

1 MR. MEADORS: And Your Honor, we have no objection to
2 Defense 1 that's been entered.

3 (WHEREUPON, Defendant's Exhibit No. 1 was marked for
4 identification only.)

5 THE COURT: Okay. Thank you.

6 MR. YOUNG: Thank you. Thanks.

7 MR. MEADORS: Your Honor, it's 11:10. Can we please take
8 a break?

9 THE COURT: Sure. Ladies and gentlemen, I'm going to
10 excuse you back to the jury room. Please don't begin
11 discussing the case. We'll take about a ten-minute break.

12 (Whereupon, the jury exited the courtroom at 11:07 a.m.)

13 THE COURT: Okay. We'll be at recess.

14 MR. MEADORS: Thank you.

15 (Recess.)

16 (Whereupon, the jury came into open court at
17 approximately 11:32 a.m.)

18 THE BAILIFF: Jury's on the seat, Your Honor.

19 THE COURT: Okay. And I understand that you all have
20 selected Mr. Rogers as your foreperson. And is that you, Mr.
21 Rogers?

22 THE FOREPERSON: Yes. It is.

23 THE COURT: Thank you so much. Mr. Meadors?

24 MR. MEADORS: May it please Your Honor, the State of
25 South Carolina will now call Tyrek (phonetic) Archie.

1 Mr. Archie, if you could come up. I'm going to be in
2 your way. Stand right there.

3 THE BAILIFF: Place your left hand on the Bible. Raise
4 your right hand. State your name.

5 THE WITNESS: My name is Tyrek Archie.

6 TYREK ARCHIE, after being duly sworn, testified as
7 follows:

8 THE BAILIFF: Thank you much. (Indiscernible). All
9 right. State your name for the record, and spell your last
10 name, please.

11 THE WITNESS: My name is Tyrek Archie, A-R-C-H-I-E.

12 DIRECT EXAMINATION

13 BY MR. MEADORS:

14 Q And Mr. Archie, if you will just please speak up so the
15 court reporter can hear you.

16 A My name is Tyrek Archie. My last name is A-R-C-H-I-E.

17 Q Mr. Archie, would you please -- and I do this with every
18 witness. Would you tell the folks about you? Where are you
19 from?

20 A I'm from Sumter, South Carolina. I'm off of North Main.

21 Q So you're born and raised here?

22 A Yeah, born and raised.

23 Q Where'd you go to school?

24 A I went to Sumter High.

25 Q And when did you get out of Sumter High, Mr. Archie?

1 A I don't want to say it was 2016.

2 Q Okay. And what did you do after that?

3 A Off and on jobs, just trying to survive.

4 Q Okay. Can you if you don't mind tell me what kind of job
5 you had?

6 A I work for Santa Cruz Nutritionals, Coca-Cola. Just
7 random jobs. Not too many.

8 Q And what did you do for them?

9 A Worked. I drive forklifts, packing, multiple stuff.

10 Q And you're under subpoena today to be here, right?

11 A Yes, sir.

12 Q Mr. Archie, I want to ask you if I could take you back to
13 September 7th, September 8th of 2019, the Sunoco incident. Do
14 you know what I'm talking about?

15 A Yes, sir.

16 Q And did you have an occasion to go to the Sunoco either
17 on Friday evening the 7th or Saturday morning the 8th of 2019,
18 September?

19 A Yes, sir.

20 Q Okay. Would you please tell the ladies and gentlemen of
21 this jury how did you get there?

22 A Me -- a fellow homeboy -- a couple homeboys rolled up
23 there.

24 Q Can you tell me what car you were in?

25 A I want to say it was a 2000 -- either was '12 or '14 HEMI

1 Charger, red.

2 Q And I misunderstood what charger?

3 A R.T. -- A HEMI charge -- charger.

4 Q And is that a unique vehicle?

5 A It's a all right vehicle, nice muscle car.

6 Q I'm sorry, a what?

7 A I say it's a nice muscle car.

8 Q And when you say muscle car, what do you mean?

9 A I mean, like, motor, like, tweaked up a little bit.

10 Q So can you tell us who you were with when you got
11 there -- who you rode with there?

12 A I was with my homeboy, Michael Lucas, Donta -- no, not --
13 I wasn't with D-Black. I was with Timothy Scarbrough. And
14 y'all might know him as Killah Mike.

15 Q Is that Michael Rogers?

16 A Yes, sir.

17 Q And who's HEMI red car was it?

18 A Michael.

19 Q Michael Lucas?

20 A Yes, sir.

21 Q Okay. And who was driving?

22 A Michael Lucas.

23 Q Okay. And just for the record, we have to say this.
24 Where were you in the vehicle?

25 A Passenger seat.

1 Q So in the back was Michael "Killah" Rogers and Mr.
2 Scarborough?

3 A Yes, sir.

4 Q Can you tell these folks when you got there in the HEMI
5 red car, where the car parked?

6 A We parked directly in front of the store.

7 Q Had you been at the Sunoco before?

8 A Yeah, multiple times.

9 Q Was this a -- I don't know if I'm using the right
10 language -- a hangout or a place where --

11 A You could say it was a hangout, but it wasn't really a
12 hangout. But it was only hangout for certain occasions. Like
13 if we were going out or anything like that.

14 Q And do you remember what time that you got there in
15 those -- the HEMI charger got there?

16 A No. I can't give you a -- a right time.

17 Q Where had you been prior to that?

18 A I was that my homeboy house -- at Michael house -- Lucas.

19 Q Now, when you got -- and you said you parked where? And
20 I apologize.

21 A Directly in front of the store, like right in front of
22 it.

23 Q Did you go in or did Mr. Lucas go in front or did he back
24 in?

25 A Back in.

1 Q So you're at Sunoco, the Hop In. What happens after you
2 park or the cars park?

3 A When the car park, I got out the car. There's a whole
4 lot of people out the door. There was a lot of tension. I
5 got out of the car. I asked him, did we have a problem? Was
6 it a problem you pulling up here? Everybody just started
7 looking crazy. So -- and that -- in that situation, I could
8 just feel it, like the tension. So I braced myself for any --
9 to prepare for anything that was going to happen.

10 Q Did your car -- did you all squeal in it or anything
11 or --

12 A I mean, like I told you, it was a HEMI. So around --
13 like, I want to say it was a 7 point -- a 5.7 liter. So yeah,
14 it's a HEMI. So the wheels is going to spin. And they were
15 bald. So it wasn't --

16 Q That last part I didn't --

17 A They were bald tires. So they're going to --

18 Q So your testimony --

19 A -- skirt.

20 Q -- just parking it, it's naturally going to squeal a
21 little bit?

22 A Yeah.

23 Q So you get out. There's tension in the air. What
24 happens next?

25 A Altercations all over the board. I had a little

1 altercation, but it wasn't too serious. And I want to say,
2 like -- while I'm having my altercation, I want to say like,
3 two or three minutes later, shots just rang off.

4 Q Did you find that funny?

5 A No, sir.

6 Q Now, you had been in Solicitor Finney's office recently.
7 Did you have an occasion to view a video?

8 A Yes, sir.

9 Q Are you in that video?

10 A Yes, sir.

11 Q And does that video accurately reflect what you saw that
12 night?

13 A Yes, sir.

14 MR. MEADORS: I beg the Court's indulgence.

15 THE COURT: Um-hum.

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

17 At this time we are offering, without objection, State's 5,
18 which is a cell phone video taken at Sunoco on the morning of
19 September 8th, 2019, and also State's 6 and 7, which are the
20 Sunoco videos, and also a video from Rosic (phonetic), which
21 the parties have agreed to. And we'll put that on the record
22 at a later date.

23 THE COURT: And so you've got 5, 6, and 7?

24 MR. MEADORS: Yes, ma'am.

25 THE COURT: Without objection?

1 MR. WARR: No objection, Your Honor.

2 THE COURT: They are admitted.

3 (WHEREUPON, State's Exhibit Nos. 5, 6, and 7 were
4 received into evidence.)

5 MR. MEADORS: Let's play the cell phone first.

6 Q Is your monitor on? Can you see?.

7 A Oh, no.

8 MR. MEADORS: All right. Your Honor, I'm sorry. We
9 could turn the monitors on. I apologize.

10 THE COURT: Do we need to make sure their monitors are
11 on -- the jurors? Okay. Thank you.

12 MR. MEADORS: Everybody's on? And Your Honor, for the
13 record again, this is State's 5.

14 (Thereupon, the visual recording was played.)

15 UNIDENTIFIED SPEAKER: (Indiscernible) feeling. I going
16 to (indiscernible) another one. Oh, that's yellow.

17 Q Will you let me know when you see yourself?

18 UNIDENTIFIED SPEAKER: This shit about to get real.

19 Bubba (phonetic) over there. Look at Bubba just standing
20 there. Now, whatever (indiscernible) you all can. I'm about
21 to go stand over there by Ello (phonetic). Girl, I mean, I
22 don't see any truck -- oh it's getting real, you all. You
23 all -- where did you niggas come from?

24 UNIDENTIFIED SPEAKER 2: (Indiscernible).

25 UNIDENTIFIED SPEAKER: Oh, shit.

1 UNIDENTIFIED SPEAKER 3: (Indiscernible) perhaps.

2 UNIDENTIFIED SPEAKER: Who the fuck is it? He need to go
3 home.

4 MR. MEADORS: Stop it there.

5 (Thereupon, the visual recording was stopped.)

6 Q Yes, sir?

7 A To the right there with the white shirt on.

8 Q You said that's you with the white shirt on?

9 A Yeah.

10 Q Right to the middle of the picture?

11 A Yeah.

12 Q Okay. Keep going.

13 (Thereupon, the audio recording was played and
14 transcribed to the best of the transcriber's ability.)

15 UNIDENTIFIED SPEAKER 2: Oh, God. (Indiscernible).

16 UNIDENTIFIED SPEAKER: I'm going on that Ello been --

17 UNIDENTIFIED SPEAKER 2: Yeah, (indiscernible) okay. I'm
18 not doing -- I didn't realize you were recording a little
19 bit --

20 MR. MEADORS: Stop it there.

21 (Thereupon, the visual recording was stopped.)

22 Q Have you seen the red -- the HEMI that you all came in?

23 A Yeah. We parked in front of the -- we parked in front of
24 the door.

25 MR. MEADORS: Okay. Go ahead.

1 (Thereupon, the audio recording was played and
2 transcribed to the best of the transcriber's ability.)

3 UNIDENTIFIED SPEAKER: (Indiscernible) you all talking.
4 He over there in the white truck. He had his solo. I seen
5 him. There he is. Oh, somebody's fighting. Oh, my God, you
6 all. We're fucked.

7 UNIDENTIFIED SPEAKER 2: No.

8 UNIDENTIFIED SPEAKER: Yo, I got everything.

9 UNIDENTIFIED SPEAKER 2: No. You all out of ammo.
10 (Indiscernible). (Indiscernible). Oh, my God
11 (indiscernible). No I've seen the --

12 UNIDENTIFIED SPEAKER 2: What happened?

13 UNIDENTIFIED SPEAKER: Come on. Go --

14 UNIDENTIFIED SPEAKER 2: Oh, my God.

15 UNIDENTIFIED SPEAKER: (Indiscernible). Where's Evelyn?

16 UNIDENTIFIED SPEAKER 3: I (indiscernible) her.

17 UNIDENTIFIED SPEAKER: No. You don't know
18 (indiscernible).

19 UNIDENTIFIED SPEAKER 2: Why you trying to
20 (indiscernible).

21 UNIDENTIFIED SPEAKER: For real. No, (indiscernible).
22 Somebody (indiscernible). I'm not involved in it.

23 (Thereupon, the visual recording was stopped.)

24 Q Can you see the red HEMI in this picture right now?

25 A Yes, sir.

1 Q And don't I have mine on so I can point it, but is it the
2 car behind the two or three individuals in the picture?

3 A Yeah.

4 Q Is that the car you came in on?

5 A Yes, sir.

6 Q Okay. Your Honor, I believe we're now going to play
7 State's 7 from the Sunoco.

8 (Thereupon, the visual recording was played with no
9 audio.)

10 MR. MEADORS: Is this number 7?

11 UNIDENTIFIED SPEAKER: Number 7. Okay. This is the rest
12 of it.

13 Q Now, whose car is this right here?

14 A I can't even see nothing. I can't even see.

15 MR. MEADORS: (Indiscernible) to stop the monitor.

16 THE COURT: Is his monitor -- okay. It's on now.

17 Q Do you see the car you're in yet, Ms. Archie?

18 A Yeah. We're behind the black car. Yeah. We were behind
19 the black car.

20 Q So is that the car that you were in?

21 A Yeah.

22 Q It's the red HEMI?

23 A Yeah.

24 Q Okay.

25 A Yes, sir.

1 MR. MEADORS: If I could keep going, please.

2 Q And is that the vehicle you're in backing in?

3 A Yes, sir.

4 Q So we look in number two. Is that the car you were in
5 backing in scene two or in the middle? Is that the car here,
6 the tail lights, Mr. Archie?

7 A Yes, sir.

8 Q Do you see yourself get out of the car?

9 A Yes, sir.

10 Q Where are you?

11 MR. MEADORS: Stop the (indiscernible), please.

12 Q Can you just tell us what you did when you got out of the
13 car?

14 A When I got out of the car, I told you, I was -- I asked
15 two people who were standing around the vehicle, did we have a
16 problem? And nobody answered.

17 MR. MEADORS: Okay. Keep going.

18 Q Mr. Archie, where are you now?

19 A I'm located by the pumps, like closer to the pumps.

20 Q Can we see in this here?

21 A No. I can't see myself.

22 Q Okay. You're off camera. Mr. Archie, I just want you to
23 tell me if you see yourself come back into the video. Do you
24 know where Timothy Scarborough is?

25 A No. I ain't seen him yet.

1 Q Sorry?

2 A I said no, I didn't see him yet.

3 MR. MEADORS: Okay. All right. Stop. I beg the Court's
4 indulgence. Stop for a second.

5 Q Do you know who's on the ground?

6 A Where at? Where at?

7 Q Okay. I'm sorry. In this (indiscernible) here.

8 A No. No.

9 MR. MEADORS: Okay. Go ahead.

10 Q Is this still the car you all were in?

11 A Yeah. Yeah. Yes, sir.

12 MR. MEADORS: Thank you. Stop.

13 Q Do you know who that is?

14 A What -- what camera am I looking at?

15 Q In the middle?

16 A No.

17 MR. MEADORS: Keep going.

18 Q And you know who that is that kept shooting over there?

19 A No, sir.

20 Q Okay.

21 MR. MEADORS: You can stop for a second, Mr. Daning
22 (phonetic).

23 Q When this shooting starts, what do you do, Mr. Archie?

24 A I take cover.

25 Q Okay. And did you leave the scene?

1 A Yes, sir.

2 Q Okay. Tell the folks where you went.

3 A Across the street.

4 Q Where across the street?

5 A Not in the S&B Lounge parking lot, but in a Stroker's
6 parking lot.

7 MR. MEADORS: Okay. Keep going, sir, please. Stop right
8 there.

9 Q Do you know that individual in the middle screen?

10 A Yes, sir.

11 Q Who is that?

12 A That's my homeboy, Christopher.

13 Q Okay. Does he have a last name?

14 A Fordham.

15 MR. MEADORS: Okay. Keep going. And let me stop you
16 here. Could you see any of this from where you were at this
17 time?

18 A No, sir.

19 MR. MEADORS: Okay. Keep going. Stop.

20 Q Okay. So this is your homeboy, Christopher, right here?
21 Do you know who he's dragging?

22 A I don't know exactly who he's dragging, but it's --

23 Q Okay.

24 A He's got to be out of -- Killer Michael Black.

25 MR. MEADORS: Okay. Keep going.

1 Q Did you know who was in that car where the shot just came
2 from?

3 A No, sir.

4 MR. MEADORS: Okay. Keep going.

5 Q Mr. Archie, when you went -- where did you say you went
6 across the street?

7 A In Stroker's parking lot.

8 Q Then what did you do?

9 A I got somebody to drop me off.

10 Q Did you know who they were?

11 A No. It was a group of females.

12 Q So you just got out of there?

13 A Yes, sir.

14 Q You're not involved in a gang, are you?

15 A No, sir.

16 Q I think you testified earlier you either it to be Killer
17 Mike -- Mike Rogers, or D-Black in there. Did you ever see a
18 body laying on the pavement in Sunoco?

19 A Did I?

20 Q Yes, sir.

21 A Not in person, only in video.

22 MR. MEADORS: Okay. I beg the Court's indulgence.

23 Q Mr. Archie, I just got a couple more questions. Can you
24 tell us where you were when the shooting started?

25 A In the last video, I was by the gas pumps.

1 Q Could you see yourself in there?

2 A Yes, sir.

3 Q Let's go back to that. And I apologize. Just point out
4 where you were. And when you say "the last" shooting, what
5 are you referring to?

6 A No, not in this video. You're not going to see me in
7 this video.

8 Q Talking about in the cell phone video?

9 A Yeah, the cell phone video.

10 MR. MEADORS: Go back to that real quick. That would be
11 State's --

12 THE COURT: It's 5.

13 MR. MEADORS: -- 5. Thank you.

14 (Thereupon, the audio recording was played and
15 transcribed to the best of the transcriber's ability.)

16 UNIDENTIFIED SPEAKER: (Indiscernible). This shit about
17 to get real.

18 (Thereupon, the visual recording ends)

19 A I'm the guy in the white shirt by the Charger.

20 Q Say that again, sir?

21 A I said I'm the guy with the white shirt by the Charger.

22 Q The white shirt, by the Charger. And did you stay there
23 until the shooting?

24 A No. I didn't stay there. I left soon as the shots ran
25 off. Shots rang off.

1 Q And I apologize. This is just -- are you in the video,
2 again, that video, State's 5, after this scene on here?

3 A In this video? No.

4 Q Keep going. You're not? Okay.

5 (Thereupon, the audio recording was played and
6 transcribed to the best of the transcriber's ability.)

7 UNIDENTIFIED SPEAKER: This shit about to get real.

8 (Thereupon, the visual recording ends)

9 MR. MEADORS: That's fine.

10 Q Now, a couple of questions. I think I asked you earlier.
11 You did not have a gun, and you didn't fire, correct?

12 A No, I didn't fire any gun.

13 Q Now, under our rules, when you take the stand, you -- do
14 you have a March of this year, 2022, conviction for --

15 MR. MEADORS: Strike that.

16 Q -- March 16th of 2022, a conviction for two counts of
17 possession with intent to distribute cocaine?

18 A Yes, sir.

19 Q And a failure to stop for a blue light?

20 A Yes, sir.

21 Q Okay. And you got ten years suspended to three years'
22 probation?

23 A Yes, sir.

24 Q And I also believe you got a pending -- this charge in
25 Lee County, correct?

1 A Yes, sir.

2 Q And that's -- going to have to ask you to tell it all.
3 What's that for?

4 A Crack cocaine.

5 Q Okay. And that's pending, correct, in another county?

6 A Yes, sir.

7 Q Take Court's notice.

8 Did you see the red Charger drive away?

9 A In the video, I did.

10 Q And who was driving the red Charger when you got there?

11 A Michael.

12 Q And that's Michael Lucas?

13 A Yes, sir.

14 Q Okay. Was that his car?

15 A Yes, sir.

16 Q Okay. Mr. Archie, thank you for being here. That's all
17 the questions I have.

18 A You're welcome.

19 THE COURT: Mr. Warr?

20 MR. WARR: If it please the Court?

21 THE COURT: Yes, sir.

22 MR. WARR: Okay.

23 CROSS-EXAMINATION

24 BY MR. WARR:

25 Q Mr. Archie, I just have a few questions for you. You

1 said that Michael Lucas was in the car; he was driving the car
2 that night, when y'all went to the Sunoco?

3 A Yes, sir.

4 Q So he was driving. Where was Mike Rogers, also known --
5 he's known as "Killer Mike", or "Killah Mike"?

6 A Killah Mike.

7 Q Okay. And where was he sitting at?

8 A I want to say he was sitting behind Rilo.

9 Q Okay, in the --

10 A In the red Charger.

11 Q All right. Driver side, rear seat?

12 A Yeah.

13 Q And where were you sitting at?

14 A I was sitting in the passenger seat.

15 Q And was there anyone else in the car, or just the three
16 of y'all?

17 A Timothy Scarbough.

18 Q And where was he sitting?

19 A Also in the back seat. I don't know if he was behind me
20 or Michael was behind me. But I know both of them was in the
21 back seat.

22 Q Okay. And Michael Lucas, he's got a street name as well.
23 He goes by Rilo?

24 A Yes, sir.

25 Q And do you have one? A name you're known --

1 A They call me by my last name.

2 Q Okay. Just Archie? And how about Timothy Scarborough?

3 Does he have a name he goes by?

4 A Not that I know of.

5 Q All right. You testified on direct that there were
6 altercations. When you got there, there were altercations all
7 over the board. What did you mean by that?

8 A It was a lot of tension in the air.

9 Q Okay.

10 A Meaning -- you know when a person doesn't feel you, or
11 you know -- you know, nothing's moving right, everything is
12 moving funny.

13 Q Okay. So you didn't feel welcome when you were --

14 A Yeah. Basically.

15 Q Okay. And you said you had an altercation, but it
16 wasn't -- I think you said it was a small altercation?

17 A It -- it wasn't like that. I had a fight with a guy,
18 like, two weeks before that. And I guess he wanted to make
19 hisself seem like he was somebody. But I wasn't even paying
20 him no attention. I had way more bigger stuff. But I could
21 feel it was about to go down, like --

22 Q Okay.

23 A -- you -- the person I was arguing with wasn't affected.

24 Q Who was that person?

25 A I'm not giving out his name. Because he ain't got

1 nothing to do with this.

2 Q Okay. You don't remember the name, or you just don't
3 want to --

4 A He had nothing to do with this.

5 Q Okay. And you testified on direct that you didn't know
6 who was on the ground. And I believe it was State's 7,
7 officer video. The video from the parking lot. There was
8 someone lying out in front of the gas pumps. You didn't know
9 who that was lying on the ground?

10 A Not in front of the gas pumps, no.

11 Q Okay.

12 A In -- in the video he showed me was black and white; I
13 couldn't really see anything, anyway.

14 Q Okay. But you did -- you could identify Christopher
15 Fordham in that video?

16 A That was the one with color.

17 Q Okay.

18 A I could see, that was the one where he was coming outside
19 of the doors, facing towards Wendy's.

20 Q Okay. And how could you -- how did you know it was
21 Christopher Fordham? From look at his face?

22 A No. Body -- body language. All -- I grew up with the
23 guy. Me and guy been together since -- since we were little.
24 So I know his body language, all that.

25 Q And it was brought about on direct that you had some

1 pending charges over in Lee County.

2 A Yeah.

3 Q Have you been promised anything for your testimony here
4 today?

5 A No, sir.

6 Q Okay. Nobody's offered you anything?

7 A No, sir.

8 MR. WARR: Beg the Court's indulgence. No further
9 questions, Your Honor.

10 THE COURT: Any redirect?

11 MR. MEADORS: No, ma'am. Thank you.

12 THE COURT: Mr. Archie, you can step down.

13 MR. MEADORS: Would ask that he be excused.

14 THE COURT: Any objection?

15 MR. WARR: No objection, Your Honor.

16 THE COURT: Yes, sir, you're excused.

17 MR. MEADORS: Can we approach, please?

18 THE COURT: Mm-hmm.

19 (Whereupon, a bench conference was held off the record in
20 the presence of the jury, but out of the hearing of the
21 jury.)

22 (Thereupon, counsel returned to counsel tables and the
23 following ensued:)

24 (Open court.)

25 THE COURT: Okay, ladies and gentlemen, we're going to go

1 ahead and break for lunch. We do have a number of matters
2 that we're going to be doing during the break. So I'm going
3 to ask if you'll please be back in the jury room ready to go
4 at 1:45? That gives us an hour and a half.

5 Please don't begin discussing the case during the
6 lunchbreak. We'll see you at 1:45.

7 (Whereupon, the jury exited the courtroom at 12:13 p.m.)

8 THE COURT: Okay. Anything before we break for lunch?

9 MR. WARR: No, Your Honor. And all the other -- we've
10 been cooperating pretty well, albeit the witnesses have
11 records, we will go over that before they call and have
12 that --

13 THE COURT: Okay.

14 MR. MEADORS: Thank you.

15 THE COURT: All right. We'll be at recess.

16 (Thereupon, a luncheon recess was taken.)
17
18
19
20
21
22
23
24
25

1 A F T E R N O O N S E S S I O N

2 THE COURT: Okay, I think we're ready for the jury.

3 (Whereupon, the jury came into open court at

4 approximately 2:06 p.m.)

5 THE COURT: Okay, Mr. Meadors.

6 MR. MEADORS: Please the Court, the State of South

7 Carolina now will call Timothy Scarbough.

8 THE BAILIFF: So place your hand on the Bible. Raise

9 your right hand. State your name.

10 MR. SCARBOUGH: Timothy Scarbough.

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 TIMOTHY SCARBROUGH, after being duly sworn, testified
2 as follows:

3 THE BAILIFF: State your name for the record, and spell
4 your last name, please, and step up to the mic.

5 THE WITNESS: Timothy Scarbough, S-C-A-R-B-O-U-G-H.

6 DIRECT EXAMINATION

7 BY MR. MEADORS:

8 Q Good afternoon, Ms. Scarbough.

9 A Hey, how you doing?

10 Q I'm fine. How you doing?

11 A I'm all right.

12 Q Tell the jury about Timothy Scarbough. Where you from?

13 A I'm from Sumter. South Carolina. I'm 31. And I'm a
14 good guy.

15 Q You born and raised here?

16 A Yes, sir.

17 Q Where'd you go to high school?

18 A Sumter High.

19 Q You mind telling these folks when you got out?

20 A Got out what?

21 Q School.

22 A Oh, 2010.

23 Q Okay. What'd you do after that?

24 A I worked.

25 Q Okay. Do you mind tell us where you work?

1 A I work for Defender and PSSI.

2 Q What'd you do for Defender Industries?

3 A Cleaning, Continental (phonetic). And PSSI, I cleaned
4 poultry machines.

5 Q And for those of us who don't know, what's PSSI?

6 A Package (phonetic) Sanitation Industry. Mm-hmm.

7 Q And how long did you do that, Mr. Scarbough?

8 A About six year.

9 Q Mr. Scarbough, I've asked you here today under subpoena,
10 correct?

11 A Yeah.

12 Q Do you remember an incident on September 8th of 2019 at
13 the Sunoco on Broad Street here in Sumter?

14 A Yeah.

15 Q That also known as the Hop In?

16 A I don't know about that. What -- I don't know what they
17 call it.

18 Q Okay. But you know -- you're familiar with the gas
19 station/convenience store, Sunoco?

20 A Yeah, of course.

21 Q And were you there on the -- that late evening of the 7th
22 and going into Sunday morning, the 8th?

23 A Yeah.

24 Q 2019?

25 A Uh-huh.

1 Q Do you remember who you were with or how you got there?

2 A I was with a couple friends. Rilo.

3 Q Is that --

4 A Killah Mike. Li'l Archie. That what they call him.

5 Q Rilo? Would that be Mr. Lucas?

6 A Yeah.

7 Q Killah Mike, Mike Rogers?

8 A Yeah.

9 Q And Archie -- Tyrek Archie?

10 A Yeah, that what they call him. Yeah, I know him by Li'l
11 Archie.

12 Q Little Archie, okay.

13 A Yeah.

14 Q And whose car were you there -- did you go in?

15 A Rilo.

16 Q Can you just tell us what that car was, what kind of car
17 it was?

18 A A Charger.

19 Q What color?

20 A Red.

21 Q Okay. Red Charger.

22 A Mm-hmm.

23 Q And who was driving?

24 A Rilo.

25 Q Who was in the front seat, if you remember? Passenger

1 seat, I'm sorry?

2 A Well, I'd say Archie.

3 Q And what --

4 A Yeah, Archie was in the passenger seat.

5 Q And you were in the back?

6 A Yeah.

7 Q Do you remember where you were in the back?

8 A I'd say passenger side. I'm -- I'm -- I can't remember.
9 I think so, though.

10 Q That put Mr. Michael Rogers, Killa Rogers, in the other
11 side?

12 A Mm-hmm.

13 Q I will now show you what's, I think --
14 (Counsel confer.)

15 Q I'm now going to show you what's been entered as State's
16 7, one of the videos of the Rosic for (indiscernible) -- it's
17 already in evidence -- and ask you, first of all, if you
18 recognize the vehicle you were in.

19 A No.

20 Q Is everybody's --
21 (Counsel confer.)

22 (Thereupon, the audio recording was played but not
23 transcribed herein as entire portion is indiscernible.)

24 Q Can you see your monitor?

25 A Yeah, I can see it.

1 Q Okay. Do you see the car in that picture, current frame,
2 that you were in?

3 A Mm-hmm.

4 Q Okay. And is it behind the black car that's moving?

5 A Yeah.

6 Q Okay. Is that the car you were in, just backed up?

7 A Yes, sir.

8 Q Okay. Mr. Scarbough, when you got out, what'd you do?

9 A When I got out, I approached some guys to the left. We
10 had a altercation, like, a week prior. So I seen the guy.
11 You know, we had problems, and we had a word. We argued. But
12 he had guns. And my cousin, D-Black, was, like -- God -- can
13 I say what he said, or --

14 Q Sure.

15 A He be, like, "Don't bitch-ass niggas ain't want to fight
16 or shoot the ones, then fuck them."

17 Q So D-Black didn't want to -- he wanted to fight, not
18 shoot, right?

19 A Facts. Fact.

20 Q I'm sorry?

21 A I say yes, yeah. Correct.

22 Q Okay. So D-Black was there and didn't want to be shot;
23 just wanted to fight, if anybody did anything?

24 A Yeah.

25 Q You still watching?

1 A Oh, I'm still watching.

2 Q And where did you go after that?

3 A I walked to the far right side, over to a tree. And tell
4 him this ain't had nothing to do with them. Because I
5 understand they prior history or whatever may have taken
6 place.

7 Q And whose prior history are you talking about when you
8 say that, Mr. Scarbough?

9 A Trae and a family member of mines.

10 Q So you went -- and what's Trae's last name?

11 A I don't know. Epps, I think.

12 Q So at some point on this video, do you go to talk to Trae
13 Epps and say, hey, we cool, basically?

14 A Correct.

15 Q Could you let us know when you see that on this video?
16 And would you just say "please stop" when you see yourself?

17 A I will. I'm over there now.

18 Q Stop, please.

19 A Stop, please.

20 Q All right. Do you see yourself now?

21 A Yeah. I'm over there by the truck with the chain on it.

22 Q Okay. And had you already talked to Trae Epps -- excuse
23 me, Diontrae Epps at that point?

24 A No, I been just going over there to talk to him.

25 Q Okay. Keep going, please.

1 (Thereupon, the audio recording was played but not
2 transcribed herein as entire portion is indiscernible.)

3 Q Do you see Michael Rogers?

4 A I can't see Michael right now.

5 Q Are you in the video right now, Mr. Scarborough?

6 A I'm right there at the top.

7 Q Okay. So you're at the top with him?

8 A Um-hum. Now, I'm walking over there to him.

9 MR. MEADORS: Stop.

10 Q Can you show where you're walking to him?

11 A I'm right there.

12 Q Okay.

13 MR. MEADORS: Keep going.

14 THE COURT: And you know we can't see that.

15 Q Can you draw on that one?

16 A Can I draw?

17 Q Can you point to where you are?

18 A Well, I'm right --

19 THE COURT: You have to turn on the function.

20 MR. MEADORS: Can I approach?

21 (Counsel confer.)

22 Q But that's you right there?

23 A Um-hum.

24 MR. MEADORS: All right. Keep going.

25 MR. WARR: That's not doing any of us any good.

1 THE COURT: If you can describe where you're pointing to
2 on the picture, either point to it over here.

3 THE WITNESS: I'm right behind it look like a Silverado,
4 gray.

5 Q All right. Can you see over here?

6 A Yeah.

7 Q Is that what you're saying here?

8 A Yeah.

9 Q Okay.

10 MR. MEADORS: Please keep going. Stop.

11 Q Who you -- where are you going?

12 A I'm going over there to talk to him in the corner.

13 Q And who is "him"?

14 A Trae Epps.

15 Q Okay.

16 MR. MEADORS: Please keep going. Stop.

17 Q Do you see Michael Rogers coming in right here?

18 A Me being honest, I can't see it.

19 MR. MEADORS: Keep playing. Stop.

20 Q Did you see this person swing then?

21 A Yeah. That --

22 Q Who is that?

23 A That's Trae.

24 Q And who is he -- Trae Epps, who is he swinging at?

25 A Ol' Michael Rogers.

1 Q And what happened after that?

2 A He swunged with the left hand and up with the right hand.

3 MR. MEADORS: Stop.

4 Q What is that?

5 A A firearm.

6 Q Excuse me?

7 A A firearm.

8 Q Okay. And who's that shooting that firearm?

9 A That's Trae Epps.

10 Q Okay.

11 MR. MEADORS: Keep going.

12 Q And was that the car you came into?

13 A Yep. Looked like it.

14 Q Now, did you leave in that car?

15 A No.

16 Q Tell these ladies and gentlemen what you did after the
17 shots were fired at Mike Rogers.

18 A Well after the shots were -- when I went and approached
19 him and I told him, like, this was not even -- oh, yeah.

20 Okay. But my cousin Killah Mike was behind me.

21 Obviously, I didn't knew that until I turned around. And
22 when I turned around, he done swunged up the gun, and when he
23 started shooting I ran. I -- I just ran.

24 Q And where did you run?

25 A Across the street. It was, like, a little club over

1 there. I forgot the name of it. I ran over there.

2 Q And you talk kind of fast, and I'm not trying to be
3 difficult with you. But when you went to talk to Trae Epps,
4 what was your point of going to talk to him?

5 A To tell him this -- whatever we got going on, our boys
6 over here ain't got nothing to do with him or none of them.

7 Q So you had an olive branch -- you --

8 A Well, you could call it that, yeah.

9 Q -- came in peace?

10 A Yeah.

11 Q Okay. And what happened after that?

12 A He be like, all right. Deal. But my cousin done came up
13 saying something to him, which that incidence where I don't
14 know nothing about. But it just happened so fast, that just
15 how it were.

16 Q So then he went around you and swung at Mike?

17 A Yes, sir.

18 Q Okay. And then Epps pulled the gun and shot?

19 A Facts.

20 Q And again, I'm sorry. I'm just tired. You ran which
21 way?

22 A I ran to the -- I ran to the right by Wendy's and ran
23 across the street.

24 Q Did you have a gun?

25 A No.

1 Q Did you fire a gun?

2 A No, sir.

3 Q How do you know Trae Epps -- Diontrae Epps?

4 A We got history too. We got -- we share the same baby
5 mamma.

6 MR. MEADORS: I beg the Court's indulgence.

7 (Counsel confer.)

8 MR. MEADORS: I beg the Court's indulgence. I'm sorry.

9 Q Do you know where the red car went when it left?

10 A Not quite. I don't -- I don't know, because when I left
11 I went to Rilo's house to get my car and left and went home.

12 Q And again, for the record, who's Rilo?

13 A Michael.

14 Q Okay. Who was driving the red car when it came in?

15 A Rilo.

16 Q I know you and I know it, but we've got to say it for the
17 record.

18 A Oh, yeah. Michael.

19 Q Michael Lucas?

20 A Yeah.

21 Q And is that who was driving the car away when it left,
22 Michael Lucas?

23 A Yeah.

24 Q Now, I know we thought of your record -- we ran a new
25 record, and this came up and I didn't know it. And I will

1 show you, were you convicted of possession of cocaine?

2 A I wasn't convicted. They put me in a program because the
3 Defendant told them it wasn't mine. So they put me in a
4 program, and it's supposed to be off my record, but obviously,
5 it's not.

6 Q All right. And that was in what year?

7 A I don't know. Couple years ago. Way back. I ain't even
8 know that still been there.

9 Q 2015, it looks like.

10 A Yeah. Yeah.

11 MR. MEADORS: I beg the Court's indulgence.

12 THE COURT: That's fine.

13 (Pause.)

14 MR. MEADORS: Mr. Scarborough, thank you. That's all.

15 THE WITNESS: All right.

16 THE COURT: Mr. Warr?

17 MR. WARR: I beg the Court's indulgence for one moment.

18 (Pause.)

19 MR. WARR: If it please the Court?

20 THE COURT: Um-hum.

21 CROSS-EXAMINATION

22 BY MR. WARR:

23 Q Good morning, Mr. Scarborough.

24 A Yeah, good morning. How are you?

25 Q Doing well.

1 A All right. All right.

2 Q You testified on direct that you arrived in a car with
3 Michael Lucas was driving?

4 A Correct.

5 Q And Killah Mike was in the back seat --

6 A Yeah.

7 Q -- with you?

8 A Yeah.

9 Q And then Little Archie, he was in the passenger seat of
10 the front?

11 A Yeah.

12 Q All right. And that was in that red Charger that we saw
13 on video?

14 A Correct.

15 Q And you testified on direct that when you got out of the
16 car, you approached the guys on the left side of the car. So
17 that would have been people on the Rite Aid side, because you
18 backed into the parking spot?

19 A No, I was out of the car before Rilo rolled back in.

20 Q Okay.

21 A Yeah.

22 Q You got out of the car before --

23 A Because we was blocked in when we first pulled in. So I
24 backed back out while he was like that.

25 Q Okay.

1 A It would have been the right, and -- there would have
2 been a left, and that would have been the right. So we parked
3 like this, but we came in like this. So it would have been my
4 left.

5 Q Okay.

6 A Yeah.

7 Q So you talked to the people -- which people were you
8 talking to?

9 A Well, they all seemed to be gang members, so I'm going to
10 just say the GDs.

11 Q Well, I mean, specifically?

12 A Ain't really no name to give who I talked to. I talked
13 to the GDs that -- that's who I had an issue with that day.
14 Him and his partners are crooks.

15 Q And on the other video showing you all back in, there was
16 a white car; were they around that white car?

17 A I don't know. I can't -- a white car? Yeah. Yeah. I'm
18 just thinking. Yeah, there was a white car. A Nissan, if I'm
19 not mistaking.

20 Q Okay. And that car was on the Rite Aid -- it was parked
21 on the Rite Aid side of the parking lot?

22 A Again, yeah. Yeah, I think so.

23 Q All right. And those were the guys you said had guns out
24 as soon as you got out?

25 A All of them had guns out as soon as we got out. The

1 whole parking lot seemed like it had guns.

2 Q Okay. And how would you -- you would describe the
3 atmosphere as tense when you got out?

4 A Very. Very. Hostile. It seemed like they had something
5 against -- like, they know who's going to be there before we
6 got there. When we got there, it was just -- it was so much
7 going on.

8 Q Okay. And did you hear Tyrek Archie when he got out of
9 the car saying, anybody got a problem?

10 A Nope. Nope, not off hand. Like I said, I was more
11 concerned with the little guy who I had an incident with. It
12 wasn't necessarily all of them guys, it was just one guy we
13 had one incident where, you know, I felt violated. So I was
14 like, we can shoot the ones, man. Just whatever. But my
15 cousin was like, if anyone shoot the ones, fuck them bitch ass
16 niggers.

17 Q Okay. And you were talk -- that was D-Black --

18 A D-Black --

19 Q -- that said that?

20 A -- that said that, yeah.

21 Q And if they didn't want to shoot the guns (sic) --

22 A Fuck them. They maybe didn't want to shoot the ones, not
23 guns. The ones. They obviously wanted to shoot their guns.

24 Q Okay. So these people that he was referring to were the
25 GDs?

1 A Yeah.

2 Q On the Rite Aid side?

3 A It was the GDs. It wasn't referred to them. It wasn't
4 no smoke with them until I went over there, which I wish I
5 never went over there, but I had an understanding with Trae.
6 I don't know the rest of them guys. I know Trae because we
7 share a baby mamma. And he was like, everything cool. But I
8 can't say what made him do what he did. I don't know. Your
9 guess is as good as mine.

10 Q So there was no problem with the Mayesville people until
11 you went over there?

12 A Facts.

13 Q Okay. So the initial altercation that you all had when
14 you pulled into the parking lot was with the GDs on the Rite
15 Aid side?

16 A Facts.

17 Q Is that a yeah?

18 A Yeah. Facts.

19 Q And they were the ones that had the guns out, the
20 people -- the GDs on the righthand side?

21 A I just now told you all of them had guns out. I just
22 told you that. I don't want to keep going back and forth on
23 that.

24 Q Okay.

25 A But I -- all of them had guns when we approached. That's

1 what make me went over there and talked to Trae, because I
2 seen them had guns out. And plus, I know him, you know what
3 I'm saying, and what type of guy he is, and he ain't really
4 playing. So I went and hollered at him, and I'm like, this
5 ain't got nothing to do with you. Chill out, bro. You know
6 what I mean? Trying to calm him down before it got the way it
7 got.

8 Q And you didn't have a gun that day?

9 A I did not have a gun.

10 Q But Killah Mike had a gun?

11 A I didn't see Killah Mike with a gun. When they told me
12 he had a gun, I didn't know where it came from.

13 Q You never saw Killah Mike --

14 A I never seen Killah Mike with a gun while we was in the
15 car.

16 Q Okay. How about outside the car?

17 A I never seen him with a gun outside the car. Even when
18 we went to Trae, I never seen him with a gun. Well, I ain't
19 stayed long enough to look, but I ain't never seen him with a
20 gun.

21 Q All right. And you testified on direct that you were
22 going over to offer an olive branch to Trae.

23 A Ain't that what you call it. I just been trying to --

24 Q Trying to make it --

25 A -- pipe him down. Yeah.

1 Q And you didn't make any hand gestures or anything when
2 you walked over there?

3 A Oh, yeah. When I went over there we always -- he already
4 knew we -- I'm like, what's up, Nigger? Damn, bro. You gotta
5 smoke weed, too? Yeah, that's what I was doing when you saw
6 my hand in the video. I was like, damn, bro. You gotta smoke
7 weed too? He's like, nah, dude. Everything cool. Yeah.
8 That why you see my hands up. It wasn't me making no
9 threatening gestures or -- because I wouldn't have been here.

10 MR. WARR: All right. Can we get that video? If you'll
11 pause right there.

12 May I approach, Your Honor?

13 THE COURT: Um-hum.

14 MR. WARR: It's State's Exhibit -- I believe it's 6.

15 MR. MEADORS: I thought it was 7.

16 MR. WARR: State's Exhibit 7.

17 (Counsel confer.)

18 MR. WARR: All right.

19 (Thereupon, the visual recording was played but not
20 transcribed herein.)

21 Q Tell me, Mr. Scarborough, when you see yourself.

22 And go ahead and play it. Actually, I need to go back.

23 A Oh, you right there. I see myself right there with the
24 chain on.

25 MR. WARR: Go back to 11:44. You can play it.

1 Q That's you right there?

2 A Yep.

3 Q Pause it.

4 A Yep.

5 Q Back it up a couple seconds. Pause it right there. So
6 that's you standing right there by the back of that --

7 A Yep.

8 Q -- Chevrolet pickup?

9 A Yes, sir.

10 Q And the hand gesture you were making when you walked
11 over, it looked like something like this.

12 A Yeah. I mean, like --

13 Q Well, it looked a little lower in that video.

14 A You think so? Well, I recall what I was doing then, and
15 it was like, dang, bro. You got -- what's up, bro? You got a
16 problem with me too, bro? Yeah.

17 Q And you walked over to Trae Epps in that manner and
18 approached him --

19 A Yeah.

20 Q -- in that car?

21 A Yeah.

22 Q And that was -- you were going to make peace?

23 A Facts.

24 Q And you and Trae, you testified on direct, share the same
25 baby mamma?

1 A Allegedly. I mean, I don't know. But yeah, of course.
2 Well, let's just say I don't know if the child is his or not.
3 I think it is. I mean, it named after him. But yeah,
4 allegedly we supposed to have the same kid. Well, not same
5 kid. Same baby mothers.

6 Q Okay.

7 A Yeah.

8 Q And did you have a problem with Trae?

9 A Oh, nah. Nah. We were pretty cool. At one point
10 earlier when he first started dating my baby mamma, it was
11 kind of difficult. Like, okay. You know what I'm saying? We
12 be trying to be active of father when I'm already there. So
13 we had words, but we ain't never been to this extent you feel
14 me, of what them boys had going on. We been talk our part.
15 That's the only reason why I could approach him, you know what
16 I'm saying, to talk to him. Because yeah, we been already
17 cool. It wasn't no smoke.

18 Q Okay. So there was -- you're saying that -- your
19 testimony is you didn't have any problems with Trae?

20 A At all.

21 Q Okay.

22 A Yeah.

23 Q Why did you go over there then if you --

24 A Because I know of the situation where the stories that
25 was going on, which I ain't had no facts of a weapon going on,

1 but I just wanted him to know that, bro, this ain't got
2 nothing to do with you. Like, stand down. You -- this ain't
3 got nothing to do with you. Don't even bother yourself in
4 this. You feel me? And he be like, all right, bro.

5 Q Okay. So you never saw Killah Mike with a gun that day?

6 A No.

7 Q You never saw him pull a pistol then?

8 A No.

9 Q But you said you saw the fight.

10 A I saw the who?

11 Q The fight between Trae Epps and --

12 A I was there. I saw them fight. But I ain't seen no
13 guns. See where I'm from -- not where I'm from -- where I'm
14 at on this video, Trae pushed me behind him. So
15 (indiscernible), I couldn't see Killah or how Killah be coming
16 at him. All I seen was the blow and the gun.

17 Q Okay. So in this video, you're saying when the fight
18 broke out --

19 A You don't see him pushing me to the side.

20 Q -- you were somewhere right in here?

21 A I been already behind him. A group of guys.

22 Q All right. Can we play the video? So that's you, and
23 you go over here with this group.

24 A Um-hum.

25 Q And Trae's in this group of people?

1 A Facts. Yes, sir.

2 Q And that's Trae throwing the first -- throwing a punch?

3 A Yeah.

4 Q And at that time period, you were over here behind these
5 people, you said?

6 A At that time, I been already behind him. I couldn't
7 really get up close to see Killah Mike at the time. I didn't
8 see him swing on Killah Mike's. I backed up real fast like
9 something was going on. But by the time I get to them, like,
10 no. Then the shot's fired. So I ain't gonna stand around.
11 I'm supposed to stand around and see -- that -- that's y'all
12 job.

13 Q Okay. So at the time, after Killah Mike was punched by
14 Trae, you could not see him?

15 A At the time, when Killah Mike got punched by Trae, I
16 couldn't see him.

17 Q Okay. So you couldn't have seen if he pulled the gun
18 first?

19 A I couldn't have seen it.

20 Q You couldn't have seen him? Thank you (indiscernible).
21 (Counsel confer.)

22 Q Let's watch a little more of the video.

23 ((Thereupon, the audio recording was played but not
24 transcribed herein as entire portion is indiscernible.))

25 Q So this is Trae Epps right here standing behind the

1 truck? In the white? He's not looking at you. Right
2 here.

3 A I see -- I see where you're pointing at, but I got to see
4 the video before I seen action to know, because all I know --

5 MR. WARR: Hit play. Pause it.

6 A Yep.

7 MR. WARR: All right. Can we back it up a little bit?

8 Q So that's you walking over?

9 A Um-hum.

10 Q That's Trae. He punches Killah Mike --

11 A Facts.

12 Q -- and then retreats and pulls his pistol and fires?

13 MR. WARR: Hit pause.

14 Q Did you see Trae Epps get hit?

15 A No. I ain't stay that long.

16 Q You didn't stay long enough to see Trae Epps get hit?

17 A Nope.

18 Q And you could not see Killah Mike at the time?

19 A Couldn't see Killah Mike at the time.

20 Q Okay.

21 A Yeah.

22 Q You just saw Trae retreat and then pull his pistol after
23 he threw the first punch?

24 A I saw Trae -- but I didn't even -- at -- from my angle it
25 didn't look like he retreat, but from the video it looked like

1 he retreat, if I'm being honest. But from my angle that
2 night, he swang on him and upped the gun and shoot. That's
3 from my opinion. That's my opinion.

4 Q Did you see -- hear the first shot?

5 A Yeah.

6 Q All right. Did you hear it after or before Trae pulled
7 the pistol?

8 A I just hear it after Trae pulled the pistol. When Trae
9 pulled the pistol, it went off. It fired. Boom.

10 Q Okay. And then you ran, so you didn't see anything
11 after?

12 A Yeah. And then I ran, because all of them guys start --
13 they start walking over with their guns. So shit, I wasn't I
14 wasn't going to stay there.

15 Q Okay.

16 A Yeah.

17 Q And at that time, you couldn't see Killah Mike?

18 A At that time, I ain't seen nobody. I seen where I was
19 going.

20 MR. WARR: I beg the Court's indulgence.

21 Q And so you do have a previous conviction for possession
22 of crack cocaine?

23 A Well, that's what the papers say, but that ain't what the
24 judge said.

25 Q Okay. It was supposed to be --

1 A It supposed to be gone.

2 Q Okay.

3 A And I ain't known it been there.

4 Q But you were arrested for possession of crack cocaine?

5 A Well, yeah. You could say that. I turned myself in on
6 something that was in a car. Went through a traffic stop. It
7 wasn't mine. The judge knew it. That's why I ain't got
8 convicted. Well, I didn't go to jail.

9 Q And do you have any pending criminal charges?

10 MR. MEADORS: Objection, Your Honor. Inadmissible.

11 THE COURT: That's sustained.

12 Q Have you been promised anything --

13 A No, sir.

14 Q -- for your testimony here today?

15 A No (indiscernible) has been promised.

16 Q No one's promised you anything?

17 A Nobody promised me nothing.

18 MR. WARR: All right. Thank you. No further questions.

19 THE WITNESS: All right.

20 THE COURT: Any redirect?

21 MR. MEADORS: Yes, ma'am.

22 Would you please skip back? He was asking about -- he
23 used the word retreat. I don't know what he's talking about.
24 Can you go back to right after Mr. Epps goes around?

25 REDIRECT EXAMINATION

1 BY MR. MEADORS:

2 Q Is Mr. Epps retreating right there?

3 A Nah. No, sir.

4 Q Is he retreating right there?

5 A No, sir.

6 (Counsel confer.)

7 Q Where were you? Did you see these shots fired?

8 A No, sir.

9 Q Okay. Where were you when those shots were fired?

10 A I was running already. I was gone.

11 Q That person wasn't retreating, were they?

12 A No, they wasn't.

13 MR. MEADORS: I beg the Court's indulgence. Yeah.

14 Thanks.

15 Q It came up on direct and cross, what does "shoot the
16 ones" mean?

17 A Fight.

18 Q That means fight?

19 A That means fight.

20 Q Not shoot the guns?

21 A Not fight -- not shoot no gun.

22 MR. MEADORS: All right. That's all.

23 THE COURT: Anything further, Mr. Warr?

24 MR. WARR: No further questions, Your Honor.

25 THE COURT: Thank you, sir. You can step down.

1 MR. MEADORS: I beg the Court's indulgence.

2 THE COURT: Um-hum.

3 (Pause.)

4 THE COURT: Okay. Ladies and gentlemen, we've got an
5 issue of law that we need to take up outside of your presence.
6 I'm going to excuse you back to the jury room while we deal
7 with this. Please don't begin discussing the case.

8 (Whereupon, the jury exited the courtroom at 2:50 p.m.)

9 MR. MEADORS: I beg the Court's indulgence.

10 THE COURT: Um-hum.

11 MR. MEADORS: Willie McFadden. State your name.

12 MR. MCFADDEN: Willie McFadden.

13 WILLIE MCFADDEN, after being duly sworn, testified
14 as follows:

15 MR. MEADORS: State your name for the record and spell
16 your last name, too.

17 THE WITNESS: Willie McFadden, M-C-F-A-D-D-E-N.

18 DIRECT EXAMINATION

19 BY MR. MEADORS:

20 Q Detective, did you receive a statement from a Michael
21 Lucas?

22 A Yes, I did.

23 Q And did he describe to you an individual that had shot at
24 his vehicle?

25 A That is correct.

1 Q Do you have that information with you?

2 A Yes, I do.

3 Q You do? Do you know the description he gave you?

4 A I don't have that with me.

5 MR. MEADORS: I beg the Court's indulgence.

6 Q Was he able to describe the individual that he saw that
7 shot him -- shot at his vehicle? Excuse me.

8 A Yes, he did describe in his statement.

9 Q And what was that description?

10 A He said, "I saw a heavy-set black male wearing a yellow
11 shirt shooting at me repeatedly. He was about 280 to 300
12 pounds, about 6'2", 6'3". He was a dark-skinned and had a
13 short fro hairstyle." And that was the description he gave.

14 Q And did you prepare a lineup based on -- had you seen the
15 video also?

16 A I did.

17 Q And was Mr. Myers in the video? Skip that question. Of
18 course he is. Did you prepare a lineup for Mr. Myers?

19 A I did.

20 Q Describe for the judge -- sorry. I'm getting smart. I'm
21 sorry.

22 MR. WARR: Your Honor, we withdraw our motion to exclude
23 the photo lineup.

24 THE COURT: Okay. So we're good to bring the jury back
25 in?

1 MR. MEADORS: Well, I (indiscernible). That's fine.

2 THE COURT: First --

3 MR. MEADORS: I'll go ahead and --

4 THE COURT: So let me make sure, you are not challenging
5 in-court identification of -- you're not challenging our next
6 witness who is going to be who, Mr. Meadors?

7 MR. MEADORS: I'm just a little confused now. But
8 Michael Lucas is the last one called. Since you told us to do
9 this, I called him. I don't know if I still need to do this
10 then Lucas. But it's Michael Lucas.

11 THE COURT: Hang on just a minute. So your intention is
12 to put Michael Lucas on the stand. Michael Lucas picked him
13 out of a -- picked the Defendant out of the six-person lineup
14 or however-many-person lineup. And so you're going to ask him
15 for an in-court identification?

16 MR. MEADORS: You're pointing up here to McFadden.
17 I'm -- I'm --

18 THE COURT: The witness --

19 MR. MEADORS: The witness.

20 THE COURT: -- Mr. Lucas. When he's on the stand, you're
21 going to ask him to make an in-court identification; is that
22 correct?

23 MR. MEADORS: I'm going to ask him to pick him out of
24 this lineup.

25 THE COURT: Okay. So what I'm asking is --

1 MR. WARR: May we approach, Your Honor?

2 (Whereupon, a bench conference was held off the record in
3 the presence of the jury, but out of the hearing of the
4 jury.)

5 (Thereupon, counsel returned to counsel tables and the
6 following ensued:)

7 (Open court.)

8 THE COURT: So are we done with Det. McFadden?

9 MR. MEADORS: Yes, ma'am.

10 (Pause.)

11 THE COURT: Okay. Are we ready to put in on the record?

12 MR. MEADORS: I think so. The Defense wants to stipulate
13 that State's 7, number 12 -- camera 12, we're going to
14 stipulate that the person firing there is their Defendant, and
15 they're stipulating that he's firing at the red Charger. Your
16 Honor, we don't have a problem with that, and I put it on the
17 record with them that that's fine. We're still going to argue
18 that he's shooting at Killah Mike and hit Middleton. But
19 they're willing to stipulate that's him shooting at the
20 Charger. And Mr. Young, they understand that I'm still
21 barring you that.

22 THE COURT: State's Exhibit 7, camera 12 -- do you want
23 to put the time stamp?

24 MR. MEADORS: 11:42:08 to 11, I believe he runs away.
25 Now, I'm trying to think if there's another word besides

1 "stipulation", because I don't want there to be any confusion
2 that I'm agreeing with this all (indiscernible).

3 THE COURT: Are you not just stipulating that the
4 identity of the person on there is Jovante (sic)?

5 MR. MEADORS: Joquell

6 MR. WARR: Joquell.

7 THE COURT: Joquell. I'm sorry.

8 MR. MEADORS: (Indiscernible) I said that Joquell shot
9 the car. I said that, and so --

10 THE COURT: Sure.

11 MR. MEADORS: -- we could sort of stipulated what was
12 shown on the video, which we believe is a pictorial of him
13 firing at the car.

14 THE COURT: Okay. So I mean, are you not stipulating
15 that the identity of the person on the video at 11:42:08
16 firing is the Defendant?

17 MR. MEADORS: That would be a simpler and easier
18 stipulation.

19 THE COURT: I mean, I don't want to try to tell you how
20 to do it. You -- y'all, it's your case.

21 MR. MEADORS: We stipulate that's Joquell Myers that's
22 firing the pistol at the car.

23 THE COURT: Okay.

24 MR. MEADORS: Red car.

25 THE COURT: Okay.

1 MR. MEADORS: Now, we -- you might stipulate that he shot
2 Miller.

3 THE COURT: Sure.

4 MR. MEADORS: Okay. And we don't stipulate that he
5 didn't. I just want that to be clear.

6 THE COURT: I understand. Those are facts still in
7 controversy.

8 MR. MEADORS: Yes, ma'am.

9 THE COURT: Okay. Are you ready to call your next
10 witness, Mr. Meadors?

11 MR. MEADORS: I think so.

12 THE COURT: All right. Let's bring the jury in.

13 (Whereupon, the jury came into open court at
14 approximately 3:13 p.m.)

15 THE COURT: Okay. Mr. Meadors, if you want to call your
16 next witness, sir.

17 MR. MEADORS: Det. Willie McFadden.

18 THE BAILIFF: (Indiscernible) for the record and state
19 your name.

20 MR. MCFADDEN: Willie McFadden.

21 WILLIE MCFADDEN, after being duly sworn, testified
22 as follows:

23 THE BAILIFF: Please state your name for the record and
24 spell your last name, please.

25 THE WITNESS: Willie McFadden, M-C-F-A-D-D-E-N.

DIRECT EXAMINATION

BY MR. MEADORS:

Q Det. McFadden, will you please tell the ladies and gentlemen of this jury about yourself, your background -- where you're from, your background, your training, and particularly your training in law enforcement, please, sir?

A I've been in law enforcement since 2005. I started off at the County Sheriff Office, went to the city police department in 2014. I went to investigations at 2016. I've been working in investigation of violent crimes since then.

Q And what does it mean to be an investigative consultant, first of all? What's your job?

A I investigate -- my particular job is to investigate violent crimes such as murder, robberies, assaults, domestic violence.

Q And is a part of that interviewing potential witnesses and/or potential suspects?

A That is correct.

Q And did you have an occasion to interview Joquell Myers on September 25th of 2019?

A I attempted to interview him, but he didn't want to talk to me.

Q Okay. Let me go through here, did you attempt to talk to him on the 25th?

A I attempted to talk to him on the 25th.

1 Q And in fact, you did talk to him for a while, didn't you?

2 A That is correct.

3 Q And I'm going to show you what's marked State's 1. Are
4 you familiar of Sumter Police Department having a Miranda
5 form?

6 A Yes, sir. They do.

7 Q And did you have an -- and Your Honor, State's 1 without
8 objection.

9 MR. WARR: That is correct.

10 (WHEREUPON, State's Exhibit No. 1 was received into
11 evidence.)

12 THE COURT: Okay.

13 MR. WARR: No objection, Your Honor.

14 Q Did you have an occasion -- and before we get to this,
15 September 25th, 2019, where did you talk to Joquell Myers?

16 A At the Sumter Police Department.

17 Q Okay. And I hate to, but could you be a little more
18 specific? Where at the Sumter Police Department?

19 A We have an interview room -- actually we have two in our
20 investigation side, interview rooms. It's towards the back of
21 the building.

22 Q And can you describe them for the jury -- describe the
23 room to the jury?

24 A It's a square shaped room with a table in the middle,
25 chairs on both sides of the table.

1 Q And who was there in addition to yourself and Mr. Joquell
2 Myers?

3 A Det. Natalie Kelly.

4 Q And is Det. Kelly here? Prior to attempting to talk to
5 Mr. Myers, did you read him his Miranda rights?

6 A Yes, I did.

7 Q Could you please read them to the jury like you did to
8 Mr. Myers on September 25th of 2019?

9 A I will advise them that this is the Sumter Police
10 Department interview form. "Before we ask you any questions,
11 you must understand your rights. You have the right to remain
12 silent. Anything you say can be used against you in court.
13 You have the right to talk to a lawyer for advice before we
14 ask you any questions and to have him or her with you during
15 the questions. If you cannot afford a lawyer, one will be
16 appointed for you before any questioning, if you wish. If you
17 decide to answer any questions now without a lawyer present,
18 you would still have the right to stop answering at any time
19 until you talk with a lawyer." And then it goes on to the
20 waiver of rights.

21 Q Let me stop you before you get to the waiver. As you're
22 reading these rights to Mr. Myers, how far is he from you when
23 you're reading it to him?

24 A Oh, just across from the table right in front of me.

25 Q And at this point, was he already under oath?

1 A Yes, he was.

2 Q And what was he under oath for?

3 A For -- I gotta look at the one. I think it was murder
4 and attempted murder and some weapon charges as well.

5 Q When you're reading him these rights, did he appear to be
6 under the influence of alcohol or drugs or any other
7 intoxication?

8 A No, sir. Not at all.

9 Q And did you have any trouble understanding Joquell Myers
10 when he was responding to the questions?

11 A No, sir.

12 Q Did you have any problem understanding his responses to
13 your questions?

14 A No, sir.

15 Q And were his responses to your questions timely? I mean,
16 did it take a while to answer it, or were they kind of --

17 A No. Normal response time.

18 Q And were they subject matter appropriate? The answers to
19 your questions?

20 A Yes, they were.

21 Q And -- all right. You read him those rights. Did he
22 indicate to you he understood them?

23 A He did.

24 Q And how did he do that?

25 A He actually signed off on the waiver as well, and he was

1 shaking his head as I was explaining his rights to him.

2 Q And that's kind of what I'm asking. As you explained the
3 rights, did he indicate to you -- you're sitting there -- that
4 he understood what --

5 A Right. That is correct.

6 Q Did you go over and read what's called waiver of rights
7 on State's 1?

8 A That is correct.

9 Q Could you do that now like you did on September 25th of
10 2019, please?

11 A All right. Let me go down to the waiver of rights. It
12 says, "Before any questions that were furnished above,
13 (indiscernible) on my rights at 11:01 a.m. on 9/25/2019 at
14 Sumter Police Department by Ofc. and Det. McFadden of the
15 Sumter Police Department. I have read or had read to me the
16 statements on my rights. I understand what my rights are. I
17 am willing to answer questions at this time without a lawyer
18 present. No promises or threats have been made to me, and no
19 pressure has been used against me."

20 Q Did he appear to understand that as you read it to him?

21 A That is correct.

22 Q And did he indicate to you or sign that he understood not
23 only his rights but his waiver of rights?

24 A That is correct. I advised him that if he understood his
25 rights and that all of this is true at the bottom of the

1 waiver of rights, go ahead and sign your name, date and time.

2 Q All right. And in State's 1, did he sign his name?

3 A Yes, he did.

4 Q Okay. And did he put the date?

5 A He put the date and time. Yes, sir.

6 Q And did you sign that as a witness?

7 A That is correct.

8 Q And is there anybody else that signed as a witness?

9 A Yes. Det. Kelly, her signature is on there as well.

10 Q At any time during the reading of the rights, the reading
11 of the waiver of rights, at this time on September 24th, 2019,
12 did you threaten, coerce or hold out any hope of a reward to
13 the Defendant, Joquell Myers in exchange for him talking to
14 you?

15 A Never. No, sir.

16 Q If he had wanted to use the bathroom or if he had wanted
17 something to eat, would you have or did you offer him or would
18 you have given him the opportunity to do that or have
19 something to eat?

20 A Of course.

21 Q Is that your practice?

22 A Yes, it is. Definitely is.

23 Q How did you memorialize this statement? Did you have a
24 recorder?

25 A That is right. It was recorded. An audio recording. It

1 is audio.

2 Q Okay. And how many recorders were there?

3 A There was two recordings. I think on this -- out of two
4 days, I think it was two recording devices there at this --
5 both incidents. I believe so if I'm not mistaken.

6 Q Did you have your own recording?

7 A That is right. I did, and I recorded it on a device.

8 Q And I think you've already said it, but the next day
9 y'all also talked to the Defendant; was that recorded the next
10 day?

11 A That was record as well.

12 Q And we're going to get to that today. And I'll save that
13 for the end. On the next day, there were two recording
14 devices there?

15 A That is correct.

16 Q Okay. Now, let's stay on September 25th, Detective of
17 2019. After you read him his rights, did he start talking to
18 you.

19 A Just general stuff as far as, like, name, phone number,
20 good address.

21 MR. MEADORS: Thank you. I beg the Court's indulgence.

22 THE COURT: Yes, sir.

23 (Counsel confer.)

24 MR. MEADORS: Your Honor, this is State's 3. It does
25 contain the 25th and the 26th of 2019. There is no objection

1 to State's 3.

2 MR. YOUNG: That is correct.

3 THE COURT: Okay. 3 is admitted.

4 (WHEREUPON, State's Exhibit No. 3 was received into
5 evidence.)

6 Q Now, we listened to this audio yesterday, and you've
7 listened to it before. Does that recording of -- for now, on
8 September 25th accurately reflect your conversation with Mr.
9 Myers that day?

10 A That is correct.

11 MR. MEADORS: Okay. Your Honor, at this time we would
12 like to publish and review Mr. Myers on September 25th, 2019.
13 And may I be seated?

14 THE COURT: Yes, to both.

15 MR. MEADORS: Thank you.

16 (Thereupon, the audio recording was played and
17 transcribed to the best of the transcriber's ability.)

18 DET. MCFADDEN: (Indiscernible).

19 MR. EPPS: (Indiscernible).

20 DET. MCFADDEN: (Indiscernible). You have the right to
21 remain silent. Anything you say can be used against you in
22 court. You have the right to talk to a lawyer or
23 (indiscernible). If you cannot afford a lawyer,
24 (indiscernible). (Indiscernible) to my right (indiscernible)
25 2019 (indiscernible).

1 (Recording paused).

2 Q Can you hear him signing?

3 A Yes, sir.

4 Q Okay. Go ahead. And "him" being Joquell Myers. I'm
5 sorry.

6 A Yes, sir. Joquell Myers signing the paper at that time.

7 (Thereupon, the audio recording was played but not
8 transcribed herein as entire portion is indiscernible.)

9 Q You asked him for his date of birth?

10 A That is correct.

11 Q And he gave you his date of birth?

12 A Yes, he did.

13 Q And how old was he at this time?

14 A At that time, he would have been 23 years old.

15 MR. MEADORS: Go ahead and play it.

16 (Thereupon, the audio recording was played but not
17 transcribed herein as entire portion is indiscernible.)

18 Q Was that them giving you his phone number?

19 A That is correct.

20 Q And he asked to correct the view? I mean, he gave the --
21 did you have any trouble understanding his phone number?

22 A No. He gave it to me.

23 MR. MEADORS: Go ahead. Thank you.

24 (Thereupon, the audio recording was played but not
25 transcribed herein as entire portion is indiscernible.)

1 Q Did he just say, "I don't know what you're talking
2 about"?

3 A Can you play it back just a couple seconds? I have a
4 hearing aid. I didn't hear it.

5 (Thereupon, the audio recording was played but not
6 transcribed herein as entire portion is indiscernible.)

7 Q Did you hear him say, "I don't know what you're talking
8 about"?

9 A That is correct.

10 MR. MEADORS: Okay.

11 (Thereupon, the audio recording was played but not
12 transcribed herein as entire portion is indiscernible.)

13 MR. MEADORS: Stop.

14 Q Did he just say, "I didn't shoot"?

15 A That is what he said. Yes, sir.

16 MR. MEADORS: Okay. Go ahead.

17 (Thereupon, the audio recording was played but not
18 transcribed herein as entire portion is indiscernible.)

19 Q Det. -- and the Defendant is fine with this coming in, I
20 want the record to reflect -- after he said he didn't want to
21 talk anymore, did y'all quit talking?

22 A Yes, sir. We quit talking.

23 Q And the next day, on September 26th, 2019 did you have an
24 occasion to talk to Joquell Myers again?

25 A Yes, sir.

1 Q Okay. How did that come about?

2 A He notified -- (indiscernible) worked from the jail that
3 notified us that he wanted to talk about the incident.

4 Q Okay. So he reinitiated -- or he said he wanted to talk
5 to you again?

6 A That is correct.

7 Q If he had not done that, would you have talked to him
8 again?

9 A No. No reason to.

10 Q And with Miranda, you wouldn't have done it, correct?

11 A Correct.

12 Q Okay. On September 26th of 2019, where did you talk to
13 Mr. Myers?

14 A We were at the Sumter Police Department again, same
15 interview room.

16 Q And who was present for that?

17 A Det. Kelly was also present for that with me.

18 Q He requested to speak to you?

19 A Yes, sir.

20 Q Did you still read Miranda to him again?

21 A Of course. Every time we reinterview somebody, we always
22 go ahead and read the Miranda over again.

23 Q Would you please read to the ladies and gentlemen of this
24 jury the Miranda rights like you did to Joquell Myers?

25 A Once again, the Sumter Police Department interview form.

1 "Before we ask you any questions, you must understand your
2 rights. You have the right to remain silent. Anything you
3 say can be used against you in court. You have the right to
4 talk to a lawyer for advice before we ask you any questions
5 and to have him or her with you during the questions. If you
6 cannot afford a lawyer, one will be appointed" -- I'm sorry --
7 "if you cannot afford a lawyer, one will be appointed for you
8 before any questioning, if you wish. If you decide to answer
9 any questions now without a lawyer present, you would still
10 have the right to stop answering at any time until you talk
11 with a lawyer."

12 Q And did he appear to understand these same rights on the
13 26th of September, 2019?

14 A Yes, he did.

15 Q Did he indicate to you that he did?

16 A Yes, he did.

17 Q Did you also read him the waiver of rights again on the
18 26th of September?

19 A That is correct.

20 Q Please do that again as you did.

21 A "Waiver of rights. Before any questions that were
22 furnished above (indiscernible) on my rights at 9:33 a.m. on
23 9/26/2019 at Sumter Police Department by Ofc. Det. McFadden of
24 the Sumter Police Department. I have read or had read to me
25 the statements of my rights. I understand what my rights are.

1 I am willing to answer questions at this time without a lawyer
2 present. No promises or threats have been made to me, and no
3 pressure has been used against me."

4 Q And Detective, did Mr. Joquell Myers sign State's 2?

5 A That is correct.

6 Q He signed it himself, his signature?

7 A He signed, date and time, once again.

8 Q And date and time. And did you witness this?

9 A Yes, I did.

10 Q And Natalie Kelly as well?

11 A That is correct.

12 MR. MEADORS: Your Honor, State's 2 without objection.

13 MR. YOUNG: No objection, Your Honor.

14 THE COURT: Thank you. 2 is admitted.

15 (WHEREUPON, State's Exhibit No. 2 was received into
16 evidence.)

17 Q And I have to ask you this. On September 26th, 2019 did
18 the Defendant appear to be under the influence of alcohol or
19 drugs or any other intoxicant?

20 A Not at all.

21 Q Okay. So were you able to understand his responses to
22 you and did he appear to understand your questions?

23 A Yes, he did.

24 Q Were they timely?

25 A Yes, they were.

1 Q Were they subject matter appropriate?

2 A Correct.

3 Q And did he at any time during the reading of the rights,
4 the reading of the waiver of rights, say, "Willie, I don't
5 want to talk to you"?

6 A No, sir.

7 Q "I want a lawyer"?

8 A No, sir.

9 Q If he had, what would you have done?

10 A Stopped talking.

11 Q Okay. Based on both of these times and in your
12 experience in dealing with Mr. Joquell Myers, was it your
13 opinion these statements were freely and voluntarily given?

14 A Yes, sir.

15 Q And finally, just to check off my boxes, did you
16 threaten, coerce or promise Mr. Myers anything in exchange for
17 this statement on the 26th?

18 A No, sir.

19 Q And was he handcuffed also on the 26th?

20 A Yes, sir.

21 Q Now, I want the record be clear, how many recording
22 devices were in this room on the 26th?

23 A Two recording devices.

24 Q Okay. Describe those.

25 A One was, like, a small digital recording device. You can

1 plug it into a computer, download the recording. The other
2 was on a work cell phone.

3 Q Okay. And whose work cell phone was that?

4 A It was my work cell phone.

5 Q And at some point at the end of this interview, we're
6 going to hear it, did you leave and Ms. Natalie Kelly stay in
7 the room with Mr. Myers?

8 A Yes, that's correct.

9 Q And you hear his conversations with her after you
10 leave --

11 A Yes, sir.

12 Q -- on this other recording device?

13 A That's correct.

14 Q But both devices recorded the same thing while you were
15 there, right?

16 A That is correct.

17 MR. MEADORS: I beg the Court's indulgence. Okay. Your
18 Honor, I believe that both of them on State's 3, both
19 recordings we would offer to publish the interview of Mr.
20 Myers on September 26th at this time.

21 THE COURT: Okay.

22 (Pause.)

23 MR. MEADORS: I would ask Inv. Caufield (phonetic) if he
24 would, please, publish the statement from September 26th,
25 2019.

1 (Thereupon, the audio recording was played and
2 transcribed to the best of the transcriber's ability.)
3 (Large portion indiscernible).

4 MR. MCFADDEN: -- I understand what my rights are. I am
5 willing to answer questions (indiscernible). No promises or
6 threats have been made to me (indiscernible).

7 (Recording paused).

8 Q And that -- is that him signing, Mr. Myers?

9 A Yes, it is. He is writing his name, date and time on the
10 paperwork.

11 (Thereupon, the audio recording was played but not
12 transcribed herein as entire portion is indiscernible.)

13 Q Stop. Did he identify Trae as his brother?

14 A That is correct.

15 Q And who is Trae?

16 A Diontrae Epps.

17 Q Okay. Thank you.

18 (Thereupon, the audio recording was played and
19 transcribed to the best of the transcriber's ability.)
20 (Indiscernible).

21 MR. MCFADDEN: Who were you shooting at?

22 MR. EPPS: I wasn't shooting at nobody. (Indiscernible)
23 my brother. I still got hit. (Indiscernible) because I'm his
24 brother (indiscernible).

25 (Large portion indiscernible).

1 MR. EPPS: I was sitting in the back seat.

2 (Large portion indiscernible).

3 THE COURT: Ladies and gentlemen, we're going to break
4 this up just a little bit and take about a ten-minute break.
5 Sorry, my microphone was off. Please don't begin discussing
6 the case during the break. We'll be back with you shortly.

7 (Whereupon, the jury exited the courtroom at 4:00 p.m.)

8 THE COURT: Okay. We'll be at recess for about ten
9 minutes.

10 UNIDENTIFIED SPEAKER: Yes, ma'am.

11 (Recess.)

12 THE COURT: Okay. We'll bring the jury in.

13 THE BAILIFF: Yes, ma'am.

14 (Whereupon, the jury came into open court at
15 approximately 4:21 p.m.)

16 THE COURT: You can have a seat.

17 MR. CORBETT: Your Honor, at this point, the State will
18 continue playing the interview of Mr. Meyers on September 26,
19 2019.

20 THE COURT: Go right ahead.

21 (Thereupon, the audio recording was played but not
22 transcribed herein as entire portion is indiscernible.)

23 Q Did you ask him what kind of gun he had?

24 A Yes, I did.

25 Q What did he say?

1 A He said he didn't remember.

2 Q Okay. Go ahead.

3 (Thereupon, the audio recording was played but not
4 transcribed herein as entire portion is indiscernible.)

5 Q Did Natalie Kelly say, you wanted to come down and talk
6 to us?

7 A That is correct.

8 Q And did he acknowledge that he did?

9 A He said, yeah.

10 Q And is that, shows that he reinitiated this conversation?

11 A That's correct.

12 Q That's all. Thank you.

13 (Thereupon, the audio recording was played but not
14 transcribed herein as entire portion is indiscernible.)

15 Q You just asked him about something on Facebook?

16 A Yes, sir?

17 Q And was that a video that Killah Mike and Joquell Meyers
18 were on, on that Facebook video?

19 A That's Diontrae Epps.

20 Q Sorry, I apologize. That Diontrae Epps and Joquell
21 Meyers were on?

22 A That's correct.

23 Q Okay. Thank you. And he acknowledged he was on that
24 video?

25 A Yes, he did.

1 Q Okay. Go ahead.

2 (Thereupon, the audio recording was played but not
3 transcribed herein as entire portion is indiscernible.)

4 THE COURT: Sherri, do you mind?

5 THE DEPUTY CLERK: (Indiscernible) --

6 THE COURT: Do you mind?

7 UNIDENTIFIED SPEAKER: (Indiscernible) --

8 THE COURT: Okay. Ladies and gentlemen, we're going to
9 go ahead and stop for the evening. I told you all that we
10 would try our best to end at 5 o'clock. Usually we don't like
11 to end while we're in the middle of a witness, but I don't
12 think we're going to be able to finish this witness today
13 anyway. So we're going to go ahead and release you for the
14 evening.

15 We're going to ask that you be back in the jury room at
16 9:30 tomorrow morning. We're going to do our best to start as
17 close to 9:30 as we can. Again, please don't begin discussing
18 the case overnight. We'll see you tomorrow.

19 (Whereupon, the jury exited the courtroom at 5:15 p.m.)

20 THE COURT: Anything you all need on the record before we
21 adjourn?

22 MR. MEADORS: No.

23 MR. WARR: And I just want to make sure the -- we just
24 got transport coverage for the rest of the week, right?

25 UNIDENTIFIED SPEAKER: Far as I know.

1 MR. WARR: Okay. (Indiscernible) set it for the week, so
2 I feel certain.

3 THE COURT: Okay.

4 MR. WARR: Thank you.

5 THE COURT: We'll be adjourned until the morning.

6 (End of Transcript of Record)

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

CERTIFICATE OF TRANSCRIBER

State of South Carolina)
)
County of Sumter)

I, LAUREL PANDAY, a court-approved transcriber, do hereby
certify that the foregoing is a true, accurate and complete
Transcript of Record of the proceedings had and evidence
introduced in the trial of the captioned case, relative to
appeal, in the Court of General Sessions for Sumter County,
South Carolina, on the 27th day of September, 2022.

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

August 10, 2023



Laurel Panday, CDLT-281
Transcriber

State of South Carolina)
)
County of Sumter) Circuit Court
) 2020-GS-43-0624

State of South Carolina)
)
 vs.) Transcript of Record
)
Joquell Myers)

September 28, 2022
Sumter, South Carolina

B E F O R E:

The Honorable Kristi Curtis, Judge.

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

Attorney for the State:

John P. Meadors, Esquire
W. Jason Corbett, Esquire

Attorney for the Defendant:

Lewis H. Warr, Esquire
Kenneth R. Young, Jr., Esquire

Melissa Reid
Transcriber



I N D E XTESTIMONYWITNESSDIRECTCROSSREDIRECTRECROSS

Det. McFadden

Mr. Meadors

53

100

Natalie Kelly

Mr. Meadors

108

123

Mr. Young

119

EXHIBITSNO.DESCRIPTIONID.EV.

S-8

Tuomey Hospital Video

38

38

S-9

Video

43

Defendant's Exhibit Numbers 2.1 through 2.20

61

61

1 M O R N I N G S E S S I O N

2 THE CLERK: The Honorable Judge Curtis presiding. Good
3 morning, Your Honor.

4 THE COURT: Good morning.

5 THE COURT: Anything we need to discuss before we bring
6 the jury in?

7 MR. CORBETT: Your Honor, just briefly, one matter of
8 housekeeping. Your Honor, Jason Corbett, on behalf of the
9 State. Yesterday, the State admitted several 911 calls.
10 During cross-examination, defense offered an additional 911
11 call, that being the 911 call of an individual last name of
12 Christmas (phonetic).

13 At the time, it was played from our computer. In the
14 meantime, I had that call of Mr. Christmas placed onto a CD
15 disk. I have notified Mr. Young and Mr. Warr of this. And I
16 believe for housekeeping purposes, we need to mark this as
17 Defense Number 1.

18 Judge, the court reporter was asking me, does it need to
19 have yesterday's date on it, which I believe it does for
20 purposes of the way it was admitted.

21 THE COURT: Correct.

22 (Counsel confer.)

23 THE COURT: Okay. I think we're ready for the jury.

24 (Whereupon, the jury came into open court at
25 approximately 9:56 a.m.)

1 THE COURT: Okay. Good morning, ladies and gentlemen.
2 Glad to see you all back. We're going to resume the audio
3 recording.

4 MR. CORBETT: Thank you, Your Honor. And just for the record,
5 we ended on -- what time was? 1:09:17, where we'll pick up.
6 Your Honor, there are several minutes more of this, three, and
7 then we'll just need to take a -- just a second to switch over
8 until it finishes with Ms. Kelly. We'd like to play all that
9 at one time.

10 THE COURT: Okay.

11 MR. CORBETT: We'll explain that as we go through.

12 THE COURT: Thank you.

13 (Thereupon, the visual recording was played at 9:58 a.m.)

14 THE DEFENDANT: You didn't tell me yesterday I could have
15 called and had a bond hearing (indiscernible). I don't know
16 what's going on. Nobody (indiscernible). I ain't kill
17 nobody, man.

18 UNIDENTIFIED SPEAKER: (Indiscernible).

19 UNIDENTIFIED SPEAKER: (Indiscernible).

20 (Thereupon, the visual recording was stopped at 9:59
21 a.m.)

22 BY MR. MEADORS:

23 Q Can you tell the jury what happened there as the door
24 slammed? Did you leave the room and go talk to somebody and
25 come back?

1 A That is correct.

2 Q Okay. Can you tell us what you did?

3 A I went to talk to my supervisors, just to update them on
4 all the information that Joquell Myers was giving me, and I
5 came back.

6 Q And that's when you told him he would be able to make a
7 phone call when he got back to jail?

8 A That is correct.

9 Q Thank you.

10 (Thereupon, the visual recording was played at 9:59 a.m.)

11 THE DEFENDANT: (Indiscernible). I promise you, brother.

12 (Indiscernible). I promise you I ain't kill that dude.

13 (Indiscernible).

14 UNIDENTIFIED SPEAKER: You did. You did. And that's why
15 you were charged.

16 THE DEFENDANT: (Indiscernible). Too old.

17 (Indiscernible).

18 UNIDENTIFIED SPEAKER: We did. That's why we

19 (indiscernible).

20 THE DEFENDANT: That's not fair. (Indiscernible).

21 UNIDENTIFIED SPEAKER: Yes.

22 THE DEFENDANT: (Indiscernible). I promise I wouldn't do
23 that (indiscernible). I'm too old for that. (Indiscernible).

24 UNIDENTIFIED SPEAKER: The fact is that you shot
25 (indiscernible) and he dies because of you shot him.

1 (Indiscernible).

2 (Thereupon, the visual recording was stopped at 10:02
3 a.m.)

4 BY MR. MEADORS:

5 Q And Det. McFadden, at some point did you step out?

6 A Yes. I did.

7 Q And was Natalie Kelly still there?

8 A She was still in the room with Joquell Myers. Yes, sir.

9 Q And at this point, that's all the same recording with you
10 and Natalie Kelly?

11 A That is correct.

12 Q You step out, and the room is still recorded with another
13 recording device?

14 A That is correct.

15 Q Okay. Where did you go?

16 A I went -- again, I went to talk to my supervisors about
17 the whole incident, what he was stating to law enforcement.

18 Q Okay. (Indiscernible).

19 (Thereupon, the visual recording was played at 10:03
20 a.m.)

21 THE DEFENDANT: I didn't kill nobody, man. I didn't kill
22 that man. I'm telling you I didn't kill nobody. I didn't
23 even know he was out there (indiscernible). That's all
24 (indiscernible). I ain't did it, bro. (Indiscernible). How
25 am I being charged with this? (Indiscernible). Please, bro.

1 (Indiscernible). Please, bro. I didn't kill that man, bro.

2 (Indiscernible). I didn't accidentally kill nobody. I ain't

3 did none of that. I (indiscernible) I promise I ain't did

4 none of that. Y'all got me (undiscernible).

5 UNIDENTIFIED SPEAKER: (Indiscernible).

6 THE DEFENDANT: (Indiscernible). I didn't do it, bro.

7 (Indiscernible). Whatever y'all want to do. (Indiscernible).

8 Call that (indiscernible).

9 UNIDENTIFIED SPEAKER: (Indiscernible).

10 THE DEFENDANT: I don't understand that. I wasn't even

11 (indiscernible). I'm telling you (indiscernible).

12 UNIDENTIFIED SPEAKER: (Indiscernible).

13 THE DEFENDANT: (Indiscernible).

14 UNIDENTIFIED SPEAKER: (Indiscernible).

15 THE DEFENDANT: (Indiscernible).

16 UNIDENTIFIED SPEAKER: (Indiscernible).

17 THE DEFENDANT: (Indiscernible).

18 UNIDENTIFIED SPEAKER: You will get that (indiscernible).

19 THE DEFENDANT: (Indiscernible).

20 UNIDENTIFIED SPEAKER: (Indiscernible).

21 THE DEFENDANT: (Indiscernible). I ain't killed him. I

22 ain't kill that dude. (Indiscernible). I ain't killed him.

23 UNIDENTIFIED SPEAKER: (Indiscernible).

24 THE DEFENDANT: I ain't nothing to do with that.

25 (Indiscernible).

1 UNIDENTIFIED SPEAKER: (Indiscernible).

2 THE DEFENDANT: (Indiscernible). I didn't do it.

3 UNIDENTIFIED SPEAKER: (Indiscernible).

4 THE DEFENDANT: I ain't killed nobody. (Indiscernible).

5 UNIDENTIFIED SPEAKER: See where you were at
6 (indiscernible) vehicle. (Indiscernible) vehicle.
7 (Indiscernible).

8 (Thereupon, the visual recording was stopped at 10:13
9 a.m.)

10 BY MR. MEADORS:

11 Q So you're now back in the room?

12 A Yes, sir.

13 Q Okay.

14 (Thereupon, the visual recording was played at 10:13
15 a.m.)

16 THE DEFENDANT: (Indiscernible).

17 UNIDENTIFIED SPEAKER: (Indiscernible).

18 THE DEFENDANT: (Indiscernible).

19 UNIDENTIFIED SPEAKER: (Indiscernible).

20 THE DEFENDANT: (Indiscernible). didn't kill nobody.
21 (Indiscernible).

22

23 UNIDENTIFIED SPEAKER: (Indiscernible).

24 THE DEFENDANT: (Indiscernible).). I didn't kill
25 nobody, bro. I didn't see (indiscernible). UNIDENTIFIED

1 SPEAKER: (Indiscernible).

2 THE DEFENDANT: (Indiscernible

3 UNIDENTIFIED SPEAKER: I don't know. That's all up to
4 the judge. We (indiscernible) what the judge is going to do.

5 THE DEFENDANT: It's crazy, man. (Indiscernible).

6 UNIDENTIFIED SPEAKER: (Indiscernible). 9/26/19. The
7 date is 9/26, and the time is 10:57 a.m.

8 THE DEFENDANT: (Indiscernible) prove that
9 (indiscernible).

10 UNIDENTIFIED SPEAKER: (Indiscernible).

11 THE DEFENDANT: (Indiscernible).

12 UNIDENTIFIED SPEAKER: (Indiscernible) verify the truth.

13 THE DEFENDANT: (Indiscernible) sitting behind the
14 passenger.

15 UNIDENTIFIED SPEAKER: You were sitting where?

16 THE DEFENDANT: Behind the passenger.

17 UNIDENTIFIED SPEAKER: Passenger?

18 THE DEFENDANT: The passenger, in the back seat.

19 UNIDENTIFIED SPEAKER: (Indiscernible).

20 THE DEFENDANT: (Indiscernible).

21 UNIDENTIFIED SPEAKER: (Indiscernible).

22 (Thereupon, the visual recording was stopped at 10:18
23 a.m.)

24 BY MR. MEADORS:

25 Q What is that?

1 A That's me getting the buccal swabs. Opening up the box.

2 Q Oh.

3 A Hitting it a little -- it's little dots on the box that I
4 open up.

5 Q Thank you.

6 (Thereupon, the visual recording was played at 10:18

7 a.m.)

8 THE DEFENDANT: (Indiscernible).

9 UNIDENTIFIED SPEAKER: (Indiscernible) telling the truth?

10 THE DEFENDANT: Yeah. Yeah. I'm telling the truth.

11 (Indiscernible). Come on, man.

12 UNIDENTIFIED SPEAKER: (Indiscernible).

13 THE DEFENDANT: (Indiscernible).

14 UNIDENTIFIED SPEAKER: (Indiscernible).

15 THE DEFENDANT: (Indiscernible) me shooting that dude?

16 UNIDENTIFIED SPEAKER: (Indiscernible). Yes.

17 THE DEFENDANT: I ain't did it. How? How?

18 UNIDENTIFIED SPEAKER: (Indiscernible) here.

19 THE DEFENDANT: (Indiscernible) that's what I'm saying.

20 (Indiscernible). How? (Indiscernible) something like that,

21 bro. Come on, man. I ain't kill that dude. That's just

22 crazy.

23 UNIDENTIFIED SPEAKER: (Indiscernible).

24 (Thereupon, the visual recording was stopped at 10:23

25 a.m.)

1 BY MR. MEADORS:

2 Q Det. McFadden, is that the entire video -- excuse me --
3 audio of you and Ms. Natalie or Det. Natalie Kelly of your
4 conversation with the defendant, Joquell Myers?

5 A That is correct.

6 Q And for the record, would you point him out to the ladies
7 and gentlemen of the jury?

8 A Mr. Joquell Myers is in the blue shirt with a black -- is
9 that a black tie? Dark skin, sitting beside Mr. Ken Young.

10 MR. MEADORS: We'd ask the record to so reflect. Thank
11 you.

12 BY MR. MEADORS:

13 Q Who is D-Black?

14 A D-Black is Gregory Donta' Middleton.

15 Q That's his nickname?

16 A D-Black is his nickname. Yes, sir.

17 MR. MEADORS: Could you bring up the video, please of --
18 Your Honor, we're now going to play from State's 7.

19 THE CLERK: This is video 7?

20 MR. MEADORS: It's from State's Exhibit 7.

21 THE CLERK: I got it.

22 MR. MEADORS: Okay.

23 BY MR. MEADORS:

24 Q First of all, is this Sunoco on Broad Street?

25 A Yes, it is.

1 Q And what's the address?

2 A Sir?

3 Q What's the address?

4 A It is 1083 Broad Street.

5 Q And for the record, is that in Sumter County?

6 A That is correct.

7 Q Now, we've seen a timestamp on that, and we had Shirlene
8 Skipper here yesterday. Is this off about an hour and 20
9 seconds -- hour and --

10 A 20 minutes.

11 Q -- 20 minutes?

12 A Yes, sir. It's off about an hour and 20 minutes.

13 Q Approximately.

14 (Thereupon, the visual recording was played at 10:25 a.m.
15 and stopped at 10:26 a.m.)

16 MR. MEADORS: Okay. Okay. You can go back a little bit.
17 Okay. That's good.

18 (Thereupon, the visual recording was played at 10:26 a.m.
19 and stopped at 10:27 a.m.)

20 BY MR. MEADORS:

21 Q Now, Detective, whose vehicle is this here that's pulling
22 in?

23 A That's Michael Lucas' vehicle.

24 Q And what kind of car is that?

25 A It's a red Dodge Charger.

1 Q And who was the driver?

2 A Michael Lucas was the driver of that vehicle.

3 Q And is he going in front or backing in?

4 A He's backing into the parking spot.

5 Q Are these folks just pumping gas here?

6 A What's -- I couldn't hear you. What was that?

7 Q What are these folks doing? Do you know? Are they just
8 pumping gas, or do you know?

9 A I don't know what they're doing. They're just -- I'm
10 assuming they pumping gas or --

11 Q Getting gas.

12 A That would be my assumption.

13 (Thereupon, the visual recording was played at 10:28 a.m.
14 and stopped at 10:29 a.m.)

15 BY MR. MEADORS:

16 Q And there was no audio of this video, was there?

17 A No, sir. Besides the video from the -- recorded from the
18 cell phones, that's the only audio that we have.

19 Q What I'm doing is seeing if you can identify some of the
20 parties we've heard about --

21 A Yes, sir.

22 Q -- through the defendant's statement and answers to your
23 questions. Do you know whose car that is that's leaving?

24 A Sir?

25 Q Do you know whose car that is that's leaving?

1 A No, sir.

2 Q Is this the car, the red Charger here?

3 A Yes, sir. In the corner. That's where the red Charger
4 backed into that parking space.

5 Q The front left of the red Charger?

6 A Yes, sir.

7 (Thereupon, the visual recording was played at 10:30 a.m.
8 and stopped at 10:31 a.m.)

9 MR. MEADORS: Stop. And when I say this, I'm saying for
10 the record, please stop. I'm not trying to be rude. I'm just
11 trying to stop it.

12 BY MR. MEADORS:

13 Q Who is this?

14 A That is Michael Rogers.

15 Q Keep going, please.

16 (Thereupon, the visual recording was played at 10:31 a.m.
17 and stopped at 10:31 a.m.)

18 BY MR. MEADORS:

19 Q And who is this?

20 A That's Donta' Middleton, Gregory Donta' Middleton, D-
21 Black.

22 (Thereupon, the visual recording was played at 10:32 a.m.
23 and stopped at 10:32 a.m.)

24 MR. MEADORS: Stop.

25 BY MR. MEADORS:

1 Q Now, this red Charger here, was that the same red Charger
2 that came in?

3 A Yes, sir. That's the same red Charger that came in.

4 Q And who's driving that red Charger there?

5 A Michael Lucas.

6 Q And it appears -- and who does that red Charger hit, if
7 anybody?

8 A Michael Rogers.

9 Q And who is this right here?

10 A That's Donta' Middle -- Gregory Donta' Middleton, D-
11 Black.

12 Q Gregory Middleton, also known as D-Black?

13 A Correct.

14 Q All right.

15 MR. MEADORS: Go ahead.

16 (Thereupon, the visual recording was played at 10:32 a.m.
17 and stopped at 10:32 a.m.)

18 MR. MEADORS: And stop.

19 BY MR. MEADORS:

20 Q What did it appear to you, based on that video, that
21 Gregory Donta' Middleton was going to do?

22 MR. YOUNG: (Indiscernible)

23 MR. MEADORS: He's not the lawyer of record on this
24 witness.

25 THE COURT: Wait. Just one moment.

1 MR. MEADORS: I'm sorry.

2 THE COURT: What are the grounds for your objection?

3 MR. MEADORS: Your Honor, he's not the lawyer doing this
4 witness.

5 THE COURT: Mr. Warr, what are the grounds of the
6 objection?

7 MR. WARR: He's interpreting the video, and it calls for
8 speculation.

9 THE COURT: Sir, do you want to respond?

10 MR. MEADORS: I'm just asking what does it look like Greg
11 Middleton is going to do here, just based on the video we're
12 looking at.

13 MR. WARR: It's interpreting Mr. --

14 THE COURT: I think we got it. I understand your
15 objection, and it's sustained.

16 BY MR. MEADORS:

17 Q Where is Gregory Middleton going toward?

18 A Like he's going to the aid of Michael Rogers.

19 Q Thank you. Go ahead. Stop. Where is the red Charger
20 going; right or left?

21 A It's going out right.

22 MR. MEADORS: Go ahead.

23 (Thereupon, the visual recording was played at 10:33 a.m.
24 and stopped at 10:33 a.m.)

25 MR. MEADORS: Stop.

1 BY MR. MEADORS:

2 Q Do we know who that is crawling back there?

3 A That is Gregory Donta' Middleton, D-Black.

4 MR. MEADORS: Okay. Go ahead.

5 (Thereupon, the visual recording was played at 10:34 a.m.
6 and stopped at 10:34 a.m.)

7 MR. MEADORS: Go back just a second, please.

8 THE WITNESS: Yeah. If you go back just a second, you
9 can see the car shake as is he's getting in the back seat of
10 the vehicle.

11 MR. MEADORS: Could you play --

12 THE WITNESS: If you go back just a second.

13 MR. MEADORS: (Indiscernible). Could you go back and
14 play that again where the, you said, the car appears to shake?

15 (Thereupon, the visual recording was played at 10:35 a.m.
16 and stopped at 10:35 a.m.)

17 BY MR. MEADORS:

18 Q And did it appear the back right back door closed then?

19 A That is correct. That is correct.

20 Q Who is in the back of this car here?

21 A Risheen Rich (phonetic) was in the backseat of the car at
22 the same time as Gregory Donta' Middleton, D-Black.

23 Q So the person leaving was Risheen Rich?

24 A Correct.

25 Q And where is Gregory Middleton now?

1 A He's laying in the back seat.

2 Q In here?

3 A That's him laying in the back seat. Yes, sir.

4 Q Go ahead. Now, who is this individual?

5 A Go back just a second.

6 Q I apologize. You weren't looking.

7 MR. MEADORS: Please go back. My apologies.

8 (Thereupon, the visual recording was played at 10:36 a.m.

9 and stopped at 10:36 a.m.)

10 MR. MEADORS: Stop, please. Stop.

11 BY MR. MEADORS:

12 Q Did you see it that time?

13 MR. MEADORS: Please go back again.

14 (Thereupon, the visual recording was played at 10:36 a.m.

15 and stopped at 10:36 a.m.)

16 MR. MEADORS: Stop.

17 A Up here towards the car, on the right-hand side?

18 BY MR. MEADORS:

19 Q Yes.

20 A Yes. That's Pies. His name is -- his real name is --

21 Q Christopher Fordham?

22 A Christopher Fordham. That is correct.

23 MR. MEADORS: Go ahead, please.

24 (Thereupon, the visual recording was played at 10:37 a.m.

25 and stopped at 10:37 a.m.)

1 MR. MEADORS: Stop.

2 BY MR. MEADORS:

3 Q Who is he pulling back with?

4 A He's pulling Mike Rog -- Michael Rogers back.

5 MR. MEADORS: Please continue.

6 (Thereupon, the visual recording was played at 10:37 a.m.
7 and stopped at 10:37 a.m.)

8 MR. MEADORS: Stop. Could you go back just a few seconds
9 before that car pulls up, please? If you can.

10 A You'll see a muzzle flash coming from that vehicle.

11 MR. MEADORS: Can you go back just a little more before
12 it comes to the picture, please?

13 (Thereupon, the visual recording was played at 10:37 a.m.
14 and stopped at 10:37 a.m.)

15 A The vehicle pulls up and stop. You'll see a muzzle flash
16 coming from this vehicle that's pulling up as Christopher
17 Fordham, Pies, is attempting to help Michael Rogers.

18 (Thereupon, the visual recording was played at 10:38 a.m.
19 and stopped at 10:38 a.m.)

20 A That -- that's when Christopher Fordham got shot.

21 MR. MEADORS: And now, could you go back and play it
22 without pausing, please?

23 (Thereupon, the visual recording was played at 10:38 a.m.
24 and stopped at 10:39 a.m.)

25 BY MR. MEADORS:

1 Q Who is in that vehicle that just drove away?

2 A So Jay McBride (phonetic) is in that vehicle. Diontrae
3 Epps is in that vehicle. Joquell Myers is in that vehicle.
4 Ellquin Williams (phonetic) is in that vehicle and also
5 Sheldon Benjamin (phonetic).

6 Q Okay. And Mr. Myers told you that he was in that vehicle
7 during his interview, correct?

8 A That is correct.

9 Q Okay. Where did that vehicle end up going?

10 A Going to Tuomey Hospital because his brother got shot.

11 Q Go ahead.

12 (Thereupon, the visual recording was played at 10:39 a.m.
13 and stopped at 10:40 a.m.)

14 MR. MEADORS: We're still on State's 7. This is the
15 Rosic, State's Exhibit 7.

16 (Thereupon, the visual recording was played at 10:40 a.m.
17 and stopped at 10:40 a.m.)

18 BY MR. MEADORS:

19 Q And again, you've testified that this was about an hour
20 and 20 minutes time, what actual time it was?

21 A That is correct.

22 Q Okay.

23 (Thereupon, the visual recording was played at 10:41 a.m.
24 and stopped at 10:42 a.m.)

25 BY MR. MEADORS:

1 Q Now, there's a car backing in here. What car is this?

2 A That's the Dodge Charger, the red one that backed into
3 the parking space.

4 Q Who's driving that?

5 A Sir?

6 Q Who's driving that vehicle?

7 A That's Michael Lucas is driving that vehicle.

8 (Thereupon, the visual recording was played at 10:43 a.m.
9 and stopped at 10:44 a.m.)

10 BY MR. MEADORS:

11 Q Do you see Michael Rogers at this point in the video?

12 A Not yet.

13 (Thereupon, the visual recording was played at 10:44 a.m.
14 and stopped at 10:46 a.m.)

15 BY MR. MEADORS:

16 Q Do you know who that person is?

17 A That's Timothy Scarborough, who testified yesterday when
18 he said he went up to the truck and just put his hands up,
19 like, what's going on? That's when Timothy Scarborough goes
20 over there towards the back group over there.

21 (Thereupon, the visual recording was played at 10:46 a.m.
22 and stopped at 10:46 a.m.)

23 MR. MEADORS: Stop.

24 BY MR. MEADORS:

25 Q Do you know who that individual is?

1 A That's Michael Rogers walking up towards over there.

2 (Thereupon, the visual recording was played at 10:47 a.m.
3 and stopped at 10:47 a.m.)

4 A You can see him at the corner of the truck right here,
5 where the arrow's at.

6 (Thereupon, the visual recording was played at 10:47 a.m.
7 and stopped at 10:47 a.m.)

8 MR. MEADORS: Stop.

9 BY MR. MEADORS:

10 Q Who is that swinging with their left hand?

11 A That's Diontrae Epps.

12 Q And who's he swinging at?

13 A He's swinging at Michael Rogers.

14 (Thereupon, the visual recording was played at 10:47 a.m.
15 and stopped at 10:47 a.m.)

16 MR. MEADORS: Stop.

17 BY MR. MEADORS:

18 Q Who is that?

19 A That's Diontrae Epps with his arm extended out with his
20 handgun.

21 Q And you see him fire that handgun?

22 A That is correct. You can see the muzzle flash on that
23 handgun when he fired it.

24 (Thereupon, the visual recording was played at 10:47 a.m.
25 and stopped at 10:47 a.m.)

1 MR. MEADORS: Stop.

2 BY MR. MEADORS:

3 Q What car was that leaving just then?

4 A That was the Dodge Charger pulling out, going on --
5 towards the right side, out towards Broad Street.

6 (Thereupon, the visual recording was played at 10:48 a.m.
7 and stopped at 10:48 a.m.)

8 MR. MEADORS: Stop.

9 BY MR. MEADORS:

10 Q At 42:08, who is that?

11 A Oh, which -- where -- which one?

12 Q Where the --

13 A Go back just a little bit. That's the tail lights of the
14 Charger right here to the left corner of the screen.

15 (Thereupon, the visual recording was played at 10:48 a.m.
16 and stopped at 10:49 a.m.)

17 Q Who was that shooting?

18 A If you go back, you can see Joquell Myers. He'll come up
19 to where the back of the truck at. You'll see him shoot.
20 You'll see -- you'll see the muzzle flash.

21 (Thereupon, the visual recording was played at 10:49 a.m.
22 and stopped at 10:49 a.m.)

23 MR. MEADORS: Let's go to 42:55, 42:50, please.

24 (Thereupon, the visual recording was played at 10:49 a.m.
25 and stopped at 10:50 a.m.)

1 A That's it right there. That's him in the white shirt
2 right there.

3 MR. MEADORS: Back up a couple seconds, please.

4 A You'll see his hand was out like this right here.

5 (Thereupon, the visual recording was played at 10:50 a.m.
6 and stopped at 10:50 a.m.)

7 A That's him come running up. You see him running up.
8 He's running up.

9 MR. MEADORS: Stop.

10 A Got his arm out right there. He's --

11 BY MR. MEADORS:

12 Q That flash right there?

13 A That is correct. Right here.

14 Q Who was that firing that gun?

15 A That's Joquell Myers.

16 Q In the shirt next to Mr. Young?

17 A That is correct.

18 MR. MEADORS: Let the record reflect he's identified
19 Joquell Myers as the person firing the gun at 11:42:08.

20 Would you go back and just keep playing it? Just go back
21 a few seconds and play it 'without stopping. Thank you.

22 (Thereupon, the visual recording was played at 10:51 a.m.
23 and stopped at 10:51 a.m.)

24 A That's him running up, still shooting.

25 BY MR. MEADORS:

1 Q And then what car is that leaving up there?

2 A That was the red Dodge Charger that was leaving out the
3 parking lot.

4 MR. MEADORS: Can you go back just a few seconds and show
5 that again, please?

6 (Thereupon, the visual recording was played at 10:51 a.m.
7 and stopped at 10:51 a.m.)

8 A So all right. The red Charger to the left of your
9 screen, you're going to see that it's going to back up and go
10 out to the right. And so he's shooting right there.

11 (Thereupon, the visual recording was played at 10:51 a.m.
12 and stopped at 10:51 a.m.)

13 A And then as the Charger is leaving, he going to run up
14 and shoot at the Charger again.

15 (Thereupon, the visual recording was played at 10:51 a.m.
16 and stopped at 10:51 a.m.)

17 MR. MEADORS: Can you go back and pause when he goes to
18 the right, please?

19 (Thereupon, the visual recording was played at 10:51 a.m.
20 and stopped at 10:52 a.m.)

21 A All right. Theirs is leaving. He's coming up. All
22 right. That's Joquell Myers shooting and then go back around
23 the truck and start shooting again. That's him shooting.
24 There you go.

25 BY MR. MEADORS:

1 Q So is that Joquell Myers shooting again?

2 A That is correct.

3 (Thereupon, the visual recording was played at 10:52 a.m.
4 and stopped at 10:52 a.m.)

5 BY MR. MEADORS:

6 Q Who's this fellow that comes out and then turns around --
7 do you know -- and goes back in?

8 A What was -- I couldn't hear you.

9 MR. MEADORS: That's all right. Just go ahead.

10 (Thereupon, the visual recording was played at 10:52 a.m.
11 and stopped at 10:53 a.m.)

12 MR. MEADORS: Keep going.

13 (Thereupon, the visual recording was played at 10:53 a.m.
14 and stopped at 10:53 a.m.)

15 MR. MEADORS: Stop.

16 BY MR. MEADORS:

17 Q What car is that?

18 A That's the vehicle that Joquell Myers got into with the
19 rest of the guys that arrived at the hospital -- Joquell
20 Myers, Diontrae Epps, Ellquin Williams, Sheldon Benjamin, and
21 Jay McBride.

22 MR. MEADORS: Keep going, please.

23 (Thereupon, the visual recording was played at 10:53 a.m.
24 and stopped at 10:54 a.m.)

25 MR. MEADORS: Stop.

1 BY MR. MEADORS:

2 Q Who was that?

3 A That was Christopher Fordham when he got shot trying to
4 help Michael Rogers.

5 Q That's who we saw in the other video in State's 7
6 earlier?

7 A That is correct. He was at the bottom left-hand corner.
8 And he's hopping away because he's already shot. And he goes
9 to the hospital as well.

10 MR. MEADORS: We're staying on State's 7 with the other
11 camera view.

12 (Thereupon, the visual recording was played at 10:54 a.m.
13 and stopped at 10:55 a.m.)

14 BY MR. MEADORS:

15 Q I didn't ask you. I should have. If you'd look at --
16 can you tell the jury, as who you've identified as Joquell
17 Myers comes across in front of the store, how many muzzles
18 flashes you see?

19 A Altogether, approximately --

20 Q As he's coming across now, tell me -- or do the other --
21 Go ahead.

22 A Hold up. The first part.

23 Q Right here.

24 (Thereupon, the visual recording was played at 10:55 a.m.
25 and stopped at 10:55 a.m.)

1 A One, two, three. Three.

2 MR. MEADORS: Keep going.

3 (Thereupon, the visual recording was played at 10:55 a.m.
4 and stopped at 10:55 a.m.)

5 A And three more after that.

6 (Thereupon, the visual recording was played at 10:55 a.m.
7 and stopped at 10:56 a.m.)

8 MR. MEADORS: And now the other final camera view from
9 State's 7. I believe it's also on State's 7.

10 (Thereupon, the visual recording was played at 10:56 a.m.
11 and stopped at 10:57 a.m.)

12 MR. MEADORS: Please just come up -- what car --

13 UNIDENTIFIED SPEAKER: I hate to interrupt. I think we
14 need to take a break.

15 MR. MEADORS: Okay.

16 THE COURT: Ladies and gentlemen, we're going to take
17 about ten minutes. Please don't begin to discuss the case.

18 (Whereupon, the jury exited the courtroom at 10:57 a.m.)

19 (Recess.)

20 THE COURT: Okay. Mr. Meadors, are you ready for the
21 jury, sir?

22 MR. MEADORS: Yes, ma'am.

23 (Whereupon, the jury came into open court at
24 approximately 11:16 a.m.)

25 MR. MEADORS: Your Honor, for the record, I think we're

1 still on State's 7. But we all know the Rosic, the third
2 camera view from Sonic. It's 1083 Broad Street. It's a Hop-
3 In, Sunoco. We're just having a lag. I'm sorry.

4 (Thereupon, the visual recording was played at 11:17 a.m.
5 and stopped at 11:18 a.m.)

6 BY MR. MEADORS:

7 Q Do you see the red Charger pulling in?

8 A Yes, sir. That's it in the corner, in the left corner,
9 backing in.

10 (Thereupon, the visual recording was played at 11:18 a.m.
11 and stopped at 11:19 a.m.)

12 BY MR. MEADORS:

13 Q Do you see Michael Rogers in this portion?

14 A Not yet.

15 (Thereupon, the visual recording was played at 11:19 a.m.
16 and stopped at 11:20 a.m.)

17 A All right. If you look, Michael Rogers has some jean
18 shorts with a black T-shirt on in the corner. Just let it
19 keep playing it might -- he might come back around to this
20 side right here in front.

21 (Thereupon, the visual recording was played at 11:20 a.m.
22 and stopped at 11:20 a.m.)

23 A There he go. That's Michael Rogers right here.

24 BY MR. MEADORS:

25 Q Where the arrow is?

1 A That is correct.

2 Q Okay.

3 (Thereupon, the visual recording was played at 11:21 a.m.
4 and stopped at 11:21 a.m.)

5 A That's Michael Rogers walking up. That's him.

6 BY MR. MEADORS:

7 Q Okay.

8 (Thereupon, the visual recording was played at 11:21 a.m.
9 and stopped at 11:22 a.m.)

10 MR. MEADORS: Stop.

11 BY MR. MEADORS:

12 Q Do you see Mr. Timothy Scarborough there?

13 A Oh, Timothy Scarborough is the one in the red -- red
14 pants.

15 Q Is that him right there?

16 A Walking up with the black shirt. Right here with the
17 chain on. That's Timothy Scarborough.

18 Q Okay.

19 A He's going off to the right of the screen right here.

20 Q Okay. And he testified yesterday?

21 A That is correct. That's Michael Rogers right here. He
22 has a, like --

23 Q Where the arrow is on the screen?

24 A That is correct.

25 Q Okay. Thank you.

1 (Thereupon, the visual recording was played at 11:23 a.m.
2 and stopped at 11:23 a.m.)

3 A He's walking off, over here to the right of the screen.

4 (Thereupon, the visual recording was played at 11:23 a.m.
5 and stopped at 11:23 a.m.)

6 MR. MEADORS: Stop.

7 A That's -- that's where Diontae Epps spring on Mike Rogers
8 at that point in time.

9 MR. MEADORS: Okay. Go ahead.

10 (Thereupon, the visual recording was played at 11:23 a.m.
11 and stopped at 11:23 a.m.)

12 A And then you see him pull out a gun.

13 (Thereupon, the visual recording was played at 11:23 a.m.
14 and stopped at 11:23 a.m.)

15 BY MR. MEADORS:

16 Q And the other screens, we'll put them all three on in a
17 moment. The other shots we had shows what's happening up with
18 Mr. Middleton, correct?

19 A Yes. That is correct.

20 (Thereupon, the visual recording was played at 11:23 a.m.
21 and stopped at 11:24 a.m.)

22 A That's the Charger on the left. If you look at the top
23 left-hand corner, that's the Charger pulling out from the
24 Sunoco.

25 BY MR. MEADORS:

1 Q Okay.

2 A And that's right there, to the right, you'll see Joquell
3 Myers.

4 Q Did it look like his gun was firing down?

5 MR. MEADORS: Go back and show that again.

6 A He's six-four, so you can see his arm point -- pointing
7 down towards a angle like this right here.

8 (Thereupon, the visual recording was played at 11:24 a.m.
9 and stopped at 11:24 a.m.)

10 A That's Joquell Myers firing again off the --

11 (Thereupon, the visual recording was played at 11:24 a.m.
12 and stopped at 11:25 a.m.)

13 BY MR. MEADORS:

14 Q Who was that?

15 A That was Timothy Scarborough running back after he got
16 shot on the other side. He --

17 Q Was that not Christopher Fordham running back? Would you
18 go back and take a look at it?

19 A Christopher Fordham?

20 Q Go back and look.

21 (Thereupon, the visual recording was played at 11:26 a.m.
22 and stopped at 11:26 a.m.)

23 A In the earlier video, you saw him grabbing Mike Rogers,
24 trying to pull him out the way. That's Christopher Fordham.

25 BY MR. MEADORS:

1 Q That's Christopher Fordham?

2 A Correct. His nickname is Pies.

3 (Thereupon, the visual recording was played at 11:26 a.m.
4 and stopped at 11:26 a.m.)

5 MR. MEADORS: Your Honor, now we're going to play all
6 three, not all of it, just three together side by side, which
7 is still on State's 7.

8 (Thereupon, the visual recording was played at 11:26 a.m.
9 and stopped at 11:27 a.m.)

10 BY MR. MEADORS:

11 Q Can you tell the ladies and gentlemen what we're looking
12 at here?

13 A So we got three videos from the Sunoco through camera
14 footage from the Sunoco; just different angles of that store
15 on this particular night.

16 Q And were there -- they're in evidence, the cameras we
17 got -- the videos we got from Sunoco, correct?

18 A That is correct.

19 Q And were these also sent to a place called
20 (indiscernible), which just made it clearer?

21 A That is correct.

22 Q Okay. Same video?

23 A Same video.

24 Q Same picture?

25 A Same picture.

1 Q These are the (indiscernible) that put them side by side?

2 A That's exactly right.

3 Q And are they time sequenced? Are they time sequenced?

4 A Yes, sir. As close as possible.

5 Q And again, for the record, they're off an hour and 20
6 minutes, but I mean, as far as these times here --

7 A Right. They --

8 Q -- they're sequenced --

9 A -- close as possible. They sequenced together.

10 Q Okay. All right. And actually, you can stop. If you
11 see the seconds, they're the same on each one of them, right?

12 A That is correct. You see 11:41:10, 11:41:10, 11:41:10 on
13 each camera.

14 Q Thank you, sir.

15 A Mike Rogers in the right camera walking up, if you --
16 right here. That is correct. That's Mike -- Michael Rogers.

17 Q And we're going to let it play, okay?

18 A Yes, sir.

19 (Thereupon, the visual recording was played at 11:28 a.m.
20 and stopped at 11:28 a.m.)

21 A The swing. Mike Rogers right here. If you look at it --
22 that is correct. He's -- I think he got paralyzed from one of
23 the bullets, so he's crawling on the ground right here on your
24 left screen. So D-Black right -- D-Black is right there,
25 coming to help Mike Rogers. And then he -- his shots rang

1 off. He hit the ground. If you go back -- if you -- you're
2 going to have to watch it a few times. But if you go back,
3 you can see Joquell Myers in the right-hand side firing shots
4 as D -- as D-Black is crawling on the ground already.

5 (Thereupon, the visual recording was played at 11:29 a.m.
6 and stopped at 11:29 a.m.)

7 A Watch this corner, right here, on the right-hand side.
8 You'll see them come up. We'll be in the middle screen and
9 also on this -- he going to be on two screens. Right there.
10 And that's Donta' Middleton. He's trying to crawl to get in
11 the back seat of the vehicle, like with his arms.

12 (Thereupon, the visual recording was played at 11:30 a.m.
13 and stopped at 11:30 a.m.)

14 A Christopher Fordham coming outside the store, trying to
15 help Michael Rogers, who's on the ground. He lifts Mike
16 Rogers up. The vehicle that Joquell Myers in right there,
17 stops, and fires, shoot Christopher Fordham right there, who
18 also arrived at the hospital with a gunshot wound. He runs,
19 pretty much limping away.

20 (Thereupon, the visual recording was played at 11:31 a.m.
21 and stopped at 11:31 a.m.)

22 A Right now, Gregory Donta' Middleton is in the backseat of
23 the vehicle right here with the door open.

24 MR. MEADORS: Now, for the record -- and they're in
25 evidence -- could we go to State's 6, just to show the jury

1 the original video? We don't have to play it, just show a few
2 seconds of it.

3 (Thereupon, the visual recording was played at 11:32 a.m.
4 and stopped at 11:32 a.m.)

5 BY MR. MEADORS:

6 Q And this is State's 6 from camera 12, correct?

7 A Sir?

8 Q State's -- well, you wouldn't -- it's in as State's 6,
9 camera 12 from --

10 A Yes, sir. Camera 12.

11 (Thereupon, the visual recording was played at 11:33 a.m.
12 and stopped at 11:33 a.m.)

13 BY MR. MEADORS:

14 Q And this is the original footage that was pulled from the
15 store, correct?

16 A That is correct. Original footage.

17 Q And that's State's 6. And this is State's 6, camera 1,
18 correct?

19 A Yes, sir. Camera 1.

20 (Thereupon, the visual recording was played at 11:33 a.m.
21 and stopped at 11:33 a.m.)

22 BY MR. MEADORS:

23 Q And my partner here wants me to make sure that we're
24 doing it in a -- it's not pushed in around the edge, but this
25 is the same picture as we showed on State's 7, correct?

1 A That is correct.

2 (Thereupon, the visual recording was played at 11:33 a.m.
3 and stopped at 11:33 a.m.)

4 BY MR. MEADORS:

5 Q And this is camera 16 from State's 6?

6 A Yep. Yes, sir. Camera 16.

7 Q From a regional video from Sunoco?

8 A Yes, sir.

9 (Thereupon, the visual recording was played at 11:33 a.m.
10 and stopped at 11:34 a.m.)

11 BY MR. MEADORS:

12 Q Now, Mr. Middleton's body, where was it when law
13 enforcement arrived?

14 A It was in the back seat of that vehicle, that white
15 vehicle you saw on camera.

16 Q And Mr. Michael Roger's body was where when law
17 enforcement arrived?

18 A He was still -- he was right beside the vehicle in the
19 parking lot that Donta' Middleton was in -- Gregory Donta'
20 Middleton.

21 Q Now, also, I believe in your conversation with the
22 defendant, you talked about going to Tuomey; is there a video
23 of Tuomey?

24 A Yes. It's a video of Tuomey Hospital with them getting
25 out the vehicle because his brother is shot as well. He got

1 hit in the -- I think the stomach area.

2 Q Okay.

3 MR. MEADORS: Beg the Court's indulgence.

4 (Pause.)

5 MR. MEADORS: Your Honor, this is State's 8, the video
6 from Tuomey, without objection.

7 (WHEREUPON, State's Exhibit No. 8 was marked for
8 identification only.)

9 THE COURT: Okay. It is admitted.

10 (WHEREUPON, State's Exhibit No. 8 was received into
11 evidence.)

12 MR. YOUNG: What exhibit did you say?

13 UNIDENTIFIED SPEAKER: 8.

14 MR. MEADORS: And Your Honor, these have all been
15 provided to the defense. we're just playing them off the
16 computer, which both sides have them. But it is 8, for the
17 record.

18 BY MR. MEADORS:

19 Q Is there a time lag in this video?

20 A Sir?

21 Q Is there a time lag in this video? Does it jump just
22 because of the system?

23 A Yes. It is.

24 Q And for the record, I said time lag. Does the frame rate
25 jump?

1 A Yes, sir.

2 Q Okay.

3 MR. MEADORS: And I apologize to everybody.

4 THE WITNESS: Stop. That's the vehicle that they left
5 Sunoco in, that Joquell Myers was in. His brother got shot.
6 So they're trying to get him into the hospital at this time,
7 right here.

8 You -- go ahead and play it. All right.

9 Q Who's that?

10 A That's Ellquin Williams. That's Sheldon Benjamin, also
11 known as Polo, walking in the hospital.

12 Q Who is this back here?

13 Stop.

14 A You see -- if you see in the driver's door right there,
15 that is Jacquell Myers getting Diontrae Epps, his brother, out
16 and trying to, I guess, assist him in a wheelchair to get him
17 in the hospital. You see all the focus on the video. So
18 that's Jaquell Myers walking up right now -- same t-shirt.
19 You'll see him helping his brother out. If you focus in on
20 the car, he's at the driver -- I'm sorry, passenger-side
21 door -- front -- front passenger- side door right here.

22 Q And he's assisting getting who out?

23 A Diontrae Epps.

24 Q His brother?

25 A That's correct.

1 See the wheelchair coming up. All right. They wheeling
2 Diontrae Epps in the hospital right now. Medical staff.
3 That's Jay McBride walking in -- Jay McBride walking in behind
4 Diontrae Epps.

5 Q Who is that?

6 A Who -- in the hospital? Which frame you talking --

7 Q Go ahead.

8 A Oh. That's Christopher Fordham. He's the one that got
9 shot in the leg at the Sunoco gas station. So he's also at
10 the hospital as well. Right here in the bottom, in the
11 wheelchair, right here. His nickname is Pies. And then here
12 go Diontrae Epps right behind him.

13 That's Jay McBride coming in and the entrance right here.

14 That's Jay McBride leaving. That's them leaving now.

15 Q Okay. So the frame rate doesn't capture who got in where
16 in the car, correct?

17 A No, sir.

18 Q Thanks for that Det. McFadden.

19 Det. McFadden, during your interview of Mr. Meyers, at
20 approximately 32 minutes and 40 seconds, did you ask him about
21 a Facebook video that he and/or his brother were in?

22 A That is correct.

23 MR. WARR: Judge, objection.

24 THE COURT: What's the basis of the objection?

25 MR. WARR: May we approach, Your Honor?

1 THE COURT: Sure.

2 (Whereupon, a bench conference was held off the record in
3 the presence of the jury, but out of the hearing of the
4 jury.)

5 (Indiscernible)

6 THE COURT: Ladies and gentlemen, I'm going to dismiss
7 you for a few minutes while we take up the matter. Please
8 don't begin discussing the case yet.

9 (Whereupon, the jury exited the courtroom at 11:45 a.m.)

10 THE COURT: Okay. The grounds for the objection?

11 MR. WARR: Grounds for the objection, Your Honor, as to
12 this video; it's irrelevant. Mr. Myers does not say anything.
13 He's simply shown in the background of this video. It shows
14 no intent on Mr. Myers's part. And the video is of his
15 brother talking about Killah Mike, who my client is not
16 accused of murdering. He's accused of murder -- he stands
17 accused of murdering Gregory Middleton. Mr. Middleton is not
18 mentioned in the video. Michael Lucas is not mentioned in the
19 video. And Christopher Fordham is not mentioned in this
20 video.

21 This video is strictly -- the State is introducing it
22 strictly to prejudice the defense. It does not mention Mr.
23 Myers. He is just pictured in the background of it. He
24 doesn't say anything. He's making some hand gestures and
25 laughing, but it has nothing to do with my client. It doesn't

1 tend to prove anything as far as malice on the part of my
2 client towards Gregory Middleton or towards Michael Rogers,
3 for that matter. He doesn't say anything.

4 This is a video that -- it simply shows Diontrae Epps
5 talking about he wanted to fight Killah Mike, which neither
6 one of those parties -- Killah Mike is not -- my client's not
7 accused of murdering Killah Mike; DeAndre Epps is.

8 Gregory Middleton's not mentioned. Michael Lucas isn't
9 mentioned. And Christopher Fordham isn't mentioned. And it's
10 just unduly prejudicial to the defense. And that's the basis
11 of our objection to it.

12 THE COURT: Okay.

13 Yes, sir? You want to respond?

14 MR. MEADORS: May it please the Court, Your Honor. This
15 is as direct evidence as I've ever seen of malice and also
16 mutual combat in this case. We want Your Honor to review it,
17 if you would look at it. I think that's the best thing to do.

18 Judge, not only is the defendant in this video, he's
19 making -- as the video says, Killah Mike, we're coming to get
20 you. He's making gestures, and I think he joins in the scene
21 at the end. But if Your Honor could watch it right now --

22 THE COURT: Uh-huh.

23 MR. MEADORS: -- then I'd like to continue my argument.

24 THE COURT: Uh-huh.

25 MR. MEADORS: And Your Honor, I guess for the record, we

1 need to mark this. Maybe it's already marked.

2 THE COURT MONITOR: It's already marked.

3 MR. MEADORS: Let me put that directly -- what is it?

4 THE COURT MONITOR: 9.

5 MR. MEADORS: Your Honor, this would be State's 9.

6 State's 9.

7 (WHEREUPON, State's Exhibit No. 9 was marked for
8 identification only.)

9 (Thereupon, the visual recording was played.)

10 UNIDENTIFIED SPEAKER: Hell no. I'm going to
11 (indiscernible) Mr. Killah. (Indiscernible). Not me. Not
12 me. (Indiscernible). Not me. Not me. (Indiscernible). But
13 he will. (Indiscernible).

14 Unidentified Speaker: (Indiscernible).

15 Unidentified Speaker: (Indiscernible). We fight.

16 We fight, boy. Got me all sweaty talking about Killer
17 Mike.

18 Unidentified Speaker: (Indiscernible).

19 Unidentified Speaker: (Indiscernible).

20 Unidentified Speaker: (Indiscernible).

21 . Killah, who do you think you are? Mr. Killah, who do
22 you think you are? Mr. Killah, who do you think you are? Mr.
23 Killah, who do you think you are? Mr. Killah.

24 Unidentified Speaker: (Indiscernible).

25 MR. MEADORS: Your Honor, there's a -- as he says, Mr.

1 Killah, we're coming to get you. We're going to get your car
2 too. You see Mr. Myers coming around doing like this and
3 points like that, which we think's a gun or could be a gun.
4 He then joins in with the song. And then at the end, is
5 laughing and joining in the song. I don't know if he's one of
6 the goons he's referred to, but we think this is direct
7 evidence of malice, prior conflict -- and I don't know, for
8 mutual combat, what other evidence we could offer for it. So
9 we respectfully submit that it is relevant and probative of
10 all the issues in this case.

11 THE COURT: You want to respond?

12 MR. WARR: Yes, Your Honor. Your Honor, we have no way
13 of knowing whether that hand gestures, or whatever was made by
14 Mr. Myers, was referencing a gun. And in fact, Trae Epps
15 says, in the song, we fight; we don't play with guns and mace.

16 Obviously, he was not talking about shooting Michael
17 Rogers. He said he was going to beat him up. But that seemed
18 to be a personal vendetta of Mr. Epps against Michael Rogers.

19 I think it's -- I think the State is trying to take it
20 too far, stretching what Mr. Epps said about Mr. Rogers and
21 trying to infer intent to my client. He didn't say anything
22 about Mr. Rogers in that video. And to infer something --
23 it's just not there. There's no direct evidence that there
24 was malice between these two people.

25 I have -- lots of people have siblings that have problems

1 with people, but that doesn't necessarily tend to show that
2 they have a problem with that person. Just the fact that they
3 were in the back of his brother's Facebook video, which was
4 his brother's Facebook video, not his, doesn't tend to show
5 that he had malice against Killah Mike. He was just there
6 with his brother and was just in the background laughing. He
7 thought it was funny. That doesn't -- it could have been a
8 joke. There's just no -- nothing in this video to infer
9 intent on my client or malice on my client against Michael
10 Rogers.

11 And as I said, Gregory Middleton is who he's actually
12 accused of murdering in this case. And there's no mention of
13 Mr. Middleton. He's accused of attempting to murder Michael
14 Lucas; no mention of Michael Lucas. And Christopher Fordham;
15 no mention of Mr. Fordham. It's just not relevant. It's
16 unduly prejudicial to allow this video in to infer intent and
17 malice to client against Michael Rogers from his mere presence
18 in this video.

19 THE COURT: What is the timing?

20 MR. MEADORS: Your Honor, this was before the shooting,
21 obviously. It shows the relationship between not only --

22 THE COURT: I understand it was before the shooting, but
23 like a week, a month, the day of?

24 THE WITNESS: We don't have exact time.

25 MR. MEADORS: I don't know the date.

1 THE WITNESS: It was just -- it was just before the
2 shooting.

3 THE WITNESS: I believe it was several weeks before, is
4 my understanding, but I have no --

5 Is there a date stamp on it?

6 MR. YOUNG: A month?

7 MR. MEADORS: Obviously, Your Honor, I think it goes to
8 show the intent, shows the relationship between Mr. Epps and
9 his brother, obviously. It also goes to show the intent of
10 Mr. Killah Mike when he talks about -- they want to beat up.
11 They don't want to fight with guns. I know he said that in
12 his first statement, but then he admits to shooting. What,
13 you going to beat up a car? You know, Mr. Michael Rogers is
14 shot. The car he was in was shot; exactly what they said on
15 the video.

16 The defendant is in the back doing this and pointing what
17 we believe is a gun. Nothing happens at the store until the
18 Rogers -- Mr. Rogers and the rest of them get there. And
19 that's when -- that is when Mr. Scarbough said he came to talk
20 to Mr. Epps, and Mr. Epps initiates. And then you see Mr.
21 Myers coming around firing.

22 THE COURT: Okay. Here's -- I guess, we don't have an
23 issue -- you're not objecting to it on the basis of
24 authentication?

25 MR. MEADORS: Right.

1 THE COURT: It's -- the issue is whether it's relevant or
2 prejudicial?

3 THE WITNESS: Whether it's relevant and unduly
4 prejudicial.

5 THE COURT: Mr. Myers, I'm going to have you proffer
6 whatever testimony from him regarding -- the issue that I've
7 got is the timing of this video. If this is -- if you have no
8 idea when this video was taken except sometime prior to the
9 shooting, then I certainly think that it is probative of
10 intent and malice. It certainly is prejudicial. But whether
11 it's unduly prejudicial or not is going to, in my opinion --
12 well, since I'm the one who's making the ruling, I guess, my
13 opinion is the one that matters -- is what the timing of the
14 video is.

15 MR. MEADORS: And inquiring just as for his intent, the
16 intent and malice is there.

17 THE COURT: I'm saying, if this was six months before,
18 this is not going to tell me anything about what happened six
19 months later --

20 MR. MEADORS: That they were going to --

21 THE COURT: -- versus it was very recent. And then the
22 same night he gets shot.

23 MR. MEADORS: The defense counsel said it was several
24 weeks before.

25 THE WITNESS: I could have been several months. I don't

1 know.

2 THE COURT: Well, I mean, you're not going to --

3 THE WITNESS: I know it was at least several weeks.

4 THE COURT: You all stop. He's not going to testify. So
5 whoever's going to testify about the video, let's go ahead and
6 proffer that testimony.

7 MR. MEADORS: Well, I need to beg the Court's indulgence.

8 THE COURT: Sure.

9 (Pause.)

10 (Counsel confer.)

11 THE COURT: She's asking him how to spell Donta', Gregory
12 Donta'.

13 THE WITNESS: Diontrae Epps. D --

14 THE COURT: No.

15 THE COURT MONITOR: Not Diontrae, Donta'.

16 THE COURT: No.

17 THE WITNESS: Oh.

18 THE COURT MONITOR: You keep calling him Donta' --

19 THE WITNESS: Oh, Donta' Middleton.

20 THE COURT MONITOR: Donta'. How do we spell that?

21 THE BAILIFF: It's on the witness list.

22 THE WITNESS: Donta' Middleton.

23 THE COURT MONITOR: Donta' Middleton is on the witness
24 list?

25 THE WITNESS: D-O-N --

1 THE COURT MONITOR: D-O-N --

2 THE WITNESS: T-E.

3 THE COURT MONITOR: Okay. Thank you.

4 MR. MEADORS: I don't think it's on the witness list.

5 THE COURT: No.

6 THE COURT MONITOR: D-O-N-T-E?

7 THE WITNESS: Yeah.

8 THE COURT MONITOR: Thank you.

9 (Counsel confer.)

10 (Pause.)

11 THE COURT: All right, you all. Let's just be at recess
12 for ten minutes.

13 MR. MEADORS: Yes, ma'am.

14 THE WITNESS: Yes, ma'am.

15 (Recess.)

16 BY MR. MEADORS:

17 Q Detective McFadden, when did you get the --

18 MR. MEADORS: What number is it?

19 BY MR. MEADORS:

20 Q When did you get State's 9, the Facebook video that we
21 just played for the Judge just a little while ago?

22 A I got that on September 14th, 2019.

23 Q How did you get that?

24 A From an anonymous person that wanted to help out with the
25 case.

1 Q And that happens in law enforcement, correct?

2 A Correct.

3 Q People provide information but don't want to give their
4 identity. Okay.

5 And do you know when that was produced, that Facebook video?

6 A Not to my knowledge. From what I was told, it was a --

7 MR. YOUNG: Objection. Hearsay. Speculation.

8 THE COURT: That's sustained.

9 BY MR. MEADORS:

10 Q For these purposes, without the jury being here, can we
11 say?

12 MR. YOUNG: Objection. It's still hearsay.

13 THE COURT: I understand. I'm going to let you proffer
14 the testimony --

15 MR. MEADORS: That's all I proffered.

16 THE COURT: But I -- the objection is sustained. That's
17 hearsay.

18 BY MR. MEADORS:

19 Q When did you hear it in mid-May?

20 A Approximately a week or two before the incident happened,
21 of the shooting?

22 Q You don't know to your own knowledge?

23 A I do not know for my own knowledge. No, sir.

24 Q And you provided that as part of the file, and we gave it
25 to the defense, correct?

1 A That is correct.

2 MR. MEADORS: Okay. That's all we have on this issue.
3 Your Honor, we do -- during the break that Your Honor let us
4 have, we had talked with some folks who -- we may have another
5 witness, if you'd hold this in abeyance.

6 THE COURT: Okay.

7 MR. MEADORS: We may be able to offer as -- we proffered,
8 of course, first, when they saw the video and the timing of it
9 before the shots were fired.

10 THE COURT: Okay. So you're not -- at this point --

11 MR. MEADORS: I first -- if I could be heard briefly, I
12 would offer at this point, most respectfully to Your Honor,
13 saying that we believe no matter when it was produced, that is
14 relevant. Actually, what happens is what said was going to be
15 happening in the video, and we think it's relevant really
16 regardless, respectfully, of when it was made. Judge, and
17 because it is what happens -- the animosity is there. So we
18 would ask Your Honor to consider its relevancy as stated, as
19 it is, without particularly knowing when it's produced, most
20 respectfully. If Your Honor doesn't do that, we do have
21 another witness we believe -- or two -- that we'd like for you
22 to keep this issue open; at least hear from them.

23 THE COURT: I'm not going to allow it in at this point.
24 I do think that it -- it may or may not be relevant depending
25 on the timing of it. It certainly is prejudicial, but I think

1 it may be unduly prejudicial if it's so remote in time that --
2 the more remote in time it is, I think the less relevant it
3 becomes. So I'm not going to allow you to go into it with Mr.
4 McFadden at this point, but subject to if you can establish a
5 foundation through a different witness.

6 MR. MEADORS: And we may have to call -- if we find -- if
7 the witness does testify, and Your Honor allows it, we may
8 have to call him back for the jury to hear when he got it.

9 THE COURT: That's fine.

10 MR. MEADORS: I'm just saying, if we can keep that open

11 THE COURT: Well, you can always recall a witness.

12 MR. MEADORS: Okay. I just didn't want to be --

13 THE COURT: Okay. We're ready for the jury?

14 MR. WARR: Your Honor, please, because it's 12:30, I just
15 wanted to ask, would this be a good point for us to break for
16 lunch?

17 THE COURT: Well, I hate to keep interrupting this
18 witness's testimony.

19 How much longer do you anticipate, Mr. Meadors?

20 MR. MEADORS: Well, I don't know if they're going to
21 object or not but not all that much longer. But if you were
22 going to break before they start --

23 THE COURT: Probably --

24 MR. MEADORS: You tell me what to do, I'll do it. I got
25 my boss saying one thing and you the other one. You tell me

1 what to I don't want to get in the middle.

2 MR. WARR: I just wanted to know -- I wanted you to know
3 what time it was.

4 Go ahead and finish the witness.

5 THE COURT: Yeah. I mean, if we can at least break
6 before you start your cross. So we're not piece-mealing this
7 thing to death.

8 THE WITNESS: Your Honor, I know cross will take a
9 substantial amount of time.

10 MR. MEADORS: That's what she's saying.

11 THE COURT: Okay. So let's finish the direct. So at
12 least we have finished at an actual breaking point before we
13 release them for lunch.

14 Okay. We're ready for the jury.

15 (Pause.)

16 (Whereupon, the jury came into open court at
17 approximately 12:23 p.m.)

18 THE BAILIFF: Jurors are seated.

19 THE COURT: Okay. Mr. Meadors?

20 MR. MEADORS: May it please the Court.

21 THE COURT: Yes, sir.

22 RESUMED DIRECT EXAMINATION

23 BY MR. MEADORS:

24 Q At any point in the audio statement you took from Mr.
25 Myers, did he tell you what type gun he shot?

1 A No, sir. He refused to tell me what type of gun he shot.

2 Q Did he ever tell you how many times he shot?

3 A Never told us what time he -- how many fired -- how many
4 times he fired a handgun. No, sir.

5 Q In fact, at first, did he tell you he didn't even shoot?

6 A Yes. At first he told us that he didn't even have a gun.
7 But as the interview went on, I told him to stop lying. I
8 know you had a gun. I saw you on video. And then he finally
9 admitted to having a gun. But he would never tell us how many
10 times he fired; what kind of gun he had; where the gun was at;
11 none of that information.

12 Q Never told you where the gun was?

13 A Never.

14 Q And he said several times he wasn't shooting, right? He
15 wasn't shooting a gun?

16 A That's what he said. He wasn't shooting.

17 Q Did he tell you who drove the car to the hospital?

18 A He wouldn't tell us who drove the car to the hospital.

19 Q Did he tell you who shot his brother?

20 A He said he don't know who shot his brother. He said that
21 everybody was shooting out there. But when I asked him who
22 had guns, he was like, I don't know. I don't know. He would
23 never say a name or nobody who had guns.

24 Q Did he tell you whether or not he was the type of person
25 to use a gun?

1 A He said he wouldn't use a gun. He said he's six-four.
2 He's a big guy. He fight. He don't shoot guns. But yet we
3 see him on camera shooting a gun.

4 Q And did he say, I ain't worried about none of that other
5 stuff? I mean, y'all got me for attempted murder; did he tell
6 you that?

7 A That is correct, he said, y'all could charge me with
8 attempted murder and all the other charges, but he said, I
9 ain't kill nobody.

10 Q Did he say he hadn't seen anybody out there with guns?

11 A That's what he said.

12 Q I didn't see nobody with a gun.

13 Q Did he admit to shooting at the red Charger?

14 A He did admit to shooting at the red Charger. He said he
15 didn't know who was in the red Charger. But yet, you still
16 shooting at the red Charger.

17 Q Did you ask him who else was in the red Charger? Did he
18 say he knew who was in there?

19 A No. He said he don't know who was in the red Charger.
20 He just shooting at it.

21 Q Did you say he didn't see Trae swinging on Killah Mike?

22 A That's correct. He did say he saw Trae swing on Killah
23 Mike.

24 Q Did you ask him five times how many shots he fired?

25 A Numerous times. How many shots he fired, who he was

1 shooting at. You don't know? I don't know.

2 Q Did he say he wanted to talk to --

3 A So why you shooting a gun if you don't know?

4 Q Did he say he want to talk to his mamma?

5 A He say he want to talk to his mamma. He want to give his
6 momma a phone cal.

7 MR. MEADORS: Beg the Court's indulgence. Almost
8 through. Sorry.

9 Q Did he admit to being in the car that fired the shot at
10 Christopher Fordham was from?

11 A That's correct.

12 Q Where Christopher Fordham was shot from?

13 A That's correct.

14 Q And would he tell you where he was seated in that car?

15 A He told us he was sitting in the back seat.

16 Q That -- we don't know that. He said he was sitting in
17 the back seat. I don't know for sure.

18 MR. MEADORS: I think that's all we have at this time.

19 THE COURT: Okay, ladies and gentlemen. We're going to
20 go ahead and break for lunch before we start the
21 cross-examination. It's now right after 12:30. If I can ask
22 if you'll be back at 2 o'clock. We have a couple things that
23 we need to take care of before I let these folks break for
24 lunch as well. During the break, again, please don't begin
25 discussing the case. We'll see you back at 2 o'clock.

1 (Whereupon, the jury exited the courtroom at 12:31 p.m.)

2 THE COURT: If y'all can -- if you can stay in for just a
3 minute. Okay. Just wanted to take a minute to address the
4 defendant about his right to testify.

5 MR. WARR: Yes, Your Honor.

6 THE COURT: So Mr. Myers, sir, you have a Constitutional
7 right to remain silent. And what that means is that if you
8 decide you do not want to testify and you want to exercise
9 that Constitutional right, then I will instruct the jury in my
10 closing instructions to them that they cannot hold that
11 against you; that that is a Constitutional right, you have the
12 right to remain silent, you do not have a burden of proving
13 yourself innocent, the State bears the burden of proving you
14 guilty beyond a reasonable doubt. I'll further instruct them
15 that they can't even discuss the fact that you did not testify
16 in their deliberations, it shouldn't be a factor in any way,
17 shape, or form.

18 Having said that, it is your day in court, so you get to
19 decide whether or not you want to testify. If you testify,
20 we'll follow the same procedure that we've used for the other
21 witnesses. You'll take the stand during your defense once the
22 State ends its case and you start your defense. We'll swear
23 you in. Your attorney will ask you questions on direct
24 examination. Mr. Meadors will ask you questions on
25 cross-examination.

1 Is there any criminal history that we need to discuss
2 that would be used for impeachment?

3 MR. MEADORS: Judge, I don't believe so. If there is,
4 I'll let you know as soon as we come back, but I do not
5 believe so.

6 THE COURT: Okay. We'll just verify that that's the
7 case. So just so you know of the pros and cons.

8 So you should certainly discuss this with your attorneys,
9 your decision whether or not to testify. You should discuss
10 it with family members. It's ultimately your decision to
11 make, but of course you should discuss this with your lawyer.

12 Anything else that you want me to put on the record
13 regarding his right to remain silent and et cetera?

14 MR. YOUNG: At the end of the day, or before we start
15 this afternoon, I would like for him to have an opportunity to
16 sit down with his mother and myself and Mr. Warr for a few
17 minutes. We could use one of these rooms back here if that's
18 okay with the guards. And so if you could make that available
19 to us, so we have about ten --

20 THE COURT: I think we can accommodate that certainly
21 before he's got to make the final decision.

22 MR. YOUNG: Yes, ma'am. Thank you.

23 THE COURT: Okay. Anything else pertaining to that
24 before we break for lunch?

25 MR. MEADORS: No, ma'am.

1 THE COURT: Okay. We'll be at recess, then. Thank you.

2 MR. YOUNG: Thank you, Your Honor.

3 (Thereupon, a luncheon recess was taken.)

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 A F T E R N O O N S E S S I O N

2 THE COURT: Mr. Warr, are you ready for the jury?

3 MR. WARR: I am, Your Honor.

4 THE COURT: Okay. Ladies and gentlemen, thank you for
5 your patience. We were taking care of a number of issues that
6 will make it go a little faster now that we've got you in
7 here.

8 So Mr. Warr, I'm turning it over to you, sir.

9 MR. WARR: If it please the Court, Your Honor. I would
10 like to move to admit, I believe without objection,
11 Defendant's 2.1 through 2.2.

12 THE COURT: No objection?

13 MR. WARR: 2.20.

14 MR. MEADORS: No objection.

15 THE COURT: 2.1 through 2.20?

16 MR. WARR: 20, yes.

17 THE COURT: Okay. They are admitted.

18 (WHEREUPON, Defendant's Exhibits Nos. 2.1 through 2.20
19 were received into evidence.)

20 MR. WARR: Thank you, Your Honor.

21 CROSS-EXAMINATION

22 BY MR. WARR:

23 Q Det. McFadden, on that recording that we heard of you
24 questioning Mr. Myers, I believe you stated in there that
25 y'all did a complete investigation in this case?

1 A Yeah, I was -- I told him that we talked to everybody.
2 We -- you know, that's -- it's -- if I said "complete", if
3 there's any more information coming forward, we're still going
4 to investigate that as well.

5 Q Okay. But you would say that you thoroughly investigated
6 this case before pressing charges against Mr. Myers?

7 A Yes, sir.

8 Q All right. And that included watching the videos?

9 A Yes, sir.

10 Q And this was -- would you say this was an important case
11 to the Sumter Police Department?

12 A Very important case, yes, sir.

13 Q Did you have any pressure from your supervisors to make
14 an arrest in this case?

15 A No, sir. Not at all.

16 Q Okay. Pressure from the community?

17 A No, sir. Not at all.

18 Q Okay. But it was an important case?

19 A Very important case, yes, sir.

20 Q All right. Now we're going to walk back through the
21 videos that the State played earlier, starting with -- we're
22 going to begin with camera 1. This is from State's Exhibit 6
23 which is the standard videos.

24 A Okay.

25 Q All right. We're going to start -- let the record

1 reflect that we're going to start playing this camera 1 --

2 A I got it.

3 Q -- from State's Exhibit 6, starting at -- the time on the
4 camera is 11:36:57.

5 A Yes, sir.

6 Q Which, Det. McFadden, that time is an hour and twenty
7 minutes off, correct?

8 A Approximately, yes, sir.

9 Q Approximately. But as far as the cameras on the
10 system -- camera 12, camera 16, and camera 1 -- they all have
11 the same time displayed on the screen? It's synchronized?

12 A It's -- yes, sir, it --

13 MR. WARR: All right. All right. We're going to start
14 playing here at 11:36:57.

15 MR. MEADORS: Are these all from the same camera?

16 MR. WARR: I'm sorry?

17 MR. MEADORS: Are they all from the same camera?

18 MR. CORBETT: Says camera 1.

19 MR. WARR: This is for camera 1.

20 MR. CORBETT: Okay. All of these are?

21 MR. WARR: Well, the video is. This is camera.

22 MR. CORBETT: Okay.

23 MR. WARR: We're showing it singularly. I'm going to
24 move to another camera in a minute, but yeah, this is camera
25 1. And we're going to start off playing it in the normal

1 speed. And at certain times, I'm going to slow it down and
2 play it in a slower motion, so just want to --

3 THE WITNESS: Yes, sir. Okay.

4 Q Tell me when you see the red Charger pull up.

5 A Right now.

6 Q All right.

7 A And if you look at the righthand corner, the red Charger
8 is right there.

9 Q All right. Okay. So this is the red Charger right here,
10 pulled into the camera view at 11:37?

11 A That is correct.

12 Q Okay. All right. And Det. McFadden, who are these
13 people over here, on the Rite Aid side? Do you recognize any
14 of them? This is the Rite Aid side of the Sunoco parking lot.
15 Who are these people standing around this white car?

16 A Which one are you talking about?

17 Q That one right there, standing right by the white car.

18 A Hold on. I think that's Mr. Rodriques, Lewis (phonetic).

19 Q Okay.

20 A That's right by the white car. That one up top right
21 there, that's a Perry Vanburen, known as PJ.

22 MR. WARR: All right. Beg the Court's indulgence.

23 Q All right. We're going to switch cameras.

24 A Yes, sir.

25 (Counsel confer.)

1 MR. WARR: We're switching to camera 16 on State 6 for
2 the record.

3 THE COURT: Okay.

4 MR. WARR: Start 11:38. All right.

5 Q Det. McFadden, on the tail end of that other camera, we
6 saw the red Charger back in and you testified that that was
7 the car that -- who was in that car that day? Who all got out
8 of that car?

9 A It was Michael Lucas, known as Rilo; it was Timothy
10 Scarbough, he testified yesterday, known as Dale; also Michael
11 Rogers was -- is one of the victims that died out here on the
12 scene; and also Tyrek Archie, who was also in here yesterday
13 and testified.

14 MR. WARR: All right. Beg the Court's indulgence. I
15 actually have to go back to camera 1. This is camera 1 from
16 State's Exhibit 6. I'm going to slow it down to play on this
17 video.

18 Q So we see the Charger backing in here, and --

19 A Yes, sir. If you look to the right of the camera frame,
20 it backed into this parking spot to the right of the frame.

21 Q All right. Det. McFadden, do you see where the pointer
22 is pointing on the screen here?

23 A Yes, sir.

24 Q Who is that right there? Can you tell?

25 A Can you play back just a little bit? Kind of -- I'm

1 trying to figure out where everybody's at on the video.

2 Q This person right here. Red pants.

3 A That's Timothy Scarbough.

4 Q Okay. That's Mr. Scarbough who testified yesterday?

5 A Yes, sir.

6 Q And he got out of that red charger, correct?

7 A Yes, sir.

8 Q All right. And I believe it was his testimony yesterday
9 that he went over to Trae Epps following this. And I believe
10 it was gestured by the State that he went over to offer an
11 olive branch?

12 A Offering a what?

13 Q An olive branch; he was making a peace offering with Trae
14 Epps?

15 A Right, right.

16 Q Okay.

17 A Like, he just wanted to make sure everything was okay.

18 Q So this is Olive Branch Man, Timothy Scarbough.

19 MR. MEADORS: You said Olive Branch what?

20 MR. WARR: Man.

21 MR. MEADORS: I'll object to that.

22 MR. WARR: You used it.

23 THE COURT: That's overruled.

24 Q So he was there to make peace was his testimony
25 yesterday. What is he doing right here? Can you tell?

1 A It's just, like, he just bouncing, like --

2 Q It looks like he's jumping up and down with his fists up.

3 MR. MEADORS: Objection, Your Honor.

4 THE COURT: I'm going to allow the question. Thank you.

5 Q Let's play it again. And we can slow it down. Right
6 here, doesn't it look like he has -- can you tell if he has
7 his fists raised right here?

8 A No, sir. Not at all. There's music playing at night,
9 and sometimes they dance to music like that.

10 Q Okay. Does -- aren't his elbows --

11 A I mean, his elbow's like this right -- yes, sir. His
12 elbow's like this, right here.

13 Q Like this?

14 A I mean, that's a normal dance move to me.

15 Q And I believe the testimony was yesterday that the people
16 that got out of the red Charger, including Mr. Scarbough, they
17 got out and said, you got a problem and asked the people
18 around them, they got a problem?

19 A Correct, that's what Timothy Scarbough said yesterday.

20 Q Okay.

21 A He was referring that to Diontrae Epps.

22 Q He wasn't referring that to the gentlemen surrounding the
23 white car?

24 A Not to my knowledge.

25 Q Okay.

1 A The information that we received is that he was talking
2 to Diontrae Epps when he said that. As he said yesterday,
3 they -- they share the same baby mamma.

4 MR. WARR: All right. We're going to move to the next
5 camera here. Camera 16 on State's Exhibit 6. We're going to
6 start playing at 11:38:02 on camera 16.

7 Q Tell me when you see Mr. Scarbough, Olive Branch Man,
8 enter the camera view.

9 A I'm sorry. I couldn't hear you.

10 Q Mr. Scarbough, tell me when you see him enter the view
11 here. Who is that right there in the corner, wearing the jean
12 shorts?

13 A You have to go back a little bit. I didn't see -- I was
14 focused on this area over here, to the right. So if you want
15 to go back a little bit. I can't tell at this moment.

16 Q Okay.

17 A That's Jerry Wilson walking at the bottom of the screen.
18 His nickname is Beans.

19 Q But during this time, after the red charger pulls up,
20 eventually we'll see Mr. Scarbough and Mike Rogers, also known
21 as Killah Mike, walk over to this corner over here. And this
22 is on the Wendy's side, correct?

23 A That's correct, yes, sir.

24 Okay. That look like the shorts that Michael Rogers was
25 wearing. If you look at the lefthand screen, he's walking.

1 Q Over here?

2 A Yeah, well, he just walked out of the view right here.

3 Q I'm sorry. I can't --

4 MR. WARR: Permission to approach, Your Honor.

5 A He just walked out of the view.

6 THE COURT: All right, sure.

7 A On the left screen, he just walked out of the view.

8 Q Out of the view? He just walked out of the view there?

9 A Yes, sir.

10 Q All right.

11 A All right. That's him walking right there with the black
12 shirt.

13 Q All right. That is --

14 A See the shorts?

15 Q That's Killah Mike Right there?

16 A Yes, that's Michael Rogers. Yes, sir.

17 Q Michael Rogers. But he's known as Killah Mike?

18 A Yes, sir. I heard he was a ladies' man.

19 Q Okay.

20 A That's Michael Rogers.

21 MR. WARR: All right. Your Honor, for the sake of time,
22 I'm going to speed it up a little bit.

23 THE COURT: Okay.

24 Q All right. Det. McFadden, who is that right there?

25 A That is Timothy Scarbough.

1 Q That's Timothy Scarborough?

2 A Yes, sir.

3 Q And this is when he's supposedly coming over to offer his
4 olive branch?

5 A Peace.

6 Q Peace offering.

7 A I don't know what you mean by olive whatever.

8 Q Well, to make peace is to bring an olive branch.

9 A Oh.

10 Q To extend an olive branch.

11 A All right. Peace, yes, sir.

12 Q If you'll watch right here.

13 A That's him with the chain on, like he said.

14 Q What is that hand gesture he's doing there, as he's
15 walking over? I'll back it up. He makes a hand gesture
16 towards over here. Trae Epps and his friends are standing
17 over here, just outside this camera view, correct?

18 A You said Trae Epps and his friend? What friend?

19 Q Yes, the group that he was with. Wayne Myers and all the
20 people from Maysville, they were standing right here, over on
21 this corner?

22 A If you show me the video, I could tell you. I'm
23 assuming.

24 Q Okay. We'll come back to that. But Trae Epps was on --
25 the testimony as established -- earlier on the record, you

1 established that Trae Epps was on the Wendy's side, the store?

2 A Correct, yes, sir; that is --

3 Q And this is facing the Wendy's side of the store?

4 A Yes, sir; that is facing Wendy's side of the store.

5 Q Okay.

6 A That's correct.

7 Q So Mr. Scarbough, we assume this is when he walks over to
8 speak to Trae Epps?

9 A That's right. That's correct.

10 Q So he comes into view. What is that hand gesture he's
11 doing there?

12 A It look like he pointed at somebody. I don't know.

13 Q So he did like this, is what it appeared to me; is
14 that --

15 MR. MEADORS: Objection.

16 A You can look it. Anybody can look at it. I'm assuming.

17 THE COURT: I'm going to allow the question.

18 A I don't know.

19 Q From your experience as a police officer, is that any
20 kind of gang sign?

21 A No, sir. Not pointing.

22 Q Okay. That you know. Okay.

23 A I assumed he was pointing.

24 Q Okay. All right. Okay. And that's Killah Mike coming
25 into the view right there?

1 A That's correct, he's walking over here.

2 Q All right.

3 A And like, he got some -- maybe bleach jean shorts with a
4 black shirt, white socks, and black shoes right here at the --
5 in the middle of the screen.

6 Q All right. And it looks like he's talking to somebody as
7 he's coming over?

8 A I cannot see his mouth.

9 Q If you watch his cigarette in his mouth. Do you see it
10 moving, like he's talking with a cigarette?

11 A I mean, I see the cigarette moving. I don't --

12 Q Okay.

13 A I can't say he's talking. It's no audio to this video,
14 so I really can't tell you.

15 Q Does it look -- is he placing his right hand in his
16 pocket in this, right here? We'll play it.

17 A All right. Go back just a little bit.

18 Q Yeah, we can back it up.

19 A Go back just a little bit. And let me see. He grab his
20 pants. It -- to me, it appears he grabbed his pants. Like, I
21 mean, a lot of times they wear their pants loose.

22 Q He grabbed his waistband?

23 A They call it staggering a little bit, so I'm assuming that
24 he pulled his pants up; that's my opinion of it.

25 Q It appears he keeps his hand there, if you'll watch his

1 hands.

2 A All right. Keep going. Just run it a little bit. Okay.
3 Go back a little bit. And we'll see if he keeps his hands
4 there. I'm not sure.

5 Q I think I went back too far.

6 A All right. I'm looking at his hands. Right hand, he
7 pulls it up. Walking over there. Swing. He backs up.

8 Q All right. Let's watch that --

9 A That's Diontrae Epps in the bottom corner right here.
10 And that is Michael Rogers leaving between these -- this
11 vehicle right here, between these two vehicles up here. So
12 that is Michael Rogers walking up right here.

13 Q All right. So let's watch this in slow motion.

14 A All right. If you look to the left of the screen,
15 Michael Rogers is walking up.

16 Q This is Michael Rogers walking over?

17 A That's correct, with the black shirt, jean shorts, black
18 shoes, white socks. Let's see. Grab his pants. Pull them
19 up.

20 Q And keeps his hand there? Do you see Michael Rogers'
21 hand swinging? Let me hit play, and we'll back it up just a
22 second. Do you see his hand swinging, his right hand, after
23 he grabbed his pants? He makes a hand gesture, it looks like,
24 with his left hand. Did you see that, Det. McFadden, in the
25 video?

1 A If you would run it back a little bit; I didn't see it.

2 All right. Right there. Go ahead. You said with his
3 left hand?

4 Q He makes a hand gesture with his left hand.

5 A Okay.

6 Q And he keeps his right down by his side.

7 A I do see his left hand go up, like -- I don't know what
8 he's doing with the left hand. But as you said, left hand
9 does go up.

10 Q Okay.

11 A I don't know what it is, though.

12 Q And this is where Trae hits him?

13 A That's correct. That's when Trae Epps swings on Michael
14 Rogers.

15 Q And does Killah Mike make a motion like this? Let me
16 back it up and let you watch it again.

17 (Thereupon, the visual recording was played but not
18 transcribed herein.)

19 Q You see his arm right there?

20 A Yes. I see his arm right -- his right arm?

21 Q Yep. His right arm.

22 A Okay. I'm going to focus on that.

23 Q Focus on his right arm. Did you see his shirt move and
24 his hand come up?

25 A I see his head by his side. Yes, sir. I do.

1 Q All right. Watch -- we'll watch it one more time, and I
2 want you to watch his shirt and his hand.

3 A Okay.

4 (Thereupon, the visual recording was played but not
5 transcribed herein.)

6 Q Did you see his shirt move that time?

7 A Yes. I did.

8 Q And his hand?

9 A Yes, sir. I did.

10 Q All right. Like this?

11 A Yes, sir. That's correct.

12 Q I want you to keep watching.

13 (Thereupon, the visual recording was played but not
14 transcribed herein.)

15 Q So we see the -- see again the shirt come up --

16 A That's what --

17 Q -- and the hand?

18 A Yes, sir. That's what it looks like. Yes, sir.

19 Q All right. And this is a motion you would make to draw a
20 pistol out of your waistband?

21 A I would assume, sir. That's the motion I make.

22 Q All right. Did you see that? Did you see that muzzle
23 flash?

24 A No, sir. Go back a little bit --

25 Q All right. Let's back it up, and we'll watch it again.

1 I want you to be watching --

2 A If --

3 Q -- for the muzzle flash.

4 A Yeah. If you could -- it'd be nice if you could pause it
5 right when -- I mean, as soon -- just before or right after.

6 Q All right.

7 (Thereupon, the visual recording was played but not
8 transcribed herein.)

9 A Okay. Swing, backs up --

10 Q Right there.

11 A I didn't see a muzzle flash.

12 Q Let me back it up just a hair and see if we can get you
13 to see it here. Watch closely.

14 (Thereupon, the visual recording was played but not
15 transcribed herein.)

16 Q Did -- right here. Did you see it right before that?

17 A No, sir. I didn't see a muzzle flash.

18 Q All right. Isn't that when Diontrae Epps got shot right
19 there, that we just witnessed?

20 A I don't know when he got shot. He wouldn't tell me when
21 I interviewed him.

22 (Thereupon, the visual recording was played but not
23 transcribed herein.)

24 Q Did you see it that time?

25 A No, sir. I did not see no muzzle flash --

1 Q All right. Let's see if I can pause it right when you
2 see it.

3 MR. MEADORS: Your Honor, we have asked and answered.
4 That's a light on the side of the car --

5 THE COURT: That's sustained.

6 MR. MEADORS: -- that's there before.

7 THE COURT: Sir --

8 MR. MEADORS: The shot --

9 THE COURT: -- you're going to get a chance for redirect,
10 Mr. Meadors. That's sustained. Go on to your next question,
11 Mr. Warr.

12 A Still no muzzle flash. I didn't see it.

13 Q Oh. Okay. At this point, does Trae Epps back up? Now
14 watch.

15 (Thereupon, the visual recording was played but not
16 transcribed herein.)

17 A I mean, that's Trae Epps in the video right there. There
18 he go.

19 Q Then, he moves back --

20 A Then he pulls out. That's when he's reaching. If you
21 look, you can see him --

22 Q That's when he's pulling his pistol?

23 A That's correct. That's when he's pulling his pistol.

24 Q Okay.

25 A Yes, sir.

1 Q Did Mike Rogers have a pistol that night?

2 A He did. Yes, sir.

3 Q And he fired it that night?

4 A Yes, sir. He did.

5 Q All right. We're going to go to a different camera view.

6 We're going to go back to State's 6, camera 1. But earlier,

7 when Killah Mike made this motion in that other video, he

8 could have been pulling a pistol there?

9 A I don't know; I mean, possible.

10 Q But he didn't block the left hook with his right hand,

11 that Mr. Epps made in that video?

12 A No, sir. (Indiscernible).

13 Q He didn't raise his right arm to block him?

14 A No, sir. He didn't.

15 Q Okay. All right. We're going to pick up this camera

16 right where that other camera left off there, and --

17 (Thereupon, the visual recording was played but not

18 transcribed herein.)

19 Q -- Killah Mike runs into this camera frame. He's not in

20 here yet, but he runs into that camera frame somewhere about

21 right there?

22 A Michael Rogers?

23 Q Michael Rogers.

24 A Thank you. Yes, sir. Michael Rogers, running back in --

25 Q Also known as Killah Mike?

1 A That's his nickname. Like I said, it could be. I heard
2 he's a ladies' man.

3 Q But he did have a pistol out there that night?

4 A He did have a pistol out that night. Yes, sir.

5 Q And he did fire that pistol?

6 A He did fire. Yes, sir.

7 (Thereupon, the visual recording was played but not
8 transcribed herein.)

9 A That's Michael Rogers, just --

10 Q That's Michael Rogers, right?

11 A Correct. That is -- dropped to the --

12 Q And what is that right there on the ground in the camera
13 view?

14 A That's the firearm. Whenever he got hit, that's his
15 firearm that slid out of his hand.

16 Q Okay. And that's the red Charger?

17 A Yes, sir. That's the red Charger to the right of the
18 screen that pulls up, trying to leave the -- that location.

19 Q And Michael Rogers arrived in that red Charger?

20 A Sir?

21 Q He arrived in that red Charger?

22 A Yes, sir. That's the red Charger that he came in.

23 Q And that's the same red Charger driven by Michael Lucas?

24 A That's the same red Charger. Yes, sir.

25 Q Who is that right there?

1 A That's Don -- sorry. Gregory Donte Middleton, known as
2 D-Black.

3 Q And Mr. Middleton is hit presumably right here?

4 MR. MEADORS: Objection. Speculation.

5 MR. WARR: He -- he --

6 THE COURT: That's sustained.

7 Q Is Mr. Middleton going to the ground right here?

8 A Yes. He is.

9 Q Let's watch that again.

10 (Thereupon, the visual recording was played but not
11 transcribed herein.)

12 Q Did he jerk like he was hit?

13 MR. MEADORS: Objection. Speculation.

14 MR. WARR: I'm going to --

15 THE COURT: I'm going to allow the question.

16 A In my opinion, I feel like that when gunshots went off
17 and -- like, if you hear bullets going past you or whatever
18 the situation may be, you're going to get on the ground
19 because you don't want to get hit.

20 Q Which direction is Mr. Middleton facing in this?

21 A Right now, at this point, he's facing towards the gas
22 pumps.

23 Q He's facing towards the gas pumps out here?

24 A Yes, sir.

25 Q More so toward the Rite Aid-side gas pumps?

1 A Yeah. If -- if -- yeah. If you looking -- if -- if --
2 if you could look at it, you'll see Broad Street will be the
3 black area in the top area right here.

4 Q This is Broad Street?

5 A Yeah. That's Broad Street back there.

6 Q And this is the Rite Aid side to the store --

7 A That's -- Yeah. Rite Aid side, and that's the Wendy's
8 side over there. Yes, sir.

9 Q And the red Charger is right here in between him and the
10 actual corner of the store?

11 A Yes. The red Charger; you can see is right here. It
12 looks like it's about to pull out.

13 Q Okay. But it's between him and the corner of the store?

14 A Yes, sir. The corner of the store --

15 Q It's positioned in between -- like at an angle?

16 A Yes, sir.

17 Q Like he's trying to pull out?

18 A Yes, sir. That's correct.

19 Q And at this point, Mr. Middleton's going to the ground?

20 A Yes. I -- my opinion, that he's taking cover at this
21 time --

22 Q Okay.

23 A -- because the gunshots still going off.

24 Q Okay. But he's facing the gas pumps on the Rite Aid
25 side?

- 1 A That's correct.
- 2 Q All right.
- 3 A Yes, sir.
- 4 Q And his back is to the corner of the gas station?
- 5 A That's correct. Yes, sir.
- 6 Q And this is Mr. Middleton here, once he's on the ground?
- 7 A Yes, sir.
- 8 Q And he's facing this white car, I believe, at this point
- 9 in time --
- 10 A I agree. Yes, sir. He's facing the white car at this --
- 11 at this moment.
- 12 Q And he then crawls to this white car?
- 13 A Yes, sir.
- 14 Q And he was found dead in the back of that white car?
- 15 A That's correct.
- 16 Q And he's crawling down the passenger side of that white
- 17 car?
- 18 A That's correct.
- 19 Q Does he ever stand back up?
- 20 A I don't know. I know --
- 21 Q Can we see him in the video stand back up?
- 22 A No, sir.
- 23 Q What was that that we just saw just a second ago in the
- 24 rear windshield of this car?
- 25 A My opinion; a muzzle flash.

1 Q All right. And we just saw that car shake?

2 A Sir?

3 Q Let me back it up a minute here.

4 (Thereupon, the visual recording was played but not
5 transcribed herein.)

6 Q So this is Mr. Middleton crawling to the back of this
7 white car?

8 A Yes, sir. It is.

9 Q Muzzle flash. Did that car just shake?

10 A Yes, sir. It did. That's --

11 Q That was Mr. Middleton?

12 A That's my opinion of him getting in the back seat of the
13 vehicle.

14 Q Into the back seat of the vehicle?

15 A Yes, sir.

16 Q Crawled into the back seat of the vehicle?

17 A That is correct.

18 Q He didn't stand up to get into the back seat of the
19 vehicle?

20 A No, sir.

21 Q We'd have been able to see him stand up if he had?

22 A In my opinion, yes, sir.

23 Q Let's watch all this again in slow motion.

24 (Thereupon, the visual recording was played but not
25 transcribed herein.)

1 Q And. That's the black -- also Gregory -- that's Gregory
2 Middleton, who's also known as --

3 A Yeah. Gregory Donta' Middleton, known as D-Black;
4 Michael Rogers, known as Killah Mike at the (indiscernible)
5 right here where the red Charger's at; and Gregory Donta'
6 Middleton towards the back of the vehicle right here.

7 Q In which direction is Mr. Middleton facing right there?

8 A Let's say the direction is to -- in my opinion, the same
9 direction to the red gas pumps as --

10 Q Facing towards the gas pumps on the Rite Aid side?

11 A Correct. Yes, sir.

12 Q And the corner of the store --

13 MR. MEADORS: Your Honor, asked and answered. Objection.

14 THE COURT: That's sustained. If you'll move on to your
15 next question.

16 Q That's where Mr. Middleton goes to the ground?

17 A Yes, sir.

18 Q And we never see him in this video stand back up again?

19 A No, sir.

20 Q And as Mr. Middleton crawls, he crawls this direction to
21 this backdoor where we saw him earlier get in?

22 A Yes, sir.

23 Q Which side of his body would be towards the corner of the
24 store?

25 A Which -- I -- I don't understand the question. Which

1 side of his body would be towards the store?

2 Q His left side or his right side would be towards the
3 store? His head's facing this way. The store's over here.

4 A I figure his whole body would be facing towards the
5 store.

6 Q This car?

7 A Yeah. He's parallel to the car right now.

8 Q Yeah. He's parallel to the car.

9 A Right, so --

10 Q The car's in front of the store. The corner of the store
11 is over here. He's crawling --

12 A Hold up. Hold up. Hold up. What you say -- I don't
13 know where over here is.

14 Q Okay.

15 MR. MEADORS: Your Honor, I'm going to object. He's got
16 no idea what position Mr. Middleton is when he's crawling.

17 THE COURT: I mean, this is all speculation, right? We
18 can't see Mr. Middleton, so that's sustained.

19 MR. WARR: Well, Your Honor, his head had to be facing
20 towards the store --

21 THE COURT: Well -- and that may be a great argument for
22 closing argument. I don't know that this witness can testify
23 as to what position he was in.

24 (Pause.)

25 Q What time is displayed on the camera at this time when

1 Mr. Middleton --

2 A The time --

3 Q -- (indiscernible)?

4 A The time on the camera says 11:42:07.

5 Q And that time is the same on all of the other cameras?
6 They're synchronized?

7 A Yes, sir. That's correct.

8 Q And what time is on the camera here as Mr. Middleton
9 lands on the ground, just down?

10 A It says 11:42:08.

11 Q Would you agree that Mr. Middleton just turned his feet
12 toward the gas pumps? That's what we just saw?

13 A I -- go back a little bit. I can't -- I can't really
14 tell from this still frame right here.

15 (Thereupon, the visual recording was played but not
16 transcribed herein.)

17 A All right. Let it play.

18 Q That's his feet, correct?

19 A Yeah. That's his feet, correct, facing towards that
20 truck right there at the gas pumps at that particular time and
21 moment.

22 Q And at this particular time and moment, he turns his
23 feet? That's his foot right there?

24 A Go back one more time.

25 (Thereupon, the visual recording was played but not

1 transcribed herein.)

2 A All right. That -- right there. Towards the truck at
3 this time. Let it play. Yes. It's facing towards the gas --
4 the gas pumps towards this side right here, the left side.

5 Q All right.

6 MR. WARR: I beg the Court's indulgence. I'm going to
7 move to the other camera view, camera 12, State's Exhibit 6.

8 (Pause.)

9 (Thereupon, the visual recording was played but not
10 transcribed herein.)

11 Q Det. McFadden, is that the rear of that Dodge Charger,
12 rear tail light?

13 A I -- if -- if you go back a couple of seconds, I
14 believe -- I got to look at the tail lights to see if it's a
15 Dodge Charger. Go back just a couple of seconds. All right.
16 Yes, sir. That's a Dodge Charger.

17 Q Right there is the rear of the Dodge Charger?

18 A Yes, sir.

19 Q So that's the Dodge Charger?

20 A That's correct. That's the Dodge Charger that's pulling
21 out, going towards Broad Street now.

22 Q Is that him backing back up?

23 A Oh. I apologize. Yes, sir. That's him because he pulls
24 out, tried to go left at first. Then, he backs up and goes
25 right, then out towards Broad Street.

1 Q And who is this right here?

2 A Joquell Myers.

3 Q And what time is it on this camera?

4 A It says 11:42:07.

5 Q All right. And what is this right here in front of Mr.
6 Myers? That's a truck in front of Mr. Myers?

7 A He's at the back corner of that vehicle right there --
8 truck. Yes, sir.

9 Q And this is the Dodge Charger?

10 A Yes, sir.

11 Q And Mr. Middleton, we can't see him on here, but we know
12 he was near the front of that red Charger?

13 A Yes. So if you look at the back taillights right --
14 right there to the left of your screen, Middleton was
15 approximately by the back area of the driver's side back door,
16 the driver's side area right here.

17 Q Okay. And does it appear Mr. Myers has his arms raised
18 in this?

19 A Not at that particular second. No, sir.

20 Q All right. So at 11:42:07, he didn't have his arms
21 raised?

22 A No, sir.

23 (Thereupon, the visual recording was played but not
24 transcribed herein.)

25 Q Did you see that?

1 A 11:42:08; I saw a muzzle flash come from Mr. Joquell
2 Myers.

3 Q And that's the first muzzle flash that we see?

4 A That's the first one I see. Yes, sir.

5 Q Let's slow it down.

6 (Thereupon, the visual recording was played but not
7 transcribed herein.)

8 Q That. Did you see the muzzle flash?

9 A Yes, sir. I did.

10 Q What time was that on the bottom of that camera?

11 A 11:42:08.

12 Q 0-8. And which direction is Mr. Myer's arm pointing? Is
13 he pointing this way, or is he pointing --

14 A In my opinion, he's pointing towards Michael Rogers.

15 Q Okay. And Mr. Rogers is over here?

16 A That's correct. Yes, sir, as well as Donta' Middleton --
17 Gregory Donta' Middleton. He's over there with Michael Rogers
18 as well.

19 Q Which way is he pointing now?

20 A In my opinion, the same direction, towards Michael Rogers
21 and Gregory Donta' Middleton.

22 Q Was Mr. Rogers moving at this point?

23 A No. He was on the ground.

24 Q All right.

25 (Thereupon, the visual recording was played but not

1 transcribed herein.)

2 A That's him, running up. You about to see his arm
3 (indiscernible). Muzzle flash.

4 Q Muzzle flash.

5 A Yes, sir.

6 Q And that's his arm?

7 A That's his arm. Yes, sir.

8 Q Watch his arm closely, and body.

9 (Thereupon, the visual recording was played but not
10 transcribed herein.)

11 Q Is it still your opinion he's shooting the same direction
12 the entire time?

13 A All right. So he's six-four; to me, like he's aim --
14 aiming down towards the ground. So he's taller than the
15 average male. To me, my personal opinion, it looks like he's
16 just aiming towards the ground, towards Michael Rogers and
17 Donta' -- Gregory Donta' Middleton.

18 Q All right.

19 (Pause.)

20 MR. WARR: Beg the Court's indulgence. We're going to
21 move to the three-camera view.

22 (Pause.)

23 (Thereupon, the visual recording was played but not
24 transcribed herein.)

25 Q Is that Michael Rogers?

1 A I -- I didn't see. I'm sorry. Go back a couple of
2 seconds. I just want to -- all right. Just a couple of
3 seconds.

4 (Thereupon, the visual recording was played but not
5 transcribed herein.)

6 Q There's the fight --

7 A That's right.

8 Q -- that begins over here.

9 A And then, he runs out here, near you --

10 Q That's Michael Rogers --

11 A Right there. That's where he falls. Yes, sir. That's
12 Michael Rogers.

13 (Pause.)

14 Q Is that Gregory Middleton?

15 A Yes, sir. That's Gregory Donta' Middleton.

16 Q At 11:42:07?

17 A 11:42:07. Yes, sir.

18 Q Is that Joquell Myers?

19 A We -- what you mean? Where?

20 Q Right where my arrow is --

21 A Oh, yes, sir, in the middle screen.

22 Q Middle frame.

23 A Yes, sir.

24 Q And that's 11:42:07?

25 A Yes, sir.

1 Q And you testified when we watched camera 12 that Mr.
2 Myers was still running at 11:42:07?

3 A That's correct. Yes, sir.

4 Q And you testified when we watched camera 1 that Mr.
5 Middleton was facing the pumps on the Rite Aid side?

6 A Yes, sir. Facing the pumps.

7 Q And his back was to the corner of the store?

8 A Yes, sir. That's correct.

9 Q And Mr. Myers is standing by the corner of the store on
10 the Wendy's side -- or he's -- that's where -- the direction
11 we're looking, he's running from?

12 A That's correct. He comes from the Wendy's side. It's
13 that corner.

14 A So Mr. Middleton's back --

15 MR. MEADORS: Your Honor, asked and answered again.

16 THE COURT: If you can move along, Mr. Warr.

17 MR. WARR: Yes, Your Honor.

18 Q Where was Mr. Middleton shot, Det. McFadden?

19 A It hit the top right -- like right in this area right
20 here, then it went down. It didn't go through and through.
21 It went downwards towards the left side, hit his heart, and
22 then towards the side right here.

23 Q So he was hit?

24 A He was hit. Right. So -- all right. The best -- the
25 best way I can explain it, in my opinion -- that if you get

1 hit right here, if you stand up, the bullet will go straight
2 through and through, but he got hit, and it went -- the bullet
3 went downward, hit his heart to the left side over here, and
4 the bullet was recovered from this side right here. So it
5 went downward. So in order for in my opinion, for the bullet
6 to go that way, you would have had to been -- which I think he
7 was still crawling on the floor whenever that happened.

8 Q And how many times was Mr. Middleton shot?

9 A He got shot twice. He got shot -- it was through and
10 through his right wrist. We never recovered that round
11 though,, but he got shot in his right wrist as well.

12 Q He got shot in his right wrist?

13 A Towards the right wrist. That area right here; it went
14 through and through this area right here.

15 Q Okay. What caliber round was Mr. Middleton shot with?

16 A It was a 0.38.

17 Q A 0.38 caliber?

18 A Yes, sir.

19 MR. WARR: Beg the Court's --

20 (Pause.)

21 Q Watch the middle frame here.

22 (Thereupon, the visual recording was played but not
23 transcribed herein.)

24 Q You testified earlier when we watched camera 12 that the
25 muzzle flash was at 11:42:08, was the first muzzle flash we

1 see from Mr. Myers' gun, correct?

2 A I'm sorry. I couldn't hear you. What was that?

3 Q You testified earlier when we watched camera number 12,
4 the one facing the Wendy's corner of the Sunoco, that the
5 first muzzle flash from Mr. Myers' pistol that we observed was
6 at 11:42:08?

7 A I believe so. If you play it back again and look at
8 it -- I don't know, but I believe that's the time. I -- I
9 don't remember.

10 (Thereupon, the visual recording was played but not
11 transcribed herein.)

12 Q Right there.

13 A Right there. 11:42:08.

14 Q Okay.

15 A That's the first time I see a muzzle flash in this video.
16 Yes, sir.

17 Q And then, 11:42:07, Mr. Middleton was falling to the
18 ground?

19 A Well, he went to the ground for cover, in my opinion.

20 Q All right. And then, 11:42:08, Mr. Middleton was on the
21 ground?

22 A Yes, sir. He was on the ground at 11:42:08.

23 Q And this red Charger; that's the front of it?

24 A That is correct.

25 Q And the rear of it would have been about right here?

1 A Yes, sir. That's correct.

2 Q So it would have been sitting about right there in
3 between where Mr. Middleton is in the Wendy's corner of the
4 store?

5 A You said, is there any one of what?

6 Q The red Charger would have been -- is in between Mr.
7 Middleton and the Wendy's corner of this store at 11:42:08?

8 A You're asking where he was at at 11:42:08?

9 Q I'm asking where the Red Charger was positioned --

10 A Yeah. You can see the red Charger --

11 Q -- at 11:42:08?

12 A Yes, sir. You see the red Charger right here to the
13 corner.

14 Q Yeah.

15 A I'm just trying to --

16 Q And it's between Gregory Middleton and the store?

17 A Yes, sir.

18 Q The corner of the store where Mr. Myers is coming from?

19 A Yes, sir. The store is back this way. So that will be
20 where -- the first screen. Gregory Donta' Middleton is right
21 there on the -- on the ground at that time.

22 Q Okay. So this red Charger is in between Gregory
23 Middleton and Mr. Myers?

24 A No, sir. It's in between the white Nissan and the red
25 Charger. I don't know where Mr. Myers is at at this time.

1 Q Mr. Myers is over by the corner of the store?

2 A Okay. In the middle screen.

3 Q In the middle screen.

4 A Right.

5 Q He's by the corner of the store?

6 A That's correct.

7 Q And the red Charger is between Mr. Middleton -- you just
8 testified that it was between the Mr. Middleton and the corner
9 of the store.

10 A The red Charger is. Yes, sir.

11 Q And -- okay. And Mr. Myers is at the corner of the
12 store?

13 A That's correct.

14 Q Okay.

15 A He's at the corner right here by the -- by the truck over
16 here.

17 Q And Mr. Middleton is on the ground behind that red truck?

18 A Not behind it. Beside it.

19 Q Beside?

20 A Yes, sir.

21 Q Okay. If we watch this middle camera, we see somebody
22 else run out and shoot again --

23 A On the other side of the truck --

24 Q -- in the middle frame.

25 A In the middle frame on the other side of the truck?

1 Q Yep.

2 A Yes, sir.

3 Q Who do you think that is?

4 A That is Joquell Myers shooting at the red Charger.

5 Q Okay.

6 MR. WARR: Beg the Court's indulgence.

7 Q All right. This is (indiscernible) camera number 12,
8 State's Exhibit Number 6. This is at 11:42:09. Mr. Myers,
9 we've established, is shooting at that time.

10 Q What is Mr. Myers doing right here?

11 A Shooting a firearm.

12 Q No. It appears he turns.

13 MR. MEADORS: Objection, Your Honor.

14 THE COURT: That's sustained. And I believe we've
15 already covered this ground unless there's a new question that
16 I'm not aware of.

17 MR. WARR: Your Honor, simply that Mr. Myers --

18 THE COURT: And you're not testifying. So again, if
19 you'll just ask a question --

20 MR. WARR: It is a new question, Your Honor.

21 THE COURT: -- if it's a new one. Okay.

22 Q We see Mr. Myers there?

23 A Yes, sir.

24 Q There's a camera view. And which direction is he now
25 facing?

1 A He's facing towards the Wendy's side now.

2 Q So he's running away from where Mr. Middleton would be?

3 A No, sir. He's going around the truck to shoot at the red
4 Charger. If you keep -- you see him shooting at the red
5 Charger after that.

6 Q Is Mr. Myers in this camera view now? Can you see?

7 A I -- you got to --

8 Q Let me back it up. And I'll let you --

9 A Back it up a little bit.

10 Q -- watch slide.

11 A Because I got to watch it.

12 (Thereupon, the visual recording was played but not
13 transcribed herein.)

14 A Okay. I see him running up in the white shirt right
15 here. Shoot, going towards Donta' Middleton and Michael
16 Rogers. Then he goes back towards the Wendy's side to go back
17 around the other side of the truck and fire at the red
18 Charger, as well. Watch him run towards the red Charger.

19 Q Did Mr. Myers just leave the camera view?

20 A Yeah, he did.

21 Q At 11:42:12, Mr. Myers is not in the camera's view.

22 A No, sir. Can you keep it playing so you can see when he
23 come back in the camera view?

24 (Thereupon, the visual recording was played but not
25 transcribed herein.)

1 A They got him running off again. He's in camera view
2 again.

3 Q He's --

4 A Now he's shooting towards a red Dodge Charger.

5 Q He's in camera view at 11:42:15, shooting toward the red
6 Dodger Charger.

7 A Yes, sir. Shooting with his arm out. That's him. You
8 see the muzzle -- muzzle flashes.

9 (Thereupon, the visual recording was played but not
10 transcribed herein.)

11 Q Who is that, Detective McFadden?

12 A That's Timothy Scarborough, also known as Pies.

13 Q Timothy Scarborough?

14 A I'm sorry. Timothy Scarborough, yeah, he was in the red
15 Charger. That's Christopher Fordham, also known as Pies. I'm
16 sorry about that.

17 (Thereupon, the visual recording was played but not
18 transcribed herein.)

19 Q And the gray car pulls up.

20 A That's the car that Joquell Myers and his family is in,
21 Joquell Myers, Diontrae Epps, Ellquin Williams, Jay McBride,
22 and also Sheldon Benjamin.

23 Q Okay. And do you know who was driving the vehicle?

24 A I do not. Mr. Myers wouldn't tell me who was driving
25 their vehicles.

1 Q Where did Mr. Myers tell you he was sitting in that
2 vehicle?

3 A He said he was in the back, but I don't know for sure. I
4 cannot confirm that he was sitting in the back seat.

5 Q On the video we saw earlier, Mr. Myers was wearing a
6 white shirt, correct?

7 A That is correct. Yes, sir.

8 Q Is it clear from the video that the driver extends his
9 arm out the window and fires the shot?

10 A In my opinion, yes, sir. The driver did that.

11 Q Okay. What is that in the back glass right there? So
12 there's a white spot.

13 A I don't know what it is.

14 Q Does it appear white? Do you know what the color white
15 is?

16 A I do know what the color white is. I don't know what it
17 is.

18 Q Okay. But there's something white in the back.

19 A I guess. I don't know. I can't answer that.

20 Q Is it possible that that's Mr. Myers wearing a white
21 shirt?

22 A I don't know. I can't tell you, honestly.

23 Q There were four people in this vehicle at least.

24 A There were five people in the vehicle.

25 Q Five people in the vehicle.

1 A Yes, sir.

2 Q And there were two seats in the front of this car.

3 A That is correct, the driver, passenger, and three in the
4 back.

5 Q At three -- and three in the back.

6 A Yes, sir.

7 Q So there would have been someone in each of these seats.

8 A That is correct.

9 Q There is still something white in the back of that car at
10 this point in time?

11 A I guess. I mean, I'm looking at the white car and
12 looking at the picture and back of the car. I see the white
13 car, but I can't tell what color that is, to be honest with
14 you.

15 Q Okay. Do you see anything white in the front of that
16 car?

17 A No, sir. It's not visible.

18 MR. WARR: No further questions, Your Honor.

19 THE COURT: Mr. Meadors?

20 (Pause.)

21 REDIRECT EXAMINATION

22 BY MR. MEADORS:

23 Q Camera -- this is State's 6 -- Camera 16. I believe Mr.
24 Warr showed you this one. I know he did. So we're referring
25 back directly to that. I think Mr. Warr asked you if you saw

1 a muzzle flash from Michael Rogers. And first of all, you see
2 what I'm talking about on camera 16?

3 A Yes. I have it pulled up.

4 (Thereupon, the visual recording was played but not
5 transcribed herein.)

6 Q And I believe this is in slow motion. And that car that
7 the lights -- I believe that's Mr. Scarborough coming by
8 there, correct?

9 A That's correct. In the red pants, black shirt, with the
10 gold chain around his neck. That's Timothy's car though.

11 Q That car he just walked by to his right is what kind of
12 car?

13 A Which one? Are you talking about the --

14 Q Yeah, that. Yes, sir. The middle where the arrow is.
15 Well, just focus on that car. I believe that's what Mr. Warr
16 was asking you about, correct? How many reflections do you
17 see in the side of the car where the arrow is?

18 A That's right. You see a couple of flashes on the side
19 right there. One, two, and maybe the door handle, I think is
20 right there. Then you got something on top of the car as
21 well. All right. So that's Michael Rogers walking up with a
22 black shirt.

23 Q Michael Rogers?

24 A Michael Rogers. Yes, sir.

25 Q No offense to anybody in the room, but you said he was

1 known, the ladies like him?

2 A That's what I heard. Yes, sir. He would kill it with
3 the ladies.

4 Q Now is that Trae?

5 A That's Diontrae Epps. Yes, sir.

6 Q You don't see any other muzzle flashes on the side of
7 that car, do you?

8 A No, sir, not at all.

9 Q Just the same lights that were there before he walked by
10 there?

11 A That is correct.

12 Q It's not there.

13 A Sir?

14 Q There's no muzzle flash, in your opinion, looking at
15 that, correct?

16 A No, sir, not at all. I never see Michael Rogers fire a
17 gun on this video at all.

18 Q And let me fast you on that. He said, did Michael Rogers
19 fire a gun? You did say he did fire a gun. Was that after he
20 was fired at?

21 A That is correct, in my opinion, sir.

22 Q You see Trae Epps fire the gun here, don't you?

23 A Yes, sir. I do see Trae Epps, Diontrae Epps firing a
24 firearm.

25 Q After he swung at Michael Rogers.

- 1 A After he swung at Michael Rogers. Yes, sir.
- 2 Q What kind of gun did Joquell Myers shoot?
- 3 A I do not know. He wouldn't tell us.
- 4 Q Why type of gun did he shoot?
- 5 A I don't -- I don't --
- 6 Q What type of gun did he shoot?
- 7 A I don't know.
- 8 Q What type of gun did he shoot?
- 9 A He wouldn't tell us.
- 10 MR. WARR: Asked and answered --
- 11 THE COURT: Mr. Meadors.
- 12 Q You asked him five times?
- 13 A Numerous times? Yes, sir.
- 14 Q How many times did he shoot did he tell you?
- 15 A He didn't tell us how many times he shot neither.
- 16 Q Where's the gun?
- 17 A He wouldn't tell us where the gun was at.
- 18 Q We're now going to State's 7, what's known as the Rosic.
- 19 (Pause.)
- 20 (Thereupon, the visual recording was played but not
- 21 transcribed herein.)
- 22 Q 11:42; the Charger's leaving, right?
- 23 A Yes, sir. It pulled up.
- 24 Q It's Mr. Rogers.
- 25 A It -- yes, sir. It pulled up and then, like, it slightly

1 hit Michael Rogers. Next you'll see it back up and then pull
2 out towards the right.

3 Q 08, 09, 010; is Joquell Myers still firing in the
4 direction of Gregory Middleton --

5 A Yes. He is.

6 Q -- and Michael Rogers?

7 A Yes. He is.

8 Q How many times did Mr. Middleton get shot?

9 A He -- Mr. Middleton got shot two times. Like I said,
10 through and through a wrist, and one -- if you go in the top
11 right of the chest, it went down towards the left side in that
12 type of angle right there.

13 Q And where is Mr. Myers going now?

14 A I don't see where he's at. Oh, okay. That's him in the
15 middle camera firing at a Dodge, the red Dodge Charger that
16 just left.

17 Q In your opinion, in watching that, is he pursuing the red
18 Charger?

19 A That is correct.

20 (Thereupon, the visual recording was played but not
21 transcribed herein.)

22 Q Who's that coming out now?

23 A That is Pies. That's Christopher Fordham.

24 Q What'd he do wrong?

25 A Sir?

1 Q What'd he do wrong?

2 A Oh, nothing.

3 MR. WARR: Objection. Calls for opinion.

4 THE COURT: That's sustained.

5 Q What's he doing now?

6 A He's just walking over trying to help Michael Rogers.
7 You can see him trying to pull them out the way. And then
8 that car -- that vehicle right there stops. Then since
9 Christopher Fordham is helping Michael Rogers, they stopped
10 the vehicle and fire a shot towards Michael Rogers and
11 Christopher Fordham.

12 Q Is Joquell Myers in that vehicle the shot came from?

13 A Joquell Myers is in that vehicle.

14 Q Is that the same vehicle that went to Toumey?

15 A Same vehicle that went to Toumey.

16 Q And we saw Mr. Myers and the other individuals get out?

17 A That is correct.

18 Q Thank you. That's all.

19 THE COURT: Mr. Warr, anything further?

20 MR. WARR: No further questions, Your Honor.

21 THE COURT: You can step down.

22 THE WITNESS: Thank you.

23 THE COURT: Ladies and gentlemen, I'm going to have us
24 take a break, and let you all stretch your legs. We've had
25 you in here for kind of a long stretch. Please don't begin

1 discussing the case yet.

2 (Whereupon, the jury exited the courtroom at 4:37 p.m.)

3 THE COURT: Okay. Let's be at recess for ten minutes.

4 (Recess.)

5 (Whereupon, the jury came into open court at

6 approximately 4:56 p.m.)

7 THE COURT: Thank you. Ladies and gentlemen, just a
8 couple of housekeeping matters. I want to tell you about our
9 plans with respect to the hurricane. I know some of you may
10 have some children who are in school. Some school district, I
11 believe, is letting out early on Thursday, tomorrow, and is
12 doing virtual instruction on Friday. Our court follows the
13 direction of the County where we're located. So even though I
14 work for the South Carolina Judicial Department, I work for
15 the State, we -- our instruction from the Chief Justice is
16 that we are to follow whatever our local authority says. So
17 the County is meeting tomorrow at 1 p.m. to make decisions
18 about Thursday and Friday. So our court schedule will follow
19 whatever the County folks decide. And of course, they have
20 the best information about how we'll be affected here locally.
21 So as soon as we know tomorrow afternoon, of course, y'all
22 will know as well. And I'm just telling the attorneys this
23 also that there -- you -- I'm sure you all may be arguing
24 then, but they're meeting tomorrow at 1 o'clock to make
25 decisions.

1 There's one other thing I was going to tell you. You may
2 have noticed that there was a camera in the courtroom. I just
3 want to assure you our court rules provide that jurors cannot
4 be filmed. So this is a local regional folks that have come
5 in today with the cameras. I don't want you to be worried
6 that you're going to appear on camera. The South Carolina
7 court rules say that our courtrooms are absolutely open. We
8 are open to the media, but the media cannot film the jurors.
9 So you don't have to worry about seeing yourself on
10 television.

11 Okay. Mr. Meadors.

12 MR. MEADORS: Can I please go up?

13 THE COURT: Sure. Can I get you all to approach just a
14 minute?

15 (Whereupon, a bench conference was held off the record in
16 the presence of the jury, but out of the hearing of the
17 jury.)

18 (Thereupon, counsel returned to counsel tables and the
19 following ensued:)

20 (Open court.)

21 THE COURT: Okay, Mr. Corbett, Mr. Meadors?

22 MR. MEADORS: May it please the Court, the State of South
23 Carolina calls Natalie Kelly.

24 THE BAILIFF: Place your left hand on the Bible, raise
25 your right hand and state your name.

1 THE WITNESS: Natalie Kelly.

2 NATALIE KELLY, after being duly sworn, testified as
3 follows:

4 THE BAILIFF: State your name for the record and spell
5 your last name, please.

6 THE WITNESS: Natalie Kelly, K-E-L-L-Y.

7 DIRECT EXAMINATION

8 BY MR. MEADORS:

9 Q Good afternoon.

10 A Good afternoon.

11 Q What's your rank?

12 A Detective Staff Sergeant.

13 Q Detective Staff Sergeant Natalie Kelly, tell these folks
14 about yourself, where you're from, your background, and your
15 training in law enforcement, please, ma'am.

16 A Good afternoon. Again, I'm Natalie Kelly. I'm born and
17 raised here in Sumter, South Carolina. I've been educated in
18 the public schools here in Sumter. I later went and furthered
19 my education, receiving a master's degree in criminal justice
20 with a minor in forensic psychology. I've been in law
21 enforcement for approximately 22 years; 12 of those years I
22 served as a detective in the investigative service division.

23 Q Where?

24 A At the Sumter Police Department.

25 Q And is it in that role as a detective -- kind of tell

1 these folks, what kind of cases do you work on?

2 A I worked various cases; more so I am assigned to the
3 violent crimes unit. There we investigate cases such as
4 murder, homicide, rape cases, domestic violence. I also help
5 with the juvenile division. They also are under me as well.
6 So we do juvenile cases as well.

7 Q Detective, what we've asked you -- why I've asked you
8 here today is the opportunity that you had to speak with
9 Joquell Myers September 25th, 2019 and 26 -- September 26,
10 2019. And where did you talk with Mr. Myers?

11 A That was at the Sumter Police Department in the interview
12 room.

13 Q And I have to ask these questions. So who were you with?

14 A Detective Willie McFadden.

15 Q And is it your practice of your 22 years that when you
16 have a suspect and they are in custody, you read what is known
17 as the Miranda?

18 A That's --

19 Q Miranda rights?

20 A That's correct.

21 Q And I will show you what's -- it's been admitted as
22 State's 1. And please tell the ladies and gentlemen of this
23 jury, is that the form that was used when you and Detective
24 McFadden spoke with Mr. Myers on September 25th of 2019?

25 A That's correct.

1 Q And were you present when Mr. McFadden read the rights
2 and the waiver of rights?

3 A Yes. I was.

4 Q Okay. And in your opinion, did Mr. Myers understand his
5 rights?

6 A He did.

7 Q Okay. And in your opinion, did he waive the rights? And
8 let's just stay on September 25th at this point?

9 A Yes. He did.

10 Q And did he appear to you to be under the influence of
11 alcohol, drugs, or any other intoxicant?

12 A No. He wasn't.

13 Q Could you understand him when he spoke? Did you
14 understand his words?

15 A I did.

16 Q Could -- did he appear to understand your questions based
17 on his answers when you all talked?

18 A Yes.

19 Q Okay. Did you -- I've asked Detective McFadden, but did
20 you threaten or hold out any hope or reward in exchange for
21 Mr. Myers talking to you?

22 A No, sir.

23 Q And I don't know if you did or not, but if he had asked,
24 would you have allowed or given Mr. Myers the opportunity to
25 use the bathroom?

1 A Yes.

2 Q And if he wanted something to eat or some water or
3 something, would you have provided that to him?

4 A Yes.

5 Q Is that your practice?

6 A Yes. It is.

7 Q And was he handcuffed?

8 A He was.

9 Q So based on your training and experience and the time you
10 spent with Mr. Myers on September 25th of 2019, was that a
11 freely and voluntary statement?

12 A Yes. It was.

13 Q And again, I don't think anybody wants to hear it again
14 right now, and I don't mean to be a bad day this late in hour,
15 but during that first statement on September 25th, did you --
16 you had an opportunity to talk to him?

17 A Yes. I did.

18 Q And based on that, he appeared he understood what y'all
19 were saying.

20 A Yes.

21 Q Okay. And after a short period of time, did he say he
22 don't want to talk to you anymore?

23 A Yes. He did.

24 Q Okay. And what did you and Detective McFadden do after
25 he said, I don't want to talk anymore?

1 A We didn't talk anymore.

2 Q Okay. But you did on September 25th, which is State's
3 Number 2, go back and talk to Mr. Myers; please tell these
4 folks how that came about.

5 A Detective McFadden was contacted in reference to Joquell
6 Myers wanting to speak with us again.

7 Q And were those arrangements made?

8 A Yes. They were.

9 Q Okay. And where did the second conversation with Mr.
10 Myers on September 26 of 2019 take place?

11 A At the Sumter Police Department in the interview room.

12 Q Okay. And I want to ask you to describe the room.

13 A It's --

14 Q The interview room.

15 A Okay. It's a small box room. It has a table in the
16 middle. It has three chairs, and it has a two-way window.

17 Q And again, and for the record, and for these ladies and
18 gentlemen, were you present when the rights were read to Mr.
19 Myers on September 26?

20 A Yes.

21 Q Did he appear to understand them that day?

22 A Yes. He did.

23 Q And did he indicate to you and/or Detective McFadden that
24 I understood these rights?

25 A Yes. He did.

1 Q And again, once Detective McFadden read the -- I
2 apologize if I'm talking too fast. Once Detective McFadden
3 read the waiver of rights on September 26, did Mr. Myers sign
4 that he understood his rights and waived them?

5 A Yes. He did.

6 Q And then he also did that on the 25th?

7 A That's correct.

8 Q And it's his signature on both State's 1 and 2; Joquell
9 Myers?

10 A Yes. It is.

11 Q That his rights have been read to him and that he was
12 waiving those rights?

13 A That's correct.

14 Q Did you actually see him sign?

15 A I did.

16 Q And did you sign as a witness on State's 1 and State's 2,
17 witnessing the advice of rights and waiver of rights to Mr.
18 Joquell Myers?

19 A Yes. I did.

20 Q And as I asked you previously, from September 26 of 2019,
21 is it your opinion that this was a freely and voluntary
22 statement?

23 A Yes. It was.

24 Q And on the 26, did he appear to be under the influence of
25 alcohol or drugs that day?

1 A No. He did not.

2 Q And did you hold out any hope for a reward for statement
3 that day?

4 A No, sir.

5 Q Now, let's talk about the recording. What type of device
6 was used to memorialize the statement?

7 A An audio recording.

8 Q Okay. And how many devices were there, recording devices
9 were there in the interview room in September of 2019 that
10 y'all used?

11 A On which day?

12 Q On either one, the 25th and the 26th?

13 A On the 25th, there was one. On the 26th, there were two.

14 Q Okay. So on the 26th, there were two. Was one of those
15 Detective McFadden's?

16 A That's correct.

17 Q And who was the other one?

18 A Both was his.

19 Q Okay. So at some point toward the interview -- end of
20 the interview, Detective McFadden leaves to talk with some of
21 his superiors?

22 A That's correct.

23 Q And during that part, you and Mr. Myers are still
24 present?

25 A That's correct.

1 Q And that's the end of the video that the other recording
2 device had?

3 A That's correct.

4 Q All right. But that recording device had both of them on
5 there, correct? Both of them?

6 A That's correct.

7 Q So I guess my question is, the whole time you were with
8 Mr. Myers, or Detective McFadden was -- there was an audio
9 recording of that?

10 A That's correct.

11 Q Okay. And that's been provided to the defense?

12 A That's correct.

13 Q Describe the interview with him.

14 A We were there. We spoke with him on the day of the 25th.
15 He was brought in. He was asked about the incident that took
16 place at the Hop In. He denied having a gun. He denied
17 shooting. He denied hurting anyone. Then he went into that
18 he no longer wanted to talk about the incident.

19 Q And how much did you know about the case prior to
20 interviewing Mr. Myers?

21 A I was briefed just about everything by the detective,
22 lead detective.

23 Q And did you know there was a video at that point?

24 A I did.

25 Q Okay. And based on your investigation and your

1 conversation with Mr. Myers, did he know that Sunoco video was
2 there?

3 A Yes. Yes. He did.

4 Q The front of the Sunoco, not the handheld; did he know
5 the video from the store? Was that out in public yet?

6 A No. It was not in the public. No, sir.

7 Q Okay. So would he have had access or known about that
8 Sunoco video?

9 A No.

10 Q Mr. Myers?

11 A No.

12 Q Okay. Now, we've seen another video from a cell phone.

13 A That's correct.

14 Q Was that out in the community?

15 A That was in the community.

16 Q And in fact, during your conversation, did he reference
17 that cell phone video?

18 A He did.

19 Q Okay. Did he tell you what kind of gun -- well, first of
20 all, did he tell you that he had -- didn't shoot at all?

21 A He did.

22 Q Okay. And did he tell you that he ran away from there?

23 A He did.

24 Q And did he say that he fought and was a fighter, not a
25 shooter?

1 A He did say that.

2 Q Did he eventually tell you he did shoot?

3 A He did.

4 Q And did he also tell you that he would take the attempted
5 murder?

6 A Yes. He did.

7 Q Several times; I'll take the attempted murder.

8 A Yes. He did.

9 Q But he didn't want to take the other.

10 A That's correct.

11 Q You've been a detective. You've been around a long time.
12 I don't mean that in a bad way. Were you trying to find out
13 what kind of gun to used once he told you?

14 A Yeah. I asked him several times.

15 Q Did he tell you?

16 A No. He did not. He didn't tell us what kind of gun. He
17 didn't tell us where the gun was. And he wouldn't tell us how
18 many times he shot.

19 MR. MEADORS: Can I have Court indulgence?

20 Q Were there several questions that he just went, no
21 answer, or didn't answer?

22 A That's correct.

23 Q All right. And again, in your career, have you had
24 potential suspects try to get information for you -- from you?

25 MR. YOUNG: Objection.

1 THE COURT: What's the basis?

2 MR. WARR: He has a right not to answer any questions.
3 They tell him that to begin with.

4 THE COURT: And just tell me the basis.

5 MR. WARR: That -- the basis is that he was exercising
6 his rights, and she can't speculate as to why.

7 THE COURT: The objection is sustained.

8 Q Did he try to get information out of you?

9 A Yes. When we would ask him questions, he would in return
10 ask us questions. And I'd explain to him that he was trying
11 to control the interview, that he was trying to control the
12 room.

13 Q And that's what I was trying to ask too that -- is that a
14 practice you've seen before?

15 A Yes, sir.

16 Q Based on your knowledge and this investigation, was he
17 aware of all of the information you had in this investigation?

18 A No. He was not aware of all the information.

19 Q And for the record, would you please point out to the
20 ladies and gentlemen of the jury Mr. Myers that you had an
21 occasion to speak with on September 25th and 26th of 2019?
22 Please, ma'am.

23 A Yes, sir. He is seated over between Attorney Young and
24 Attorney Warr.

25 Q Thank you. That's all we have.

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

Q Okay. And at the time of the interview, had you seen the

1 video?

2 A Yes, sir.

3 Q You seen all of them; from the hospital as well?

4 A I was told about the hospital video, but I did see the
5 video from the scene.

6 Q Okay. And did you see Joquell in the back seat of the
7 car that arrived at the hospital?

8 A No, sir. I didn't.

9 Q You did not?

10 A No. I didn't see that video.

11 Q He was wearing a white shirt though, wasn't he?

12 A I didn't see that video, sir.

13 Q Oh, you didn't see it? Well, how about out at the
14 Sunoco? You saw him wearing a white shirt there, didn't you?

15 A It was a lighter colored shirt. Yes, sir.

16 Q A lighter color -- was it white?

17 A It was a lighter colored shirt, sir.

18 Q That's all you can say? What color was it then?

19 A It --

20 Q If it wasn't --

21 A It was a lighter colored shirt, sir.

22 Q Define light. Is it white, black, green, yellow, what?

23 A Well, from your client's perspective, it was white with a
24 credit card on the front of it.

25 Q Okay. Okay. And he repeatedly told you he hadn't shot

1 anybody; is that right?

2 A Yes, that he didn't shoot anybody. But he did say that
3 he was shooting, sir.

4 Q Yeah. Well, it was on the video. You saw that.

5 A Yes, sir.

6 Q He said he shot the Camaro, wasn't it, the red Camaro?

7 A No, sir. He did not.

8 Q He did not?

9 A It was not a Camaro. No, sir.

10 Q Did he say he was shooting at the car?

11 A He said he was shooting at a red Charger.

12 Q Charger. I'm sorry. I got the -- my brands mixed up.

13 A That's okay.

14 Q The Charger. Did he say he shot at the Charger?

15 A He said he was shooting at the Charger. Yes, sir.

16 Q Okay. You saw the video where his brother got shot; is
17 that right?

18 A That's correct.

19 Q In your investigation, did y'all ever determine the
20 caliber of the round that went into his brother Mr. Epps?

21 A No, sir.

22 Q You didn't get a ballistics report back on that?

23 A The case detective did.

24 Q I'm sorry. Say it --

25 A The case detective, the lead detective on the case.

1 Q Oh, oh, the lead detective did. We saw where -- I guess
2 Mr. Rogers is his name -- fall, and the pistol slid out onto
3 the pavement there. Was that pistol recovered by y'all?

4 A There was some handguns that were recovered from the
5 scene.

6 Q Was there ever a -- well, did you identify the pistol
7 that was on the concrete that we saw Rogers fall and the
8 pistol slides away from him? Did y'all recover that
9 particular pistol?

10 A That I cannot elaborate on, sir. I'm not sure about
11 that. But there was handguns that was recovered from the
12 scene.

13 Q Well, any handguns matched up with the bullet that was in
14 Mr. Eppes?

15 A That I don't know, sir.

16 Q Okay. But he's maintained throughout he never shot
17 anybody and never killed anybody. He told you that
18 throughout, right?

19 A Yeah. He -- he started out saying that he didn't shoot
20 at all or he didn't even have a gun. And then he went into,
21 yeah, I was shooting. I was shooting at the red car. But
22 from my investigation, we know that he was shooting towards
23 where the victim was -- where he was shot.

24 Q At the time the victim was going down, his back was
25 facing Mr. Myers, wasn't it?

1 A When he went down? When the --

2 Q Yeah. When he went down --

3 A -- when the --

4 Q -- he got shot.

5 A -- when the shots first rang out, he went down to take
6 cover and as he went down --

7 Q You're assuming that, aren't you?

8 A Well, that's what we can see on the camera. When he went
9 down, you can see him. He's -- he's limping -- he's -- he's
10 crawling as your client is still firing in his direction.

11 Q All right, but (indiscernible) is here --

12 A Essentially where he was shot.

13 Q -- means his left side is facing Joquell.

14 A The bullet --

15 Q So how did the bullet go around him and come in the left
16 side -- or excuse me, the right side -- if his left side is
17 facing Joquell?

18 A The bullet went in the right top and went downward one --
19 which would indicate that either he is crouching or he is low,
20 as he was as you see in the video.

21 Q Have you had a ballistics expert testify to that to your
22 or tell you that?

23 A I did not. No, sir.

24 MR. YOUNG: Nothing further.

25 REDIRECT EXAMINATION

1 BY MR. MEADORS:

2 Q How many shots did he tell you he fired?

3 A He wouldn't say how many shots he fired.

4 Q And Mr. Young asked you if there was a pistol found that
5 matched what was in Mr. Middleton. What kind of pistol did
6 the defendant say he shot?

7 A He asked me about Mr. Eppes.

8 Q Oh.

9 A But he wouldn't say what fired -- the defendant did not
10 say what kind of gun he had.

11 Q And exactly following up on his question about the shots
12 where his client was, there were two more shots in that
13 direction after 11:42:08?

14 A That's correct.

15 Q That's all. Thank you.

16 MR. YOUNG: Nothing else.

17 THE COURT: You can step down.

18 THE WITNESS: Thank you.

19 THE COURT: Okay. Ladies and gentlemen, this is a good
20 place for us to stop for the evening. Once again, I'm going
21 to ask if you'll please be back at 9:30 tomorrow morning. We
22 are probably going to bring lunch in for you tomorrow so that
23 we can have a shorter lunch break and try to get through as
24 much of this case tomorrow as we can.

25 Have a good evening. Again, no discussion overnight

1 about the case. Thank you.

2 (Whereupon, the jury exited the courtroom at 5:19 p.m.)

3 THE COURT: Okay. Do we want -- y'all, hang on just a
4 minute, please. We're still --

5 THE BAILIFF: We're in court.

6 THE COURT: We're still going. Do you want to --

7 MR. MEADORS: He wanted to approach real quick. I don't
8 know if it was something that --

9 THE COURT: Okay, sure, I'm sorry.

10 MR. WARR: I had asked you earlier about my client and my
11 meeting with his mother; can we take a few minutes now and do
12 that?

13 THE COURT: Does that suit you all okay?

14 MR. WARR: If it works for the deputies. I just don't
15 want to --

16 THE COURT: Mr. Herbert (phonetic), can y'all --

17 MR. HERBERT: Your Honor, you give us our direction. We
18 shall. We got -- you tell us what we need to --

19 THE COURT: I'd appreciate it. Thank you. If --

20 MR. HERBERT: Yes, Your Honor.

21 THE COURT: -- we do it today, it means we don't have to
22 do it in the morning.

23 MR. HERBERT: Yes, Your Honor.

24 MR. WARR: Can -- when they get through, do you still
25 want to do that other matter today or not?

1 THE COURT: I mean, I don't -- I'm going to let you all
2 take your time. But I would say not more than 30 minutes
3 because I got to let these --

4 MR. WARR: No. I won't keep them --

5 THE COURT: -- deputies go.

6 MR. WARR: I have no intention of taking that long.

7 THE COURT: Okay. So I'd say let's address it first
8 thing in the morning.

9 MR. WARR: 9 o'clock?

10 THE COURT: I can do 9 o'clock.

11 MR. WARR: Okay. Let's not --

12 THE COURT: Talk to that guy right there.

13 THE BAILIFF: Yes, sir. Mr. (indiscernible) --

14 THE COURT: Can he do 9 o'clock?

15 THE BAILIFF: -- we'll be here. Thank you.

16 THE COURT: Okay. Then if we can do that, we'll address
17 it at 9 a.m. before the jury gets here.

18 MR. WARR: Okay.

19 THE COURT: All right. Thank you.

20 (End of Transcript of Record)

21

22

23

24

25

CERTIFICATE OF TRANSCRIBER

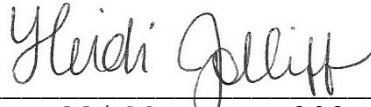
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

State of South Carolina)
)
County of Sumter)

I, HEIDI JOLLIFF, a court-approved transcriber, do hereby
certify that the foregoing is a true, accurate and complete
Transcript of Record of the proceedings had and evidence
introduced in the trial of the captioned case, relative to
appeal, in the Court of General Sessions for Sumter County,
South Carolina, on the 28th day of September, 2022.

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

August 10, 2023



Heidi Jolliff, CDLT-292
Transcriber

1		<u>I N D E X</u>			
2	<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
3	Arkell Eaglin				
4	Mr. Meadors	33		46	
5	Mr. Warr		39		47
6	Amanda Snapp				
7	Mr. Corbett	48			
8	Mr. Young		92		
9	Mr. Corbett			96	
10	Mr. Young				105
11	Nicholas Batalis				
12	Mr. Meadors	111			
13	Mr. Warr		141		
14	James Kearney				
15	Mr. Corbett	148			
16	Mr. Young		161		
17	Mr. Corbett			167	
18	Paul Greer				
19	Mr. Corbett	169			
20	Mr. Young		202		
21					
22					
23					
24					
25					

1	<u>E X H I B I T S</u>			
2	NO.	DESCRIPTION	ID.	EV.
3	S-9	Facebook video	7	37
4	S-10	Photographs	51	51
5	S-11 - S-19	Photographs	--	90
6	S-20	Overhead photograph	--	91
7	S-21	Drawing of first quadrant	--	71
8	S-22	Drawing of second quadrant	--	72
9	S-23	Drawing of third quadrant	--	72
10	S-24	Drawing of fourth quadrant	--	72
11	S-25	Blow-up diagram of crime scene	--	72
12	S-26	Color coded oversized crime scene	--	76
13		diagram		
14	S-27-A	Middleton Bullet	124	124
15	S-27-B	Rogers bullet	125	124
16	S-28	Ballistic evidence	--	90
17	S-29	Pictures of Dodge Charger	--	104
18	S-30	Picture of deceased	109	--
19	S-31	Picture of deceased	109	123
20		with face covered		
21	S-32	Close up of wound	109	123
22	S-33	Pix of wrist injury	109	123
23	S-34	Pix of wrist injury	109	123
24	S-35	Bullet	122	123
25	S-36	CD containing photos	--	154

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

E X H I B I T S

NO.	DESCRIPTION	ID.	EV.
S-37	Photo	--	152
S-38	Photo	--	153
S-39	Pistol	159	159

1 THE BAILIFF: Good morning, Your Honor.

2 You may be seated.

3 Your Honor, the jurors are still coming in.

4 THE COURT: Do we need the doc camera for me to hear the
5 witness that you want to proffer?

6 MR. MEADORS: The dock, I'm sorry? I'm just
7 (indiscernible) --

8 THE COURT: I understand we're having a technical issue,
9 but was that going to prevent us from going ahead and --

10 MR. MEADORS: Well, no. You've seen the video. I don't
11 think so.

12 THE COURT: Okay.

13 MR. MEADORS: She's seen the video.

14 Arkell Eaglin.

15 THE BAILIFF: Good morning, ma'am. Put your left hand on
16 the Bible, raise your right hand. State your name.

17 MS. EAGLIN: Arkell Eaglin.

18 THE BAILIFF: You'll have to speak louder than that.

19 MS. EAGLIN: Arkell Eaglin.

20 ARKELL EAGLIN, after being duly sworn, testified as
21 follows:

22 THE BAILIFF: Thank you. Would you mind stepping around,
23 please? State your name for the record and spell your last
24 name, please.

25 THE WITNESS: Arkell Eaglin, E-A-G-L-I-N.

1	<u>VOIR DIRE EXAMINATION</u>
2	BY MR. MEADORS:
3	Q Good morning, Ms. Eaglin.
4	A Good morning.
5	Q Please tell the Judge, briefly, about yourself. Where
6	are you from?
7	A I'm from Sumter.
8	Q Born and raised?
9	A Yes.
10	Q And as far as this particular case, are you -- were you
11	involved with anybody that's involved in this case?
12	A I was.
13	Q Okay. And who was that?
14	A Michael Rogers.
15	Q And I'm sorry, if -- I know you -- if you can speak up --
16	A Do I have to speak up?
17	Q -- into the podium and we can all hear you. And what was
18	your relationship to Michael Rogers?
19	A Girlfriend.
20	Q Girlfriend?
21	A Yes, sir.
22	Q And how long had y'all known each other?
23	A About six years.
24	Q In the weeks leading up to his death, were you all still
25	together then?

1 A Yes.

2 Q And we played yesterday, and I want to play it today,
3 State's 9, for identification at this point.

4 (WHEREUPON, State's Exhibit No. 9 was marked for
5 identification only.)

6 Q I want to ask you, if you can tell Your Honor, if you
7 have seen this FaceTime (sic) video before, please? Can you
8 see on your monitor?

9 MR. CORBETT: Facebook.

10 MR. MEADORS: Facebook. What'd I say?

11 MR. CORBETT: It's not on -- it's on Facebook, it's
12 Facebook.

13 MR. MEADORS: Well, I don't -- I meant Facebook. I'm
14 sorry. Thank you.

15 (Thereupon, the visual recording was played but not
16 transcribed herein.)

17 Q Would you spell your first name?

18 A A-R-K-E-L-L.

19 MR. MEADORS: Did you get her last name?

20 THE DEPUTY CLERK: Yes.

21 MR. MEADORS: Okay. I'm sorry.

22 Q Ms. Eaglin, can you tell Her Honor when you saw that
23 video?

24 A It was shortly after. This was, like, August.

25 Q All right. Let's go back in time. Can you tell the

1 judge how you remember when you saw this video? Or the time
2 period?

3 A Prior, before that video, there was a fight, it was a
4 altercation in a club with Michael Rogers; the boy, Trae; and
5 some of the other family members, cousins, whatever.

6 Q At what club?

7 A S & B.

8 Q And when was that?

9 A This was the weekend before his birthday. His birthday
10 is August 8th.

11 Q So the weekend before his birthday, there was a fight in
12 the club?

13 A Yes.

14 Q Okay. And did y'all do anything for his birthday?

15 A Yes, we went to the beach.

16 Q Okay. What beach?

17 A Myrtle Beach.

18 Q And so, would that have been -- how long were you guys --
19 his birthday's August 8th, so you went down there when to the
20 beach?

21 A That Friday.

22 Q Okay. And when you got back, did something happen after
23 that?

24 A Yes.

25 Q What happened?

1 A They were in the club again. He went out, again, that
2 weekend. And another altercation came about. And he got hit
3 in the face with a bottle.

4 Q That was Michael Rogers --

5 A Michael Rogers, yes.

6 Q And again, what club?

7 A S & B.

8 Q S & B. So that would have been after his birthday,
9 August 8th of 2019?

10 A Yes.

11 Q Okay. Did something happen after that?

12 A He was in the club, again. And a couple of guys in the
13 club jumped him, in the club, and actually jumped him, and
14 kicked him, until he passed out.

15 Q And --

16 A Prior to that, prior to -- well, that happened before
17 everything. But after they jumped him in the club and hit him
18 in the face with a bottle, he was leaving the club, and his
19 truck got shot up. The truck that he was in.

20 Q And do --

21 MR. WARR: Objection, Your Honor. We haven't heard any
22 basis for her knowledge of this. Was she actually present at
23 these alleged assaults, or is this hearsay, or?

24 MR. MEADORS: Your Honor, can she finish testifying, and
25 can he then cross?

1 THE COURT: So your objection's hearsay?

2 MR. WARR: Yes, Your Honor.

3 MR. YOUNG: It's all hearsay, (indiscernible)

4 THE COURT: If you want to establish --

5 Q How do you know these assaults happened?

6 A I lived with Michael Rogers. And actually, he came home,
7 with everything going on. So that's how I know.

8 Q And you mentioned his truck was shot up?

9 A Yes.

10 Q When was that, in relation to his birthday?

11 A A week later.

12 Q So after August 8th of 2019?

13 A Yes.

14 Q Okay. And did you see the truck?

15 A I did.

16 Q Okay. Did it have bullet holes in it?

17 A It did.

18 Q You saw them, with your own eyes?

19 A I did.

20 Q And after that, he's killed on September 8th of 2019,
21 correct?

22 A Yes.

23 Q So between the truck getting shot up and September 8th of
24 2019, when did you see this video of him?

25 A It was in between all of that. It was -- I would say

1 around his birthday time. Because I told him, I didn't want
2 him to go to the club, period. It was --

3 Q Exactly why?

4 A Because it was just too much going on, it -- every time
5 he went in the club, it was something. And he was going out
6 by his self. And I didn't want nothing to happen, but he
7 liked the club. He liked --

8 Q You say he "what" the club?

9 A He likes (sic) the club.

10 Q And when did you see this video?

11 A I can't pinpoint the date, but I know it was in -- in the
12 month of his birthday. Within --

13 Q 2019?

14 A Yes.

15 Q When you saw this, did you say something to Michael about
16 it?

17 A I did.

18 Q What'd you say?

19 A Stay out of the club. Stay away from -- out of the
20 streets, period.

21 Q And did he do that for a while?

22 A For a second, he did.

23 Q I'm sorry?

24 A Yes.

25 Q How long did he stay out of the club?

1 A He stayed out for maybe a week. A week or two. And then
2 he went out that night everything happened.

3 Q How did you get this video? How'd you see it?

4 A Someone else showed it to me. There were several videos
5 like that.

6 Q Say that again?

7 A It was several videos like that. That wasn't the only
8 video like that. In that time.

9 Q Were there other videos -- where were they shot, if you
10 know? Were they in a house --

11 A They were all --

12 Q -- a motel, or --

13 A -- in a motel.

14 Q Okay.

15 A Um-hum.

16 Q Does that appear to you to be a motel there?

17 A It is. Yes.

18 Q And then the person who's singing, I guess, the main role
19 there, do you -- Mr. (indiscernible), do you know who that
20 was?

21 A No, don't know him.

22 Q It's your testimony is you saw that video after his
23 birthday, in August of 2019, and before he was killed on July
24 -- excuse me, I'm sorry, September 8th of 2019?

25 A Correct.

1 Q And I'm sorry for your loss, too.

2 A Thank you.

3 MR. MEADORS: Beg the Court's indulgence.

4 (Counsel confer.)

5 MR. MEADORS: Thank you.

6 MR. WARR: If it --

7 THE COURT: Yes, sir?

8 MR. WARR: -- please the Court, Your Honor?

9 THE COURT: Um-hum.

10 VOIR DIRE EXAMINATION

11 BY MR. WARR:

12 Q Now, Ms. Eglin, did -- were you at the club during any of
13 these instances that you just testified to?

14 A I wasn't.

15 Q So everything you said was something somebody told you
16 happened, you didn't witness any of that?

17 A Michael Rogers told me this, yes.

18 MR. WARR: Okay.

19 Your Honor, I'd ask that all her testimony regarding any
20 incidents that happened at the club be stricken as hearsay
21 from the record.

22 THE COURT: Well, I mean, we're -- we don't have the jury
23 in here, so I don't need to strike it from the record. But
24 you don't -- you want me to prevent her from testifying to
25 that in front of the jury?

1 MR. WARR: Yes, Your Honor.

2 THE COURT: I'm going to let Mr. Meadors respond at the
3 end.

4 MR. WARR: Okay. Thank you, Your Honor.

5 THE COURT: Sure.

6 Q You testified that you saw this video sometime,
7 supposedly, in the month of August --

8 A Correct.

9 Q -- of 2019.

10 A Yes.

11 Q And someone else showed it to you?

12 A Yes.

13 Q But you weren't there when the video was actually
14 recorded?

15 A It was a live stream.

16 Q Okay. But obviously, if you played it back, you don't --

17 A No.

18 Q -- know when it was actually live.

19 A I actually watched the video through someone else's
20 phone.

21 Q Okay.

22 A It was a live stream.

23 Q It was a live stream when you saw it?

24 A Um-hum.

25 Q It wasn't a recording of the live stream?

1 A No.

2 Q Okay. But you don't remember the date?

3 A I don't.

4 Q And you weren't in the room when it was recorded?

5 A In what room?

6 Q In the room when they were actually filming it.

7 A The boys?

8 Q With them. Yeah, you weren't in the room with them when

9 they were actually filming it.

10 A No.

11 Q Okay. Who showed you the video?

12 A I don't -- I don't remember who exactly showed me, but I

13 remember seeing it, because it -- like I said, it was several

14 of those videos. Several people came to me showing me the

15 videos. And I really didn't want to even see them, because it

16 was senseless, and stupid, and childish.

17 Q So it made such an impression on you that you remember --

18 supposedly remember the month you were shown the video, but

19 you can't remember who brought it over and showed it to you?

20 A Correct.

21 MR. WARR: Okay.

22 I beg the Court's indulgence.

23 THE COURT: Um-hum.

24 (Counsel confer.)

25 Q Did you make a recording of the live stream?

1 A No. Why would I make a recording of it?

2 Q Have you seen a recording since?

3 A Here.

4 Q Just here?

5 A Um-hum.

6 Q And have you been sitting in the courtroom during this

7 trial?

8 A I have.

9 Q You have? The entire time?

10 A No. But I have.

11 Q Okay. Were you in the courtroom when we played the video

12 -- I believe it was yesterday?

13 A Yes.

14 Q You were here?

15 A Yes.

16 Q And you heard the Judge's comments on the -- about the

17 timing of the video?

18 A Yes.

19 Q Okay.

20 A Somewhat.

21 Q And you all of a sudden remembered when you saw it.

22 A I didn't all of a sudden remember, I remembered

23 instantly. I didn't all of a sudden remember anything. I saw

24 -- when I -- when they started playing the video, I remembered

25 the video. Personally --

1 Q And you remembered the --

2 A -- myself.

3 Q -- you don't remember date you saw it?

4 A Nor the time.

5 Q It could have been at the beginning of August?

6 A It -- no.

7 Q Well, was it the second week in August?

8 A I don't know.

9 Q Was it --

10 A I don't --

11 Q -- the third week in August?

12 A I don't know.

13 Q The fourth week in August?

14 A I do not know.

15 Q So you don't remember when you saw it in August, it just
16 made such an impression --

17 A I know it was in --

18 Q -- you remember August --

19 A -- I -- I remember --

20 Q -- that it was in August.

21 A -- it was in August because his birthday is in August.

22 That's how I remember. His --

23 Q When was his birthday in August?

24 A August 8th. And it was after his birthday. So within
25 that time --

1 Q So it --

2 A -- that was when it was going on.

3 Q So it could have been August 9th, 10th, 11th, right on,
4 you don't remember?

5 A Could have.

6 Q And you don't know who made that recording of the live
7 stream?

8 A No, I don't.

9 Q Okay. And you don't know who provided that to law
10 enforcement anonymous?

11 A I don't.

12 Q But it wasn't you?

13 A Definitely not.

14 Q Okay. And you're 100 percent you watched it live?

15 A Yes.

16 Q Sometime in August?

17 A Yes.

18 Q Okay. Do you know -- do you remember what time of day it
19 was at?

20 A I don't.

21 Q Was it morning, afternoon?

22 A I don't.

23 MR. WARR: Beg the Court's indulgence.

24 (Counsel confer.)

25 Q Following Michael Rogers' death on September the 8th,

1 2019, did you report seeing this video to law enforcement?

2 A I didn't.

3 Q Did you talk to law enforcement, following that?

4 A I didn't.

5 Q You didn't? They didn't ask you any questions about
6 Michael Rogers?

7 A No, they didn't.

8 Q Okay. You didn't make any statements about Mike?

9 A No, I didn't.

10 Q Okay. So you never reported this video, seeing it? To
11 aid in investigation?

12 A No, I did not. During the time of the videos, including
13 this one, I told Mike that he needed to go to somebody about
14 the videos. Because to me, the -- they are threats. And with
15 everything that was going on with him, back-to-back --

16 Q To your knowledge, did he report them to law enforcement?

17 A He didn't.

18 Q He didn't? So he wasn't afraid enough by -- of these
19 videos to report them?

20 A Not that he wasn't afraid, he just didn't want to go.

21 Q Okay. So this video made such an impression on you that,
22 three years after the fact, you can remember you saw it in the
23 month of August, but right after his death, you didn't feel it
24 necessary to report it to law enforcement?

25 A I can remember everything that was going on with him that

1 month, three years, today.

2 Q But you can't remember what day you saw it, when you saw
3 it, what time of day it was --

4 A I couldn't tell --

5 Q -- or who showed it to you.

6 A I can't tell you that. I can't. But I remember the
7 incidents. And I remember the videos. I can't give you a
8 timeframe. I can't.

9 Q You can't testify to a timeframe as to when this video
10 was --

11 A It was in --

12 THE COURT: Mr. Warr, I --

13 THE WITNESS: -- the month of August.

14 THE COURT: Look, the jury's not in here, and I heard her
15 answer. It's asked and answered.

16 MR. WARR: No further questions, Your Honor.

17 VOIR DIRE EXAMINATION

18 BY MR. MEADORS:

19 Q Let me ask you about the injuries. Did you ever see any
20 injuries to Mr. Rogers' face, after one of these altercations?

21 A Yes.

22 Q What did you see?

23 A He had a gash across his face. His eye. His eye was
24 bloodshot. In the back of head, he had a big gash where --
25 whatever, I don't know what happened. In the truck, the glass

1 from the truck, when it got shot up, was in his -- inside of
2 his face, on his left side. And he had scratches --

3 Q Did you say the foam? I didn't hear what you said. The
4 glass what?

5 A The glass from the window --

6 Q From. I'm sorry, it was from. I'm sorry.

7 A Um-hum.

8 MR. MEADORS: Thank you, that's all.

9 THE COURT: Okay. Thank you, ma'am. You can step down.
10 Okay. Do you all want me to hear from you as to the
11 admissibility of the Facebook video?

12 MR. MEADORS: Yes, ma'am.

13 MR. WARR: Yes, Your Honor.

14 THE COURT: Okay. Mr. Meadors.

15 MR. MEADORS: Your Honor, she testified that she saw that
16 after his birthday in August, August 8th of 2019, between that
17 and September 8th of 2019. She's not sure -- exactly sure,
18 but she said she saw it, she saw it live, she told him about
19 it, "don't go out to the clubs anymore." We think that's in
20 the zone of time or the -- that makes it not only relevant,
21 but it wasn't like it was months and months before, it's in
22 the time.

23 And I don't know if Your Honor could let all of her
24 testimony come in. But it's, kind of, an ongoing dispute
25 between Mr. Rogers and some of these individuals, and this

1 culminates in his death, with this Facebook being just a few
2 weeks before his death. So we do think it's relevant and ask
3 Your Honor to respectfully allow us to present it.

4 THE COURT: Mr. Warr?

5 MR. WARR: Your Honor, there's no showing that any of
6 these alleged assaults were perpetrated by Mr. Myers. We have
7 no testimony as to who they were or whether they even
8 happened. All we have is hearsay evidence on that front.

9 As far as the timing is concerned, this witness is not
10 reliable or credible. She sat in here and listened to your
11 comments regarding this video. She watched the video
12 yesterday, in the courtroom, and then all of a sudden she has
13 a courtroom revelation as to when she heard it. She
14 definitely has an interest in this case. She lost her
15 boyfriend, and she has sat here and listened to exactly what
16 she needed to say on the witness stand for this evidence to
17 become admissible.

18 I still say that -- and argue that this evidence is
19 unduly prejudicial, and we have no better idea of when this
20 film was actually made and when it was recorded, then we did
21 yesterday. We just have a interested witness who all of a
22 sudden comes forward, three years after the fact, and
23 testifies to exactly what she needs to say for -- to convince
24 you, Your Honor. That is what her testimony is here today,
25 and I submit to you that it is not credible, and that the

1 video is still prejudicial, and still should be -- it's unduly
2 prejudicial, and still should be excluded under Rule 403.

3 Thank you, Your Honor.

4 THE COURT: Thank you.

5 I'm going to allow her testimony. I'm going to allow the
6 video. I do think that the question of her credibility or
7 reliability is for the jury.

8 I'm not going to allow hearsay statements about anything
9 that you didn't personally observe.

10 So in other words, something that he told her, of course,
11 would be hearsay and would not be admissible. But I am going
12 to allow her testimony regarding the video and the actual
13 video.

14 I do find that it is relevant, that there is testimony
15 that it took place within a -- the month before his murder. I
16 do think it's relevant to a lot of the issues, but, certainly,
17 would be relevant to motive, intent. It is prejudicial,
18 certainly, but I think that the probative value is (sic)
19 outweighed by the prejudicial effect. So I'm going to allow
20 it. And this --

21 MR. CORBETT: Your Honor, I'm --

22 May I speak?

23 MR. MEADORS: Sure.

24 MR. CORBETT: Judge, I don't -- I hate to be a stickler
25 for record, but I believe you said that the probative value is

1 outweighed by prejudicial effect.

2 THE COURT: Well, I meant the opposite. No, no, no, the
3 probative value is (sic) outweighed by --

4 MR. CORBETT: Okay.

5 THE COURT: -- the prejudicial effect. The probative
6 value is -- has a heavier weight --

7 MR. CORBETT: (Indiscernible) --

8 THE COURT: -- than the prejudicial effect.

9 MR. YOUNG: She got it right. She got it right.

10 MR. WARR: Okay. (Indiscernible) that way.

11 MR. CORBETT: Thank you.

12 MR. MEADORS: Judge --

13 THE COURT: If I said it wrong --

14 MR. MEADORS: You said --

15 THE COURT: -- I find that there's more probative value
16 than there is prejudicial effect. That makes more --

17 MR. MEADORS: You said --

18 THE COURT: -- sense.

19 MR. MEADORS: -- it right.

20 THE COURT: Anything else before we bring the jury in?

21 MR. WARR: Yeah, Judge, if we could just -- if I could
22 just show them her prior record, we have it, just so there
23 won't be any confusion.

24 THE COURT: Yeah, come on in.

25 (Recess.)

1 THE COURT: Okay. We're back on the record.

2 MR. CORBETT: Did I give you a copy? Or are you --

3 MR. WARR: (Indiscernible) right there and get me a copy.

4 MR. MEADORS: Judge, we have a 2019 drug conviction. It
5 may be a distribution of cocaine from October 2019. And we
6 have, I believe, two forgery convictions from 2016.

7 THE DEPUTY CLERK: Can you speak up a little bit?

8 MR. MEADORS: I'm sorry. I'll just come up here.

9 And then, Mr. Warr has a copy. Between October 2019,
10 drug --

11 MR. WARR: What?

12 MR. MEADORS: -- PWID cocaine, I guess, 2019 -- October
13 2019. Two forgeries. That, it looks like 2016. There's a
14 shoplifting from 2007. I think that is over ten years, and I
15 think Your Honor may have to conduct a balancing test on that.
16 Simple assault and battery, which I think we'd all agree
17 wouldn't come in.

18 So I'm going to back up. There's a filing a false police
19 report from 2003. We'd argue that's over ten years --

20 MR. WARR: Your Honor, I'd --

21 MR. MEADORS: I'm not through yet --

22 MR. WARR: Okay.

23 MR. MEADORS: -- sit down.

24 A simple assault and battery back in 1999. I think we
25 both agree wouldn't come in. '97 wouldn't come in. And then

1 there's a shoplifting from '95, we argue, respectfully, and
2 ask Your Honor not to tallow that. And I think that's it.

3 Correct me if I'm wrong.

4 THE COURT: The 2007 shoplifting, was that just a -- like
5 a mag. Court, or was it enhanced?

6 MR. MEADORS: Beg the Court's indulgence. I went through
7 reverse to back but maybe I should go back. Can I just start
8 from the front? I'm sorry.

9 THE COURT: Sure.

10 MR. MEADORS: That's my fault. We got a '90 -- December
11 of '95, shoplifting. Looks like a magistrate (indiscernible).
12 It was Forest Acres.

13 Assault and battery of '97, wouldn't come in,
14 respectfully. '97 and '99, assault and battery.

15 THE COURT: Third degree?

16 MR. MEADORS: Yes, ma'am. Minimal.

17 THE COURT: Um-hum.

18 MR. MEADORS: We have an interfering, harboring fugitive
19 over ten years. And that looks like 2002. A filing a false
20 police report, 2003. Sexual assault, which we, obviously,
21 wouldn't -- in 2003. A 2007 shoplifting. And that would have
22 been general sanctions it looks like, yes, ma'am. 2007, it
23 was over ten years, but that was a general sanctions. And
24 then a -- the two that I know we're in agreement on, the two
25 forgeries from '16, and a drug offense from '19.

1 THE COURT: Mr. Warr, are you in agreement that the '07
2 shoplifting would not be used for impeachment?

3 MR. WARR: Your Honor, we would argue that the
4 shoplifting is a crime of dishonesty, and it is relevant and
5 probative to show her reputation for truth and honesty in the
6 community, and her reliability. We'd argue the same thing, as
7 far as filing the false police report, the 2003 conviction of
8 that, that that's a crime of dishonesty, and it should be
9 allowed in, even though it's older than ten years, due to the
10 fact that it goes to her credibility and her reputation for
11 truth and honesty.

12 THE COURT: You're not trying to get into anything prior
13 to the '03 filing a police report?

14 MR. WARR: No, Your Honor.

15 THE COURT: Okay. Okay. Let's go through the analysis.
16 I do find that the '07 -- I'm not going to allow the '07
17 shoplifting. I am going to allow the '03 filing a police
18 report.

19 When a witness other than the accused is on the stand,
20 you can impeach by evidence of a crime punishable by more than
21 one year. The burden is on the opponent of the evidence to
22 show that its probative value is substantially outweighed by
23 the danger of unfair prejudice. So the burden's on the State.
24 Any crime involving dishonesty or false statement is
25 automatically admissible, regardless of whether it's the

1 accused or a witness, and regardless of the punishment. But a
2 remote conviction of any kind, we have to look at the
3 impeachment value, the point in time of the conviction versus
4 the witness' subsequent history, the similarity between the
5 past crime and what she's testifying about today, the
6 importance of her testimony, the centrality of the credibility
7 issue.

8 So I do find that the filing a false police report is
9 certainly probative. Even though it's remote, I do think that
10 it is -- goes to the credibility of the witness. I don't
11 think shoplifting is as bearing on a person's ability to tell
12 the truth. And it is -- both of these convictions are remote.
13 So weighing all those factors, I'm going to allow in the
14 filing of a false police report but not the shoplifting.

15 MR. WARR: And, of course, the ones we agreed on, the
16 drugs and the forgery, outright now?

17 THE COURT: Right, the --

18 MR. WARR: Okay.

19 THE COURT: -- 2016 and the 2019 are admissible. And the
20 2003, filing a false report.

21 MR. MEADORS: Thank you.

22 THE DEPUTY CLERK: Is the (indiscernible) on --

23 MR. MEADORS: Yes.

24 THE COURT: Um-hum. I've tried to move it closer to me.
25 Yeah, it's on.

1 Are we still working on the document camera?

2 UNIDENTIFIED SPEAKER: Yes, ma'am, if you -- if you could
3 just --

4 THE COURT: Okay. I'm going to step out for just a
5 minute then, since he's -- yeah, let's --

6 (Recess.)

7 MR. MEADORS: Judge, we can -- I guess there is one thing
8 for the record we ought to do. And maybe I'm wrong on the
9 statute.

10 She was not on the witness list. And Your Honor, we'd
11 ask that (indiscernible) about that (indiscernible) but it
12 just popped in my head, and I think I'm not doing anything I'm
13 not supposed to, and I just thought about that with this
14 witness.

15 THE COURT: Yeah, I think so.

16 MR. MEADORS: And then it just jumps off (indiscernible).

17 MR. YOUNG: (Indiscernible).

18 MR. MEADORS: Yeah, I just don't want to, I'm not done.

19 THE COURT: (Indiscernible).

20 MR. MEADORS: Yes, ma'am. Sorry, I meant generally.

21 MR. WARR: Should we go ask the jury about that?

22 MR. YOUNG: Yes, ask if anybody's related.

23 MR. WARR: Okay. I should have thought of that earlier,
24 sorry.

25 MR. YOUNG: No.

1 Thank you, Judge.

2 MR. MEADORS: Pardon?

3 (Whereupon, the jury came into open court at
4 approximately 10:13 a.m.)

5 THE BAILIFF: Jurors, have a seat now.

6 THE COURT: Okay. Good morning, ladies and gentleman.

7 UNIDENTIFIED JUROR: Good morning.

8 THE COURT: We have been in here working through a number
9 of issues. I don't want you to think that we've just been
10 twiddling our thumbs. But thank you for your patience.

11 Our next witness, I do need to ask you a couple of
12 questions, because this was not a person that we asked you
13 about during jury qualification. Her name is Arkell Eaglin.
14 First name is A-R-K-E-L-L. Last name is Eaglin, E-A-G-L-I-N.
15 And this is the witness I'm referring to who's standing.

16 Ladies and gentleman, is there anyone who is related by
17 blood or marriage, or has a close, personal, or business
18 relationship with this next witness, Ms. Eaglin?

19 JUROR NO. 53: I know her, but I don't have
20 (indiscernible).

21 THE COURT: And if you'll tell me your name?

22 JUROR NO. 53: Ms. Fullard, Coretha Fullard.

23 THE COURT: Anybody else?

24 JUROR NO. 103: I know her, too, but we're not related.

25 THE WITNESS: No.

1 THE COURT: Can I ask your name?

2 JUROR NO. 103: Shaylah McCoy.

3 THE COURT: Okay. So Ms. Fullard?

4 JUROR NO. 53: Um-hum?

5 THE COURT: Can you tell me how long you've known her?

6 JUROR NO. 53: I don't -- personally, I know her from my
7 daughter -- know her. But I know from there, from my
8 daughter.

9 THE COURT: Does your daughter live here in Sumter?

10 JUROR NO. 53: Yes.

11 THE COURT: Do you think -- do you have a close
12 relationship with her?

13 JUROR NO. 53: No, ma'am.

14 THE COURT: Would your relationship with the witness
15 prevent you from being a fair and impartial juror in this
16 case?

17 JUROR NO. 53: No.

18 THE COURT: Do you think that you can listen to the
19 facts, that you can apply the law as I instruct you, and give
20 both the State and the Defendant a fair trial?

21 JUROR NO. 53: Yes.

22 THE COURT: And same question for you, ma'am. Well,
23 first of all, tell me how you know the witness?

24 JUROR NO. 103: Growing up in the neighborhood, same
25 (indiscernible).

1 THE COURT: Okay. You're not related?

2 JUROR NO. 103: (No audible response.)

3 THE COURT: And again, same question, can you be fair and
4 impartial?

5 JUROR NO. 103: Yes, ma'am.

6 THE COURT: Can you listen to the facts, can you follow
7 my instructions on the law, and give both the State and the
8 Defendant a fair trial?

9 JUROR NO. 103: Yes, ma'am.

10 THE COURT: Okay. If I can have the lawyers approach?
11 Thank you all so much for that information.

12 (Whereupon, a bench conference was held off the record in
13 the presence of the jury, but out of the hearing of the
14 jury.)

15 (Completely inaudible.)

16 (Thereupon, counsel returned to counsel tables and the
17 following ensued:)

18 (Open court.)

19 THE COURT: Okay. Mr. Meadors?

20 MR. MEADORS: May it please Your Honor? The --

21 THE COURT: Yes, sir.

22 MR. MEADORS: -- State will now call Arkell Eaglin.

23 Judge, I do need Mr. Warr and I to approach, so I don't
24 know if I can say it.

25 (Whereupon, a bench conference was held off the record in

1 the presence of the jury, but out of the hearing of the
2 jury.)

3 (Completely inaudible.)

4 (Thereupon, counsel returned to counsel tables and the
5 following ensued:)

6 (Open court.)

7 MR. MEADORS: Thank you.

8 THE BAILIFF: Okay. Can you can step on down? Place
9 your left hand on the Bible, raise your right hand, state your
10 name.

11 MS. EAGLIN: Arkell Eaglin.

12 ARKELL EAGLIN, after being previously sworn,
13 testified as follows:

14 THE BAILIFF: Thank you, miss ma'am. Step around,
15 please. State your name for the record and spell your last
16 name, please.

17 THE WITNESS: Arkell Eaglin, E-A-G-L-I-N.

18 DIRECT EXAMINATION

19 BY MR. MEADORS:

20 Q Good morning, Ms. Eaglin.

21 A Good morning.

22 Q Would you please tell the ladies and gentleman of this
23 jury about Arkell Eaglin? Where are you from?

24 A Sumter, South Carolina.

25 Q Were you born and raised here?

1 A Yes, I was.

2 Q Where did you go to school?

3 A Sumter High, Alice Drive, Saint Jude.

4 Q St. Jude?

5 A Catholic.

6 Q Alice Drive and --

7 A Sumter --

8 Q -- Sumter High.

9 A -- High, yes, sir.

10 Q I'm not trying to ask your age, but when'd you get out of

11 Sumter High?

12 A '95. 1995.

13 Q What'd you do after that?

14 A Cosmetology.

15 Q I'm sorry?

16 A Cosmetology.

17 Q And was that your profession?

18 A At the time, yes.

19 Q How long did you do that?

20 A About four years.

21 Q And any other -- what'd you do after that?

22 A I did housekeeping, and I'm currently a nursing

23 assistant.

24 Q Nursing assistant?

25 A Yes.

1 Q Here in Sumter?

2 A Yes.

3 Q And ma'am, in your relationship to this case, did you

4 know Michael Rogers?

5 A Yes, I did.

6 Q How did you know him?

7 A He's my boyfriend.

8 Q And I'm sorry about your loss.

9 A Thank you.

10 Q How long were y'all together?

11 A Five years. Six total.

12 Q And in September of 2019, were y'all still together then

13 and the months leading up to that?

14 A Yes, sir.

15 Q When's his birthday?

16 A August 8th.

17 Q And on August 8th of 2019, did y'all do anything for his

18 birthday? The birthday before he died?

19 A Yes, we went to the beach, Myrtle Beach.

20 Q Okay. How long were you down there?

21 A Just a day.

22 Q Without going into any hearsay or specifics, had he been

23 in an altercation around that time period?

24 A Yes.

25 Q And when you got back from the beach, after his birthday,

1 August 8th, 2019, did he -- was he in another altercation?

2 A He was.

3 Q And had something happened to his truck?

4 A Yes, his truck got shot up.

5 Q Was that after y'all got back from the beach?

6 A Yes.

7 Q So is it fair to say that would have been August 2019, at
8 some point after August 8th?

9 A Yes.

10 Q Okay. And had he been going to the club some?

11 A Yes.

12 Q Did you want him to?

13 A No.

14 Q Did you ask him not to?

15 A I did.

16 Q And was there a period of time when he didn't go to the
17 clubs?

18 A There was.

19 Q And when was that?

20 A This was after we got back from -- this was after the
21 truck got shot. I told him to stop.

22 Q And you say he did?

23 A He did. And then he went right back.

24 Q After you got back from the beach and his birthday, did
25 you see a live -- Facebook live video?

1 A I did.

2 Q You saw it yourself?

3 A I did.

4 Q Did it concern your former boyfriend?

5 A It did.

6 MR. MEADORS: Your Honor, we'd now offer up State's 9 and
7 ask if we can publish it?

8 THE COURT: And this is 9, over the defense's objections
9 that you stated earlier?

10 MR. YOUNG: That's correct, Your Honor.

11 (WHEREUPON, State's Exhibit No. 9 was received into
12 evidence.)

13 (Thereupon, the visual recording was played but not
14 transcribed herein.)

15 Q You saw this Facebook video, live video, after you got
16 back from the beach trip?

17 A Um-hum. Yes, sir.

18 Q And was it prior to Mr. Rogers getting killed, when you
19 saw it?

20 A Yes.

21 Q Without going into detail, did you tell him about that
22 video?

23 A Yeah, I did.

24 Q Were you concerned?

25 A I was very.

1 Q Were there other videos you saw?

2 A Yes.

3 Q After this video, he went back to the club?

4 A He did.

5 Q And now he's dead.

6 A Yes.

7 Q Ms. Eaglin, did you ever tell law enforcement or anybody

8 that you'd seen this video?

9 A No, I didn't.

10 Q Well, why not?

11 A I -- I just didn't, it -- no -- no real reason.

12 Q Did they ever ask you?

13 A No, sir.

14 Q Were you ever interviewed by law enforcement?

15 A No, sir.

16 (Counsel confer.)

17 Q Do you know how long after y'all got -- y'all, you and

18 Mr. Rogers, got back from the beach it was when you saw this

19 live Facebook video?

20 A Could be about a week or two. It wasn't long after.

21 Q So the middle of August or?

22 A Could be, yes.

23 Q Now, Ms. Eaglin, under the rules, I have to ask you this,

24 okay? Were you convicted in -- or plead guilty in April of

25 2003, to filing a false police report?

1 A I was.

2 Q And were you convicted of two forgeries in March 2016?

3 A I was.

4 Q Did you get probation for those?

5 A Yeah.

6 Q I believe, in October of 2019, you have a possession with
7 intent to distribute or possession with intent to distribute
8 cocaine?

9 A I did.

10 Q October of 2019?

11 A I did.

12 Q And you got probation on that?

13 A I did.

14 Q What you doing now?

15 A Home health. I'm a private aide.

16 MR. MEADORS: Thank you.

17 THE WITNESS: You're welcome.

18 THE COURT: Mr. Warr?

19 MR. WARR: If it please the Court?

20 THE COURT: Yes, sir.

21 CROSS-EXAMINATION

22 BY MR. WARR:

23 Q Ms. Eaglin, you testified that you saw this video
24 sometime in August of 2019.

25 A Yes, sir.

1 Q But you can't remember the date?

2 A No, sir.

3 Q You can't remember whether it was the first week in

4 August, second week in August --

5 A It -- it wasn't --

6 Q -- third week in August, or the fourth week in August?

7 A No. I -- I know it wasn't the first week in August

8 because it was after his birthday.

9 Q So it was sometime in the remaining three weeks in
10 August?

11 A Of August, yes.

12 Q Okay. And at the time you saw this video, you said

13 someone else showed you the video. Who was that person?

14 A I don't even remember who exactly it was that showed it
15 to me. I remember I was in a crowd, I was at a party, and the
16 video came to me, and I watched it. And immediately, I looked
17 at it, because there was just so much going on. And I looked
18 at it, a couple of them.

19 Q And you're sure that you watched the video live?

20 A Um-hum.

21 Q How do you know you watched it live?

22 A Because I watched it, I saw all of the remarks in the
23 video, and I called Mike during the video and told him about
24 the video.

25 Q Did you watch it live here today?

1 A I watched it on y'all TV.

2 Q Yeah, but did you watch it live? Were they currently
3 broadcasting?

4 A No, y'all currently broadcast it.

5 Q We were playing the video, a copy of the live recording -
6 -

7 A Exactly.

8 Q -- and you could still see the comments, and it still
9 said "live" up in the -- in the comment.

10 A Um-hum. But on Facebook --

11 Q Up there --

12 A -- it's different.

13 Q -- but --

14 MR. MEADORS: Your Honor, if you could -- if he could let
15 him -- let her finish, please?

16 THE WITNESS: Facebook is different.

17 MR. WARR: Okay.

18 THE WITNESS: You can always copy something, but Facebook
19 is different. It's a different live.

20 Q Okay. So you're sure you watched it live in August of
21 2019; you just don't remember when?

22 A Correct.

23 Q When did you first remember that you saw this video?

24 A In --

25 Q Live?

1 A I never forgot them.

2 Q Okay. Let's see. And at the time you watched this
3 video, at that time, supposedly in August of 2019, when you
4 watched this video, did you know the people who were in the
5 video?

6 A No, I didn't.

7 Q You didn't know them? Okay.

8 A I still don't know them.

9 Q You still don't know who they are? Okay. You just
10 remember seeing the video of people you don't even know
11 rapping?

12 A Correct.

13 Q Okay. And did you hear the man in that video say that he
14 wanted to shoot Killah Mike?

15 A No.

16 Q He didn't say that, did he?

17 A No.

18 Q Did he say he wanted to shoot Killah Mike's car in that
19 video?

20 A Yes, basically, he did.

21 Q Basically, he did. So if I play the video back, he's --
22 I'm going to -- he's going to say, "I'm going to shoot Killah
23 Mike's car"?

24 A If you play the video back, you will see what he says.

25 He's going to get that car. When you play it back, you'll see

1 it. Play it back.

2 Q Play it back.

3 A Yes.

4 Q But that doesn't necessarily mean he's going to shoot the
5 car?

6 A In -- to me, it does.

7 (Counsel confer.)

8 MR. WARR: Pull up the -- that part of the video if you
9 don't mind.

10 (Thereupon, the visual recording was played but not
11 transcribed herein.)

12 Q We'll come back to the car part. The man in this video,
13 he says he's going to "send the goons at you." That doesn't
14 mean he's personally going to do anything, does it? He says
15 he's going to send somebody.

16 MR. WARR: Keep playing the video.

17 (Thereupon, the visual recording was played but not
18 transcribed herein.)

19 Q Does the man in that video says, "Now, not me, now,
20 y'all" --

21 A Um-hum.

22 Q -- "I'm going to send the goons at ya"?

23 A Yes.

24 Q So he's not saying he's personally going to do anything.

25 A Yes.

1 MR. WARR: Play it.

2 (Thereupon, the visual recording was played but not
3 transcribed herein.)

4 Q "We don't play with guns." Is the man in that video
5 saying that?

6 A Yes.

7 Q "We fight." Did he say that?

8 A Yes.

9 Q So from that, saying that, he wasn't intending to shoot
10 anybody?

11 A I don't know what his intention was.

12 Q Okay, but he said, "We don't play with guns, we fight"?

13 A That's what he said.

14 Q Okay, and you mentioned some altercations that occurred,
15 one at the beach and one at the club in Sumter?

16 A Nothing happened at the beach.

17 Q Okay. You just went to the beach for his birthday?

18 A Uh-huh, it was before the beach.

19 Q Okay, but these alleged altercations you referenced, you
20 weren't there, were you?

21 A I wasn't.

22 Q So you didn't witness any altercation with anyone?

23 A I didn't.

24 Q And you don't know who these people were that he
25 allegedly got in an altercation with because you didn't see

1 it, correct?

2 A No.

3 Q And you've been sitting in this trial listening before
4 your testimony here today, correct?

5 A I -- I have.

6 Q And you dated Killer Mike; you were his girlfriend?

7 A Michael, yes.

8 Q How long had you all been together?

9 A Six years.

10 Q And why was he called Killer Mike? Was it because he was
11 a killer with the ladies?

12 A I don't know why they called him that. I never called
13 him that.

14 Q Okay, and we heard your testimony on direct that you were
15 convicted -- that you are a convicted liar. In 2003, you were
16 convicted of filing a false police report. Is that correct?

17 A Correct.

18 Q And yet again, in 2016, you were convicted of two counts
19 of forgery. You forged somebody else's name to something?

20 A I did not.

21 Q What did you forge?

22 A Nothing.

23 Q But you were convicted --

24 A I was.

25 Q -- of something you never did?

1 A I was.

2 Q And then in 2019, you were convicted of drug
3 manufacturing, cocaine base?

4 A Yes.

5 MR. WARR: No further question, Your Honor.

6 THE COURT: Mr. Meadors?

7 REDIRECT EXAMINATION

8 BY MR. MEADORS:

9 Q Let me ask you about just the video. And it doesn't say
10 he was intending to shoot in this. Did you hear when they,
11 well, he and his car will get a new makeover?

12 A I did.

13 Q Do cars generally get beat up?

14 A No.

15 Q What did you take that to mean, he and his car will get a
16 new makeover?

17 A That they were going to do something to the car and him.

18 Q Sending the Goons for you?

19 A Uh-huh.

20 Q Did you notice some gun motions in the video?

21 A I did.

22 MR. MEADORS: Just finish playing it. You don't have to
23 start it -- finish where he stopped.

24 (Thereupon, the visual recording was played but not
25 transcribed herein.)

1 MR. MEADORS: Stop.

2 Q You see this large individual in the back?

3 A Yes.

4 Q You don't know who that is?

5 A I don't know him.

6 MR. MEADORS: Go ahead.

7 (Thereupon, the visual recording was played but not
8 transcribed herein.)

9 Q What do they seem to be enjoying themselves?

10 A Uh-huh, yes.

11 MR. MEADORS: That's all.

12 MR. WARR: Brief follow up.

13 RECROSS-EXAMINATION

14 BY MR. WARR:

15 Q Ms. Eglin, have you ever seen a car that's been keyed?

16 A I have.

17 MR. WARR: No further questions, Your Honor.

18 THE COURT: Ma'am, you can step down.

19 (Pause.)

20 MR. CORBETT: Judge, one moment while we get the next
21 witness, please.

22 (Pause.)

23 MR. CORBETT: Judge, while we're waiting on the witness
24 to make their way in, may I go ahead and move the easel?

25 THE COURT: Please.

1 (Pause.)

2 MR. CORBETT: Your Honor, the State would call Amanda
3 Snapp.

4 MR. WARR: Your Honor, may I position myself in a way
5 that I can watch the easel?

6 THE COURT: Anywhere you want to be that you can see
7 better is perfectly fine.

8 THE BAILIFF: State your name.

9 MS. SNAPP: Amanda Snapp.

10 AMANDA SNAPP, after being duly sworn, testified as
11 follows:

12 THE BAILIFF: Thank you. You mind stepping down, please?
13 State your name for the record and spell your last name,
14 please.

15 THE WITNESS: Amanda Snapp, S-N-A-P-P.

16 DIRECT EXAMINATION

17 BY MR. CORBETT:

18 Q Ms. Snapp, good morning?

19 A Good morning, sir.

20 Q First of all, tell us who you work for, please?

21 A I am Det. Sgt. Amanda Snapp. I'm the forensics
22 investigator sergeant for the City of Sumter Police
23 Department.

24 Q Okay. For those of us who may not use the same
25 terminology, tell us what your job duties include?

1 A Yes, sir. I might use forensics and crime scene
2 investigator interchangeably. It's basically the same,
3 similar kind of job description. As a crime scene
4 investigator, I am charged with reporting to major crime
5 scenes such as violent crimes, robberies, and also things like
6 burglaries, or even broken-into vehicles on some occasions.

7 So when I arrive on crime scenes, I evaluate them to
8 determine what happened, so I speak with patrol officers who
9 were the first to arrive, and I evaluate the scene. And then
10 as I'm at the scene, I establish which items that remain on
11 the scene are evidence.

12 So evidence basically are items left behind by a suspect
13 or a victim at a crime scene that can help determine what
14 happened at that particular scene or who was involved. We
15 also take photographs, collect those evidence pieces, and then
16 also do some processing on scene on certain occasions.
17 Processing is -- could be taking fingerprints, collecting DNA,
18 any of those sort of things, also photography.

19 So that is the basic gist of my job.

20 Q Would it also include retrieving any type of ballistic
21 evidence?

22 A Yes. If there were -- if it was a shooting situation, I
23 would collect things like fired bullets or fired cartridge
24 cases, things of those type, nature, yes.

25 Q Now, did you have occasion to respond to the Sunoco gas

1 station, also known as the Hop In, in the early morning hours
2 of September 8th, 2019?

3 A Yes, I did. I was on call that weekend, so I was called
4 approximately 1:15 in the morning, and I got there may be a
5 half hour later and started working that scene.

6 Q Okay. Now, when you arrive on the scene, what do you
7 normally do first?

8 A My first step is to talk to the patrol officers. Or if
9 there's other investigators, detectives, already there, I
10 speak with them to determine -- to find out what exactly has
11 happened, what the scene is all about.

12 Q Now, in conjunction with your investigation at this
13 scene, did you take photographs?

14 A Yes, I did.

15 Q Okay. Now, do you take a few photographs -- well, I'm
16 sorry. Let me rephrase that question. At some point in time,
17 do you place placards around items that you intend to gather
18 and/or photograph?

19 A Yes, I do.

20 Q Typically, these look like what?

21 A They are a little yellow -- sometimes they're -- they're
22 usually triangular in shape. Sometimes they're little squares
23 that have triangles. Sometimes they're just kind of folded
24 triangles that -- you'll see photographs of them shortly. But
25 yes, they're yellow generally.

1 Q And they're numbered?

2 A Yes, they are.

3 Q Now, you will also take a few pictures before placing
4 placards. Is that correct?

5 A Yes, I do.

6 Q Okay. Now, have you had an opportunity to go back
7 through and pull a selection of photographs from this
8 particular crime scene?

9 A Yes, sir, I did.

10 Q And you've had opportunity to review those?

11 A I have.

12 MR. CORBETT: Your Honor, at this time, we would offer
13 State's Number 10 for ID at this point. It is photographs
14 taken by Det. Snapp at the Hop In on September 8th of 2019.

15 (WHEREUPON, State's Exhibit No. 10 was marked for
16 identification only.)

17 MR. YOUNG: No objection.

18 THE COURT: Okay. 10 is entered.

19 (WHEREUPON, State's Exhibit No. 10 was received into
20 evidence.)

21 (Pause.)

22 MR. WARR: Your Honor, can I look at his screen from this
23 position?

24 THE COURT: Can you see it?

25 MR. WARR: I can see it sideways.

1 THE COURT: Okay.

2 MR. CORBETT: All right.

3 THE COURT: Can I stop you all for just a minute?

4 MR. CORBETT: Uh-huh.

5 THE COURT: Is it possible to turn on, Mr. Campbell, this
6 screen, as well? Okay.

7 I'm sorry. Sorry, it's technical difficulty with that
8 one.

9 Q And Det. Snapp, you may have to look a little to your
10 right. Is your monitor there?

11 A I see a monitor.

12 Q Okay. I know it's a little awkward to have to look left
13 and -- look right and speak left, but we'll do the best we
14 can?

15 A Hopefully.

16 Q Tell us what we're looking at here, please?

17 A Okay, so this screen shows a -- what we call a photo
18 placard. So any time we do photos, we start with a little
19 paper that describes what the photos are going to be about.
20 So it has the case number, because every incident that we go
21 to is assigned the case number.

22 It has the date, and then it'll -- it'll will have the
23 start time. But also, at the end of it, I will put an end
24 time to show how long it was that we were taking the photos.
25 We describe the type of crime it is and where. And if we know

1 the victim's name, we'll put in the victim. At this
2 particular time, I did not know the victim's name when I got
3 on scene, so that's why it's empty.

4 MR. CORBETT: Next, please.

5 Q Tell us what we're looking at here. please?

6 A All right, so when I first arrived on the scene, there
7 was a lot of people there because it was a very active,
8 very -- attended, if you could say, a lot of law enforcement,
9 a lot of fire department -- maybe not fire department, but
10 EMS, law enforcement. There was a great number of individuals
11 there.

12 So when I first arrived, I saw a lot of them still within
13 the scene. Also, you seen an ambulance. Various agencies'
14 vehicles are in there, and also a couple of bystander vehicles
15 or just innocent victim vehicles that are there.

16 So that is pretty much what this is showing, and also the
17 awning of the Sunoco gas station. That's what you see above
18 there, and the gas pumps.

19 Q Is this a similar view?

20 A This is a similar view, just slightly angled to the left.

21 Q Now, in this particular picture -- and I'm having
22 difficulty trying to look at this monitor -- are you able to
23 see a car parked close to the store directly in front of it?

24 A Yes, there's a small white car with several individuals
25 standing around it.

1 Q Okay. Next, please?

2 A Again, same similar angle, just kind of pulling back a
3 little bit more. So you see that silver car that's there
4 closest to us in that screenshot.

5 Q Okay, so it appears that there's a car at what I would
6 call the closest gas pump?

7 A Okay.

8 Q Is that correct?

9 A Yes.

10 Q All right, and as far as we know, that was on the scene
11 from the time of the commission until you arrived?

12 A Yes, it was.

13 Q Okay. If you would look across at what I would call the
14 second row of gas pumps, does there appear to be another car
15 there?

16 A Correct, that's another vehicle that was parked there.
17 By the end of the scene, we discovered that that car belonged
18 to the clerk that worked inside, so they were there throughout
19 the duration.

20 MR. CORBETT: Okay. Next, please.

21 Q Tell us what we're looking at here?

22 A Okay. This vehicle here, this Acura, we determined that
23 this belonged to one of the victims, Mr. Middleton. So he was
24 not able to drive away with the vehicle, or nobody else drove
25 it away, either. So that car remained on scene throughout the

1 time that we were there.

2 Q Next, please?

3 A That is the vehicle that belonged to the clerk that I
4 mentioned a moment ago.

5 Q And this one?

6 A All right. This vehicle is a white Nissan Sentra. This
7 was discovered to be a vehicle that the victim was in, he
8 remained in at the end of the incident. So he was in the back
9 seat, you'll see here shortly. This angle is looking from the
10 southeast side of the building, I believe. This is the Sunoco
11 Hop In gas station at 1083 Broad Street. This is just an
12 overview image that you can see the full building and that
13 vehicle that's parked there.

14 Q Now, in this picture, would you be closer to the Rite Aid
15 side?

16 A That is correct, yes. This is closest to the Rite Aid
17 building.

18 Q Okay, so we're across the front of the Sunoco toward
19 which business?

20 A That is looking towards the Wendy's, towards Wesmark.
21 All right.

22 Q And what do we -- and this is the white car again in
23 front of the building?

24 A This is taken from in front of that white Nissan. And if
25 you look closely, you'll see several items of evidence on the

1 ground in front of it.

2 Q Next, please?

3 A Again, similar angle, just slightly to the left, you
4 see -- start seeing more pieces of evidence within that scene.
5 This is taken from within the vehicle. So looking through the
6 back passenger door. This is the back seat, and you'll see
7 several fired cartridge cases sitting there in the back seat
8 and a blanket that is actually covering our victim.

9 Q So what we're seeing here is some fired cartridge
10 casings?

11 A Yes.

12 Q Is that correct?

13 A Yes.

14 Q And we are approaching the photograph of the victim in
15 the car. Is that correct?

16 A Correct, yes.

17 Q All right. Next, please?

18 A This one is just looking at the front passenger seat to
19 show that there's a cell phone and some other items within the
20 vehicle.

21 Q Go ahead?

22 A All right, so this is looking from the driver's side back
23 door, looking at Mr. Middleton, who's laying deceased in the
24 back seat.

25 Q Now, Det. Snapp, this is the body of Mr. Middleton,

1 correct?

2 A Yes, it is.

3 Q And at this point, he had been pronounced dead on the
4 scene?

5 A Correct. The coroner was there, and EMS was there, and
6 they pronounced him.

7 Q There appears to be a circular white patch on his right
8 shoulder?

9 A Yes.

10 Q To the best of your knowledge, what is that?

11 A That is something that EMS would have placed on his arm
12 to check for vital statistics.

13 Q So this picture that we're looking at right here, the
14 previous picture of Mr. Middleton's body, you were closer to
15 the car on this same side?

16 A Yes, I was.

17 Q Now, Det. Snapp, if I may, there's quite a few of these
18 yellow placards, correct?

19 A Yes, there are.

20 Q Fair to say more so than you normally have to do?

21 A I would say so, yes. Generally speaking, the magnitude
22 of evidence isn't quite as large as the scene was. There was
23 over 90 pieces of evidence that we marked on this scene, so
24 that is, I'd say, above average.

25 Q So I'm going to make an effort to move along fairly

1 quickly. If there's something I missed, please --

2 A Okay.

3 Q -- stop me or slow me down?

4 A Yes, sir.

5 Q Number 2, what does this appear to be?

6 A So number 2 -- and you'll see that's that yellow marker I
7 was describing earlier -- that is going to be a portion of
8 some fired bullet.

9 Q Now, let me back up for just a moment. We did not show a
10 yellow number 1. That was Mr. Middleton in the --

11 A Yellow number 1 would have been the vehicle and the
12 decedent; that was described as number 1 on my measurements.

13 Moving to number 3, this is another portion of a fired
14 bullet.

15 This is --

16 Q So what do we see here?

17 A This is a -- more of a mid-range shot looking towards the
18 door, and there's a piece of evidence there marked as number
19 4.

20 Q Let me pause here for just a moment. Is it fair to say
21 that you will generally shoot a photograph from back a
22 distance and then take it up close?

23 A That's correct. My usual method of taking photographs is
24 that we first do overall photos, and then I'll work my way
25 closer to each item individually. So I'll have an overall, a

1 mid-range, and then a close-up or possibly more than one
2 close-up of each item.

3 Q So it will be fairly common for us to see perhaps one or
4 perhaps multiple yellow placards?

5 A Yes.

6 Q And then you go to each individual item and take a
7 picture?

8 A That is correct, yes.

9 Q Okay, very good. 4, please?

10 A So like I said, number 4, that appears to be a fired
11 bullet. And this is one of those ones where -- you mentioned
12 where you see multiple placards. And this is just showing
13 some different items that are marked within a close area kind
14 of together. But they have different numbers, each one.

15 So then number 5 is an unfired bullet that was on the
16 ground.

17 And then --

18 Q This is the mid-range view at the end?

19 A That is one of those mid-range views that has multiple
20 numbers in it. Number 6 was a shoe; I don't know who that
21 belonged to.

22 Q Now, let me ask you this question?

23 A Uh-huh.

24 Q At that point in time, you don't necessarily make a
25 decision as to what's relevant or applicable to the case,

1 correct? What I'm saying is: You don't know if the shoe has
2 any bearing on the facts of the case or not?

3 A That is true. Generally speaking, we'll mark more things
4 than might be applicable or pertinent to each case. Just
5 because it's better to over-mark and have more things than to
6 not have things that might become, later, on important, so.

7 Number 7 is another fired bullet.

8 Number 8 is a fired cartridge case.

9 Number 9 is some sort of metal fragment; I can't say for
10 sure what exactly, from that photo.

11 Q Okay, so it's a metal fragment. You don't know if it's a
12 piece of a bullet, a piece of a wheel weight, or what it may
13 be, but you do take a picture of it and mark it?

14 A Correct, yes.

15 Q Another mid-range shot?

16 A Correct, another mid-range shot. Number 10 is the fired
17 cartridge case.

18 Number 11 -- and you see 10, 9, 8, 7 back in the
19 distance -- 11 is a hat. That's a close-up of that same hat.

20 Number 12 is another fired -- most likely a fragment of a
21 fired bullet, metal piece.

22 Another mid-range showing 12, 13, 14, and some others in
23 the background.

24 13 is a lighter.

25 14 is a firearm that was laying in the parking lot in

1 front of that white car.

2 And then just showing 14 and 15 in reference to each
3 other, and then 15 is a fired cartridge case.

4 And 16 -- you might notice that some of the numbers are
5 slightly out of order. And that's mainly because sometimes
6 while we're going along, marking pieces of evidence, we'll
7 find something over here. But then we'll see something in a
8 few minutes that has already been out of order numerically.
9 But that's why there's some, 26, and 27, or 28 back there,
10 that you see.

11 16 is a shoe. All right, so this one is looking around
12 the corner of the building. So if you're facing the Sunoco
13 store, these are on the right side of that building next to an
14 ice machine.

15 MR. CORBETT: All right. Let's pause here for just a
16 moment, please.

17 BY MR. CORBETT:

18 Q Det. Snapp, do you recognize this?

19 A Yes, I do.

20 Q Okay. If you would please take a moment to sort of
21 orient yourself to this one, tell us -- and I'm sorry. I'm
22 referring to State's Exhibit 20 -- bear with me a moment. I
23 believe it's 25. No, I'm sorry, 20, State's Exhibit Number
24 20. Are you able to pick the Hop In Sunoco gas station out on
25 this picture?

1 A Yes, I can.

2 Q Okay. Where is it located?

3 A Let me describe this a little bit to you folks. So this
4 right here is Broad Street. And then this (indiscernible)
5 Broad Street, which is the Sunoco Hop In. And you got Wendy's
6 over here. This is the Rite Aid. We referred to those in
7 various photos. So just to orient yourselves in the place
8 where we are in Sumter.

9 Oh, sorry.

10 Q That's fine, but would you back up a little bit?

11 A Oh, where do I need to -- thank you. Okay.

12 I'm not sure where we --

13 Q Just kind of reorient us to Broad Street?

14 A Okay, so again, this is your overall of Broad Street and
15 Wesmark right here. So right here, we have our Sunoco, which
16 is 1083 Broad. Then this is the Wendy's, which is 1085 Broad.
17 And then this would be the old Rite Aid building, and then you
18 have the mall back here. So just to orient you folks with
19 where we are in the city. Across the street, you have some
20 various little businesses, the Cricket Wireless stores here.
21 I think that's a title loan area.

22 So we are focusing in this section right here, though,
23 for the most part.

24 Q Just now, we were looking at a photograph. What side of
25 the store would that photograph be --

1 A Okay. That particular photo comes from right over here
2 on this side, on the Rite Aid side. Okay.

3 Along that side there, you notice there was several
4 markers there. So we'll see a sequence of numbers that were
5 in a relatively small group area, so 17, 18, 19, 20, and 21.
6 So if you look on this one, you can see how they were all,
7 sort of, in a -- a little group together. So you have those
8 numbers, 22. And these are all fired cartridge cases. 23,
9 29. 29 was hidden at first by that little leaf right there,
10 so we didn't see it initially. That's why it got a later
11 number than the others.

12 Coming out towards the Rite Aid a little more, we had a
13 24, which is a fired bullet portion, it appears. And then
14 coming back towards the gas pumps, we have 25 in there, which
15 is another fired bullet. Coming back, and this is walking
16 towards the street, looking back still on that Right Aide side
17 of the building, you see 26, which is a fragment.

18 Okay. All right. So now we're back towards the middle
19 of the fuel pump -- fuel pump area, looking at an overview of
20 a pretty good bunch of placards that are there that we've
21 marked.

22 So we -- we're in. We'll see 30, 31, 32, and 35.

23 All right. So now we're looking from a different angle,
24 so we're switching and looking towards that left corner of the
25 store. And you'll see a large amount of photo -- or evidence

1 markers there.

2 Then we go back a little bit. This is 30. 30 is a fired
3 cartridge case. 31, same. 32, same.

4 35 is a fragment of a bullet, it looks like. 33 is a
5 fired cartridge case. 34 is a very small piece of metal that
6 could be from a bullet jacket.

7 Another overview shot looking, with the full store
8 involved in that. So you see all of those markers that are in
9 front of the store and to the left of the store. 36 is a
10 cartridge case. 37 is a fired bullet. 38, another fragment.
11 Fragment at 39. Looking back, another one of those midrange,
12 kind of, pictures with 40, 38 and 39 together.

13 Another fragment. So then I turn my whole body and look
14 back towards the fuel pumps to get these images in together.
15 And --

16 Q Just for orientation purposes, are we facing toward Broad
17 Street now?

18 A Yes, we are.

19 Q Okay.

20 A 41 is a little cork for a liquor bottle. Another
21 cartridge case. More bullet fragments. Another bullet
22 fragment. Cartridge case. And then just another one of those
23 overview angles to show you just how many evidence markers
24 were out there.

25 Q All right. Which direction are we looking?

1 A Now, we're looking towards the left of the store, kind of
2 behind the Wendy's in that direction.

3 Another cartridge case at 46. So here we have a big
4 group of marked numbers with 47. 48 looks like another
5 cartridge case. 49, some sort of metal fragment. 50,
6 cartridge case. 51, bullet fragment. 52 is a bullet
7 fragment. 53 is a fired bullet. 54, we got a cartridge case.
8 Same as 55 and 56.

9 Q And I'm sorry. Back up one for me. What are we looking
10 at here?

11 A This particular sign, the 24-hour sign, that's on the far
12 left of the building. The reason we took this photo, or I
13 took this photo, is because you'll see here in a second,
14 there's a hole through the left side of it. So there you can
15 see a bullet hole through the left side, and then you see
16 where it impacted on the opposite side, but it remained in
17 that sign. We didn't take apart the sign.

18 Let's see. 57 is a fragment. You got 58 and 57 in the
19 same photo. There's a little bit of broken glass there, and
20 then another cartridge case and a cigarettes. 59, we got a
21 cartridge case that looks like it's been stepped on or run
22 over.

23 Another overview of that group. I think that's that same
24 group again. Looking at 60. Cartridge case.

25 Okay. So this angle is taken looking at the Wendy's sign

1 there on the side of Broad Street. There's some more evidence
2 markers out in front of that fuel pump. Got a liquor bottle
3 on the ground. Oh. And here it looks like a bullet struck
4 that pillar that is in there between the fuel pumps.

5 Q Tell us what we're looking at here.

6 A So this is taken from the edge of the fuel pump area
7 looking back at the store, so you can see all of those markers
8 that are laid out there on the side, the left side of that
9 store area.

10 Q And I'm sorry if this is redundant or obvious, but which
11 side of the store?

12 A This is looking at the left side of the store, so between
13 the store and Wendy's, basically, standing.

14 All right. Looking towards the corner, we start with 62
15 and then the array of photo placards. The hat cartridge case,
16 63. 64, cartridge case, 65 bullet fragment. 66 is a
17 cartridge case. 67 is a cartridge case. 68 is a cartridge
18 case, as is 69.

19 Oh. 70 is some drops of blood, so somebody was struck by
20 one of those fired bullets, evidently. 71 is a fragment of a
21 bullet and then a cartridge case. And then we have a shoe,
22 then a cartridge case. Ten more. Cartridge case.

23 66 and 67 are a little bit different. This one is
24 showing some broken glass from a vehicle that would have been
25 struck at 67 -- or 76. And 77 is some blood, it appears, with

1 some sort of cigar in the middle is what that other little
2 thing was. So this is showing the broken glass from that
3 vehicle. 78's a cartridge case. 79 is a run over cartridge
4 case.

5 This one's a bullet fragment. 81 is showing a little
6 more, a few blood drops that are there on the ground, that
7 we're looking back at that fuel pump area. There's some more
8 -- other markers over here again. This looks like a little
9 bullet fragment. Another bullet fragment. Okay.

10 Q Now, what's our orientation in reference here?

11 A So in this photo I'm standing in the parking lot, in that
12 place where you drive into the station and then go right to go
13 into the fuel pump area or park in the store. So this is
14 going to be between the Wendy's and the store, but still --
15 still on the property of the Sunoco station.

16 84 is a bullet fragment. 85 is a cartridge case. So
17 this is -- this is looking at another grouping of numbers.
18 This is more beside the store, so it's, kind of, dark over
19 there. There's no light. I don't think there was a light
20 back there. That's why it's -- it's kind of dark looking.

21 86 is a fragment. 87 is some sort of cigar wrapper.
22 Then we have a drink bottle that belonged to somebody. A
23 cartridge case. All right. So then this photo is I'm
24 standing closer to -- there's a little grass strip between the
25 store and the Wendy's, so I'm standing next to that looking

1 back towards Broad Street in this photo.

2 Then we have a cartridge case for a rifle, some -- a
3 piece of mail that was laying there on the ground, cartridge
4 case, another cigarettes wrapper. Cigarillos wrapper, rather.

5 95 is an aluminum bottle that we found. 94 is a
6 cartridge case. So that's that grassy strip I was mentioning,
7 you can see between the two locations.

8 28. Okay. So this is going back. This is going to be
9 beside the white car back in front of the building. This is
10 some blood that was laying on the -- on the ground there
11 beside that car.

12 Q Now, Det. Snapp, if I may?

13 (Pause.)

14 MR. CORBETT: Your Honor, if I may, I'm going to hand the
15 witness, Ms. Snapp, what's been marked for identification as
16 State's Numbers 21, 22, 23 and 24.

17 Q Ma'am, if you would, please tell us if you can identify
18 those.

19 A Yes, I can. I can.

20 Q What are those?

21 A These are crime scene drawings. So whenever we do a
22 crime scene we take photos, and we also do a drawing to depict
23 where all these items were. Because, as you notice with the
24 photos, you see a portion here, a portion there, and it's kind
25 of disjointed. So we'll create a drawing that shows each item

1 of evidence in the position that it was on a piece of paper so
2 that you can see it visually.

3 Q Now, in this particular instance, were you able to put
4 everything on one piece of paper?

5 A I was not. There was just entirely too many at the scene
6 in order, like, to keep it all in order and keep it legible,
7 we did four different scene drawings, so I did have some
8 helpers that were assisting with the drawings.

9 So we, kind of, we broke it down into quadrants, we
10 called it. So we took the whole scene, and kind of, put
11 evidence tape out to mark it out in specific lanes, if you
12 would. So it was easier to have this set of numbers on one
13 page, this set of numbers on another page.

14 So there's four of those that show where all these items
15 were.

16 Q Okay. Now, let me ask you, are the drawings to scale?

17 A No, they are not to scale.

18 Q Okay. So they are not to scale.

19 A These are not, no.

20 Q Okay.

21 A We did take measurements of all the items, and that was
22 written down in a chart format, in a way. But the -- the
23 drawings themselves are not in scale.

24 (Pause.)

25 Q Now, Det. Snapp, let me ask you this question, because

1 I'm basically trying to understand the progression. Did you
2 then do a computer-aided drawing subsequent to this?

3 A I did, yes.

4 Q Okay. So we go from photos to drawing to then compiling
5 that as well.

6 A Yes.

7 Q Okay.

8 MR. CORBETT: Show us, please.

9 Q So this is a not-to-scale hand drawing?

10 A That is correct.

11 Q And then I believe, off to the left, you have handwritten
12 some numbers. And then what's next to it?

13 A That's not showing up on my screen.

14 Q Oh, I'm sorry.

15 MR. CORBETT: Bear with me one moment, please.

16 A I do have my own copy, though.

17 Q Okay. So I'm looking at State's Number 21 on the left-
18 hand side. It begins with item number 1.

19 A Okay.

20 Q Okay. So that's the first quadrant that you worked up in
21 terms of a sketch?

22 A Correct. This is items one 1 through 29 in this
23 particular sketch.

24 Q Okay.

25 MR. CORBETT: If you would show us State's 22, please.

1 A Okay. So this one is going to be items 30 through 45.

2 Q Okay.

3 MR. CORBETT: Now, please State's 23, Your Honor.

4 A This one shows items 46 through 69. It also includes 96.
5 That was?

6 MR. CORBETT: State's Number 24.

7 A And then State's 24 shows 70 through 96 in the photos.

8 Q All right. Thank you.

9 MR. CORBETT: Bear with me one moment, please.

10 Your Honor, we would call for State's 21 through 24
11 locations.

12 MR. YOUNG: No objection.

13 THE COURT: Okay. They're admitted.

14 (WHEREUPON, State's Exhibit Nos. 21 through 24 were
15 received into evidence.)

16 Q Det. Snapp, I'm going to show you what's been marked as
17 State's Exhibit Number 25 and ask if you can identify this.

18 A This particular diagram, this is all four of those drawn
19 diagrams, and it has been consolidated so that I could put
20 them all onto one page, so that they're all together in one
21 image to show you how everything was laid out.

22 Q All right. Is it too scale?

23 A It is not to scale.

24 Q So it's not to scale.

25 A No.

1 Q But as best you could, you got all your numbers on?

2 A Correct.

3 MR. YOUNG: No objection.

4 THE COURT: Your Honor, we would move to enter into
5 evidence State's Number 25, which is the blow-up crime scene
6 diagram.

7 THE COURT: It is admitted.

8 (WHEREUPON, State's Exhibit No. 25 was received into
9 evidence.)

10 Q Now, Det. Snapp, if you would please, step down here with
11 me.

12 THE WITNESS: Permission to step down then?

13 MR. CORBETT: Well, I'm sorry. Let me do this first.
14 If you would, please keep your voice up --

15 THE WITNESS: Okay.

16 MR. CORBETT: -- so the court reporter can hear you.

17 Q All right. First of all, what is this a representation
18 of?

19 A So this big rectangle here, this is just representing the
20 store itself. So this is the building of the store.

21 Q All right. Would this be the canopy and fuel pump area?

22 A Yes.

23 Q This would be?

24 A This would be Broad Street area down here.

25 Q Okay. Can you, sort of, show us corresponding on this

1 one?

2 A So we have these little rectangles. These are just
3 representing the fuel stations that you can't see. But this
4 is the canopy area, so the fuel stations are underneath the
5 canopy there. Then you've got Broad Street, which is down in
6 this vicinity down here.

7 Q Okay. Now, the top square is the business itself?

8 A Yes.

9 Q And I know this sounds obvious, but show us that --

10 A Oh.

11 Q -- on the overhead photo as well.

12 A So this would be this black colored rectangle here, which
13 is the store.

14 Q Okay. All right. Now, so you took the data from State's
15 21 through 24 and used it to compile it onto this chart; is
16 that correct?

17 A That's correct.

18 Q Okay. Now, I noticed that some of the numbers have a
19 slash.

20 A That is true.

21 Q Tell us what you did there.

22 A So each one of these numbers represents one of those
23 yellow markers that you saw in the photos. However, if you
24 notice, some of them have an additional number next to them.
25 State law enforcement division received -- I don't know

1 exactly how many items, but they received a great number of
2 items from us for further analysis. We're missing most of
3 those things, were those cartridge cases and the bullet
4 projectiles that were shown in the photos. So SLED identifies
5 each item with its own number for their recordkeeping.

6 So when you see the slash mark here -- so for example,
7 number 25, since it's, kind of, by itself. So we have 25. 25
8 is my yellow placard number. 121 is the SLED identification
9 number. So when you see that slash mark, that means that that
10 item was sent to SLED.

11 Q Okay. Very well. Now, for example, if you picked up a
12 fired cartridge casing, would you notate whether it was -- if
13 there was any identifying caliber characteristics to it, would
14 you note that?

15 A We try not to handle each of these evidence pieces too
16 much on the scene. So I don't always look at the co -- the
17 caliber of the cartridge case at --

18 Q Okay.

19 A -- that point. So not necessarily.

20 Q Okay. But then they would go to SLED for examination; is
21 that correct?

22 A Yes, that is correct.

23 Q Okay. So all right. Now, if you would, remain here with
24 me for just another moment, please. Let me show this to you
25 first, and then I'll show it to Mr. Young.

1 This has been marked for identification as State's Number
2 26. And if you could, please, first of all, who created this?

3 A I created this.

4 Q Okay. What is it? So you recognize this document. Tell
5 us what it is.

6 A This diagram is showing those same marked numbers with.
7 colors attached to them. So when SLED analyzed everything,
8 they were able to deduce what cartridge case it came from,
9 what kind of weapon. And then they created a document, which
10 you'll hear about from the SLED agent later on.

11 So I took that report, and translated it best I could,
12 and created a numbered system here. So each particular
13 firearm that was used has its own color code, and those color
14 codes have been matched to the SLED and the evidence marker.

15 Q Okay. Now, the reality is, you actually took information
16 or data from SLED and added it to your chart.

17 A That is correct.

18 Q Okay. But those were actually determinations made by a
19 SLED agent.

20 A Correct.

21 Q Okay. Very well. If you'll wait right here for me.

22 MR. CORBETT: Your Honor, at this time we would offer
23 State's Number 26, the oversized crime scene diagram that has
24 been color coded.

25 THE COURT: No objection, Mr. Young?

1 MR. YOUNG: Oh, no, ma'am.

2 THE COURT: It is admitted.

3 (WHEREUPON, State's Exhibit No. 26 was received into
4 evidence.)

5 Q Now, is this basically identical to the diagram we were
6 just looking at?

7 A It is, just with colors added --

8 Q Okay.

9 A -- to the diagram portion, and then down here we've added
10 the firearm.

11 Q That's really more for the --

12 A Yes.

13 Q That's the SLED portion?

14 A Yes.

15 Q Correct?

16 A Yes, sir.

17 Q Okay. But as best you could, interpreting the SLED
18 report, do you try to color code shell casings that matched
19 one another.

20 A Yes.

21 Q Is that correct?

22 A That's correct.

23 Q Okay. So this would be?

24 A Things that we got (indiscernible).

25 Q So some of the shell casings are in red. Another blue,

1 orange, green, purple, light blue, and pink; is that correct?

2 A Yes, it is.

3 Q And then we also have some information in black.

4 A Correct.

5 Q Okay. All right. Now, we have some numbers here on the
6 margin of your chart. Tell us what that is, please.

7 A So these are SLED numbers, SLED 128 through 32. These
8 are just roughly placed on the diagram. Another detective
9 actually located these particular ones. These were cartridge
10 cases. They were in the Wendy's parking lot. They were going
11 to be in this area over here.

12 Those were not included in my diagram, because he was the
13 one that collected them. And you'll speak to him or see him
14 shortly as well, and he'll describe those ones.

15 Q Okay. So another officer was assisting with gathering?

16 A That is correct.

17 Q Okay. Did that officer also work the area here?

18 A Yes, he did.

19 Q Okay. Just generally, that would be down in this area?

20 A Yeah. So Det. Kearney, he plotted out some other
21 cartridge cases and projectiles that were down here in this
22 section closer to the roadway. And then additionally, there
23 was one that was located across the street at the Cricket
24 Wireless store, and that was another officer that collected
25 that one.

1 Q Okay. So those are not on your chart?

2 A These are not on here, just because I was focusing on the
3 ones that I personally collected and marked and measured in.

4 MR. CORBETT: I'm going to have you go back to the
5 witness stand for me.

6 Q Now, Det. Snapp, for ease of handling purposes I've
7 printed off several photographs from the disk that we were
8 previously watching. State's 11, 12, 13, 14, 15, 16, 17, 18,
9 and 19. If you would, please, briefly review those and make
10 sure those are an accurate representation of photos that you
11 took that night.

12 A Yes, I photographed these photos.

13 (Pause.)

14 Q Now, Det. Kearney. Those -- I'm sorry. Det. Snapp. Do
15 those photographs accurately reflect the conditions that you
16 observed that night; is that correct?

17 A Yes, they do.

18 Q Okay. Now, when we look at this overhead photo, does it
19 appear to be the same in this photo as it is in yours?

20 A Yes.

21 Q Okay. In terms of parking lines, et cetera. I believe
22 there's an object at the front of the store that holds propane
23 tanks; is that correct?

24 A Yes, there's a propane tank cage.

25 Q Okay. All right. I want to ask a couple questions. And

1 I believe that I'm going to ask you to refer primarily to 13,
2 15, and 16 for me, please, ma'am, because those show the front
3 of the store.

4 MR. CORBETT: We're going to bring up State's Number 6 on
5 the video.

6 (Pause.)

7 Q Now, Det. Snapp, I don't want to get too far afield with
8 our questioning as to who that is or what's going on. That's
9 been testified to extensively. But are you able to look at
10 that video and correlate it to your photographs?

11 A I can. So looking at State's Number 15, if you look, you
12 can see those two yellow poles. Those are what protect the
13 propane tank from being driven into by somebody in the parking
14 lot. So that is a good reference point to look at here. And
15 also the lines for the parking area. So you see that one that
16 goes right between the two poles on the video screen? And
17 then the gentleman to the right of it would be in the parking
18 space right next to that yellow pole.

19 Q Okay. Now, your picture is actually taken from a reverse
20 perspective, correct?

21 A Yes, they are.

22 Q Okay. So we have to --

23 A Kind of.

24 Q -- when you look at your photograph, you have to, kind
25 of, switch it in your mind.

1 A Um-hum.

2 Q All right. Now, whichever picture best helps you
3 describe where he is standing, would you identify that one for
4 me, please?

5 A I think item 16 would be the best one. You can see the
6 lines.

7 Q All right.

8 MR. CORBETT: Now, Judge, may I have the witness step
9 down?

10 Would you bring item 16 with you, please?

11 All right. Let's see. Can we get it to stand up right
12 here, maybe? All right. I know it's going to be hard for the
13 jurors to see from here. We'll put it on the screen in a
14 moment. Let me see where your pointer is.

15 Are you able to -- and if you can hold it and stand
16 closer, that's fine. But are you able to point out the post
17 in that photograph that correlates to the one in the video?

18 A So if you look on this, he's going to be next to this
19 pole on the right side, looking at the screen or looking at
20 the store. So on the right side, he's going to be closer to
21 that pole.

22 Q All right. So the video camera that you see here, are
23 you able to tell its orientation?

24 A So best I can tell is that that camera is pointing
25 downwards from the roof area, looking directly down at that

1 propane tank and those yellow poles --

2 Q Okay.

3 A -- but facing Broad Street in a way, as well.

4 Q Okay. So from that perspective, he is right of the
5 propane tank, but in your photograph, taken from the opposite
6 side, he would be to the left of the propane tank.

7 A That's correct, yes.

8 Q Is that correct?

9 A Yes.

10 Q Okay. Now, let me ask you to look at -- bring State's 16
11 with you. And we're going to look at State's Number 20 and
12 ask if you're able to, sort of, correlate those?

13 A So if you see on this big section here, right here in
14 this area you can see those little yellow poles and that white
15 rectangle. That's going to be the propane. So you got that
16 white line between the two for the parking marker.

17 Q So in this area here?

18 A Correct.

19 Q From the store's perspective, to the right of the propane
20 tank?

21 A Yes. So he's in that parking space right here. So that
22 second parking lane on the left side of the store would be
23 roughly where he's standing.

24 Q Okay. All right. I'm going to have you head back to the
25 witness stand for just a moment, please.

1 THE COURT: Mr. Corbett, I hate to interrupt you
2 midstream, but can we take about a ten-minute break?

3 MR. CORBETT: Absolutely, Judge.

4 THE COURT: Ladies and gentlemen, please don't begin
5 discussing the case yet. We'll take about a ten-minute break.

6 (Whereupon, the jury exited the courtroom at 11:36 a.m.)

7 (Recess.)

8 MR. CORBETT: Your Honor, may it please the Court? Your
9 Honor, we're at a brief break here in a moment of the trial.
10 Detective Snapp is on the witness stand, and I was conferring
11 with defense counsel about the admission of certain items of
12 evidence, but I couldn't talk to the witness over the break,
13 so we couldn't arrange this ahead of time.

14 Judge, my thought is, if I could have, outside of the
15 presence of the jury, take Ms. Snapp, remove a couple of
16 specific items. These primarily relate to the autopsy
17 bullets. We're trying to avoid having to number 50 something
18 individual brass cases and fragments.

19 THE COURT: Okay.

20 MR. CORBETT: And I think, with the consent of the
21 defense counsel, we can remove a few certain relevant items,
22 and then admit the remainder as the box of them.

23 THE COURT: And you don't have any objection?

24 MR. YOUNG: Don't have any objection. One other thing,
25 though. Based on what happened with that last witness, we

1 would ask that all future witnesses be sequestered from this
2 point forward.

3

4 THE COURT: Any objection?

5 MR. MEADORS: As long as it goes both ways.

6 THE COURT: Sure.

7 MR. MEADORS: They may have some witnesses on my list.

8 MR. YOUNG: That's fine.

9 MR. MEADORS: I don't --

10 MR. YOUNG: That's fine.

11 MR. MEADORS: I don't -- I'm just saying both ways.

12 MR. YOUNG: That's fair.

13 THE COURT: So Mr. Warr can identify those folks who
14 you're going to call as witnesses?

15 And Mr. Meadors, you can identify?

16 MR. MEADORS: Yeah.

17 MR. YOUNG: And my client has a right to be here.

18 MR. MEADORS: And if they've already testified, you don't
19 have an objection to them being here if they've already
20 testified?

21 MR. YOUNG: As long as you're not going to call them back
22 again.

23 MR. MEADORS: Well, the only one that I will, and I think
24 I put it on before, was Det. McFadden, and I told Your Honor I
25 may have to call him back just for that video. That was it.

1 THE COURT: He's the detective in charge of the
2 investigation?

3 MR. MEADORS: Yeah, and he's the detective in charge
4 anyway.

5 THE COURT: So he gets to stay.

6 MR. MEADORS: Yeah.

7 MR. CORBETT: Your Honor, may Mr. Young and I have a
8 brief moment to approach the witness to inquire about those
9 evidence items?

10 THE COURT: Please.

11 (Off the record)

12 (Whereupon, the jury came into open court at
13 approximately 12:06 p.m.)

14 THE BAILIFF: Jurors are seated now.

15 THE COURT: And have we sequestered the witnesses?

16 UNIDENTIFIED SPEAKER: Yes, ma'am.

17 THE COURT: We've sequestered the witnesses?

18 UNIDENTIFIED SPEAKER: Yes, ma'am.

19 THE COURT: Okay.

20 MR. CORBETT: Your Honor, may it please the Court?

21 RESUMED DIRECT EXAMINATION

22 BY MR. CORBETT:

23 Q Now, Det. Snapp, a moment ago, we were looking at State's
24 Number 16 and correlating it to the video that is on screen as
25 we speak.

1 A Yes.

2 Q And I want to show you State's Number 12 and 13.

3 MR. CORBETT: Your Honor, may I have the witness come
4 down?

5 THE COURT: Yes, sir.

6 Q And I'm going to show you State's 12 and 13. And we see
7 the white car in both of those pictures; is that correct?

8 A Yes. The white car is in both photos.

9 Q Okay. All right. So the white car is angled this way?

10 A Yes. The white car is angled in the direction of the
11 Rite Aid store, and it's, kind of, over the white line, I
12 would say, right about here, on this line right here, because
13 that other lane is the blue with the handicapped section, so
14 you can't see that. Well, you can actually. So it's between
15 the blue and the white, kind of saddled over the white one on
16 that lane right there.

17 Q Okay. All right. And this is the car where you found
18 Mr. Middleton's body?

19 A That is correct.

20 Q In the back seat of that car?

21 A Yes.

22 Q Okay. Now, for frame of reference in terms of where
23 things are located, in State's Number 13, in particular, do we
24 see those yellow posts?

25 A Yes, you can see the yellow posts. They're looking

1 forward towards the store. The posts will be to the left of
2 that vehicle.

3 Q Okay.

4 A Over here in this area.

5 Q All right. Now, that's State's Number 13 in your hand.
6 Let's see the other picture as well. (Indiscernible). This
7 is State's Number 12.

8 A So 12, you can see the posts as well. Off to the left,
9 behind that white vehicle.

10 Q All right. If you would, please return to the witness,
11 stand for me.

12 Now, Det. Snapp, we were talking about you having picked
13 up a number of pieces of evidence that day; is that correct?

14 A Yes. I collected a lot of evidence that day.

15 Q And you brought with you a box that had a lot of what I
16 would refer to as ballistic or firearm related evidence; is
17 that correct?

18 A Yes. I did.

19 Q Okay. The first thing I want to show you is what has
20 been marked for identification as State's Number 27 --

21 A Okay.

22 Q -- and ask if you can identify that?

23 A This package, this I collected from that box, which was
24 delivered -- it was delivered to SLED from our evidence, and
25 then delivered back from SLED by our evidence custodians. And

1 then while I was preparing for trial, I opened that box and
2 looked through all of the different cartridge cases and the
3 projectiles.

4 And this particular package is marked SLED. This is the
5 SLED ID number, so this is the SLED case number, this L19-
6 19202 (phonetic). And they marked these two pieces as item
7 126 and 127. And then this initial is PSG, which is Mr.
8 Greer, who packaged it.

9 Q Now, to the best of your knowledge, is that evidence
10 still sealed from the SLED laboratory?

11 A Yes, it is.

12 Q Okay. So has that package been opened since it got back
13 to Sumter?

14 A It has not.

15 Q Okay. I'm going to show you what's been marked for
16 identification as State's Number 28.

17 A Yes.

18 Q So I'm going to have to hand it to you.

19 A Okay.

20 Q And tell us what all is in that box.

21 A So this box, you notice that it's got a lot of evidence
22 tape on it. There's red evidence tape that Sumter evidence
23 people put on there. And then there's also yellow evidence
24 marker tape from SLED.

25 So when I received it from the evidence custodian, it was

1 still sealed. I opened it, and then also marked when I opened
2 it, which was on the 7th of September, when I first initially
3 broke the SLED seal.

4 So once you open it, it contains some bags. And actually
5 these bags were not in this box. These were by themselves in
6 a different box. But just for ease of bringing it over here
7 today, I set them inside the box. But if you look inside here
8 are all these unopened or opened and resealed plastic packages
9 of projectiles or cartridge cases, and these were all analyzed
10 by the SLED officials.

11 Q And does that box largely represent bullets? I'm sorry.
12 Let me try to use the right terminology. Fired cartridge
13 casings, fired bullets, and fragments that were recovered from
14 the crime scene?

15 A Yes. All these things that I have here with me are those
16 types of items, yes.

17 Q Okay. Are there any firearms or ballistic related items
18 in the box that came from somewhere other than this crime
19 scene?

20 A There are a few of them, yes.

21 Q Okay. And where would they have been from?

22 A Throughout the course of this investigation we had
23 numerous vehicles that reported to us as being struck by
24 bullets at that scene, so I actually executed nine or ten
25 different search warrants on vehicles. So I had fragments and

1 bullets and even cartridge cases from those vehicle search
2 warrants. So there are some of those.

3 Also, like I mentioned earlier, some of those other
4 cartridge cases that are on -- in here but not on the chart,
5 because they weren't in my diagram. So there's cartridge
6 cases from across the street and in the Wendy's parking lot
7 and down at the bottom of that area depicted on the diagram.

8 Q So the items not originally in the box, let's leave those
9 out for now.

10 A Okay.

11 Q And the box marked for identification as State's Number -
12 - let me see it again. 28 --

13 A 28.

14 Q -- has ballistic evidence that was sent to SLED and has
15 been returned from SLED; is that correct?

16 A That is true, yes.

17 Q And it's still in its sealed packages.

18 A Yes.

19 Q And admittedly, I'm trying not to put 60 some odd
20 stickers on individual cartridge cases.

21 MR. CORBETT: Judge, I believe, with the consent of
22 defense counsel, we would offer this as State's Number 28 as
23 ballistic evidence, including fired bullets, bullet fragments,
24 fired shell casings, both from the crime scene, the immediate
25 surrounding area, and several vehicles.

1 MR. YOUNG: We've agreed.

2 THE COURT: And I'm sorry. The Exhibit Number?

3 MR. CORBETT: 28.

4 UNIDENTIFIED SPEAKER: 28.

5 THE COURT: 28. Okay. It is admitted.

6 (WHEREUPON, State's Exhibit No. 28 was received into
7 evidence.)

8 (Pause.)

9 Q Now, Det. Snapp, I want to just make sure I'm doing this
10 correctly. Would you gather the photos together for me,
11 please? I believe 11 through 19. Do you have those there?

12 A Yes.

13 Q Okay.

14 A These --

15 Q And those reflect photographs you took that night?

16 A Yes, they do.

17 MR. CORBETT: Your Honor, at this time I would formally
18 offer those into evidence.

19 MR. YOUNG: No objection.

20 THE COURT: 11 through 19 are entered.

21 (WHEREUPON, State's Exhibit Nos. 11 through 19 were
22 received into evidence.)

23 (Pause.)

24 Q Det. Snapp, thank you very much. Please answer any --

25 THE COURT: Are you introducing Exhibit 20? Are you

1 admitting 20 as the large poster?

2 MR. CORBETT: Judge, I thought it had already been
3 admitted. Your Honor, we'd also offer into evidence State's
4 Exhibit 20, which is the overhead photograph.

5 MR. YOUNG: I have no objection to that.

6 THE COURT: Okay. It's admitted.

7 (WHEREUPON, State's Exhibit No. 20 was received into
8 evidence.)

9 MR. YOUNG: You put in so much. Did you put in the
10 evidence of the two bullets that was taken in front of
11 it?

12 MR. CORBETT: Identification Number 27.

13 MR. YOUNG: Don't you need to put those in? Not telling
14 you how to run your case, but --

15 THE COURT: I'm assuming it is --

16 MR. CORBETT: No, we were going to put them in through
17 the pathologist, but if you want to --

18 MR. YOUNG: Oh.

19 MR. CORBETT: -- go ahead and do it now, we can do it
20 now.

21 MR. YOUNG: I just -- I wasn't sure if they'd been put in
22 or not.

23 MR. CORBETT: They're definitely going to be put in.

24 MR. YOUNG: Okay.

25 MR. CORBETT: If you want to do it now, we have no

1 objection.

2 MR. YOUNG: You can wait for the pathologist.

3 MR. CORBETT: Okay. Det. Snapp, please answer any
4 questions Mr. Young has.

5 Mr. Young, would you like me to move these charts?

6 MR. YOUNG: No. You can keep them just there.

7 CROSS-EXAMINATION

8 BY MR. YOUNG:

9 Q Ms. Snapp, thank you for the work that you do for our
10 county and our city. That was quite an undertaking you had
11 here of getting out and gathering all this evidence.

12 A Yes, it was.

13 Q I'm curious about one thing, though. This number one, is
14 this where the body was found of Middleton?

15 A Yes, sir, it was. Yes.

16 Q Did you find any casings in that car?

17 A Yes, there were three casings in that car. We located
18 them during a search warrant, actually. Officially, they were
19 collected during a search warrant of that vehicle.

20 Q And what type of bullet were those, or what type of
21 casings were those?

22 A Those were -- they were a rifle type round. I believe, a
23 5.56 caliber.

24 Q That be an AR-15? Something like M1 or M1 --

25 A That might be something that would shoot something like

1 that, yes.

2 Q Okay. Have you looked at the video?

3 A I've seen the video, yes.

4 Q Did you see a fill-up, as Mr. Middleton gets in the car
5 and finally gets out?

6 MR. CORBETT: Your Honor.

7 A Yes.

8 Q Did you see whether or not he was carrying an AR-15?

9 A It looks like he was carrying something. I couldn't
10 identify what it was at that particular time, but he was
11 carrying something out of the vehicle. It was covered in a
12 towel or some blanket type thing.

13 Q Yes, ma'am. Yes, ma'am. All right. In your evidence
14 collection, did you look at a red Dodge Charger. I think I
15 called it something else the other day, but it's a red
16 Charger. Did you look at that? And do you have it
17 (indiscernible)?

18 A Not that night on the scene, but that car was recovered
19 later on. I don't know exactly what day, but we executed a
20 search warrant on that. It was thrown in our state impound
21 lot for some amount of time before the search warrant.

22 Q Did you examine that?

23 A Yes, I did.

24 Q And in that car, did you find bullet wounds (sic)?

25 A There were bullet holes --

1 Q Bullet holes.

2 A -- on the car.

3 Q I'm sorry. Shouldn't have said wounds.

4 A Yeah.

5 Q Bullet holes. I apologize.

6 A Yes. There were evidence of gunshot holes on that car,
7 yes.

8 Q All right. And were they on both sides of the car?

9 A They were on both sides of the car.

10 Q And did you photograph that or --

11 A Yes, I did.

12 Q All right. Do you have those with you?

13 A I -- I don't have them here. I believe the solicitors
14 have a copy of that.

15 Q Okay. Were you able to determine the size of the bullet
16 that went into that car?

17 A I was not able to.

18 Q Did you recover any bullets or bullet fragments from that
19 car?

20 A Yes.

21 Q Has it been determined what type of caliber those bullets
22 were that entered that car?

23 A They were fragments collected from the Dodge Charger that
24 were sent to SLED, and they were analyzed, and within their
25 report they had some findings from that. But I don't know if

1 you want the SLED examiner to report that or --

2 Q Is he going to be here?

3 A He will be here later. Yes, sir.

4 Q Okay. I'll wait. All totaled, how many casings did you
5 come up with? I'm not talking about just what you put up
6 there but in the box and everything else. All totaled, the
7 cases, just the casings.

8 A Just the cartridge cases. Let me find that note page.
9 All right. So in my notes I have it broken down by individual
10 location.

11 Q Yes, ma'am.

12 A But -- so at the scene itself, we had 52 cartridge cases
13 on the Broad Street -- or 1083 Broad Street property. There
14 was five at the Wendy's. There were -- there was another one
15 that was located in the grassy strip between the Wendy's and
16 the Hop-in store. There was a cartridge case across the
17 street. There was one more located on a vehicle during the
18 search warrant. And then those three rifle type rounds that
19 were in the white car. So we got 52, 57, 58 -- without doing
20 the actual addition, in my head I'd say between 60 and 70
21 total, in that range.

22 Q Okay. The information that you have on the bottom of
23 what's been marked as Exhibit -- I think 26, this is a 9-
24 millimeter -- 9-millimeter, it looks like 40 caliber, 40
25 caliber, 9-millimeter, .762. I think that's the AR-15 we were

1 talking about somewhere and 9-millimeter. Is that correct?

2 A Those were all located at the scene, yes.

3 Q Does that account for everything that was at the scene
4 that you found?

5 A Those are the ones that were at that scene or at the
6 Wendy's or across the street, yes.

7 (Counsel confer.)

8 MR. YOUNG: Okay. One second, please. That would be all
9 the questions I have for Ms. Snapp.

10 REDIRECT EXAMINATION

11 BY MR. CORBETT:

12 Q Now, Ms. Snapp, did you also take photographs of the red
13 Dodge Charger?

14 A Yes, I did.

15 Q Okay. And do you remember what day or would I need to
16 locate the search warrant?

17 A I can find it. I think I have it right here. Actually,
18 right here -- yup. I searched that vehicle on September 18th
19 of 2019.

20 Q All right. September 18th?

21 A Yes.

22 Q Okay. If you would, please, we're going to show you a
23 couple of photographs here.

24 (Counsel confer.)

25 Q Now, Det. Snapp, we're looking at this placard. If you

1 would, please tell us what we're looking at here.

2 A This is the photo placard that I wrote prior to
3 conducting the search warrant on this red Dodge Charger.
4 Basically, it's telling you that this is the case number,
5 which was 19124404. I conducted the search warrant on the
6 18th of September and started at 10:30 in the morning. And
7 this is related to the homicide scene, and it was at the city
8 impound here in the City of Sumter. And this one I wrote Mr.
9 Michael Rogers. That was one of the victims. And then the
10 red Dodge Charger. And it had a Midlands temporary tag on it
11 as a license plate.

12 Q And if you would, please, we're going to begin to scroll
13 through these photographs, and we'll stop and talk about
14 individual ones.

15 A Okay.

16 Q That's just a copy of your search warrant?

17 A Correct. Yes.

18 Q Okay. Now, is this the car in question?

19 A This is the car and sitting in the city impound secure
20 section.

21 Q Anything of note in this photograph?

22 A This photograph is showing you that there's what appears
23 to be a bullet hole right above that rear tire --

24 Q Okay.

25 A -- on the passenger side.

1 Q If -- when you -- if you see something of note, please
2 stop us and --

3 A Okay.

4 Q -- note -- and tell us if --

5 A These initial photos are just going around the car and
6 taking an overall view from all angles of the outside of the
7 car.

8 Q Okay. So there will be a series of closeup photos after
9 these?

10 A Yes, there will be. And then we're going to start going
11 inside the car with some overall photos of the interior. And
12 I just take pictures of everything in the car, nothing
13 specific exactly when I'm doing overalls, just I get the whole
14 thing just to see everything that was in there. Things like
15 credit cards or identifying documents, I usually focus in on
16 those to see who was possibly in the vehicle or driving the
17 vehicle or just in possession of it at one point or another.
18 Any receipts that are in the vehicle are sometimes interesting
19 just because they could show where somebody was after a
20 particular incident occurred. I take a lot of photos.

21 This appears to be a bag that somebody had taken the
22 insides of a cigar and put them inside the bag there, and then
23 probably those are where it came from. (Indiscernible). Some
24 shoe boxes in the trunk. This particular mask was collected,
25 not -- it might have been something that just seemed out of

1 the ordinary just because it could have been there for other
2 purposes. Gloves, shoes, pants, some tools inside the tire.
3 I always try to get a picture of the VIN tag that's on the
4 vehicle so we can identify the vehicle specifically.

5 This is just a closeup of that front driver's side
6 bumper. So I did take DNA samples from this vehicle. So we
7 were trying to identify who might have been at the scene, so
8 we took DNA from all of the door handles on the inside to be
9 able to try to use that to identify who was in the vehicle.
10 So these are just touch DNA swabs that I'm taking pictures of
11 right now.

12 So we did a DNA swab from each of those interior door
13 handles. That's why you see the same thing over and over
14 again. It's four different doors. And also the steering
15 wheel and the gear shift is another separate DNA packet on its
16 own to try to identify who was driving that vehicle.

17 I also did some black powder dusting on the outside of it
18 to try to get fingerprints, so this is the tape that I would
19 have used to collect that fingerprint or palmprint that I
20 might have seen on the car. Same as that.

21 Okay. Now, we're getting into the actual bullet hole
22 photos. So this is the rear passenger side headrest, and it
23 appears that there was a bullet hole that went through it.

24 Q Okay. Now, tell us what the green rod is.

25 A The green rod is a trajectory rod. So in order to

1 attempt to figure out what direction a bullet came from we use
2 those trajectory rods, and you place them inside the bullet
3 hole and it can show you angle that the bullet hole -- or the
4 bullet hole originated from. So that one went through the
5 back of the seat. And that's the -- the carpeting behind the
6 seat.

7 So this is looking into the trunk to try to figure out
8 where that bullet may have gone. So there's a -- you can see
9 that there's a hole in that carpeting in the trunk area. And
10 this is a trajectory rod showing possibly the directionality
11 of where that bullet came from. But I think the reason I took
12 this one is to show that it did not come through that
13 windshield. So that was the point of this picture to show
14 that there's no hole in the windshield. And my partner's
15 holding that rod with the laser on it. That's the red you
16 see.

17 So now I've placed some rods in the outside of the
18 vehicle to show that it appears that the bullets entered from
19 behind the vehicle, based on the direction of the -- the rods,
20 how they're showing that. So this one went in above that rear
21 tire. This is another bullet hole that appears to be more
22 maybe straight onto that door. And just more closeups of that
23 same bullet hole.

24 Then there was another one on the front passenger doorway
25 down at the bottom there. And some closeups of it. And

1 again, that rod showing that the bullet impacted from a lower
2 kind of angle from the rear. Going back to that one that was
3 over that tire. I put stickers on them. So now that they're
4 marked with a scale sticker to show the size of that
5 particular hole.

6 That one -- go back one, please. So if you look at the
7 one toward the top, that wasn't a bullet hole. That was where
8 it looks like a bullet had actually come from behind and
9 started to try to exit, but it didn't go through the -- the
10 metalwork of that door. So it's that kind of outward
11 indention from the inside. And that's what that top one is.
12 Just that one on the side with the scale. And then that
13 outward impression of that bullet strike with a scale.

14 This is showing from within one of the doors. I'm not --
15 I think that's looking at the passenger -- the back passenger
16 door, I believe. So it looks like the bullet had impacted
17 inside that doorframe and shredded up the metal right there.
18 And just multiple closeups of that same bullet strike. And
19 then it looks like it tried to go through and out -- oh, okay.
20 So that -- that's where that outward impression came from was
21 from that bullet strike right there, most likely. So you can
22 see where it struck. And just an angle showing how it went
23 from that area to the outer portion of the -- the door.

24 All right. Moving on to the trunk area. You see a hole
25 on the upper portion of the taillight. And then photos inside

1 the trunk looking for any sort of metal parts from that
2 bullet. And sometimes you have to pull apart carpeting and
3 different parts of door panels and vehicle parts to get to
4 where these bullets go, because they like to travel through
5 vehicle parts and they're not always easy to find. So down
6 there within that carpeting you can see there's a little bit
7 of a metal fragment in there, and that's one of the fragments
8 that I collected. Right there in my hand.

9 So this is the front passenger door. We've gone ahead
10 and removed the -- the doorhandle and the plastic parts with
11 the speakers on the inside of your doorframe, you know. So
12 this is the inside of what that looks like. And after
13 removing that door panel, we were able to get to this, I don't
14 know, vent. I'm not sure what exactly that is, but there was
15 a vent kind of hole there. So you open it up, and then it --
16 I believe I just reached in and found the projectile parts
17 that were in there, which is that item. And another little
18 metal fragment. Another portion of a bullet fragment that was
19 collected. So this is showing the inside of the door where
20 that bullet from the outside had gone through, and it struck
21 the frame.

22 Okay. Now, we're looking at the passenger side mirror
23 which was also struck by a bullet. So you can see the hole on
24 the outer edge right there where the bullet struck and
25 basically destroyed the mirror. The cover of it you probably

1 remember was on the driver's -- or the passenger's seat
2 sitting in front. I think that was how we found it. So if
3 you match up the bed cover to there, you can see where the
4 bullet went in and then also exited. So that would be where
5 it exited. And just showing the path of travel that that
6 bullet would have taken.

7 And this is just an angle from the front looking back at
8 the mirror with the trajectory rod that you can see from a
9 distance somewhat to show. So this one is showing the three
10 exterior bullet strikes with those rods in there just showing
11 that that car would have been struck from behind just based on
12 the direction how those rods are positioned. And again, just
13 multiple similar photos. And this is more standing back from
14 a distance in that same direction where the bullets would have
15 been fired from possibly in that sort of positioning.

16 Now, we move over to the driver's side of the vehicle and
17 notice that there's two strikes on that driver's door. So
18 those are both marked with the scale stickers. And then the
19 rods again to show the directionality. Then we're see -- we
20 can see in this one you can see the bumper where that one
21 bullet struck in the rear taillight area.

22 And then if you look, you can kind -- you see where those
23 trajectory rods are in the door. Just some more straight-on
24 angles looking at the trajectory rods again. An area of
25 damage where one of those bullets had struck the inside of

1 the -- the door panel. And just more closeups of those same
2 bullet holes on that driver's door.

3 And then this is the ending placard. So I take one at
4 the beginning, and then I take one at the end to show when I
5 finish. And so this search warrant took from 10:30 in the
6 morning until 2:45 that afternoon. So we were there a good
7 while.

8 Q And did you notice several of the documents in there
9 regarding looks like maintenance type receipts with the name
10 of Michael Lucas on them?

11 A Yes, I did.

12 MR. CORBETT: And Judge, I believe that is State's 29
13 without objection.

14 THE COURT: State's 29 is admitted.

15 (WHEREUPON, State's Exhibit No. 29 was received into
16 evidence.)

17 THE COURT: And are you done, Mr. Corbett?

18 MR. CORBETT: Oh. I'm sorry, Your Honor.

19 THE COURT: Okay. Mr. Young?

20 MR. YOUNG: Let me talk to Lewis for just one second, and
21 I'll --

22 THE COURT: Okay.

23 (Counsel confer.)

24 MR. YOUNG: Let's go back to these pictures on the car if
25 you don't mind.

RECROSS-EXAMINATION

2 BY MR. YOUNG:

3 Q Det. Snapp?

4 A Yes, sir.

5 Q On one of these photographs you showed the driver's door.

6 A Yes.

7 Q And you show what appears to be two bullet wound --

8 bullet (indiscernible). Two bullet holes in that door; is

9 that correct?

10 A That is correct, sir.

11 Q And they weren't fired by the driver. They were fired by
12 somebody outside of that car?

13 A They would have come from the outside. That's correct.

14 Q Do you know what caliber weapon was used to make those
15 holes?

16 A I do not know what caliber that would have been, no.

17 Q Okay. You've indicated were there any other bullet holes
18 on the left side of the car?

19 A There were the two that were in the doorway -- on the
20 door and then the one that was on the back taillight. That
21 was on the left side.

22 Q Okay. Were you able to determine the caliber of the
23 weapon that shot the taillight?

24 A No.

25 Q All right. (Indiscernible) very interesting was a bullet

1 hole that looked like it was piercing the passenger -- rear
2 passenger head panel?

3 A Um-hum.

4 Q Did that come from within the car or outside of the car?

5 A Honestly, I could not determine where that bullet hole
6 originated.

7 Q But y'all originally thought it may have come through the
8 windshield because you were checking them?

9 A Correct. It seemed just the direction of the travel that
10 would have taken, that it could have come from outside, but it
11 appeared not to have come from outside that particular
12 windshield.

13 Q Could it have been from the driver firing backwards?

14 A It could have been a possibility. Like I said, it's --
15 it was -- it was impossible to determine where that bullet
16 came from because, like I said, there was no hole in the
17 window. I don't know if there was a door open or a window
18 open, but just based on the direction, it didn't appear that
19 way.

20 Q And there was no bullet hole from the rear of the car
21 coming through that?

22 A No.

23 Q So it came -- it had to come from inside the car then,
24 didn't it?

25 A It's possible.

1 Q Okay. Now if -- I'm sorry.

2 MR. YOUNG: I will withdraw that question.

3 Q On the left side of the car --

4 A Left side, driver's side or passenger side?

5 Q I apologize. The right side of the car.

6 A Okay. Passenger side.

7 Q Passenger side. There are several bullet holes there?

8 A Yes, there are.

9 Q Including knocking out the mirror?

10 A Correct.

11 Q And the side -- bullets to the side of that car?

12 A Yes.

13 Q On this, the right side of the car, the passenger side,
14 were you able to determine the caliber of the weapon that
15 caused that damage?

16 A I was not. No.

17 Q You were not?

18 A No.

19 Q Okay. Were you able to determine the angle of the
20 bullets as far as right, left, far back, 90 degrees, 6
21 degrees?

22 A Numerically? No, just rough estimate. It appeared that
23 they came from the rear of the vehicle.

24 Q Okay. Thank you very much.

25 A You're welcome, sir.

1 THE COURT: Okay. I believe that's it. Thank you,
2 ma'am. You can step down.

3 THE WITNESS: Thank you.

4 THE COURT: Okay. Ladies and gentlemen, I believe Mr.
5 Campbell (phonetic) has your lunch ready for you. So we're
6 going to go ahead and let you break for lunch. How long do
7 you all think you need? It's about 5 minutes to 1:00.

8 MR. MEADORS: Whatever Your Honor says.

9 THE COURT: Can we reconvene at 1:45?

10 MR. MEADORS: Whatever, Your Honor -- We will -- yes,
11 whatever you say.

12 THE COURT: We'll going to say 1:45. Because it might
13 take us a few minutes to get our affairs in order, once we get
14 everybody back in here. So you all will have, I think, plenty
15 of time to eat. Please don't begin discussing the case.

16 (Whereupon, the jury exited the courtroom at 12:53 p.m.)

17 (Counsel confer.)

18 (Thereupon, a luncheon recess was taken.)

19

20

21

22

23

24

25

1 A F T E R N O O N S E S S I O N

2 MR. MEADORS: I didn't see this, so if we could just
3 approach right here.

4 Judge, State's 30, is a picture of the deceased.

5 (WHEREUPON, State's Exhibit No. 30 was marked for
6 identification only.)

7 MR. MEADORS: We're just marking this for I.D. I just
8 want it to be in the record for the case. What we have done
9 is State's 31, just covers his face up.

10 (WHEREUPON, State's Exhibit No. 31 was marked for
11 identification only.)

12 THE COURT: That's what I was going to suggest.

13 MR. MEADORS: I think the defense is fine with that.

14 MR. YOUNG: Noted.

15 MR. MEADORS: And then there's a close up of that wound,
16 which is State's 32.

17 (WHEREUPON, State's Exhibit No. 32 was marked for
18 identification only.)

19 MR. MEADORS: And then wrist injuries are State's 33 and
20 34 entry and that's all.

21 (WHEREUPON, State's Exhibit No. 34 were marked for
22 identification only.)

23 THE COURT: Okay. And that is Mr. Middleton?

24 MR. MEADORS: Huh?

25 THE COURT: That's Mr. Middleton?

1 MR. MEADORS: Yes, it is.

2 THE COURT: Okay.

3 MR. MEADORS: Now, we are going to ask him about Mr.
4 Rogers, but we're not going to do any pictures, just to get
5 the projectile.

6 THE COURT: Okay.

7 MR. MEADORS: That's all.

8 And you don't object to that?

9 MR. YOUNG: I don't.

10 MR. MEADORS: That's just a picture of the bullet. You
11 don't object to that?

12 THE COURT: Okay.

13 MR. MEADORS: Sorry. Okay.

14 (Counsel confer.)

15 THE COURT: Okay.

16 (Whereupon, the jury came into open court at
17 approximately 2:10 p.m.)

18 THE COURT: Mr. Finney, it looks like they have not
19 assigned any judges to the third circuit, other than third
20 circuit judges. So I think that's what -- I've just gotten
21 through March. And I don't see anybody who's not a third
22 circuit judge on our list. So I think that's why there's
23 nobody else listed in that list from chief.

24 That's unusual, I feel like.

25 MR. FINNEY: It is.

1 BAILIFF: Jury now seated.

2 THE COURT: Thank you.

3 Okay, Mr. Meadors?

4 MR. MEADORS: May it please Your Honor?

5 THE COURT: Yes, sir?

6 MR. MEADORS: The State of South Carolina will now call
7 Dr. Nicholas Batalis.

8 NICHOLAS BATALIS, after being duly sworn, testified
9 as follows:

10 THE BAILIFF: State your name for the record and spell
11 your last name, please.

12 THE WITNESS: My name is Dr. Nicholas Ike Batalis,
13 B-A-T-A-L-I-S.

14 DIRECT EXAMINATION

15 BY MR. MEADORS:

16 Q Good afternoon, Dr. Batalis.

17 A Good afternoon.

18 Q Where are you from?

19 A I work at the Medical University of South Carolina down
20 in Charleston.

21 Q And you came up today?

22 A I did.

23 Q And you're heading back to Charleston today?

24 A Hopefully.

25 Q Would you please tell the ladies and gentlemen about Dr.

1 Batalis, specifically your background, your training, your
2 education, and your education in the field of expertise that
3 I've asked you to testify to today, judge -- Doctor?

4 A Sure thing. I graduated college from Butler University
5 in Indianapolis, Indiana, with a degree in biology.

6 After graduating college, I went straight into medical
7 school at the Indiana University School of Medicine, also in
8 Indianapolis, Indiana.

9 After graduating medical school, I then came to MUSC in
10 Charleston for a residency training program in general
11 pathology. So it's a four-year training program.

12 At the conclusion of that four-year training program, I
13 passed a national examination to become board certified. I
14 then went on to a one-year specialized fellowship training,
15 specifically in forensic pathology, at the Dallas County
16 Medical Examiner's Office.

17 Again, at the end of that year, I took another passed
18 another examination to become board certified in forensic
19 pathology. Then at that point, I took my current position
20 back in Charleston.

21 Q What's the difference between pathology and forensic
22 pathology?

23 A Sure. So pathology is the study of disease. So a
24 general pathologist usually has two main roles. They would be
25 the one, if you had a biopsy or if you had a tumor taken out

1 by a surgeon, they would send it to the pathologist to tell
2 him, this is cancer; it's not cancer. If so, what type it is.
3 And we would help him with that.

4 Pathologists also oversee the laboratory. So any time
5 you have any blood test done or anything like that, there's a
6 pathologist behind the scenes that's kind of overseeing
7 everything and troubleshooting all that. So that's kind of
8 the general pathology.

9 Forensic pathology then, is really focuses on the medical
10 legal aspects, specifically performing autopsies to determine
11 a cause and manner of death.

12 Q And as far as that goes, pathology -- forensic pathology.
13 Where is your office?

14 A Our office is based out of the Medical University of
15 South Carolina down in Charleston.

16 Q And is that also sometimes referred to as the morgue?

17 A The morgue is part of the hospital where we are.
18 Correct.

19 Q I don't mean that bad, but the morgue is there at the
20 hospital also?

21 A Correct.

22 Q Doctor, in an ideal world, when would you like to see the
23 body of a of -- of a potential victim?

24 A Yeah, ideally we'd be able to kind of see it with our own
25 eyes as things happen. Obviously, there's situations we

1 wouldn't want to be in those situations. But we can certainly
2 do a very good job at the autopsy table, piecing things back
3 together. But in an ideal world, you'd be able to kind of see
4 real time what was happening.

5 Q And that's not reality. So usually when you see the
6 bodies of victims, it is at you're -- in Charleston where
7 you're performing the autopsies?

8 A Correct. We perform autopsies for coroners all across
9 the state. And so they would typically call us with the
10 information about a case they would like. Then they would
11 send the body down to Charleston where we would perform our
12 examination.

13 Q And have you been offered and accepted in courts of
14 records of this state as an expert in the field of forensic
15 pathology?

16 A I believe I have somewhere around 100 times in South
17 Carolina, twice in North Carolina, and twice in Texas.

18 MR. MEADORS: Your Honor, at this time, we would offer
19 Nicholas Batista (sic) as the expert in forensic pathology.

20 MR. YOUNG: We stipulate.

21 THE COURT: Okay. Ladies and gentlemen, normally a
22 witness is only permitted to testify about things they
23 directly observed and are not allowed to give opinion
24 testimony. But we have an exception to a witness who's been
25 qualified as an expert in a particular field of study or

1 experience. And in that case, they are permitted to give
2 opinion, testimony. And I find Dr. Batalis is so qualified.
3 You can give the testimony whatever weight you feel it's
4 entitled to.

5 MR. MEADORS: Dr. Nicholas Batalis, thank you.

6 Q Dr. Batalis, at the request of the Sumter County Coroner,
7 did you perform an autopsy on the bodies of Michael Rogers and
8 Gregory Middleton?

9 A Yes, I did on September 10th, of 2019.

10 Q And let's start with Mr. Middleton. What's the first
11 thing you do when you have a body that you're fixing to
12 examine?

13 A Sure. I can kind of walk you through our general
14 process. The first thing would happen we bring our body into
15 our examination suite. At that point, we would take
16 photographs of the body, before we've done any manipulations
17 whatsoever. At that point, we would also then collect any
18 evidence; remove any clothing; clean the body up for another
19 set of photographs. If we deem appropriate at that point,
20 that may be a time where we would also do x-rays in certain
21 cases, if we're looking for any retained bullets or other
22 items.

23 At that point, we then do what we call an external exam.
24 So we look at the body from head to toe. For basic stuff, how
25 tall they are, how much they weigh, tattoos, eye color, that

1 sort of stuff. But then also any evidence of natural disease
2 or injury that could explain why they -- why they're dead.

3 Following that external examination, we then move to an
4 internal examination, where we use surgical type incisions to
5 go through each of the major organs. Again, to examine them
6 in detail, to look for any evidence of natural disease or
7 injury.

8 Q And just for your own working knowledge, are you provided
9 with background information at times, from the coroner or law
10 enforcement?

11 A Certainly, as we again, we perform autopsies for folks
12 over the state, the coroners will typically either email us or
13 phone -- or call us in. We have assistants who would take
14 those calls, 24 hours a day, just to give us a caption of the
15 case. Sometimes it changes, but here's a gunshot case. This
16 person's found dead at home, we're not sure what happened. To
17 give us some context of what -- what they believe the scenario
18 was.

19 Q In the case history in this months -- after you -- in
20 this case, after you were referred by our coroner, Robert
21 Baker, did you know how old the decedent, Mr. Middleton was?

22 A Yes, he was 30 years of age at that point.

23 Q And you may have said if you did, I apologize. Do you
24 also weigh the body?

25 A We do.

1 Q And do you have a weight and/or height of Mr. Middleton?

2 A Yes, Mr. Middleton, we measured him at 75 inches in the
3 length, so 6 foot 3; and he weighed 219 pounds.

4 Q Now, can you tell the folks your external examination,
5 you kind of summarizing what specifically you did or found on
6 Mr. Middleton?

7 A Sure. So in Mr. Middleton's case, there were really
8 three main findings. He had two gunshot wounds, one gunshot
9 wound to the chest, one gunshot wound of his right forearm or
10 wrist. And then he had several scrapes on his knees. So
11 those were the three injuries that we saw.

12 MR. MEADORS: And if any members of the family would like
13 to leave, this would be the time to leave.

14 Q Do you take pictures of the body before you start looking
15 inside?

16 A We do.

17 Q And after you make your external observations, do you
18 open up the body and look inside

19 A We do.

20 Q And why do you do that?

21 A To again, be able to identify additional evidence of
22 injury or trauma. Also, in cases like this, in which there's
23 a gunshot wound, we're able to really trace through the exact
24 pathway that the bullet travels; identify each organ and any
25 potentially fatal injuries.

1 Q Let's start with what you marked as gunshot wound number
2 2 or a gunshot wound to the right forearm, if you don't mind.

3 A Sure.

4 Q In the ladies and gentlemen jury about the gunshot wound
5 to the forearm of Mr. Middleton?

6 A Sure. So he had a through and through gunshot wound of
7 his right forearm almost down to his right wrist. And so when
8 we describe the body, just we -- we talk as -- as somebody
9 standing here like this. So this would be kind of the front
10 outer aspect of his lower forearm or wrist. The bullet went
11 in there. It crossed essentially straight across the wrist,
12 and then exited also kind of on the front part, but more on
13 the inner aspect. So in kind of just beyond the base of the
14 thumb out on the other side.

15 Q And I will show you what's marked as State's 33 and
16 State's 34, Doctor. Do you recognize those?

17 A Yes, I do.

18 Q And do they show exactly what you were just talking
19 about?

20 A Yes. State's Exhibit 33, is a photograph I took that
21 shows the entrance wound states. Exhibit 34, is a photograph
22 I took that shows the exit wound.

23 MR. MEADORS: And Your Honor, these are without
24 objection.

25 THE COURT: That's 33 and 34.

1 (WHEREUPON, State's Exhibit Nos. 33 and 34 were received
2 into evidence.)

3 Q And can you show us or tell us which one is an entrance
4 and exit?

5 A Yes. So State's Exhibit 33 is going to be the entrance
6 wound. The wound itself is much more circular. And there's
7 a -- what we call a little abrasion collar. So a light pink
8 border that goes around it, that identifies it as an entrance
9 wound.

10 Q And that's State's 33. And State's 34, you would
11 describe this as what?

12 A That is, the exit wound. So the wound is a little more
13 irregular and torn as the bullet pushed its way out.

14 Q Now, what does it mean when we say through and through?

15 A So there's no recovered bullet in this case. So we
16 either have a perforating wound, where the bullet goes through
17 and through and exits and we do not recover the bullet. Or it
18 could be penetrating, where we have an entrance wound and then
19 we recover the bullet.

20 So for the one on the wrist or forearm, we did not
21 recover a bullet.

22 Q Doctor, if you would help us further by referring to your
23 report and describing what you have identified as a gunshot
24 wound in the trunk, correct?

25 A So the -- the other major injury on this decedent was a

1 gunshot wound to the trunk. It was an entrance wound. It is
2 right over your right collarbone, a couple inches to the right
3 side of midline. So upper, right side of the chest. So the
4 bullet went in this and again, right over the right
5 collarbone. The bullet, after going through the body,
6 continued to go through. It went through the -- the
7 collarbone, then the aorta, and pulmonary artery. So your two
8 major blood vessels that have blood -- that leaving the heart.
9 Then continued through the heart itself, before then stopping
10 in the left pleural cavity. So it just -- just basically,
11 underneath the left lung. So the bullet started in the upper
12 right side of the chest, came down across the heart in some
13 major blood vessels. And then we recovered it from the left
14 side of the chest.

15 Q So right to left?

16 A Yes, sir. And also downward, again, entering up here and
17 recovering it several inches below.

18 Q So you actually found that bullet in the body of Mr.
19 Middleton?

20 A Correct.

21 Q Now I'm going to show you what's been marked as State's
22 31 and 32.

23 MR. MEADORS: And these are all without objection also,
24 Your Honor.

25 (WHEREUPON, State's Exhibit Nos. 31 and 32 were received

1 into evidence.)

2 Q Can you tell me what State's 31 is, Doctor Batalis?

3 A State's Exhibit 31 is a kind of zoomed out photo of the
4 decedent, showing the location of this entrance wound of the
5 trunk. There's a tag there that has a little ruler with a
6 case number that's unique to this case. And I believe right
7 adjacent to that, there is a circular oval defect.

8 Q And you -- what I call an autopsy number. There's a
9 different FA number, if you will, for everybody. So you can
10 come in here now and know what you're testifying about, right?

11 A Correct. So FA 19 would be the forensic autopsy. And
12 2019 777, is it's the 777th autopsy we performed that year.

13 Q Now we have the -- Mr. Middleton's face blocked out. But
14 in the Court, for -- in the State's I.D. Number 30, there's a
15 picture of -- you don't have that with you, of Mr. Middleton.
16 But you're sure this is Mr. Middleton?

17 A Correct.

18 Q And we took the picture out for the jurors purposes. But
19 that is Mr. Middleton's body?

20 A Yes, it is.

21 Q And State's 32, can you tell these folks what this is?

22 A Sure. State's exhibit 32, is a much closer, zoomed in
23 photograph of the entrance wound on the upper right side of
24 the chest over the collarbone.

25 Q And how can you tell it's an entrance wound? I know that

1 sounds crazy, but --

2 A Sure. So entrance wounds -- again, as the bullet comes
3 out of a gun. The way I think of it is like a football. So
4 it's kind of traveling, kind of in a spiral. As it gets to
5 the skin, it's going to kind of drill its way through. So the
6 first part that it sees the skin it may scrape. And so on
7 this one, if you notice from the kind of -- if we're looking
8 at the photo, the left side of the photo and top part,
9 there's -- there's a pink area right there which would be an
10 abrasion. And so this kind of upper area here. So if you're
11 looking at like a clock from like 9:00 to about 1:00, we have
12 this abrasion. So that tells us again, we have a roughly
13 circular wound, looks like an entrance. We have this
14 abrasion, so it helps confirm that it's an entrance. But also
15 it tells us which way it's traveling. So we know in this case
16 that that bullet kind of scraped the skin before it went in.
17 So we would know, even if I hadn't found the bullet yet, we
18 would know where to look because we know the location of that
19 abrasion. The bullet would have been traveling downward and
20 across his body to the left.

21 Q Would you describe that downward as it's coming in at an
22 angle?

23 A Yes.

24 Q Doctor, this is State's 35, without objection.

25 (WHEREUPON, State's Exhibit No. 35 was marked for

1 identification only.)

2 Q Can you tell us what that is?

3 A Yes. This is the bullet that corresponds with the
4 gunshot wound that we were just talking about, that we
5 recovered from the left side of the chest.

6 MR. MEADORS: Beg the Court's indulgence.

7 Q Doctor Batalis, I'm now going to show you what's been
8 marked, State's 27 for I.D., at this point.

9 (WHEREUPON, State's Exhibit No. 27 was marked for
10 identification only.)

11 MR. MEADORS: Beg the Court's indulgence.

12 THE COURT: They were all admitted. So not 30, that was
13 for I.D. only. 31, 32, 33, 34, and 35 are admitted.

14 (WHEREUPON, State's Exhibit Nos. 31 through 35 were
15 received into evidence.)

16 Q Going to show you what's been marked, State's 27.

17 MR. MEADORS: And now Your Honor, we're offering States's
18 27 without objection.

19 THE COURT: Okay.

20 MR. MEADORS: 27.

21 THE COURT: 27 is admitted.

22 (WHEREUPON, State's Exhibit No. 27 was received into
23 evidence.)

24 Q Doctor, will you open this?

25 A Sure.

1 Q Tell me if you -- if that relates to your testimony that
2 you've been given -- that you're giving right now?

3 A Yes, there are two bullets in this exhibit, one of which
4 corresponds to this autopsy and one that corresponds to the
5 other.

6 Q Okay. Well, let's stick with Mr. Middleton's.

7 A Sure.

8 MR. MEADORS: And Your Honor, I think we -- for these
9 purposes, and I hope there won't be an objection, we might
10 want to make this a separate -- can we say, 27-A on this one?

11 (WHEREUPON, State's Exhibit No. 27-A was marked for
12 identification only.)

13 MR. YOUNG: Which one is it?

14 MR. MEADORS: That's the Middleton --

15 MR. YOUNG: Okay.

16 MR. MEADORS: -- bullet. Just to keep them separate.

17 (Counsel confer.)

18 MR. YOUNG: That's right, isn't it? 27?

19 MR. MEADORS: Yes, sir. Yes.

20 THE COURT: Correct.

21 (Counsel confer.)

22 MR. MEADORS: Thank you. Thank the Court.

23 THE COURT: Um-hum.

24 MR. MEADORS: Now, 27-A and 27-B without objection.

25 (WHEREUPON, State's Exhibit Nos. 27-A and 27-B were

1 received into evidence.)

2 Q Can we start with 27-A, Doctor, and can you tell the
3 ladies and gentlemen the jury what this is?

4 A Sure. Exhibit 27-A is the bullet they recovered from
5 the -- Mr. Middleton in this case that we previously saw in
6 the last photograph. This is the actual bullet itself. I
7 know that from recognizing the photograph. And then
8 additionally, there's a smaller envelope that we've packaged
9 it in at the time of autopsy.

10 Q Do you have any markings on there so you can tell these
11 folks right now, I know that's that bullet?

12 A There's no -- I did not make any markings on the bullet
13 itself. Just -- we would just be correlating that with the
14 photographs and the -- the envelope that's here.

15 Q But you can state for certainty that's the bullet that
16 came -- you took from Mr. Middleton?

17 A Yes.

18 Q And that's the same bullet that's depicted in the picture
19 I just showed you, State's 35?

20 A That's correct.

21 Q And Document, just stand up real quick, please, and show
22 me again where you got it from Mr. Middleton?

23 A We recovered the bullet from -- I can't get my thumb
24 inside, but it's somewhere lower left side of the chest, kind
25 of just underneath where my thumb would be. And for

1 reference, again, the entrance would have been up here by the
2 collarbone.

3 Q Doctor, do you have an opinion to a reasonable degree of
4 medical certainty as to the probable cause of death of Gregory
5 Middleton?

6 A Yes. In this case it was the gunshot wound to the trunk,
7 specifically due to bleeding out from those wounds and also
8 disruption of the heart.

9 Q Doctor, this kind of type of wound, I guess the arm plus
10 this, could you -- based on your expertise -- would you still
11 be able to move some afterwards, or how long would you expect
12 life expectancy after receiving this?

13 A Certainly. Well, the -- the wound to the wrist, we
14 could -- not that it's insignificant. I'm sure it definitely
15 would have caused significant pain, but that one should not
16 have been debilitating. Again, the one to the trunk, it did
17 go through, again, some major blood vessels in his heart. But
18 it doesn't mean it was necessarily shot and then drop. So
19 again, we've seen people run around blocks, climb fences, and
20 that sort of stuff. So definitely he would have at least a
21 potential period of activity for several seconds up to even a
22 couple of minutes.

23 Q But a couple of minutes would probably be as long as he
24 would survive?

25 A He may have been able to survive beyond that, but I would

1 expect him to be incapacitated by that point.

2 Q There's no question that this injury killed him?

3 A Correct.

4 Q At this point, I'd like to go to the other autopsy, just
5 to go through what you did and if you found a bullet from --
6 what you found from Mr. Rogers?

7 A Sure.

8 Q And again, what date did you -- did you do both of these
9 on the same day?

10 A Yeah. So in our autopsy suite, we have two -- two
11 tables, two setups. So in this time, we actually did these
12 autopsies at the same time and within the same autopsy room.

13 Q And are you doing the same procedure, external
14 examination that you did? If you'd just tell these folks what
15 you found, please?

16 A Correct. Everything I described previously about
17 performing the process, the autopsy, was exactly the same. We
18 try to follow that for all of our cases, not just our -- our
19 gunshots. So in this case, again, there were, you know,
20 basically three injuries. Now, he did have some scattered
21 scrapes on his -- his trunk and extremities. But in his case,
22 he had two gunshot wounds as well, one to the right side of
23 the chest, kind of in line in the armpit area; and another one
24 to the upper right side of the back, kind of behind the -- the
25 right -- behind the right shoulder.

1 Q And so were those -- on your report, just for -- to help
2 me, gunshot wound to the chest?

3 A Yeah. So I number the wounds --

4 Q Can you describe that?

5 A Yeah. I number the wounds just for -- so I could
6 separate them. So a gunshot wound to the chest was what I
7 described first. So this would have been the -- as we'll find
8 out -- the fatal wound of the two. So this one comes in,
9 again, the right side of the chest, kind of right -- right in
10 the area of the right armpit. And essentially, the bullet
11 then goes through, goes backwards, and across the body. So it
12 goes through his right lung, caused a significant amount of
13 bleeding around that right lung, and then went out through the
14 back of the chest wall, and then exited the mid back. So it
15 kind of comes in the right armpit area, goes through the right
16 lung, causes significant bleeding, and then that bullet
17 exited.

18 Q And was that a through and through?

19 A It was.

20 THE COURT: I didn't hear him.

21 MR. MEADORS: It was.

22 THE WITNESS: It was.

23 THE COURT: Okay.

24 Q Now, what you've designated as a gunshot wound to the
25 back, can you describe that?

1 A So the gunshot wound to the back, again, kind of upper
2 right side of the back, kind of behind your right shoulder
3 there. That bullet entered there and then, essentially,
4 mostly went kind of forward and a little bit downward and a
5 little bit towards his right. So again, it comes in up there,
6 and we recovered that one from the right side of the chest.
7 So this one never actually made it into the chest wall to hit
8 the heart or lungs or anything. So kind of through basically
9 the back of the upper right side of the back and shoulder, and
10 then the bullet -- we -- it stopped and we recovered the
11 bullet from the right side of the chest.

12 Q And showing you what's marked -- or entered, excuse me --
13 as 27-B, can you tell us what that is, Doc?

14 A Yes. Exhibit 27-B is a bullet we recovered from Mr.
15 Rogers. And again, this would correspond with the -- the
16 gunshot wound of the back.

17 Q And do you have an opinion to a reasonable degree of
18 medical certainty as to the cause of death of Michael Rogers?

19 A Yes. Again, this one, as with the other one, would be
20 the gunshot wound to the trunk. And again, specifically, this
21 one would mostly have been from bleeding out due to the -- the
22 perforation of that right lung.

23 Q Doc, again, same question I asked you. You've seen a
24 video regarding this incident, correct?

25 A I have.

1 Q Would Mr. Michael Rogers have been able to move or run a
2 distance after he received one or both of these shots?

3 A It's certainly possible, and then compared to the other
4 decedent where the gunshot went through his heart. Certainly
5 going through your lung is not a good thing either, but
6 possibly even a little more activity out of this decedent for
7 a little bit longer a period of time.

8 Q So if we were to see Mr. Rogers after he was shot
9 traveling down and running a distance, that wouldn't be
10 inconsistent with that wound?

11 A It would not.

12 Q And again, sorry to ask these questions, but can you
13 place a time limit on how long he would have survived after
14 that?

15 A With this one, again, probably we're looking at minutes,
16 just depending on the how quickly he's bleeding out, how soon
17 he would get treatment. But -- but a matter of minutes.

18 Q Okay. Now, Doc, I'd like to move on. As part of your
19 expertise, do you also collect fluids and then are they
20 provided for toxicology purposes?

21 A Yeah. So essentially, not all, but probably 95 percent
22 or greater of our autopsies we will submit fluids, usually
23 blood, for toxicology testing to one of either a state lab or
24 national lab.

25 Q And could we start with Mr. Middleton?

1 A Sure. So in the case of Mr. Middleton, we sent samples
2 of his blood to the -- the state laboratory in Columbia. His
3 testing was only positive for a breakdown product of THC, or
4 marijuana. So what that would tell us was he -- he had
5 marijuana in his system sometime within the last couple of
6 days. He would not have smoked it or ingested it within the
7 couple hours before his death. If it -- if he had just
8 smoked, we would see the parent compound. In this case, we're
9 just seeing the breakdown products.

10 Q And as far as ethanol or alcohol, you found none in Mr.
11 Middleton?

12 A No. In this case, the only thing that we were positive
13 for was just the THC metabolite. No ethanol or other drugs.

14 Q And as far as Mr. Michael Rogers, would you tell the
15 ladies and gentlemen what the toxicology results were of that?

16 A So as Mr. Rogers -- again, he had the THC breakdown or
17 marijuana breakdown product, but he also had the parent drug.
18 So he -- he did have the parent THC. So again, we -- in his
19 case, he did ingest or smoke THC sometime within an hour or
20 two before he died. Also with him, his blood alcohol was
21 positive. So his was 0.139 percent was his blood alcohol
22 concentration.

23 Q Did I ask you how -- what size Mr. Rogers was? I may
24 have forgotten to do that.

25 A I don't believe you did.

1 Q Can I do that? I'm sorry.

2 A We measured Mr. Rogers at 71 inches in length and he
3 weighed 180 pounds.

4 (Pause.)

5 (Counsel confer.)

6 Q Now, this is off State's 6, one of the original Sunoco
7 videos.

8 Doctor, your screen should come up in a minute.

9 A Okay.

10 (Thereupon, the visual recording was played but not
11 transcribed herein.)

12 Q Doctor, if -- you may not know that, but if that -- if
13 this is Mr. Michael Rogers, if he had already sustained his
14 injury, would he have been able to run out there like that?

15 A It's certainly possible, yes.

16 (Pause.)

17 Q Doc, I don't know if you saw that door closed and the car
18 bounce before. And I guess my question is, with Mr.
19 Middleton, if he had sustained that injury before he got in
20 the car, would he still have had the energy or ability to
21 crawl into that back seat?

22 A It's certainly possible, yes.

23 Q Okay. Which way the bullets go? I mean, when they're
24 fired?

25 A The bullet is going to go in the same direction that the

1 barrel of the gun is pointing.

2 Q And in this case, you said that the bullet on Mr.
3 Middleton entered at an angle?

4 A Correct. Upper right side of the chest, heading downward
5 and to his left.

6 MR. MEADORS: I'm going to ask Mr. Caulfield (phonetic),
7 with the Court's permission, if he could assist me in a
8 demonstration?

9 THE COURT: Okay.

10 MR. MEADORS: And Doctor, if you don't mind, and the
11 judge will let him, would you let the doctor come down?

12 THE COURT: Sure.

13 MR. MEADORS: And Doctor, if you could stand about right
14 here, please?

15 I'm going to ask Mr. Caulfield to get on the ground, I
16 want the record to reflect.

17 Get on the ground. Put your right (indiscernible).

18 THE COURT: I think you're going to need to move the
19 podium if you can. The podium doesn't move? Can you have him
20 move backwards a little bit so the jury can see?

21 MR. YOUNG: If it please --

22 THE COURT: Because I don't think they can see.

23 MR. YOUNG: We object to this.

24 MR. WARR: Yeah. This is pure speculation, Your Honor.

25 MR. YOUNG: And quite frankly, this doesn't match up with

1 the film, and him positioning himself to get a favorable
2 answer from the doctor, is -- I object to it. This is not
3 right.

4 THE COURT: Y'all approach for just a minute.

5 (Whereupon, a bench conference was held off the record in
6 the presence of the jury, but out of the hearing of the
7 jury.)

8 MR. YOUNG: (Indiscernible) Your Honor, we cannot support
9 (indiscernible) he's crawling.

10 MR. WARR: He could be army crawling, dragging his
11 (indiscernible).

12 MR. MEADORS: (Indiscernible) cross (indiscernible).

13 MR. WARR: (Indiscernible) this in-court demonstration is
14 not (indiscernible).

15 MR. MEADORS: (Indiscernible).

16 MR. YOUNG: If --

17 MR. MEADORS: He's going to say --

18 MR. WARR: -- you would be (indiscernible) --

19 MR. MEADORS: Would you let me answer the question? He's
20 going to say that his body was in a position that would be
21 consistent with (indiscernible).

22 MR. WARR: (Indiscernible) anything else (indiscernible).

23 MR. MEADORS: Sure.

24 MR. YOUNG: (Indiscernible) --

25 MR. WARR: It's not -- it's not proper.

1 MR. YOUNG: It's confusing. It's confusing to the jury.
2 It's (indiscernible), it's not based in science, it's not
3 based in (indiscernible). Judge, I've been (indiscernible).

4 MR. WARR: (Indiscernible) he's standing where his body
5 (indiscernible). I've done that for 34 years. Y'all can say
6 (indiscernible).

7 MR. MEADORS: (Indiscernible) as an expert
8 (indiscernible). His body is in that position
9 (indiscernible).

10 MR. YOUNG: Yeah. (Indiscernible).

11 THE COURT: You asked to see (indiscernible).

12 MR. WARR: (Indiscernible).

13 MR. MEADORS: And I'm going to ask him that.

14 MR. WARR: (Indiscernible).

15 MR. MEADORS: That's not true.

16 MR. YOUNG: You can't see it either.

17 MR. WARR: Exactly.

18 (Thereupon, counsel returned to counsel tables and the
19 following ensued:)

20 (Open court.

21 THE COURT: All right. Ladies and gentlemen, I'm going
22 to ask you to step out for a while. We have a very lively
23 discussion here. Please don't begin discussing the case.

24 (Whereupon, the jury exited the courtroom at 2:48 p.m.)

25 THE COURT: Okay. Mr. Warr, go ahead and put on the

1 record the grounds for your objection since we had this
2 discussion at the bench.

3 MR. WARR: Your Honor, I object to this in-court
4 demonstration as it has no basis in evidence. There's no
5 evidence that Mr. Middleton was ever in such a position as
6 they're trying to demonstrate to the jury and have it ratified
7 by a medical expert. There's no -- the video doesn't show Mr.
8 Middleton in that position. There's no way to see how he
9 crawled to the back of that car, whether he army crawled to
10 the back, dragging his chest flat to the ground, whether or
11 not he crawled up on his hands and knees. We cannot see that
12 part. All we can see is we know that he went to the ground
13 and then crawled to the back of that car.

14 They're asking a medical expert to validate their
15 speculation on how Mr. Middleton was shot. It would be
16 appropriate in closing for Mr. Meadors to speculate as to the
17 position Mr. Middleton was in, but it is not appropriate to
18 demonstrate that to the jury with a medical expert present and
19 then confuse them by having him validate that position.

20 And I strenuously object to that, and I believe that it
21 would be confusing to the jury and it has no basis in the
22 evidence that has been presented here today.

23 THE COURT: Okay. Mr. Meadors, do you want to respond,
24 sir?

25 MR. MEADORS: Yes, ma'am. There's no other way I could

1 do it. You have an expert in forensic pathology. It's part
2 of his background and training. He takes facts. He looks at
3 videos. He talks to law enforcement. I'm not saying this is
4 the way it happened. But I think, respectfully, we'd ask to
5 be allowed Mr. Caulfield to get in the position. Yeah, that's
6 consistent with that gunshot. There may be several other body
7 positions that are consistent with and he can ask him about
8 that. They've already tried to argue in front of the jury
9 that the shot came from somewhere else. They can ask him
10 about that. I'm just saying, is this one position consistent
11 with the entry on the body? That's all I'm asking. And we do
12 think that's relevant.

13 MR. WARR: Respectfully, Your Honor, may I respond to
14 that?

15 THE COURT: Briefly. Yes, sir.

16 MR. WARR: Briefly, Your Honor, he is an expert
17 pathologist, not a crime scene reconstructionist or an
18 accident reconstructionist. And that is what they're
19 attempting to do here in front of the jury is reconstruct the
20 crime scene to the way they want it to be, not the way it
21 actually was.

22 THE COURT: I'm going to allow the demonstration
23 testimony. And of course, you are -- he's going to be subject
24 to cross-examination to clarify if there are multiple other
25 positions that he could have been in. But I'm going to allow

1 the testimony.

2 If you would bring the jury back in?

3 (Whereupon, the jury came into open court at
4 approximately 2:52 p.m.)

5 THE BAILIFF: The jury is all seated, Your Honor.

6 THE COURT: Thank you. Mr. Meadors?

7 MR. MEADORS: Thank you, Your Honor.

8 And I'd ask Investigator Caulfield if he could resume his
9 position on the floor? Next, the doctor.

10 BY MR. MEADORS:

11 Q If you wouldn't mind getting up and coming roughly to the
12 bar at this point?

13 Doctor, based on your examination of the body of Gregory
14 Middleton and where the bullet went and the path it, would it
15 be -- if you were in your position and with the arms
16 outstretched going down, would that be consistent with the
17 injuries you found in Gregory Middleton's body?

18 A This position is consistent with the wound path that we
19 saw, entering the right upper side of the chest and
20 terminating the lower left side of the chest.

21 Q Can you come and show down here on --

22 MR. MEADORS: Do you mind if he touches you,
23 Investigator?

24 INV. CAULFIELD: No, sir.

25 A So it would be on the entrance wound on our decedent; it

1 was right here, right below his collar. We recovered the
2 bullet from back this way here.

3 MR. MEADORS: Now, could the jury stand up if they
4 needed -- do you mind asking if they'd stand up if they wanted
5 to see him?

6 THE COURT: Well, whatever you need to do to be able to
7 see. You're more than welcome to stand or move around.

8 Q Can you show again the path?

9 A So again, if -- if the body is in this position, we know
10 that the entrance wound is right here. The bullet was
11 recovered the from left side of the chest down here, traveling
12 down and across.

13 Q Thank you.

14 MR. MEADORS: You can get up. You can take your seat
15 back.

16 Q And Doctor, you don't know where the body was when he was
17 shot, do you?

18 A I -- I do not.

19 Q And what you're describing is the injuries that you
20 observed from looking at the body of Mr. Middleton and Mr.
21 Rogers in this case, correct?

22 A Correct. I can testify to the injuries that he had and
23 then again, based on the pathway, the relationship of how the
24 gun was pointed at his body when it was fired. I just don't
25 know the exact positioning of the shooter and the decedent at

1 that point.

2 Q You can just tell these ladies --

3 MR. MEADORS: You mind if I touch you?

4 Q -- that the bullet came in at an angle and went down,
5 correct?

6 A Correct.

7 Q And that's all you were saying is Mr. Caulfield's
8 position there was consistent with what you found?

9 A Correct.

10 MR. MEADORS: Sorry. Begging, Your Honor.

11 Thank you.

12 That's all, Doc. Thank you for being here today.

13 THE WITNESS: No problem.

14 MR. WARR: If it please the Court?

15 THE COURT: Yes, sir?

16 MR. WARR: Your Honor, can I have Mr. Caulfield come back
17 and resume his position he was in --

18 THE COURT: Sure.

19 MR. WARR: -- on the floor?

20 THE COURT: Absolutely.

21 MR. WARR: The exact same position.

22 MR. MEADORS: We'd like for Mr. Young to do that, not
23 our -- or somebody from this --

24 MR. YOUNG: Mr. Young can't physically do that.

25 MR. MEADORS: Well, I didn't mean you. I meant somebody

1 else. That's fine. Go ahead. I'm sorry. I didn't mean you,
2 I meant somebody else.

3 THE COURT: Mr. Caulfield, I would appreciate it if you
4 don't mind, sir.

5 MR. CAULFIELD: Yes, ma'am.

6 MR. WARR: And Doctor, if you would step down to where
7 you were, if that's all right with you, Your Honor?

8 THE COURT: Absolutely.

9 CROSS-EXAMINATION

10 BY MR. WARR:

11 Q If the body of Gregory Middleton was in this position,
12 the shooter would have had to have been in front of him to
13 shoot him in the right side of the chest at a downward angle
14 with the bullet coming to rest here?

15 A Correct. If he was in this position, essentially, it
16 would be coming from this angle where I stand.

17 MR. YOUNG: How close?

18 Q How close would he have to be?

19 A So in looking at the -- the wound itself, there are
20 features that we can see that tell us how close the -- the gun
21 was fired. If there's soot, which is a kind of cloud of
22 smoke, that goes out to about a foot. We can also see
23 stippling, so scrapes in the skin that are caused by burning
24 flakes of gunpowder. That would go to three to four feet. In
25 this case, I did not see either of those things. So that's

1 how we determine the distance. So I did not see those. That
2 either means there was something between such as a shirt, or
3 that the gun was at least four feet away. But whether the
4 pathway was a foot away or one hundred feet away, it wouldn't
5 change the -- the pathway or the angle.

6 Q Okay. He would have had to have been -- the shooter
7 would have had to have been in front of Mr. Middleton? He'd
8 have had to been crawling almost straight to him to shoot and
9 that bullet enter the right side of the chest and travel
10 downward, and then come to rest here?

11 A Could you repeat that one more time?

12 Q The bullet would have had to enter -- if this is the
13 bullet, it would have had to enter right here and travel down
14 and come to rest there. The shooter would have had to have
15 been -- Mr. Middleton would have been crawling toward the
16 shooter if he was shot in this position?

17 A Correct. I thought you said the shooter would have had
18 to have been crawling, but the shooter, again, with the
19 downward aim, it could be from here. But yeah, it would be
20 this (indiscernible).

21 Q He would have been crawling toward the shooter. A
22 shooter from over here, if that's Mr. Middleton, from his
23 left, could not shoot Mr. Caulfield -- Mr. Middleton in the
24 right side of his chest, if a shooter was standing where I'm
25 standing right now?

1 A At that body who is in that position?

2 Q Yes.

3 A Yeah, that -- that would not be consistent with the
4 wounds had.

5 Q All right. If you could flip that arm down and be up on
6 your arm like this. Is it possible that a shooter from over
7 here shot downward, and the bullet entered right side of the
8 chest and came to rest under the left lung at this angle?
9 From over here, Doc. You can step over here.

10 A It'd be more from my side of the podium, but -- but
11 roughly. If he was here, yeah, we'd be coming -- entrance
12 here, and then -- yeah, and the bullet recovered over there.
13 So somewhere roughly here.

14 Q Now, Doctor, would it be possible for someone from the
15 left side of Mr. -- stay in that same position -- to fire a
16 shot and hit Mr. Middleton in the right side of his chest? If
17 he was standing on Mr. Middleton's left side, which I am, let
18 the record reflect, on Mr. Caughfield's (phonetic) left --
19 he's playing Mr. Middleton -- if I was standing on his left
20 side, could I shoot him in the right side of the chest?

21 A The wound path and injuries I saw would not be consistent
22 with the shot from your position to somebody in his position.

23 MR. WARR: Beg the Court's indulgence.

24 THE COURT: Yes, sir.

25 Q Now, Doctor, if Mr. Middleton was falling forward at the

1 time he was shot, could a bullet come in like that and make
2 the same wound path, hitting him right here, at a slightly
3 downward angle, left to right?

4 A I'd have you a little bit more down. But yeah, something
5 like that would work.

6 Q Something right here?

7 A If I was here like that, that would -- that could --
8 that's another situation that you could get that pathway.

9 Q And the shooter would have to be on my right?

10 A Given this position, correct.

11 Q Given this position.

12 You can return to the witness stand.

13 All right. Now, Doctor, your testimony in the autopsy of
14 Mr. Middleton, he received a gunshot wound to the right
15 forearm, correct?

16 A Correct, right forearm or wrist area.

17 Q And the entrance wound was on the front of the hand --
18 what I would call the front of the hand, where the thumb is,
19 right above the thumb?

20 A Above the thumb, but you're on the backside of the hand
21 there, technically, so it'd be more -- if you kind of flip --
22 there you go.

23 Q Right there?

24 A Correct.

25 Q And the bullet traveled through Mr. Middleton's wrist and

1 came out the back of his wrist?

2 A Kind of the -- still in the front but on the other --
3 other side of it.

4 Q So if Mr. Middleton's hand was down, the bullet would
5 have come from in front of him and hit him there?

6 A So again, if -- if I was the shooter, and your hand was
7 like that, that would approximate the position. Correct.

8 Q Okay. And no bullet was recovered from that wound?

9 A Not from the wrist/forearm, no.

10 Q All right. And the gunshot wound to the trunk, which we
11 just discussed, it entered on the right side of Mr.
12 Middleton's chest, traveling -- it was traveling downward and
13 slightly front to back, and it came at a angle like this, and
14 it came to rest under the left lung?

15 A Correct.

16 Q Okay. And I believe it was your testimony that a man
17 receiving the same types of wounds as Mr. Middleton, he would
18 be able to move for, you said, several seconds up to a couple
19 minutes?

20 A It -- he had the potential. Again, sometimes folks with
21 injuries to the heart, they -- they will be more this kind of
22 spontaneous, but they're definitely a potential for activity
23 for up to a couple minutes.

24 Q And I believe you even said you've heard of people
25 running around the block, jumping fences after sustaining a

1 heart wound?

2 A Correct.

3 Q And --

4 MR. WARR: Beg the Court's indulgence.

5 THE COURT: Yes, sir.

6 Q One question regarding Mr. Rogers' autopsy. They did a
7 tox screen, and you said his -- he had recently -- he had THC
8 in his system, indicating he had recently smoked marijuana?

9 A Correct.

10 Q And he had a BAC of a .139?

11 A Correct.

12 Q In your opinion as a medical expert, would that -- would
13 he be considered intoxicated at that point?

14 A Those definitions would vary. I -- I would say he -- he
15 would be under the influence. He did have apparent THC and
16 ethanol in his system. Everybody reacts differently, so I
17 don't know what his behavior would have been, but he
18 potentially would have been under the influence of both of
19 those drugs.

20 Q Okay. And he was over the legal limit of a .08 to drive
21 a vehicle in the state of South Carolina?

22 A Correct. Legal limit to drive being .08, he was just
23 under twice that.

24 Q All right. No further questions. Thank you, Doctor.

25 MR. CORBETT: Your Honor, we'd ask that Doctor be allowed

1 to head back to Charleston. Thank you.

2 THE COURT: Sir, thank you.

3 THE WITNESS: Thank you, Your Honor.

4 MR. CORBETT: Have a safe trip.

5 MR. WARR: Thank you. Have a safe trip.

6 THE COURT: Mr. Corbett, you have the next witness, sir.

7 MR. CORBETT: Can we approach?

8 THE COURT: Uh-huh.

9 MR. CORBETT: One of you?

10 (Whereupon, a bench conference was held off the record in
11 the presence of the jury, but out of the hearing of the
12 jury.)

13 (Completely inaudible.)

14 (Thereupon, counsel returned to counsel tables and the
15 following ensued:)

16 (Open court.)

17 THE COURT: Ladies and gentlemen, while they're getting
18 ready, I just wanted to tell you where we stand. We are still
19 waiting for the county to make a decision about whether
20 they're going to have full county offices open tomorrow or if
21 they're going to be on a --

22 All right. Well, breaking news. So this indicates that
23 nonessential offices will be closed tomorrow. I don't know if
24 that includes us.

25 UNIDENTIFIED SPEAKER: Typically, it does not.

1 THE COURT: We are not essential? I feel essential.

2 MR. CORBETT: I think you are.

3 MR. WARR: Yeah, we do.

4 THE COURT: So we did just get that information that
5 nonessential business offices will be closed tomorrow. So if
6 y'all will let us have some discussion about what that's going
7 to practically mean for us. Before you leave here today,
8 you'll know exactly what our plan is.

9 Okay. Mr. Corbett, I'm sorry. Go right ahead.

10 MR. CORBETT: Thank you, Your Honor.

11 James Kearney, please.

12 THE BAILIFF: Place your left hand on the Bible. Raise
13 your right hand. State your name.

14 MR. KEARNEY: James J. Kearney, IV.

15 JAMES KEARNEY, after being duly sworn, testified as
16 follows:

17 THE BAILIFF: Can I have you step around, please?

18 State your name for the record and spell your last name,
19 please.

20 THE WITNESS: James Kearney, IV, K-E-A-R-N-E-Y.

21 (Pause.)

22 DIRECT EXAMINATION

23 BY MR. CORBETT:

24 Q Mr. Kearney, how are you today?

25 A Doing well, sir. And yourself?

1 Q Very good. Thank you. Did you have occasion -- oh, I'm
2 sorry. Let me back up a little bit. First of all, tell us
3 who you work for.

4 A I work for the Sumter Police Department in the Forensics
5 Division.

6 Q Okay.

7 A I've been with the police department for 13 years now; in
8 the forensics division for five and a half years.

9 Q So you were in the forensics division back in 2019?

10 A Yes, sir, I was.

11 Q Specifically, early morning hours of September 8th?

12 A Yes, sir, I was.

13 Q Okay.

14 MR. WARR: Can I move in front of you, please?

15 MR. CORBETT: Yeah.

16 MR. WARR: I just can't see otherwise.

17 Q Now, Det. Kearney, do you recall approximately what time
18 you responded to the scene?

19 A It was approximately 5 o'clock in the morning.

20 Q Okay. About 5 a.m.?

21 A Yes, sir.

22 Q Okay. Was Det. Snapp on the scene at that time?

23 A Yes, she was.

24 Q Okay. And had she already begun marking evidence?

25 A Yes.

1 Q Okay. If you -- and if you would, please, I'm going to
2 ask you to step over here, and I'm going to hand you a
3 point -- pointer, and I'm just going to kind of -- if you
4 would, familiarize yourself with that overhead picture. Are
5 you able -- and I know overhead pictures are -- look a lot
6 different. But are you able to make out the Sunoco gas
7 station in this picture?

8 A Yes, sir. It's -- the gas station itself is here. This
9 is a covering for the fuel pumps.

10 Q Okay. Now, with regard to what you were doing there,
11 what was your primary area of focus?

12 A I was working more the peripheral areas or the outside
13 areas. So over here in the Wendy's area outside in the
14 beginning of the parking spaces here and just slightly in
15 towards the center pumps that are, like, closest to the
16 roadway.

17 Q Now, Det. Kearney, were you basically doing the same
18 thing that Det. Snapp was in terms of marking and identifying
19 potential evidence?

20 A I was, yes.

21 Q Okay. All right.

22 UNIDENTIFIED SPEAKER: I need him to speak up just a
23 little.

24 THE WITNESS: Yes, ma'am.

25 THE COURT: If you could speak up just a little bit.

1 Thank you.

2 THE WITNESS: Yes, ma'am.

3 Q So you were primarily in this area right here?

4 A Yes, sir. Well, from the -- over here in the Wendy's
5 parking lot area, across, and probably to about right here was
6 the furthest out.

7 Q And if you'll let me hold that. And if you would,
8 please, I'm going to have you return to the witness stand.

9 A Yes, sir.

10 Q Now, Det. Kearney, I'm going to show you what's been
11 marked for identification as State's Number 37. If you would,
12 please, tell us what that shows.

13 A It's the parking lot at the Wendy's. You can see the
14 crosswalk, from the handicap, it goes across toward the
15 center -- the front door of the building. And then in the
16 back corner you can see the front left corner from the street
17 view of the Hop In gas station.

18 Q Okay. Now, I apologize for continuing to do this to you.
19 But can you take -- first of all, you took that picture?

20 A Yes, sir, I did.

21 Q Okay. And contained within that picture four -- some
22 yellow placards; is that correct?

23 A Yes, sir.

24 Q Okay. Can you take this picture, approach our overhead,
25 and sort of tell us where these placards are located?

1 A Yes, sir.

2 Q Or the yellow markers, I should say.

3 A The photograph has the crosswalk there with the freshly-
4 painted handicap symbol, which is going to be underneath this
5 vehicle right here. I'm sorry. You can just barely see the
6 corner of the handicap there, and then the -- the crosswalk.
7 The -- on this photo here, you can see the -- the sale sign on
8 the front, which is going to be this front corner of the
9 Sunoco, then the back edge of the Wendy's. Then the placards,
10 or the -- the evidence markers here, they start close to the
11 boxy area of the crosswalk, and then across the crosswalk, and
12 then go toward the building, almost, like, in a fashion --
13 like, almost toward the back of the building, but definitely
14 not that far.

15 Q I'm sorry.

16 A 37.

17 (Counsel confer.)

18 MR. CORBETT: Your Honor, we'd offer State's Number 37.

19 MR. WARR: No objection.

20 THE COURT: 37's admitted.

21 (WHEREUPON, State's Exhibit No. 37 was received into
22 evidence.)

23 (Pause.)

24 MR. WARR: Which number is that?

25 MR. CORBETT: State's 38.

1 MR. WARR: Thank you.

2 Q If you would -- it's been marked for identification as
3 State's 38 -- ask if you can identify that, please.

4 A Yes, sir, it's the first corner of the Hop In gas
5 station's parking lot, sink right here, facing back towards
6 the fuel pumps. You just get a glimpse of the first pump
7 there, and then the building itself back behind it.

8 Q Okay. And you took that picture?

9 A Yes, sir, I did.

10 Q And that reflects the conditions you found that in?

11 A Yes, it is.

12 MR. CORBETT: Your Honor, we would offer State's 38 into
13 evidence.

14 MR. WARR: No objection.

15 THE COURT: It's admitted.

16 (WHEREUPON, State's Exhibit No. 38 was received into
17 evidence.)

18 Q I'm going to have you head back to the witness stand for
19 us, please. Now, Det. Kearney, you took some other photos out
20 that evening as well. I'm sorry, let me rephrase that. These
21 are printouts of several photos you took that night; is that
22 correct?

23 A Yes, sir.

24 Q But you took other photos as well?

25 A Yes, sir.

1 Q Okay.

2 MR. CORBETT: Your Honor, I have an exhibit marked
3 State's 36. It is a CD disc containing photos taken by Det.
4 Kearney on the morning of September 8th, 2019.

5 And Your Honor, Mr. Warr has seen both (indiscernible).

6 THE COURT: Any objection?

7 MR. WARR: No objection, Your Honor.

8 THE COURT: 36 is admitted.

9 (WHEREUPON, State's Exhibit No. 36 was received into
10 evidence.)

11 Q And Det. Kearney, I think everybody's probably seen way
12 more shell casings than they wanted to see, so I will try to
13 move a little bit quickly with some of these --

14 A I understand.

15 Q -- photographs.

16 A Understood, sir.

17 MR. WARR: What number?

18 MR. CORBETT: 36.

19 MR. WARR: 36.

20 Q This is your -- what I call a photo placard?

21 A Yes, sir.

22 Q Okay. Just gives us a date and identifying information?

23 A Correct.

24 Q All right. Quickly tell us what we're looking at here,
25 please.

1 A It's the Wendy's, after it's been renovated, from the
2 street view.

3 Q Okay.

4 A The entry into the parking lot of the Wendy's with the
5 Sunoco gas station in the background. Again, just rotating
6 further, same location, but further toward the Sunoco station.
7 Slightly walked in the parking area at the Wendy's with the
8 evidence markers or placards identifying cartridge cases -- or
9 evidence markers.

10 Q Now, let me pause you for a moment. Did you guys have to
11 reuse some numbers that night?

12 A Yes, there was quite a few numbers that got reused just
13 because of the number of items that were being marked as
14 evidence. So while our markers may only go up to 100, we had
15 to start reusing them.

16 Q Are you able to see what item 95 appears to be?

17 A It appears to be a fired cartridge casing.

18 Q Is that close enough? Or do we need to zoom in?

19 A This -- that's sufficient for me. It's a cartridge
20 casing.

21 Q Oh, I'm sorry. There is the same version?

22 A Yes. Another cartridge casing. And another. And one
23 more. That is the entry to the Hop In gas station from the
24 left-hand side from the street view. You see the first
25 evidence marker there. And the Wendy's is in the background.

1 Then rotating toward the right, you get to catch more of the
2 Hop In gas station.

3 Q So now we see markers 1 and 2?

4 A Yes, sir.

5 Q Now, this is your 1 and 2, not Det. Snapp's 1 and 2?

6 A Correct. Correct.

7 Q And what's number 1 appear to be?

8 A It's a fired cartridge casing. A fired cartridge casing.
9 Fired cartridge casing. And a fired cartridge casing. It's
10 walking into the parking lot along the grassy island area
11 between the Wendys and the Sunoco, and there were a couple of
12 other items of interest there.

13 Number 5 is a -- appears to be a bullet fragment.

14 And number 6, a cartridge casing.

15 That's a license plate for one of the vehicles that were
16 parked at the pump. And then these are outside pictures of
17 the -- of the vehicle. That is a pump that was struck by a
18 bullet with a bullet stuck in next to the monitor itself.
19 That's another one of the cars that was parked at the -- at a
20 fuel pump. And a front view of that car.

21 Number 7 was a bullet fragment.

22 And this is just more of the front parking area, kind of
23 face -- facing toward Wendy's but still in the parking lot of
24 the Hop In. You can see the island there. It will be right
25 next to the sidewalk, which is next to the roadway.

1 This is the front of the Hop In gas station by the
2 propane tanks. Just getting closer in views of some of the
3 cigarette butts and things that were located on the ground in
4 the area.

5 Another angle of the -- one of the cars that were at the
6 fuel pumps. This is a picture of the interior. You can see
7 in the cupholder it's got a -- a pistol, and then a magazine in
8 the center console above that little armrest portion.

9 MR. WARR: What picture number is that, please?

10 MR. CORBETT: On the disc, it's 230.

11 MR. WARR: Thank you.

12 A It's a magazine for a firearm. Tucked down into the
13 grass and limbs there, you can see what the -- the makings of
14 an AR pistol. And then that's just more of a reference photo
15 to show the woodline that it was in behind the old Rite Aid
16 that was in the mall parking lot.

17 Q Okay. I'm going to tilt this picture to you a little
18 bit.

19 A Yes, sir.

20 Q Or do you think you would be better to show us that area
21 behind the Rite Aid? Would you prefer --

22 A Sorry.

23 Q -- to come down and show us that magazine and where it,
24 the AR-15 pistol, were located?

25 A I can.

1 Q Okay.

2 A The AR pistol was -- was -- was in this area here above
3 the tree line. But this -- the -- the other magazine --
4 pistol -- caliber type -- was in the tree line -- back in the
5 trees in this direction here.

6 Q Very well. Now, Det. Kearney, I know that you and Det.
7 Snapp were doing some different things. But are you aware of
8 a pistol being found on the concrete here in front of the
9 Sunoco?

10 A Yes, sir.

11 Q Okay. And did you and the folks from evidence bring that
12 out?

13 A We did, sir.

14 Q Standby. Let's don't open it as of yet.

15 A Understood.

16 Q What identifying marks are on the outside of the box
17 there.

18 A It's a Taurus 709 Slim, Brazil. Apologies. It's a
19 9-millimeter Taurus, serial number TJZ20201. Caliber:
20 9-millimeter.

21 Q Okay. Now, if we could, please, if you would open
22 that -- but before we do anything with it, I would like you to
23 be make sure it is -- it is in a safe condition.

24 And Det. Kearney, you are familiar with the operation of
25 firearms?

1 A Yes, sir, I am.

2 Q Okay.

3 MR. WARR: I would assume so.

4 (Pause.)

5 Q Okay. Now, Det. Kearney --

6 A Yes, sir.

7 Q -- if you would --

8 MR. CORBETT: I'm sorry, Judge. I forgot to mark that.

9 MR. WARR: What's the number, please?

10 MR. CORBETT: It is State's Number 39. A gun referred to
11 as a Taurus 709 Slim. Serial number TJ, Z as in Zulu, 20201.

12 Q And Det. Kearney, does that appear to be the pistol
13 recovered from the concrete there in front of the Sunoco?

14 A Yes, sir.

15 Q Okay. In a way that doesn't require any type of
16 pointing, can you briefly show that to the jury?

17 A I'll just --

18 MR. CORBETT: Yeah, we would offer this as State's Number
19 39.

20 (WHEREUPON, State's Exhibit No. 39 was marked for
21 identification only.)

22 MR. WARR: No objection.

23 THE COURT: 39 is submitted.

24 (WHEREUPON, State's Exhibit No. 39 was received into
25 evidence.)

1 THE COURT: And do I see that it's -- does it have the
2 locking mechanism on it?

3 THE WITNESS: The -- the slide is locked to the rear. It
4 won't fire in this current condition. We've also verified
5 there's no ammunition in the box.

6 THE COURT: Thank you. Okay.

7 Q Det. Kearney, I'm so sorry. There were a couple of other
8 photos I neglected to show you initially. And would you tell
9 us what that's a picture of?

10 A It's one of the trees that was planted into the grassy
11 area from -- it would have been standing in the Hop-In parking
12 lot, facing the Wendy's.

13 Q Now, is that a ladder in the background?

14 A There is a ladder in the background. Yes, sir.

15 Q Did you have anything to do with the ladder being in the
16 background?

17 A Yes, sir, I did.

18 Q Tell us what that was about, please.

19 A There was a bullet strike on the side of the building.
20 The bullet was -- was still lodged in the outside of the
21 building. We checked inside first, verified. We climbed in
22 the ceiling there and it hadn't penetrated into the building
23 itself. So upon further inspection of the outside up close to
24 it with a ladder, we were able to find a fire bullet in the
25 hole in the building.

1 Q And this is near that same tree?

2 A Yeah, the base of that same tree. Yes, sir. And there's
3 a fired cartridge casing there in the mulch on the base -- at
4 the base of the tree.

5 Q Det. Kearney, please answer any questions the defense
6 counsel may have.

7 MR. CORBETT: Would you like me to move this?

8 MR. YOUNG: Yeah.

9 CROSS-EXAMINATION

10 BY MR. YOUNG:

11 Q Det. Kearney, thank you for what you do for our county.

12 A We appreciate the support, sir. Thank you.

13 Q Tell me this. You found the -- I think you said an AR-15
14 attack pistol?

15 A It's an AR type pistol. We call it -- I'm just calling
16 it that because of the shape that it is, but it was in the
17 configuration with the barrel length and no stock that it
18 would be classified as a pistol, I believe.

19 Q Were you able to get any fingerprints off of it?

20 A We tested but did not get any fingerprints off of it.

21 Q Did it have any bullets in it?

22 A I believe it had -- the magazine was loaded, yes, sir.

23 Q Magazine was loaded?

24 A I believe so sir.

25 Q What type of ammunition did it have in it?

- 1 A I don't have that written in front of me, sir.
- 2 Q And you don't recall?
- 3 A I do not recall, sir.
- 4 Q All right. I thought you said you also found another
5 magazine?
- 6 A Yes, sir.
- 7 Q Did that have bullets in it?
- 8 A Yes, sir, it did.
- 9 Q Do you recall what kind of bullets those were?
- 10 A Other than full metal jacket, I didn't -- I can look for
11 you, sir. I don't have the caliber written down, sir.
- 12 Q Did you try to get fingerprints off of that?
- 13 A Yes, sir, we did try to fingerprint it.
- 14 Q Did you find any DNA off of it?
- 15 A Not that I'm aware of, sir.
- 16 Q How about the (indiscernible)? Did you take any DNA off
17 of that?
- 18 A Yes, sir. We tested that for DNA.
- 19 Q Did you come up with any evidence from that?
- 20 A It was submitted to SLED.
- 21 Q Have you gotten a report back?
- 22 A I have not, sir.
- 23 Q That was three years ago.
- 24 A Understood, sir.
- 25 Q Still haven't gotten a report back?

1 A Correct, sir.

2 Q What's your word about that report?

3 A It was beyond the scope of my portion of the
4 investigation, sir. The case detectives go forward with that
5 information with SLED.

6 Q Three years ago.

7 A Understood, sir.

8 Q Okay. I notice that a lot of your investigation, what
9 you were doing was over by Wendy's and near Broad Street; is
10 that correct?

11 A Yes, sir.

12 Q There were literally bullets and casings all over the
13 place weren't there?

14 A Yes, sir.

15 Q The casings are fired rounds of ammunition; is that
16 correct?

17 A Yes, sir.

18 Q Over where you were, what type of ammunition was being
19 fired?

20 A I have 9-millimeter, and I believe the others were 45s.
21 I don't have that written down though.

22 Q 9-millimeter and 45s?

23 A Yes, sir.

24 Q The bullets that you've found on the ground?

25 A Yes, sir.

1 Q Are they consistent with 9-millimeter and 45?

2 A I couldn't give an accurate answer on that, sir. I'm
3 sorry.

4 Q Okay. Approximately how many casings did you find?

5 A 11.

6 Q 11?

7 A Yes, sir.

8 Q And they were either 9-millimeter or 45s?

9 A Yes, sir.

10 Q All right. Let's talk about that pistol for just a
11 minute. Where did you find this person?

12 A I did not collect that pistol. That pistol was located
13 at the front -- between the front two pumps closer to the
14 door, not the pumps out near the street, but the ones closer
15 to the doorway.

16 Q Did you see the video in which Mr. Rogers was seen
17 falling and a pistol flying from his hand?

18 A I saw portions of it, sir, yes.

19 Q Is that consistent with the area in which this pistol was
20 found?

21 A Yes, sir.

22 Q Took DNA of fingerprints. Did you identify this pistol
23 as being Mr. Rogers pistol?

24 A I did not process the -- the pistol for prints. Another
25 officer may have done that.

1 Q Do you know whether or not this pistol was identified as
2 the pistol that we see in the video sliding across the
3 concrete?

4 A Yes, sir.

5 Q It has been identified that way?

6 A Yes, sir.

7 Q So you're here telling these ladies and gentlemen of the
8 jury, as far as your knowledge, this pistol belonged to Mr.
9 Rogers as he fell to the ground, scattered across, and this is
10 what we recovered; is that recovered?

11 A Yes, sir.

12 Q And Rogers was shooting a 9-millimeter that night?

13 A Yes, sir.

14 Q You have the pistol and you have Mr. Epps in the
15 hospital; is that right?

16 A Yes, sir. Yes, sir.

17 Q Did you ever match up this pistol with Mr. Epps bullet
18 that was in his stomach?

19 A No, sir, I did not. I --

20 Q Did anybody bother to do that?

21 A I am not aware of that, sir.

22 Q You've got a man in the hospital with a bullet in his
23 stomach and nobody bothered to match up or try to match up the
24 pistol with that bullet?

25 A I did not recover the bullet out of him, so I do not

1 know, sir.

2 Q No, but somebody did. The doctor did. Anybody make any
3 effort to recover that bullet?

4 A Did they remove it, sir? I did not -- I was not made
5 aware.

6 Q You think it's still in Mr. Epps?

7 MR. CORBETT: Objection, Your Honor.

8 A It's not uncommon, sir.

9 THE COURT: What's the --

10 MR. CORBETT: He's asking questions that call for
11 speculation.

12 MR. YOUNG: He's a detective. He should know the answer.

13 MR. CORBETT: Objection, Your Honor.

14 THE COURT: That's sustained.

15 MR. CORBETT: That was designed --

16 THE COURT: Yes, it was, thank you.

17 MR. YOUNG: -- to try to make this detective look bad in
18 front of the jury.

19 THE COURT: And now -- I understand, it's sustained.

20 MR. YOUNG: I have no further questions for this witness.

21 THE COURT: Mr. Corbett, anything else?

22 THE WITNESS: May I speak slightly on that? The
23 hospital is known for leaving bullets in people if it's not in
24 an area that is --

25 MR. YOUNG: That's nonresponsive, Your Honor.

1 THE COURT: I'm going to let him explain. If you do have
2 some objection to what he's saying, that's fine. But I'm
3 going to let him explain his answer. I think the rules
4 provide for that.

5 THE WITNESS: They -- they have left bullets in people
6 before if it doesn't -- if it's not life threatening. The
7 surgery is worth more than the bullet.

8 Q Have you or anybody in your staff or the police
9 department bothered to check to see whether or not the bullet
10 was left in Mr. Epps?

11 A Not that I'm aware of, sir.

12 THE COURT: Okay. Mr. Corbett?

13 MR. CORBETT: Thank you, Your Honor.

14 REDIRECT EXAMINATION

15 BY MR. CORBETT:

16 Q Det. Kearney, I think we've sort of covered this, but I
17 want to show you State's Number 10, some photos from in front
18 of the Sunoco. I want you to look at -- do you have it there
19 on your monitor?

20 A Yes, sir.

21 Q All right, look at number 14 for me, and we're going to
22 try to zoom in a little bit. And can you tell us what that
23 appears to be?

24 A A pistol with a black frame and a silver-colored slide.

25 Q All right. Now, we're going to see if we can get you

1 another close up of that. Now, I'm going to hand you what's
2 been marked as State's 39, which has the number 14 marker.
3 Are you able to make out the serial number in the photograph?

4 A Yes, sir.

5 Q Would you compare it to the weapon there?

6 A They're the same.

7 Q Okay. Thank you very much.

8 MR. CORBETT: Yeah, that's all that I have.

9 THE COURT: Okay. Thank you, sir. You can step down.

10 MR. YOUNG: The parties would like to take a quick break
11 if you would allow us.

12 THE COURT: Okay. Ladies and gentlemen, let's take ten
13 minutes. Please don't begin discussing the case.

14 (Whereupon, the jury exited the courtroom at 3:41 p.m.)

15 THE COURT: Anything -- you just need a break?

16 (Recess.)

17 THE COURT: You good? Okay. Thank you.

18 (Whereupon, the jury came into open court at
19 approximately 4:03 p.m.)

20 THE BAILIFF: Jury now seated.

21 THE COURT: Thank you. Mr. Corbett?

22 MR. CORBETT: Thank you, Your Honor. The State would
23 call Agt. Paul Greer, State Law Enforcement Division.

24 THE BAILIFF: Raise your right hand and please state your
25 name.

1 THE WITNESS: Paul Greer.

2 PAUL GREER, after being duly sworn, testified as
3 follows:

4 THE BAILIFF: State your name for the record, and spell
5 your last name please.

6 THE WITNESS: Yes, sir. My name is Paul Greer,
7 G-R-E-E-R.

8 DIRECT EXAMINATION

9 BY MR. CORBETT:

10 Q Mr. Greer. Good afternoon.

11 A Good afternoon.

12 Q I think I may have already stated this, but tell us by
13 whom are you employed.

14 A Yes, sir. I'm employed at the South Carolina Law
15 Enforcement Division, which is also commonly known as SLED.

16 Q And what are your duties at SLED?

17 A At SLED, I'm a forensic scientist in the firearms
18 department of our Forensic Services laboratory.

19 Q Okay. If you would please tell us a little bit about the
20 training and education to be in that Department?

21 A Yes, sir. I received first a bachelor's of Science and
22 Biological Sciences from the University of South Carolina.
23 After I completed my collegiate career, I began an internship
24 at SLED in the firearms department.

25 Upon my employment at SLED for -- to become a firearms

1 examiner, I completed the SLED firearm tool mark course of
2 instruction. This is an in-house apprenticeship style
3 training program that lasted approximately three years.
4 During this time, I worked with other court-qualified
5 examiners to assist in prepping their cases for court.

6 I conducted many microscopic comparisons of evidence, and
7 I also completed many written and practical examinations. At
8 the conclusion of that training program. I was given a multi-
9 part, comprehensive final exam that included some mock
10 casework. I completed that and then was able to begin
11 casework on my own.

12 Q And Mr. Greer, have you ever been qualified in the courts
13 of South Carolina as an expert witness?

14 A Yes, sir, I have.

15 Q Okay. Do you know about how many times?

16 A Approximately 19 times in state and federal courts.

17 Q And your field of expertise is firearm identification?

18 A Yes, sir.

19 Q Okay, and as such, you're now full time with SLED?

20 A Yes, sir.

21 Q Is that correct?

22 A Um-hum.

23 Q And it is commonplace for SLED to receive evidentiary
24 items submitted by various agencies from around the State; is
25 that correct?

1 A That is correct. Agencies, whether it be local, city --
2 city department, sheriff's offices, other state agencies, and
3 federal agencies are able to submit evidence to the SLED
4 forensics laboratory.

5 Q I'm sorry, and your field of expertise, this firearm
6 identification?

7 A Yes, sir.

8 MR. CORBETT: Your Honor, we would offer Mr. Greer as an
9 expert in firearm identification.

10 MR. YOUNG: We stipulate.

11 THE COURT: Okay, ladies and gentlemen, I do find that
12 he's qualified to give opinion testimony in this area.

13 Q Now, Mr. Greer, if you would, please. It's been my
14 experience that when we're dealing with firearms and matters
15 related to firearms, that the names and the nomenclature
16 sometimes get crossed up. For example, someone like me coming
17 from the country, we'll call anything that goes in a gun a
18 bullet.

19 A Yes, sir.

20 Q Are you familiar with some of the communication issues
21 I'm speaking of?

22 A Yes, sir, I am.

23 Q At my request, did you bring a few ballistic related
24 items that do not relate to this case specifically?

25 A I did.

1 Q Okay. If you would, please, take a few moments and just
2 kind of walk the jury a little bit through the nomenclature
3 explanations of why some things are called caliber, some are
4 called millimeter. Just kind of help us out with a little bit
5 of education, please.

6 A Sure. Yes, sir. I did bring a few items to demonstrate.
7 Some of our terminology that we use in the firearms
8 department -- we are particular in our terminology as it
9 relates to our evidence. So that way we're reporting out the
10 correct information and it's easily identifiable. As the
11 solicitor was saying, a lot of times you hear as ammunition be
12 referred to as bullets. We need more bullets for the gun. At
13 SLED, we refer to the bullet as just this -- this portion.
14 This is a copper jacketed projectile. This is the actual
15 bullet. That is what travels down the barrel of a firearm
16 towards the target. That bullet is housed in a cartridge
17 case, this cylindrical brass color, to make a complete piece
18 of ammunition. So together, all of that makes an unfired
19 cartridge. The gun is fired, your bullet travels down the
20 barrel of a firearm, and you're left with a fired cartridge
21 case.

22 Q Now, at the risk of sounding overly simplistic and I'm
23 sorry, I probably am being overly simplistic, inside the
24 cartridge case is what I call gun powder or I think you guys
25 may call propellant?

1 A Yes, sir. It could be gunpowder inside of this cartridge
2 case, there is a gunpowder. And I do have some in this small
3 tube. That is what is igniting along with the primer in the
4 cartridge case, to ignite the cartridge and propel that
5 projectile down the barrel. Yes, sir.

6 Q Okay. Now, if you would, please, can you show us a
7 little bit about different size ammunition?

8 A Sure.

9 Q For example, very commonly we see a 9-millimeter Luger
10 caliber. That's -- 9-millimeter Luger is just a designation
11 of this cartridge. So for example, this is a complete unfired
12 cartridge, again, that is commonly referred to as a bullet.
13 But at SLED, this is an unfired cartridge with the cartridge
14 case and the bullet. For size purposes, I'll just sit that
15 right there and I will look at something a little larger.
16 Another common caliber you may have heard of would be 45-auto,
17 and that would be significantly larger than a 9-millimeter
18 Luger. So I will set this as an example. This is a 45-auto
19 caliber. So you can see the diameter of that bullets a lot
20 larger than this 9-millimeter and also that cartridge case.

21 And then one other one just for a more drastic
22 comparison. Let's see here. You may have a .223 Remington or
23 a 5.56 NATO that could be fired in some rifles or pistols.
24 And so that's a little -- a little different than these pistol
25 calibers. But this is what an example of that cartridge would

1 look like. So you have a longer cartridge case and a
2 different style bullet. So I'll sit it there just for size
3 purposes so you can see.

4 Q Do you have any other sizes here?

5 A Yes, sir, I do.

6 Q Please continue, I think --

7 A Okay.

8 Q -- it would be beneficial for the comparison.

9 A Okay. Going back to that 9-millimeter Luger. All of
10 that falls within a nominal 38-caliber. And that's kind of
11 just like the umbrella term that encompasses all of the
12 various calibers that you may have heard of. You hear
13 commonly or people are looking at the store for ammunition
14 such as 9-millimeter Luger, 380-auto, 357 Magnum, 38 Special.
15 Those are all more familiar calibers than you hear of nominal
16 38 And so I did bring a few of those as well.

17 This, for example, shares a very similar bullet diameter
18 as the 9-millimeter luger. However, it's a different
19 cartridge. This is a 38 Special. You hear a lot about that
20 with revolvers. If you think about like cowboy action
21 shooting or something like that, that's a revolver. So you
22 associate that with revolvers commonly. Along those same
23 lines is another very similar cartridge, which is 357 Magnum.
24 It also shares the same bullet diameter, but it's just a
25 slightly larger cartridge than the 38 Special. And then last

1 but not least in that nominal 38-caliber family, I brought a
2 380-auto. You think of 380-auto like 9-millimeter to be a
3 more of a pistol caliber or handgun caliber and its same
4 bullet diameter. Very, very similar bullet diameters there,
5 but it's a small, shorter cartridge. So I'll set those there
6 just so you can see the progression in size. I have three
7 others. You may have also heard of 10-millimeter auto. It's
8 very similar to 40 Smith and Wesson. And that's one you may
9 be more familiar with. They're also very similar with bullet
10 diameters. However, their cartridges are a little different.
11 And I'll sit the 40 Smith and Wesson and the 10-millimeter
12 auto. And last but not least, a 7.62 by 39. So if you think
13 of a larger rifle, commonly you hear this with AKAs and SKS
14 type style rifles. This is a cartridge that would be used to
15 fire that round. So I'll sit that right there. And those are
16 all the cartridges that I have.

17 Q Okay, so we're looking at 380-auto, 9-millimeter, 38,
18 Special--

19 A And 357.

20 Q -- 357, 45 ACP, 5.56, 7.62, 10-millimeter, and 40-
21 caliber?

22 A That's correct.

23 Q Now, for our purposes, and we're not quite there yet, in
24 the evidence submission in this case, you actually had to
25 examine quite a few different rounds; is that correct?

1 A That's correct.

2 Q I'm sorry, I used rounds. Cartridge casings, bullet
3 fragments, fired bullets, et cetera?

4 A Yes, sir.

5 Q Okay. And your report touches on, I believe, probably
6 everything that's there in front of you. Is that correct?

7 A Yes, sir. Several of those items that were submitted to
8 the SLED laboratory are represented in this demonstration.

9 Q Okay. All right. If we can, please -- because of some
10 of the nomenclature around the 38 family --

11 A Um-hum.

12 Q -- if we could leave those close by. But if you need
13 to --

14 A Sure.

15 Q -- move the other ones, that's fine. Now, Mr. Greer, do
16 you have available to you a copy of your report?

17 A Yes, sir, I do.

18 Q Okay, and in this particular incidence, you received
19 quite a volume of material from the Sumter Police Department
20 concerning this case. Is that correct?

21 A That's correct.

22 Q Okay. Now, I want to make sure that we understand this.
23 You are not a crime scene analyst.

24 A That's correct.

25 Q So you did not come to Sumter?

1 A No, sir. I did not respond to the scene here in Sumter.
2 Nor do I have the training to be the crime scene analyst.

3 Q Okay. All right, if you would please begin to walk us a
4 little bit through your report in telling us what you found.

5 A Okay.

6 Q Okay, and by the way, there's an item that has previously
7 been submitted into evidence, which is State's Number 26,
8 where we have attempted to take our crimes -- or excuse me,
9 Det. Snapp has taken her crime scene diagram and laid it over
10 with your item numbers.

11 A Okay.

12 Q But you wouldn't have knowledge as to placement in the
13 crime scene?

14 A No, sir.

15 Q Okay. Very well.

16 A Submitted to the SLED laboratory in this case, as
17 mentioned, we had three firearms that were submitted for
18 comparison to the fired evidence.

19 Fired evidence, there were multiple different calibers of
20 cartridge cases and also multiple projectiles. So our
21 results, when we're looking at all of this evidence, were
22 rather lengthy to compare. When I'm looking at the cartridge
23 cases, I'm looking at small marks that are on the primer of
24 that cartridge case. Since I have one, I'll just show you.
25 I'm looking at tiny little scratches that are -- are

1 striations or impressions that are placed there from the gun
2 in which they were fired. And I look at all of that under a
3 comparison microscope, which is basically two microscopes
4 joined together through an ocular bridge so I can look at two
5 items at one time.

6 So to do my examination, I would have test fired these
7 firearms that were submitted, gathered those test specimens --
8 and began to look at that under magnification. Prior to that,
9 I would have looked at all of the evidence and documented
10 through photography, and made notes on our departmental
11 worksheets for each piece of evidence. So when it came time
12 to look at all this on the microscope, I was able to look at
13 those cartridge cases and those bullets and start to group
14 things by their overall characteristics, and then hone in a
15 little bit on their more individual features under the
16 microscope in order to reach these results.

17 In looking at those fire cartridge cases, I was able to
18 positively identify several of them with the item 5 pistol
19 that was submitted to SLED.

20 Q Bear with me one moment right there --

21 A Yes, sir.

22 Q -- because you just mentioned item 5.

23 A Um-hum.

24 Q And if you would, please, within your description of item
25 5 -- I'm going to show you what's previously been marked as

1 State's Exhibit 39, which is in evidence.

2 A Um-hum. This firearm is unloaded. It's safe for me to
3 handle. I will keep it pointed in my direction. I -- I do
4 recognize this -- this firearm. I'm looking for a few
5 features here. When we receive evidence, we typically scribe
6 that. So I'm looking for some of those identifying features.
7 When it comes to SLED, we give everything a SLED lab number
8 and item number, so that way it can be tracked within our own
9 laboratory. And I also see my initials. And I do recognize
10 this as SLED item 5, which is State's Exhibit 39.

11 Q And I'm sorry I interrupted you. You were telling us
12 about some items associated with item 5?

13 A Yes, sir, that's correct. I was able to identify that
14 several of those cartridge cases -- and those were SLED items
15 74, 75, and items 84 through 88 were fired by the SLED item 5
16 pistol, which is State's Exhibit 39.

17 Q Okay. Now, bear with me one moment, please. So SLED
18 item number 5?

19 A Yes, sir. The firearm --

20 Q Is that correct?

21 A Um-hum.

22 Q Okay. And from that pistol, you matched it to SLED item
23 74?

24 A That's correct.

25 Q 75 --

1 A And 84 through 88.

2 Q 84, 85, 86, 87, and 88. Is that correct?

3 A Yes, sir.

4 Q Okay. Now, I know this is going to be a little bit
5 tedious, but could I have you step down for just a moment --

6 A Um-hum.

7 Q -- and verify what we have listed with item 5?

8 A Yes, sir.

9 THE WITNESS: Permission to step down?

10 THE COURT: Oh.

11 Q So we have created a column here, and the 14 represents
12 the yellow placement number from the Sumpter Police
13 Department --

14 A Okay.

15 Q -- and the 5 represents your item number?

16 A Yes, sir. So 74, 75, 84 through 88, and that would be on
17 the diagram in that red color. 74, 75 -- 4 -- 84, 85, 86, 87,
18 and 88. Yes, sir.

19 Q Okay. Very well. And then, matching the red 5 here --

20 A Yes, sir.

21 Q -- for item number?

22 A Yes, sir. And that, I -- I assume (indiscernible) the
23 place where the firearm was recovered.

24 Q Okay. Thank you. And I'm sorry to run you back and
25 forth, but if I can send you back to the witness stand and

1 we'll probably have to come back, and -- would you be more
2 comfortable here, or from the witness stand?

3 A Either -- either place is fine.

4 Q Okay. If it'll save you the trip, we can do it right
5 here.

6 A Yes, sir.

7 Q Okay. Were you able to group any other cartridge casings
8 together?

9 A Yes, sir. The next group of cartridge cases that I was
10 able to identify as being fired by the same firearm were SLED
11 item 72, 93 through 95, item 97, and item 99 through 105. And
12 those were identified as having been fired by another -- the
13 same firearm, but a second firearm. I did not have a firearm
14 to -- to match those to.

15 Q Okay. I want to pause you there for just a moment,
16 because I think I may have asked the question incorrectly.
17 When I said "firearm" -- excuse me -- "fired shell casings
18 from the same gun", not item 5. Not the item 5 gun.

19 A Right.

20 Q So the ones we have in blue here are from a different
21 gun?

22 A That's correct. In my report, I did label that as
23 firearm A, as exhibited here, for a reporting purpose to make
24 it more clear. So these that I just listed were identified as
25 being fired by the same firearm, but that firearm is

1 represented as firearm A from here on out.

2 Q Okay. So in other words, we don't have firearm A --

3 A Correct.

4 Q -- for you to test them against?

5 A That's correct.

6 Q You could test -- you compared them to each other to
7 determine that they came from the same gun?

8 A Yes, sir.

9 Q Okay. So basically, unknown gun A?

10 A That's correct.

11 Q Which is a 9-millimeter?

12 A Correct.

13 Q Okay. So that's SLED numbers 93, 94, 95 --

14 A 97.

15 Q -- 97, 99, 100 01, 2, 3, 4, 5. Is that correct; it looks
16 like we put 100 (indiscernible) --

17 A Yes, sir.

18 Q All right. Now, were you able to group any other
19 cartridges together?

20 A Yes, sir. I was able to look at other cartridge cases,
21 SLED items 89 through 92, 96, 98, 107, and 138, and I
22 identified them as having been fired from the same firearm,
23 and we'll call that firearm B. Again, that's another group of
24 cartridge cases that we did not have a firearm to match back
25 to, or to compare against.

1 Q All right. So now we are at 89, 90, 91, 92, 96, 98 --

2 A 107.

3 Q Bear with me one moment. Oh. Sorry. 107 --

4 A 107.

5 Q -- and --

6 A And then, 138.

7 Q I believe that was from Det. Kearney. Okay. Thank you.

8 All right.

9 Now, firearm B is also a 9-millimeter pistol?

10 A That's correct.

11 Q I'm sorry. A 9-millimeter?

12 A Yeah.

13 Q Okay.

14 A Those cartridge cases were 9-millimeter Luger caliber
15 cartridge cases.

16 Q Okay. Now, was this group and this group -- which we
17 have assigned to unknown pistols -- but are they different
18 pistols?

19 A They are. Those are different pistols.

20 Q Okay. So orange pistol didn't fire any blues, and blue
21 didn't fire any oranges?

22 A That's correct.

23 Q Okay. Did you have any other groupings that matched?

24 A Yes, sir. In looking at other cartridge cases, I was
25 able to determine that items 109 and items 112 through 115

1 were all fired by the same firearm. However, it is not any of
2 the ones we've discussed, so that was represented as firearm
3 C.

4 Q Okay. So for our purposes, we placed that in green.
5 What caliber fired cartridge cases are those?

6 A Those were 40 Smith & Wesson caliber cartridge cases.

7 Q All right. So we have 109 --

8 A Um-hum.

9 Q -- 112, 13, 14, and 15; is that correct?

10 A That's correct.

11 Q Okay. Tell us the next grouping that you have, please.

12 A All right. The next group I was able to match together
13 as having been fired by the same firearm were items 110, 111,
14 and 116. Those were all 40 Smith & Wesson caliber cartridge
15 cases, and I related those to have been fired by firearm D,
16 again, another firearm that we did not have.

17 Q So that's purple 110, 111, and 116?

18 A Um-hum.

19 Q Okay. Any other groupings that you were able to match?

20 A Yes, sir. The next items I were able to identify were
21 items 76 through 83, and those were all fired by the same
22 firearm, and we'll call that firearm E, and those were all 9-
23 millimeter Luger caliber cartridge cases.

24 Q So our 76 through 83 is up here?

25 A Yes, sir.

1 Q Is that correct?

2 A Um-hum. 76, 77, 8, 79, 80, 81, 82, and 83.

3 Q Okay. Now, I know I keep asking this, but I just want to
4 make sure. Green didn't fire orange or blue -- green gun only
5 fired green cartridges? Purple Only fired these? Blue Only
6 fired these?

7 A That is correct.

8 Q Okay. What else did you discover there?

9 A I was able to determine that item 125 was fired by
10 another firearm, and that was called firearm F, and that was
11 in 7.62 by a 39 caliber. So it's the only cartridge case in
12 that caliber that I received.

13 Q All right. So 125 was a single?

14 A Yes, sir.

15 Q Okay. And any other groupings that you were able to
16 identify?

17 A Yes. There are a few more. The next was another single
18 cartridge case, and it was SLED item 139, and I labeled that
19 as having been fired from firearm G, and it was a 10-
20 millimeter auto caliber cartridge case.

21 Q Yeah. That one is not from the same? Okay. All right.
22 Do we have another grouping there?

23 A Yes, sir, we do.

24 Q Okay.

25 A Another group that I was able to identify were SLED items

1 128 through 132. Those were identified as having been fired
2 from the same firearm, and we'll call that firearm H. These
3 were 9-millimeter Luger caliber cartridge cases as well.

4 Q And it's 128 through 132; is that correct?

5 A Yes, sir.

6 Q Which we have denoted as from the Wendy's parking lot?

7 A That's correct.

8 Q Okay. All right. Now, I'm going to attempt -- so from
9 the fire cartridge casings that you collected and tested, you
10 were able to tell us that nine separate guns, at least, left
11 cartridge casings there in the scene or nearby the scene?

12 A Yes, sir. So far, at least nine guns.

13 Q Okay. All right. What else were you able to discover?

14 A Just to go back to firearm H really quick. We did some
15 additional comparisons with that, and that was with test
16 cartridge cases that I fired from the item 69 pistol that was
17 also submitted, and those were inconclusive. So we don't know
18 if that gun fired them or not. So that's why it's still
19 represented as firearm H.

20 I also looked at SLED items 134 through 137. Those were
21 45-auto caliber cartridge cases. And after looking at those
22 under magnification on the microscope, I was unable to
23 determine if they had been fired by the same firearm or by
24 separate firearms. So the results of those comparisons of 134
25 through 137 were inconclusive with each other. However, they

1 were not fired by any of the previous firearms.

2 Q So the 45-calibers here were inconclusive, correct?

3 A Yes, sir. The 45-auto caliber cartridges.

4 Q But none of these guns are capable of firing a 45-
5 caliber?

6 A That's correct. They were -- the results were negative
7 with those cartridge cases.

8 Q Okay. Please continue.

9 A Um-hum. Also, SLED items 106, 108, and 133, those were
10 9-millimeter Luger caliber cartridge cases. However, just
11 like the 45s, after looking at those markings on the cartridge
12 cases under the microscope, the results of the comparisons
13 were also inconclusive. I was unable to determine if they
14 were fired by the same firearm or by more than one firearm.
15 However, they were not fired by any of the other previous
16 firearms as well.

17 Q Okay. So none of these other 9-millimeters fired those?

18 A That's correct.

19 Q Okay. All right.

20 A I also received SLED items 141 through 143. Those were
21 5.56 NATO caliber cartridge cases. And looking at those under
22 the microscope, the results of those comparisons were also
23 inconclusive. So I was unable to determine if they were
24 acquired by one gun or -- or more than one gun. However, they
25 were not fired by any of those other previous firearms that we

1 mentioned.

2 Q Okay. So the 5.56 millimeter -- for lack of a better
3 term -- are not operational in any of these guns?

4 A That's correct. I would not expect that to be.

5 Q Okay. Please continue.

6 A All right. And those were the end of the results for
7 cartridge cases.

8 MR. CORBETT: Your Honor, if I may have the witness
9 return to the stand for just a moment -- if I could approach
10 with counsel?

11 THE COURT: Yeah.

12 (Whereupon, a bench conference was held off the record in
13 the presence of the jury, but out of the hearing of the
14 jury.)

15 (Completely inaudible.)

16 (Thereupon, counsel returned to counsel tables and the
17 following ensued:)

18 (Open court.)

19 Q Mr. Greer, bear with me just one moment. It is the first
20 time I've had a ten-page report from firearms.

21 If we could, please, let's look at SLED items 117 through
22 124. Now, first of all, if you would, please tell us how that
23 is denoted there in 117 through 124.

24 A Items 117 through 124 were originally submitted to the
25 SLED laboratory as projectile from crime scene. When I was --

1 Q Now, here's where I want to stop for just a moment --

2 A Um-hum.

3 Q -- because this is where people like me sometimes get the
4 wording confused.

5 A Yes, sir.

6 Q On your report, it's described as "bullet from crime
7 scene"; is that correct?

8 A Yes, sir.

9 Q Now, that's the projectile that you showed us earlier?

10 A That is correct.

11 Q Okay. All right. Were you able to determine anything
12 about those items based on your examination?

13 A Yes, sir. So when I examined those, I did change that
14 wording for them, where it was submitted as "projectile", to
15 "one fired bullet" for items 117 through 120, item 122, and
16 item 124. Items 121 and items 123 were fired bullet
17 fragments. And so I -- I changed that from "projectile" to
18 "bullet". Like I said earlier, we're particular about our
19 terminology. So I changed it from "projectile" to "bullet" to
20 be more consistent with how we report.

21 But as far as results for items 117 through 124, items
22 117 and 123, they were most consistent with being a jacket or
23 jacket portion of jacket of bullets loaded into sub nominal
24 38-caliber cartridges, and that includes 9-millimeter Luger
25 and 380-auto caliber, as well as others.

1 Q All right. Let me pause you there for just a moment,
2 because I'm familiar with the 9-millimeter designation, I'm
3 familiar with the designation for 38 Special/357 --

4 A Um-hum.

5 Q -- but you're using the term "nominal 38"; is that
6 correct --

7 A Right. That's correct.

8 Q Okay. So let me ask this question first. The 380 and
9 the 9-millimeter are practically identical in dimension -- or
10 in diameter?

11 A Yes, sir. The diameter of those bullets -- you can't see
12 it there. The diameter of the base is inside that cartridge
13 case, but they are virtually, practically the same. When
14 we're measuring the diameters of these bullets, we're
15 measuring to the thousandths of an inch. So those are
16 manufactured to be practically the same diameter.

17 Q Okay. Now, the 38/357 family is actually slightly
18 different?

19 A They could be slightly larger. When we're talking about
20 these measurements, we're talking about 355,000th of an inch
21 versus something that may be 356- or 357,000th of an inch. So
22 it's a very small difference. The cartridge itself is
23 different. As you can see, they're larger in size there, but
24 the diameter at the base of that bullet is very, very similar.
25 And when we use that nominal term -- again, that's just an

1 umbrella term that encompasses all four of these, actually.
2 That's a good example -- of a nominal 38, and breaking it down
3 into those more familiar calibers that you've heard, of 380-
4 auto and a 9-millimeter Luger, 38 Special and 357 Magnum.

5 Q Now, I'm sorry. I think I got us on a little bit of a
6 tangent, but we were looking at 117, -18, -19, -20, -21, -22,
7 -23, and -24 from your report. And I'm sorry. I interrupted
8 you. You were describing 117 and 123?

9 A Yes, sir.

10 Q Okay.

11 A Those were consistent with being nominal 38 caliber,
12 which include the 380-auto and 9-millimeter Luger.

13 Q Tell us about 118, please.

14 A Okay. 118, as well as 119 and 122, were all consistent
15 with being bullets or the jacket portion of jacket of bullets
16 loaded into some 40 Smith & Wesson or 10-millimeter auto
17 caliber cartridge cases.

18 Q Okay. So they were close enough that it could have been
19 either of those?

20 A Yes, sir.

21 Q Okay. Item 120, please, sir.

22 A Based on its overall characteristics, item 120 was most
23 consistent with being a bullet from a 38 Special or a 357
24 Magnum caliber cartridge.

25 Q And I'm sorry if I get you mixed up on the numbers. I

1 believe I'm at 121?

2 A Yes, sir. Item 121, as well as item 124, we were able
3 to -- or I was able to determine that based on its
4 characteristics, it was most consistent with being a bullet
5 loaded into a 9-millimeter caliber cartridge case.

6 Q Now, let me pause you there for just a moment so I can
7 understand. A nominal 38 could be in that 380- or
8 9-millimeter family, but here, are there some characteristics
9 that push you more toward the 9-millimeter as opposed to the
10 nominal 38 category?

11 A Yes, sir. When we're looking and examining these fire
12 projectiles, these bullets that may be intact, a lot of times
13 they're also damaged, and we may just receive a portion of it,
14 or just a portion of that jacket. So when I'm trying to
15 determine a caliber to report on, I may or may not have a lot
16 to work with. In some of these instances, such as, for
17 example, items 121 and 124, I was able to look at the overall
18 characteristics of those two fired bullets and take into
19 consideration their diameter and also their weight, which is
20 very important to help us determine that it's specifically
21 most consistent with being 9-millimeter Luger. If I don't
22 have all of that information to work with, a great diameter to
23 work with when I take that measurement, or a weight that
24 should be on target for what these bullets normally weigh, I
25 may have to fall back to that nominal 38 caliber. So that

1 way, it encompasses some of these other designations for these
2 calibers that fall into that nominal 38 family.

3 Q Now, Mr. Greer, I'm going to show you what has been
4 marked -- and excuse me -- admitted into evidence as 27-A and
5 27-B, and report to you that 27-A is a bullet recovered from
6 the autopsy of Greg Middleton, 26-B being a bullet recovered
7 from the autopsy of Michael Rogers.

8 A 26 --

9 Q And if you'll bear with me a moment, I will provide the
10 sled number as well.

11 A Okay.

12 THE COURT: I think that's actually 27 and 27-A --

13 MR. CORBETT: I'm sorry.

14 THE COURT: -- is what I'm showing.

15 Q I'm sorry. That is 27-A and 27-B. Thank you.

16 Now, Mr. Greer, I believe your report indicates that the
17 fired bullet listed is from autopsy of Greg Middleton. It's
18 SLED item number 126?

19 A That's correct.

20 Q Okay. Were you able to reach any conclusions concerning
21 that one?

22 A Yes, sir. Based on its observable physical
23 characteristics, that bullet was most consistent with bullets
24 loaded into some 38 Special or 357 Magnum caliber cartridges.

25 Q Now, I believe it is 27-B -- is listed as autopsy of

1 Michael Rogers, SLED item number 127. Were you to reach any
2 conclusions concerning that one?

3 A Yes, sir. Based on its overall physical characteristics,
4 State's Exhibit 27-B, from autopsy of Michael Rogers, was most
5 consistent with being a 9-millimeter Luger caliber.

6 Q And let's take a look at item 140 on your report, listed
7 as being from a Dodge Charger. Were you able to make any
8 determinations from that projectile?

9 A Yes, sir. Item -- SLED item 140, I determined it to be
10 one fired bullet jacket, two pieces of lead, and two pieces of
11 metal. In regards to the fired bullet jacket, I was able to
12 determine that it was most consistent with being the jacket
13 portion of a jacket, a bullet from some nominal 38 caliber
14 cartridges, which again include 380 auto, 9-millimeter Luger
15 caliber, among others.

16 As far as my examinations for the item 140 pieces of lead
17 and metal, due to their damage that they sustained and their
18 small size, I was unable to determine their caliber, and they
19 were also unsuitable for identification for -- with any other
20 evidence.

21 (Counsel confer.)

22 Q Now, Mr. Greer, sir, you test fire weapons regularly; is
23 that correct?

24 A Yes, sir.

25 Q So you have a working knowledge of firearms?

1 A Yes, sir, I may.

2 Q Okay. I'm going to ask you to explain this one to us,
3 and there are some people who grew up around this and they
4 know it like the back of their hand. And there are some
5 people who didn't. I have heard the terms revolver, gun,
6 pistol, handgun, a number of these things used
7 interchangeably.

8 A Um-hum.

9 Q Can you tell us the difference if I say semiautomatic
10 pistol versus a revolver?

11 A Yes, sir. A revolver, we'll start there. If you
12 consider like old Western movies or cowboy action, you'll --
13 you can picture that big gun that may have a long barrel, and
14 it has what we refer to as a cylinder. A cylinder is where
15 you put multiple cartridges in and it rotates around. So you
16 fire around, it rotates, you fire, it rotates. Those
17 cartridge cases stay in that cylinder in each of those
18 chambers typically until it's ejected manually. You remove
19 those by taking that cylinder out of the firearm or tilting it
20 over to the side to -- to remove those. That typically -- to
21 fire that requires one pull the trigger or cocking the hammer
22 and pulling the trigger of that firearm. When we talk about
23 handguns in general, a revolver could be categorized into that
24 because you typically hold it just within your hand. But to
25 take that a step further and to discuss a semi-automatic

1 pistol, that is a firearm that you -- requires a separate pull
2 the trigger for each shot that is fired. So for instance, if
3 you're familiar with firearms, you see a lot of officers carry
4 a Glock. That would be a semi-automatic pistol. To load that
5 firearm, you may put ammunition, unfired cartridges, into a
6 magazine, place that into the magazine well of the firearm,
7 pull the slide back, load a cartridge into the chamber. At
8 that point, the firearm would be in battery. So it's ready to
9 fire. You'd pull the trigger. And by pulling that trigger,
10 it's going to cause the rest of the action of that firearm to
11 be completed automatically. The -- the cartridge will ignite,
12 the barrel will travel down -- I mean, excuse me, the bullet
13 will travel down the barrel, the slide will retract. It will
14 pull that cartridge case out of the chamber of the firearm.
15 So it's going to extract it from the chamber and it's going to
16 eject it out of the firearm. That process, if there's more
17 ammunition available in that magazine, will continue. And
18 it's important to know that it's a semi-automatic. So you'll
19 have to release the trigger for it to reset and pull it again.
20 So the semi-automatic requires a separate pull of the trigger
21 for each shot that's fired.

22 Q Okay. Now, for example, if I can refer you to the 38
23 Special and 357 rounds.

24 A Um-hum.

25 Q Now, that is what's known as a rimmed cartridge, correct?

1 A Yes, sir. Yes, sir.

2 Q And the rim allows it to seat into the cylinder?

3 A Yes, sir. 38 Special and 357 Magnum. Those are a
4 caliber that I would think first of as being a revolver type
5 caliber. I would associate these in my head as being from a
6 revolver. They are rimmed, so that does help them stay in
7 that cylinder of that revolver, that -- that piece that's
8 spinning around feeding -- or revolving to give a new
9 cartridge to be fired.

10 Q Now, as you were describing a moment ago, you would have
11 to either open a load gate or swing the cylinder out and dump
12 the empties out of a revolver.

13 A Yes, sir. Typically, a revolver would have to be
14 manually unloaded in order to remove those fired or unfired
15 cartridges or cartridge cases that are in there and then
16 reload others in there. That would have to be done manually
17 most normally.

18 Q Now, with the semi-automatic pistol, when you pull the
19 trigger and you described that process, the bullet going down
20 the barrel, the slide coming back, that's when the extractor
21 grabs it?

22 A Yes, sir. When that cartridge is fired, that bullet is
23 going to go down that barrel. The extractor in that firearm,
24 which is a part that just clamps around the edge of this
25 cartridge, it's going to grab it and pull it out of the

1 chamber, that fired cartridge case now. So that way it can be
2 ejected from the firearm. And that all happens automatically
3 as a result of that firing process. And that gun, the way it
4 is designed, will extract and eject that cartridge. The slide
5 of that cartridge -- that pistol will go back and then forward
6 and load a new -- another available cartridge, if there's one
7 in the magazine.

8 Q If you would, please, just show us item number 5 there.
9 That would be the example of a semiautomatic pistol, correct?

10 A Yes, sir. This is an example of a semi-automatic pistol.
11 So this is the slide portion. This is the barrel. So when a
12 cartridge is fired, it's in the chamber here. When you pull
13 the trigger, that is what starts that process of it being
14 automated and that action working on its own.

15 Q Yeah, I'm going to get you to place that back in the box.
16 Is there a magazine with that?

17 A There is.

18 Q Okay, I want to treat them separately.

19 A Okay.

20 Q If you would show us the magazine?

21 A Okay. This is the magazine of the firearm. So this is
22 the box that -- excuse me, the box that you load cartridges
23 into. And that is placed inside the magazine well of the
24 pistol. So this goes in that magazine well and feeds
25 cartridges to the pistol so it can be fired.

1 Q Okay. Now, when you say magazine well, we're typically
2 talking about up through the handle?

3 A Correct. Yes. Commonly, it is there where you're
4 holding that gun right here at the at the butt of the gun is
5 what it's called.

6 Q Okay. Now, if a semi-automatic pistol is working
7 properly, you do not have to do anything extra to get rid of
8 that that fired cartridge case?

9 A No, sir, you should not. It should extract and eject
10 that cartridge case unless there's some type of failure.

11 Q So is it fair to say that if you're firing a revolver,
12 unless you take the manual steps to dump that cylinder, you
13 will not find fired cartridge casings?

14 A No, sir. Unless those were manually dumped, you would
15 not expect to find that after a revolver has been in an area.

16 Q Okay. Now, if a person is shooting a semi-automatic
17 pistol, such as a common 9-millimeter, you would expect that
18 one to eject fired cartridge casings?

19 A Yes, sir, I would expect that.

20 Q Okay. And let me ask this question. You're familiar
21 with a wide variety of semi-automatic pistols?

22 A Yes, sir.

23 Q Some of them have a rather large capacity; is that
24 correct?

25 A There are magazines that do have a higher capacity that

1 allow for more cartridges.

2 Q So something in the 12 to 15 range is not particularly
3 uncommon with modern semiautomatic pistols?

4 A No, sir, it's not.

5 Q Mr. Greer, thank you for bearing with me for just a
6 moment.

7 A Um-hum.

8 Q So your semiautomatic pistols, not always, but tend to
9 have a higher capacity than your revolvers?

10 A Yes, it's possible. Yes, sir.

11 Q Okay. If I ask the question, what's the normal capacity
12 for a revolver, what's most commonly seen?

13 A It would depend on the caliber. You know, with smaller
14 calibers, such as a .22 long rifle, you may expect to see more
15 chambers in that -- excuse me, chambers in that cylinder, you
16 may even have somewhere up to 12. With a larger caliber, you
17 may see a smaller amount, five -- five chambers or six, seven,
18 eight. It just depends on the caliber and the firearm.

19 Q Okay. So with a larger caliber revolver, normally
20 something in the five to eight range?

21 A That -- possibly. There could be more or less.

22 Q Now, if there's a 38 Special being fired at a crime
23 scene, you would not be surprised if there were no 38 Special
24 casings on the ground?

25 A If those were fired in -- in a revolver, which I commonly

1 would associate that to a revolver, I would not be surprised,
2 as the manufacturing and the design of that revolver does not
3 automatically leave cartridge cases behind, no, sir.

4 Q Okay. So the revolver retains its empties?

5 A Yes, sir. That would be correct.

6 Q And I'm sorry, I'm a little bit out of sequence, but I
7 did want to touch on this. The magazine that we talked about
8 for the semiautomatics?

9 A Um-hum.

10 Q Is that what some folks will refer to as a clip?

11 A Yes, sir. It's commonly called a clip.

12 Q Mr. Greer, I just want to make sure that I said it
13 clearly -- or asked it clearly may be the better way of saying
14 it. The Gregory Middleton bullet, State's Number 27(a), SLED
15 item 126. Your examination of that bullet showed what?

16 A It was most consistent with being 38 Special or 357
17 Magnum caliber. There were some comparisons as well with that
18 bullet.

19 Q Okay. So the bullet taken from Mr. Middleton is in the
20 38 Special, 357 description. That's most commonly associated
21 with the revolver.

22 A That -- that was common. Yes, sir. There may be other
23 farms that would fire that, but commonly, when I would
24 associate 357 or 38 Special, I would consider a revolver.

25 Q Okay, and the revolver retains its empty shell casings?

1 A That's correct.

2 Q Now, 27(B), I just want to make sure I'm putting the
3 right names and right numbers together. 27(B), which is the
4 Rogers autopsy bullet.

5 A Um-hum.

6 Q Which is SLED item 127, you were able to determine from
7 it that -- I'm sorry.

8 A Yes, sir. It was most consistent with being a bullet
9 loaded into 9-millimeter Luger caliber cartridges.

10 Q Okay. Most commonly associated with a semiautomatic?

11 A Yes, sir, that's possible.

12 Q Okay. Thank you very much. Please answer any questions
13 defense counsel may have.

14 A Yes, sir.

15 CROSS-EXAMINATION

16 BY MR. YOUNG:

17 Q Agt. Greer, thank you for coming.

18 A Yes, sir.

19 Q Just a few questions.

20 A Um-hum.

21 Q First of all, the bullet that came out of Middleton was
22 consistent with a 38 Special or 357; is that correct? Is that
23 your report?

24 A Yes, sir, that's correct. Yes, sir.

25 Q And on this chart here, which shows all of these other

1 bullets, everything else, did you find any bullets that were
2 consistent with 357 or 38 Special?

3 MR. CORBETT: Your Honor, may we approach?

4 THE COURT: Sure.

5 (Whereupon, a bench conference was held off the record in
6 the presence of the jury, but out of the hearing of the
7 jury.)

8 (Completely Inaudible)

9 (Thereupon, counsel returned to counsel tables and the
10 following ensued:)

11 (Open court.)

12 Q Let's try this again. Agt. Greer?

13 A Yes, sir.

14 Q In all the material that was presented to you, did you
15 find any evidence of any other 38 bullets off page 357?

16 A Yes, sir. There were two other items that were
17 submitted. That was SLED items 120 and 146 that I determined
18 were most consistent with being 38 Special or 357 Magnum
19 caliber.

20 Q All right. Did they match up with the bullet from Mr.
21 Middleton? In any way other than the size?

22 A When I compared those three items. So that was SLED
23 items 120 -- 126, which is also State's Exhibits 27(A) and
24 item 146, the results of those comparisons were inconclusive.
25 Those bullets had sustained damage as they traveled to their

1 target, and ultimately I was unable to determine if they were
2 fired by the same firearm or by different firearms.

3 Q So the reason you couldn't determine was because of the
4 damage of the projectile?

5 A Yes, sir, that's correct.

6 Q It doesn't mean they didn't come from the same weapon.
7 It's just that they were so damaged you couldn't compare?

8 A Correct. They could have been fired by the same gun and
9 they could have been fired by more than one gun.

10 Q All right. All this other stuff. Indicates that it came
11 from semi-automatic pistols; is that correct?

12 A Yes, sir, it's possible.

13 Q And there were no casings for 38s or 357 Magnums
14 (indiscernible) bullets? Or casings, excuse me?

15 A No, sir. I did not receive any at the SLED laboratory
16 that were that caliber.

17 Q Okay. One second, please.

18 (Counsel confer.)

19 MR. YOUNG: If it pleases the Court. that's all the
20 questions I have. Thank you, Agt. Greer.

21 THE WITNESS: Yes, sir.

22 THE COURT: Any redirect?

23 MR. CORBETT: Nothing on redirect.

24 THE COURT: Thank you, Mr. Greer. You can step down.

25 THE WITNESS: Thank you.

1 (Whereupon, a bench conference was held off the record in
2 the presence of the jury, but out of the hearing of the
3 jury.)

4 (Completely inaudible).

5 (Thereupon, counsel returned to counsel tables and the
6 following ensued:)

7 (Open court.)

8 THE COURT: Okay, ladies and gentlemen, for better or
9 worse, this is our stopping point for today. I say that
10 because I hate to promise you all that the case is not going
11 to go into next week. And then here we are and we have lost
12 our court date tomorrow. Had this happened to me in Colombia
13 a few years ago when a hurricane came through and we lost a
14 day. There's really nothing I can do to solve this. Even if
15 you all were willing to come in tomorrow, we have to have all
16 the personnel to make all this happen, and it's outside of my
17 hands. So I'm going to ask you all to be back at 9:30 on
18 Monday.

19 So that gives you a three-day weekend that you've got to
20 follow my instructions to not talk about the case. And you
21 all have been very attentive. I appreciate you all being
22 here. I'm sorry that we're going into next week. I have no
23 doubt that you're going to follow my instruction not to have
24 any deliberations, not to have any contact with anyone, not to
25 read anything, and not to discuss the case at all until we

1 reconvene next week.

2 Anything else that you all would like me to go over with
3 the jury?

4 MR. CORBETT: No, ma'am.

5 THE COURT: I think we'll start back at 9:30 on Monday
6 morning. We're going to be doing some work when you all leave
7 right now. We're going to be doing some work. We're going to
8 be doing some work over the weekend so that when we finish the
9 testimony, we'll be able to kind of keep going right along
10 into closing arguments and getting the instructions to you so
11 you can start your deliberations. So I'm sorry we're having
12 to ask you to come back Monday, but we appreciate you very
13 much. And we will see you Monday at 9:30 a.m. Please be
14 careful over the weekend.

15 (Whereupon, the jury exited the courtroom at 5:10 p.m.)

16 THE COURT: Okay, so what we discussed at sidebar, I
17 would just like for you all to be thinking about your jury
18 charges and if you're going to be requesting a charge on
19 lesser includeds so we can hash that out without the jury
20 sitting there while we're having those discussions. If it's
21 at all helpful to you, I can email you what we've got so far,
22 and at least I'll give you a jumping off point and you'll know
23 what you want to object to or what you want to add to. But
24 again, anything that you're proposing, if you can start
25 thinking about that now and I'll email you what we've got.

1 MR. YOUNG: Thank you.

2 MR. MEADORS: Thank you very much.

3 MR. CORBETT: Thank you, Your Honor.

4 THE COURT: Anything else before we adjourn?

5 MR. MEADORS: No, ma'am. Not from State.

6 THE COURT: And Mr. Young, I don't know if you were in
7 here when we said we got the word from Jamie Campbell got the
8 email from the County that they were closing all the offices
9 tomorrow.

10 MR. YOUNG: I know. My wife will be very upset with me,
11 but we'll get around it.

12 THE COURT: All right. Thank y'all.

13 MR. YOUNG: Thank you.

14 (End of Transcript of Record)

15

16

17

18

19

20

21

22

23

24

25

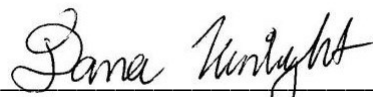
CERTIFICATE OF TRANSCRIBER

State of South Carolina)
)
County of Sumter)

I, DANA KNIGHT, a court-approved transcriber, do hereby
certify that the foregoing is a true, accurate and complete
Transcript of Record of the proceedings had and evidence
introduced in the trial of the captioned case, relative to
appeal, in the Court of General Sessions for Sumter County,
South Carolina, on the 29th day of September, 2022.

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

August 10, 2023



Dana Knight, CDLT-283
Transcriber

I N D E X

<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>

William McFadden				

Mr. Meadors	7		19	

Mr. Warr		16		

Amanda Snapp				

Mr. Corbett	23			

Mr. Warr		33		

Joquell Myers				

Mr. Warr	38		140	

Mr. Corbett		66		

Defense Rests				147

1 THE COURT: Okay. Mr. Meadors, Mr. Corbett, you're ready
2 with your next witness?

3 MR. MEADORS: Yes, ma'am. Before we get going, we just
4 would like the record to reflect that Mr. Young isn't here.
5 And I guess we need to put on the record that Mr. Joquell
6 Myers is fine with going forward with just Mr. Warr. I just
7 want the record to reflect that.

8 THE COURT: Is that correct?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Okay.

11 THE DEFENDANT: I mean, yes, ma'am. My bad. My bad. I
12 was looking at him.

13 THE COURT: That's all right. If I had a nickel for
14 every time I got yes, sir.

15 Could I get you all to approach for just a minute?

16 (Whereupon, a bench conference was held off the record)

17 (Thereupon, counsel returned to counsel tables and the
18 following ensued 😊)

19 (Open court.)

20 THE COURT: Mr. Myers, I understand that Mr. Young is in
21 Charleston with his wife having surgery today. I just want to
22 make sure that you understand, and kind of offer to you, that
23 the State tells me that they will be able to finish this
24 trial -- so in other words, if we re-adjourn tomorrow, and
25

1 basically stood down for the day, and allowed Mr. Young to get
2 back, they tell me they think that we could finish this trial
3 tomorrow.

4 So I just want to make that offer to you, and make sure
5 that you're aware that that is available. If you want to
6 think about that and talk to your attorneys. I'm fine with
7 your decision either way, but I just want to make sure that
8 that's on the record. So let's just be at ease for a few
9 minutes. I'll let you all talk.

10 (Recess.)

11 THE COURT: -- a few minutes to talk with your client?

12 MR. WARR: We have, Your Honor.

13 THE COURT: And --

14 THE DEFENDANT: Yes, Your Honor. I'm ready to go.

15 THE COURT: You want to go forward?

16 THE DEFENDANT: Yes, ma'am.

17 THE COURT: Certainly, I just also want to put on the
18 record that Mr. Boyd Young is also here today, sitting in
19 whatever capacity, who I will like to acknowledge, for the
20 record, is a very experienced and well-respected criminal
21 defense attorney. So for what that's worth, I just want to
22 put that on the record, as well. Thank you.

23 MR. YOUNG: Thank you, Your Honor.

24 THE COURT: Okay. We're ready for the jury.

25 (Whereupon, the jury came into open court at

1 approximately 10:07 a.m.)

2 THE BAILIFF: Jurors are seated, Your Honor.

3 THE COURT: Thank you. Okay. Ladies and gentlemen, good
4 morning.

5 JURORS IN UNISON: Good morning.

6 THE COURT: Thank you for being back with us this
7 morning. I'm glad that you all made it through the storm.
8 We're going to pick it back up with the State's case.

9 Mr. Meadors.

10 MR. MEADORS: Can we approach? May we approach?

11 (Whereupon, a bench conference was held off the record in
12 the presence of the jury, but out of the hearing of the
13 jury.)

14 (Thereupon, counsel returned to counsel tables and the
15 following ensued:)

16 (Open court.)

17 THE COURT: Okay. Ladies and gentlemen, before we start,
18 just want to inquire of you -- and I will do this by just
19 asking in the affirmative, did all of you follow my
20 instructions this weekend not to have any contact with anyone
21 regarding the case? Not to do any independent research or
22 listen to any news reports regarding this case?

23 JURORS IN UNISON: Yes.

24 THE COURT: Okay. Did anyone not follow that, that needs
25 to bring anything to my attention? Okay. Thank you, so much.

1 MR. MEADORS: May it please the Court? Your Honor, the
2 State of South Carolina calls Det. William McFadden.

3 THE BAILIFF: (Indiscernible), raise your right hand,
4 state your name.

5 MR. MCFADDEN: William McFadden.

6 WILLIAM MCFADDEN, after being duly sworn, testified
7 as follows:

8 THE BAILIFF: Thank you, sir. Step forward, please.
9 State your name for the record, and spell your last name,
10 please.

11 THE WITNESS: William McFadden, M-C-F-A-D-D-E-N.

12 DIRECT EXAMINATION

13 BY MR. MEADORS:

14 Q Good morning, Det. McFadden.

15 A Good morning.

16 Q I have called you back today to talk about State's 9, the
17 Facebook live video; you familiar with what I'm talking about?

18 A Yes, sir.

19 MR. MEADORS: It has been entered as State's Facebook 9,
20 and I'll now ask that Inv. Caufield publish that, please.

21 (Thereupon, the visual recording was played.)

22 DIONTRAE EPPS: Killer. I'm (indiscernible).

23 (Indiscernible), Mr. Killer. Boy, you break my

24 (indiscernible), Mr. Killer. Both them follow you, Mr.

25 Killer. I'm (indiscernible).

1 THE WITNESS: Mr. Diontrae Epps and Jay McBride in the
2 video.

3 MR. MEADORS: Wait. Wait.

4 THE WITNESS: Okay.

5 MR. MEADORS: We're going to go back thorough it in a
6 minute, just -- let's play it through, please.

7 THE WITNESS: Okay.

8 (Thereupon, the visual recording was played.)

9 UNIDENTIFIED SPEAKER: (Indiscernible), not me, man. Not
10 me, man. (Indiscernible). I'm gonna (indiscernible), feel
11 me?

12 UNIDENTIFIED SPEAKER: (Indiscernible).

13 UNIDENTIFIED SPEAKER: Not me (indiscernible). But it
14 (indiscernible), but he will -- him and his cop will
15 (indiscernible), and (indiscernible).

16 UNIDENTIFIED SPEAKER: (Indiscernible).

17 UNIDENTIFIED SPEAKER: Okay. (Indiscernible).

18 UNIDENTIFIED SPEAKER: All right.

19 UNIDENTIFIED SPEAKER: (Indiscernible). Don't play with
20 guns. Don't (indiscernible) going to play with guns, you
21 fire. Don't play with cars.

22 UNIDENTIFIED SPEAKER: He fired (indiscernible) car. He
23 fired, bro. (Indiscernible) got me all sweaty in here talking
24 about (indiscernible).

25 UNIDENTIFIED SPEAKER: (Indiscernible).

1 UNIDENTIFIED SPEAKER: Yes, I (indiscernible).

2 UNIDENTIFIED SPEAKER: (Indiscernible).

3 UNIDENTIFIED SPEAKER: Oh. Who do you think you are, Mr.
4 Killer? Who do you think you are, Mr. Killer? Who do you
5 think you are, Mr. Killer? Who do you think you are?
6 (Indiscernible). (Indiscernible).

7 BY MR. MEADORS:

8 Q All right. Now, I'm going to ask you, as we go back
9 through, if you can identify some of these folks, okay?

10 A Sir?

11 Q Can you hear me? I'm going to ask you, as we go back
12 through, if you can identify any of these folks.

13 A Yes, sir.

14 Q Okay.

15 (Thereupon, the visual recording was played.)

16 DIONTRAE EPPS: Killer. I'm a (indiscernible), Mr.
17 Killer. Boy you break my --

18 MR. MEADORS: Stop, please.

19 BY MR. MEADORS:

20 Q Who is this in the first video?

21 A That is Diontrae Epps.

22 MR. MEADORS: Go ahead.

23 (Thereupon, the visual recording was played.)

24 DIONTRAE EPPS: (Indiscernible), Mr. Killer. Both of
25 them follow you, Mr. Killer.

1 THE WITNESS: In the corner, right there, is Jay McBride.
2 You can see him acting like he's shooting a gun.

3 BY MR. MEADORS:

4 Q What's his name?

5 A Jay McBride.

6 Q Okay.

7 MR. MEADORS: Please continue.

8 DIONTRAE EPPS: I'm a (indiscernible). Not me
9 (indiscernible). Not me (indiscernible). I'm
10 (indiscernible). Not me personally, though. But he will get
11 it (indiscernible) him and his car.

12 MR. MEADORS: Stop, please.

13 BY MR. MEADORS:

14 Q Do you know who that is?

15 A Yes, that's still Jay McBride, as well. He's just
16 walking around with the hat. He has a hat on the whole time,
17 turned to the sideways.

18 MR. MEADORS: Okay. Go ahead.

19 (Thereupon, the visual recording was played.)

20 DIONTRAE EPPS: (Indiscernible).

21 THE WITNESS: That's Vincent Willard.

22 BY MR. MEADORS:

23 Q I'm sorry. Who?

24 A Vincent Willard. He's also from Mayesville.

25 He's -- nickname is Butter Love (phonetic).

1 Q Okay.

2 (Thereupon, the visual recording was played.)

3 DIONTRAE EPPS: (Indiscernible).

4 UNIDENTIFIED SPEAKER: (Indiscernible).

5 DIONTRAE EPPS: Nobody out there with (indiscernible).

6 UNIDENTIFIED SPEAKER: All right.

7 DIONTRAE EPPS: And (indiscernible). Don't play with
8 guns. (Indiscernible) play with guns, you fire. Don't play
9 with cars (indiscernible).

10 UNIDENTIFIED SPEAKER: (Indiscernible). Somebody got me
11 all --

12 MR. MEADORS: Stop.

13 BY MR. MEADORS:

14 Q Who is this?

15 A That's Joquell Myers, the defendant in this case.

16 Q Okay.

17 (Thereupon, the visual recording was played.)

18 UNIDENTIFIED SPEAKER: I didn't mean to talk about
19 killing, like --

20 UNIDENTIFIED SPEAKER: (Indiscernible).

21 BY MR. MEADORS:

22 Q What's he doing there? If you can tell, if anything?

23 A He holding the finger to me. It appears that he's
24 shooting a gun, as well.

25 MR. MEADORS: Go ahead.

1 (Thereupon, the visual recording was played.)

2 UNIDENTIFIED SPEAKER: (Indiscernible).

3 MR. MEADORS: Stop.

4 BY MR. MEADORS:

5 Q He was doing this. Do you know what that is?

6 A Yeah, that's hand signals for gang -- it's their -- with
7 their phone (indiscernible), the rolling part was, like,
8 rolling 60 crips.

9 Q All right.

10 MR. MEADORS: Can you go back and show where you said you
11 saw him with what looked like a gun? Can you go back to that?

12 (Thereupon, the visual recording was played.)

13 UNIDENTIFIED SPEAKER: (Indiscernible).

14 THE WITNESS: Right there.

15 MR. MEADORS: Stop.

16 THE WITNESS: And then, you see him rolling his hand like
17 this right here. And then he does -- keep it going.

18 MR. MEADORS: Go back (indiscernible).

19 (Thereupon, the visual recording was played.)

20 UNIDENTIFIED SPEAKER: (Indiscernible).

21 BY MR. MEADORS:

22 Q Is that what you're talking about?

23 A Yes, sir.

24 Q Does it appear his phone was doing that?

25 A That's right.

1 Q And based on your training and experience as an
2 investigator -- look at that, what does that mean to you?

3 A Insinuating that he has a gun.

4 MR. MEADORS: Let's go ahead.

5 (Thereupon, the visual recording was played.)

6 UNIDENTIFIED SPEAKER: (Indiscernible).

7 MR. MEADORS: Now, stop here.

8 BY MR. MEADORS:

9 Q Is Mr. Joquell Myers joining in the singing, the clapping
10 of Mr. Killer?

11 A That is correct.

12 MR. MEADORS: Go ahead.

13 UNIDENTIFIED SPEAKER: Who do you think you are, Mr.
14 Killer? Who do you think you are, Mr. Killer? Who do you
15 think you are, Mr. Killer? Who do you think you are, Mr.
16 Killer?

17 BY MR. MEADORS:

18 Q Did they appear to be enjoying themselves?

19 A Very much so.

20 Q How did you get this video? This Facebook --

21 A It was --

22 Q -- live video?

23 A It was sent to us anonymously.

24 Q I couldn't understand the last word you said.

25 A Anonymous. Anonymous.

1 Q Okay. It was sent to you anonymously?

2 A Yes, sir.

3 Q And does that happen sometimes? Folks in the community
4 will send you evidence in an ongoing investigation?

5 A That is correct.

6 Q Do you know the definition of a goon?

7 A Yes, a goon, maybe, is like a soldier, somebody that
8 is -- pretty much was sent -- a goon is a soldier for that
9 particular gang.

10 MR. MEADORS: Beg Court's indulgence.

11 (Pause.)

12 MR. YOUNG: Your Honor, for the record, I'd like to renew
13 my objection to that video.

14 THE COURT: Yes, sir.

15 BY MR. MEADORS:

16 Q Now, Detective, in that video, you've identified Jay
17 McBride, Diontrae Epps, and Joquell Myers?

18 A And Vincent Willard, as well.

19 Q I'm sorry?

20 A And Vincent Willard, he's in there as well.

21 Q How many of those individuals were at Sunoco on September
22 8th, 2019?

23 A Joquell Myers, the defendant; his brother, Diontrae Epps;
24 and also Jay McBride, the one you seen in the video doing like
25 this, was at Sunoco as well.

1 Q And do you see Diontrae Epps firing a gun at the video on
2 Sunoco -- at Sunoco on September 8th of 2019?

3 A Yes, I do.

4 Q And do you see Joquell Myers firing the gun at Sunoco on
5 September 8th of 2019?

6 A That is correct. Yes, I do.

7 Q How many individuals did you charge for murder at Sunoco
8 on September 8th, 2019?

9 A Everyone that we saw firing a handgun got charged with
10 murder, which would be Joquell Myers and his brother, Diontrae
11 Epps.

12 Q And from the car, we see right at the end of the video,
13 there appears to be a flash, which I think is undisputed,
14 coming from that car?

15 A That is correct.

16 Q Who all did you charge for attempted murder on
17 Christopher Foreman -- Fordham, from that car?

18 A We charged everyone in the vehicle with attempted murder
19 for Chris Fordham, which would be Joquell Myers, the
20 defendant; his brother, Diontrae Epps; Ellquin Williams; and
21 also -- Ellquin Williams, Sheldon Benjamin. It was a total of
22 five of them, all together, vehicle that we charged.

23 Q Diontrae Epps?

24 A Diontrae Epps.

25 Q Joquell Myers.

1 A Joquell Myers; Sheldon Benjamin, also known as POLO; and
2 also -- the other one was -- hold on just a second. So
3 Diontrae, Joquell Myers, Ellquin Williams, Sheldon Benjamin,
4 and Jay McBride got charged for attempted murder.

5 Q And Mr. Fordham was an individual shot from the car?

6 A Yes, sir.

7 Q And the individual driving the red Charger away was who?

8 A The one that was driving the red Charger away was Michael
9 Lucas.

10 MR. MEADORS: Beg Court's indulgence. Your Honor, I
11 think that's all this time.

12 Thank you, very much.

13 THE COURT: Mr. Warr?

14 MR. YOUNG: If it pleases the Court?

15 THE COURT: Yes, sir.

16 CROSS-EXAMINATION

17 BY MR. WARR:

18 Q Det. McFadden, in that Facebook video we just watched,
19 did Trae Epps say he was going to shoot anybody?

20 A He said that there will be a hit. And normally, when
21 somebody say, will be a hit --

22 Q Whoa. Whoa. I don't want your speculation. I want what
23 he said. Answer the question. Did he say he was going to
24 shoot somebody?

25 A No, sir, he didn't.

1 Q Didn't he say that, "We don't play with guns in
2 Mayesville, we fight", and held up his fists?

3 A Yes, sir, that's what he said.

4 Q Okay. And you defined the word "goon" earlier; did that
5 definition come from Webster's? Or where did you come up with
6 that?

7 A No, only through training with our gang detective. He
8 pretty much --

9 Q Are you a gang detective?

10 A No, sir.

11 Q Okay. So you don't have -- you don't specialize in
12 gangs?

13 A No, sir, I don't.

14 Q Okay. And you testified that you charged everyone out
15 there at the scene firing -- that was seen firing a gun with
16 murder -- Trae Epps and Joquell Myers?

17 A Yes, sir.

18 Q Were there other people out there firing guns at the
19 scene?

20 A Yes, but we don't know who all was firing a gun.

21 Q Okay. But there were other people out there?

22 A Yes, sir, it was.

23 Q Okay. Trae Epps and Joquell Myers didn't fire 100 round
24 each?

25 A No, sir, they didn't.

1 Q And Michael Rogers was firing at the scene, too, wasn't
2 he?

3 A Yes, sir, he did.

4 Q And then, the attempted murder of Christopher Fordham;
5 you charged five people. You charged Deontrae Epps, Ellquin
6 Williams Sheldon Benjamin, Jay McBride, and Joquell Myers?

7 A Yes, sir.

8 Q Were any of those charges -- have any of those charges
9 been dismissed or are they all still charged?

10 A I have to preview the court record, because I don't know.
11 I know Jay McBride is deceased at this point in time, so I
12 don't know.

13 Q Oh. Okay.

14 A I know his courts won't be coming up.

15 Q You didn't appear at a preliminary hearing in Jay
16 McBride's case?

17 A Yes, I did.

18 Q Okay.

19 A I think it was a long time ago. I can't remember the
20 exact date and time.

21 Q You don't recall the case being dismissed for lack of
22 probable cause?

23 A I don't remember. I'd have to look at the court records.
24 Honestly, I don't remember.

25 Q Okay. Det. McFadden, the Facebook video, do you know

1 when that was recorded?

2 A No, sir, just based off the --

3 Q So you don't know how long before the shooting this was
4 recorded?

5 A All I can tell you is that August 8th, per another
6 witness that testified.

7 Q Okay. Do you know if Killah Mike ever saw this video
8 live?

9 A I don't know if he did or he didn't.

10 Q Okay. So you don't know if he ever saw the video?

11 A I don't know that, per the witnesses.

12 MR. WARR: Okay. No further questions, Your Honor.

13 REDIRECT EXAMINATION

14 BY MR. MEADORS:

15 Q What is Webster's definition of goons?

16 A Sir?

17 Q What is Webster's definition of goons?

18 A A soldier. I would --

19 Q Thugs, bullies?

20 A Correct. Thugs and bullies.

21 MR. MEADORS: (Indiscernible).

22 THE COURT: Thank you, sir; you can step down.

23 MR. MEADORS: Your Honor, we -- to -- for a time -- Your
24 Honor, this may be a good time for a break. I think it'll
25 help down the road.

1 THE COURT: Okay. Ladies and gentlemen, if I can ask you
2 to step back into the jury room. Please don't begin
3 discussing the case.

4 (Whereupon, the jury exited the courtroom at 10:27 a.m.)

5 MR. MEADORS: Thank you, Your Honor. Beg the Court's
6 indulgence.

7 (Recess.)

8 THE COURT: Okay. We're ready for the jury.

9 MR. WARR: Your Honor, I have one matter I'd like to take
10 up for the record, before.

11 THE COURT: Sure.

12 MR. WARR: I'd like to move to strike the Facebook video
13 and the testimony of Det. McFadden, because an uncommunicated
14 threat is not evidence. And they have failed to show that
15 that threat -- the alleged threat, the video, has been -- was
16 actually communicated to Killah Mike prior to this incident.
17 There's been no testimony to that effect.

18 And I also would move to strike the reference to the gang
19 membership on Mr. Myers' behalf. There's no evidence of that
20 in the record, either, other than the opinion of Det.
21 McFadden, that that could be a gang symbol. It's nothing more
22 than a character assassination and should be prohibited under
23 Rule 404(b).

24 THE COURT: Mr. Meadors, do you want to respond?

25 MR. MEADORS: Your Honor, it's relevant. Shortly

1 beforehand -- we've got a witness testifying three weeks
2 beforehand, or in that area, this Facebook Live video was
3 sent. We clearly think it's relevant.

4 It's talking about Killah Mike. It's the same
5 individuals that did fire a weapon at Sunoco shortly after
6 this video. And it clearly goes to establish ill will, which
7 we're hoping, Your Honor, will consider mutual combat as we go
8 forward, between the parties. And (indiscernible), we could
9 establish it, so the Facebook video saying, "We're coming to
10 get you."

11 THE COURT: I'm going to respectfully deny the motions.
12 I do think that the Facebook video, if the only relevance was,
13 say, self-defense, and the threat wasn't communicated to the
14 person who was claiming self-defense, I can see where your
15 argument would come into play. But I do think it's relevant
16 to establish motive and toward the issue of who the aggressor
17 was in the case. I believe there has already been some
18 testimony about this being gang related in some way, shape, or
19 form. So I'm going to respectfully overrule your objection.

20 MR. WARR: Thank you, Your Honor.

21 THE COURT: Thank you. You are preserved for the record,
22 sir.

23 MR. CORBETT: Your Honor, Mr. Warr had made inquiry about
24 some photographs of a truck that we believe was part -- at the
25 Sunoco station. So the State's going to recall Det. Snapp, in

1 an effort to address some of his concerns.

2 THE COURT: Okay.

3 (Whereupon, the jury came into open court at
4 approximately 10:47 a.m.)

5 THE BAILIFF: Jury is all seated, Your Honor.

6 THE COURT: Okay. Thank you.

7 Mr. Meadors?

8 MR. CORBETT: Your Honor, may it please the Court? Jason
9 Corbett on behalf of the State. At this time, we would recall
10 Det. Amanda Snapp.

11 THE COURT: Okay.

12 THE BAILIFF: (Indiscernible), state your name.

13 MS. SNAPP: Amanda Snapp.

14 AMANDA SNAPP, after being duly sworn, testified as
15 follows:

16 THE BAILIFF: Thank you. (Indiscernible). State your
17 name for the record; spell your last name, please.

18 THE WITNESS: Amanda Snapp, S-N-A-P-P.

19 MR. CORBETT: And Judge, I'm sorry. I should have asked
20 this previously. Are the monitors in the jury box turned on?

21 THE COURT: I can't answer that. The monitors in the
22 jury box, these? The ones in the jury box?

23 UNIDENTIFIED SPEAKER: (Indiscernible).

24 THE BAILIFF: Oh, I'm sorry.

25 MR. CORBETT: They're on.

1 THE BAILIFF: There they are.

2 THE COURT: Okay. Thank you.

3 DIRECT EXAMINATION

4 BY MR. CORBETT:

5 Q Det. Snapp, welcome back.

6 A Thank you, sir.

7 THE WITNESS: Good morning.

8 UNIDENTIFIED JUROR: Good morning.

9 UNIDENTIFIED JUROR: Morning.

10 BY MR. CORBETT:

11 Q If we could, we wanted to touch on one more matter; have
12 you had occasion to see the surveillance video from the Sunoco
13 gas station, the night in question?

14 A Yes, I have.

15 Q Okay. And I know that in the video it's a little bit
16 dark on that side facing back toward the Wendy's, but did
17 there appear to be a pickup truck parked near that corner?

18 A Yes, there appeared to be a light-colored pickup on the
19 Wendy's side of the building.

20 Q Okay. Now, did you have occasion to examine a pickup
21 truck sometime after the shooting?

22 A Yes, I did.

23 Q Okay. Do you remember about how many days elapsed
24 between?

25 A So the incident occurred on September 8th, and the truck

1 in question arrived at a body shop here in Sumter on the 13th.

2 Q Okay.

3 A So a few days.

4 Q Okay. So about five days --

5 A Five Days.

6 Q -- later --

7 A Yes.

8 Q -- correct?

9 A Yes.

10 Q Okay. Now, did you go to the body shop and look at that
11 truck?

12 A Yes, I did.

13 Q Okay. Did it have in it what appeared to be bullet
14 holes?

15 A Yes, it did.

16 Q Okay. Were you able to recover any testable or usable
17 evidence, in terms of bullets?

18 A I did not recover any from that vehicle, no.

19 Q Okay. Now, I know that me and you are making a little
20 bit of a leap here, but we've seen a darker outline of a truck
21 at the Sunoco; five days later, you're examining a truck with
22 bullet holes?

23 A Correct.

24 Q All right. You can't definitively tell us they're the
25 same truck?

1 A Not definitively. And the video was a little grainy, as
2 well, so you can't specifically say that that was the exact
3 vehicle.

4 Q Okay. But we do have a truck that came to a body shop
5 five days later, and it had bullet holes in it?

6 A Yes, it did.

7 Q Okay. All right. Did you take some pictures of that
8 vehicle?

9 A Yes, I did.

10 MR. CORBETT: Okay. Judge, is this without objection,
11 Mr. Warr?

12 MR. YOUNG: Without any objection.

13 MR. CORBETT: Judge, I believe without objection, we're
14 going to show a series of photographs that will be State's
15 Number 40

16 (WHEREUPON, State's Exhibit No. 40 was marked for
17 identification only.)

18 THE COURT: Okay. 40 is admitted.

19 (WHEREUPON, State's Exhibit No. 40 was received into
20 evidence.)

21 MR. CORBETT: And Judge, are the large monitors
22 available?

23 THE COURT: Yes.

24 BY MR. CORBETT:

25 Q Now, Det. Snapp, if you don't mind, I'm going to step

1 here, so I can see the monitor.

2 A Okay.

3 Q Is this the pickup truck in question?

4 A Yes, this is a pickup truck at Scott Will Toyota
5 dealership --

6 Q All right.

7 A -- body Shop.

8 Q Okay.

9 MR. CORBETT: Next photograph, please.

10 BY MR. CORBETT:

11 Q Okay. Now, we appear to see some damage on the pickup
12 truck with some writing around it?

13 A That would be correct. When I received the call about
14 this vehicle, the body shop had already started looking at it.
15 And when you go to a body shop, they mark a lot of areas
16 of -- any areas of damage. They'll put little markers around
17 and take photos as well, so that is what you see.

18 Q So it appears to me that there are some --there's some
19 pink writing as well as pink lines?

20 A Yes. That would be from --

21 Q Is --

22 A -- from the shop.

23 Q Not from you?

24 A No.

25 Q Okay. All right.

1 MR. CORBETT: Next photo, please.

2 BY MR. CORBETT:

3 Q Now, are we looking at suspected gunshots here?

4 A Yes, it appears that there are at least two holes on that
5 side, from what I can tell, and an indentation where one came
6 from another side.

7 Q Okay. So it looks like we've got -- all right. Well,
8 let me stop there for a moment. Are you able to tell which
9 side of the truck this is, in terms of passenger or driver?

10 A This is the driver's side.

11 Q Okay. So on the driver's side, the picture appears to
12 show two holes going in, and what appears to be an impact
13 coming from the opposite direction as well?

14 A Best as I can tell, yes.

15 MR. CORBETT: Okay. Next picture, please.

16 BY MR. CORBETT:

17 Q Just a different angle of the same picture?

18 A Yes.

19 Q Okay.

20 MR. CORBETT: Next.

21 BY MR. CORBETT:

22 Q And this picture gives us some reference for it being the
23 driver's side?

24 A Correct.

25 Q Okay.

1 A And I think the reason that it's kind of at an odd angle
2 is because I didn't have very much space, because it was a
3 tight little area in the garage there, so I think that's why
4 it's a little tight looking.

5 MR. CORBETT: Okay. Next photo, please.

6 BY MR. CORBETT:

7 Q Okay. And again, we see some of the same mark writing
8 there?

9 A Uh-huh.

10 MR. CORBETT: Okay. Next photo.

11 BY MR. CORBETT:

12 Q And this is still the driver's side, but looking from
13 front to back?

14 A Yes, driver's side.

15 Q Okay. Now, which side are we looking at here?

16 A This is the passenger side.

17 Q Okay. And that's also asuspected bullet hit?

18 A It appears -- appears to be another bullet hole there.

19 MR. CORBETT: Okay. Next, please.

20 BY MR. CORBETT:

21 Q And just a little bit wider angle?

22 A That's correct.

23 MR. CORBETT: Okay. Next, please.

24 BY MR. CORBETT:

25 Q Okay. We're now moving down the side of the

1 passenger -- I'm sorry. We're now moving along the passenger
2 side of the truck?

3 A Yes.

4 MR. MEADORS: Okay. Next photo, please.

5 BY MR. CORBETT:

6 Q Okay. Now, are you able to tell us what we see here?

7 A In this photo, it looks like the body shop has marked an
8 area right in that area that you have the pointer. That would
9 be, possibly, a bullet coming from the other side that would
10 have impacted going outwards. And then right above it in the
11 railing, there's another hole --

12 Q Okay.

13 A -- likely from a bullet.

14 MR. CORBETT: And next picture, please.

15 BY MR. CORBETT:

16 Q All right. That's a little bit --

17 A Similar.

18 Q -- picture -- okay.

19 A Similar picture.

20 MR. CORBETT: Next photo, please.

21 THE WITNESS: This is showing more closely the bed
22 railing --

23 MR. CORBETT: Okay.

24 THE WITNESS: -- with that hole going in, it appears.

25 BY MR. CORBETT:

1 Q Now, are we still standing on the passenger side?

2 A Yes, this is the passenger side.

3 Q Now, in this one, the hole appears to be going in; is
4 that correct?

5 A Best I can gather, it appears to be going in, yes.

6 MR. CORBETT: Okay. Next photograph, please.

7 THE WITNESS: I think this photo is showing going from
8 that hole in the railing, and it appears to skip across that
9 bed cover, and then goes across towards the opposite way.

10 BY MR. CORBETT:

11 Q And that's an overhead view of the rail?

12 A Yes.

13 MR. CORBETT: Okay. Next photo, please.

14 BY MR. CORBETT:

15 Q And now we're back to the -- I don't want to put words in
16 your mouth, but driver's side?

17 A Yes, that would be the driver's side taillight.

18 Q And what did that appear to be?

19 MR. CORBETT: I'm sorry. Backup one for me, please.

20 BY MR. CORBETT:

21 Q What does that appear to be?

22 A To me, it appears to be a entry wound -- or entry hole.

23 Q Okay. A little more difficult to tell with plastic?

24 A Plastic breaks up more, yes.

25 Q Now, I think we're back at the railing; is that correct?

1 A Yes, that'd be.

2 Q Okay. And again, appearing to be an entry on that side?

3 A Correct. Best as I can tell, it would be entry.

4 MR. CORBETT: I'm sorry. Okay. I'm sorry.

5 BY MR. CORBETT:

6 Q Now, which side are you standing on here, for this
7 picture?

8 A This is the passenger side.

9 Q Okay. That's the same bed railing?

10 A Correct.

11 Q Okay. And I know we've talked about this before, but the
12 orange rod there is?

13 A Those are trajectory rods showing the direction of travel
14 by the bullet.

15 Q Okay. So you added that?

16 A Yes, I did.

17 Q Okay. Detective -- or I'm sorry. Det. Snapp, and this
18 appears to be a bullet strike on the driver's side, just below
19 the gas tank?

20 A Yes.

21 Q A closer up view?

22 A Correct.

23 Q And I believe that's the closer up view of the driver's
24 side, just behind the cab?

25 A Yes. These ones have the scale markers on them, just to

1 show the size.

2 Q Okay. Now, Det. Snapp, so I'm trying not to ask the same
3 thing twice, but -- so five days after the Sunoco shooting,
4 you examine a pickup truck that appears to have bullet entries
5 on both sides of it?

6 A That's correct.

7 Q Okay. And the video evidence suggests that there was a
8 pickup truck parked at the corner of the Sunoco here on what I
9 would call the Wendy's side?

10 A Yes, there was.

11 Q Thank you. That's all that I have.

12 BY MR. CORBETT:

13 Q Now, Detective Snapp, I'm going to show you this picture
14 as well. And is that your trajectory rod?

15 A Yes, that's a trajectory rod going into that wheel well
16 area, and then it passes into the underside of the vehicle, it
17 appears.

18 Q Same bullet hole we looked at earlier?

19 A Yes.

20 Q And again here was nothing recovered in terms of bullets
21 that could be tested?

22 A That's correct. I did not recover any.

23 Q Thank you.

24 MR. WARR: If it pleases the Court?

25 THE COURT: Yes, sir.

1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5

Q Detective Snapp, the pickup truck that was parked at the Wendy's side of the building, it was backed in, correct?

Q In the video?

Q And that's the same pickup truck that Mr. Myers runs down the passenger side of, correct?

Q And there were bullet holes in the driver's side of that truck?

Q All right. And no bullets were actually recovered, right?

Q And you went to Scott Wille (phonetic) to look at the truck?

Q Okay. Do you remember who the truck belonged to?

A Let's see. According to my notes, it belonged to a Linda MacDonald (phonetic).

THE COURT: Anything further, Mr. Corbett?

MR. CORBETT: Nothing further, Your Honor.

1 THE COURT: Thank you, ma'am. You can step down.

2 Yes, sir?

3 MR. MEADORS: Your Honor, the State of South Carolina
4 rests.

5 THE COURT: Okay. Ladies and gentlemen, I'm going to
6 excuse you while we take up a few matters of law. Please
7 don't begin discussing the case.

8 (Whereupon, the jury exited the courtroom at 11:03 a.m.)

9 THE COURT: Okay, Mr. Warr?

10 MR. WARR: Your Honor, we would move for a directed
11 verdict on all charges in this case. Specifically, the State
12 has failed to carry the burden to prove these -- from the
13 evidence they presented, they cannot prove the charge of
14 murder beyond a reasonable doubt. From the evidence that they
15 have presented in this case, they cannot refute self-defense
16 as would be required by State v Dickey in the -- as far as the
17 attempted murder of Michael Lucas goes, they have presented no
18 evidence to refute self-defense. And we would move for a
19 directed verdict on the attempted murder of Christopher
20 Fordham as well as the accompanying weapons charges. And Your
21 Honor, there's been no evidence presented in this case of a
22 specific intent to kill as it goes to the attempted murder
23 charges as well.

24 THE COURT: Thank you.

25 MR. MEADORS: May it please the Court?

1 THE COURT: Yes, sir.

2 MR. MEADORS: Your Honor, I think we've got it by Rule
3 19, South Carolina Rule Criminal Procedure, in the motion for
4 a directed verdict, judge must consider the nonexistence of
5 any evidence. We think there's overwhelming evidence of
6 malice, expressed and inferred, as far as the murder trial,
7 starting with the Facebook video.

8 I don't know what evidence there is of self-defense. I
9 tried State v. Dickey. I'm very familiar with that case. I
10 don't know what evidence of self-defense there is at this
11 point. Judge, as far as the attempted murder of specific
12 intent, we have the defendant, through his statement saying,
13 I'll take the attempted murder. I'll take the attempted
14 murder. And then, you see him following around, shooting at
15 the red Charger, pursuing it as it's leaving. I don't know
16 any other way to show specific intent, as far as that charge,
17 and as far as the charge against Mr. Gordon (phonetic).

18 After they're shot, they're all leaving and the car stops
19 and pauses and a shot comes from that vehicle. We do believe
20 it hits Mr. Ford and obviously there's some transferred intent
21 issues we'd like Your Honor to consider and some other charges
22 at the appropriate point. But at this point, we do believe
23 under Rule 19, there's evidence to go forward.

24 THE COURT: The motion for a directed verdict is
25 respectfully denied. I do think there are a number of jury

1 questions. I think specific intent can be, and in most cases
2 is, determined from the circumstances. You rarely have
3 somebody who states their specific intent to kill a person or
4 to try to kill a person, I should say. It can be and usually
5 is from circumstantial evidence. So I'm going to respectfully
6 deny the motion for a directed verdict. Let's talk about
7 whether your client intends to testify.

8 MR. WARR: Your Honor, I also would like to renew all
9 previous objections for the record.

10 THE COURT: Thank you. And that you are protected for
11 the record.

12 Mr. Myers, we talked previously about your right to
13 remain silent. And again, let me just go over that with you.
14 You always have the right to choose whether or not you want to
15 testify. No one can force you to testify. You have a
16 Constitutional right to remain silent. That goes along with
17 the fact that you don't have to prove yourself innocent. The
18 State has the burden of proving you guilty.

19 So as we talked about earlier in the trial, if you
20 determine that you do not want to testify, I will be
21 instructing the jury on your Constitutional rights. I'll be
22 instructing them on the fact that the State has the burden of
23 proof and that you do not have the obligation to prove
24 yourself innocent. I will instruct them that they should not
25 even discuss the fact that you chose not to testify during

1 their deliberations. It should not be a factor that they
2 consider in any way. But again, this is your day in court, so
3 you get to make that determination. So have you all discussed
4 this?

5 MR. MYERS: Yes, ma'am.

6 MR. WARR: We have, Your Honor.

7 THE COURT: And can you tell me what is your decision,
8 Mr. Myers?

9 MR. MYERS: Well, I'm going to take the stand.

10 THE COURT: You are going to take the stand?

11 MR. MYERS: Yes, ma'am.

12 THE COURT: Okay. Anything else we need to discuss
13 before we bring the jury in?

14 MR. WARR: No, Your Honor.

15 THE COURT: Okay. We're ready for the jury.

16 (Whereupon, the jury came into open court at
17 approximately 11:08 a.m.)

18 THE BAILIFF: The jury is seated, Your Honor.

19 THE COURT: Okay. The State has rested, so I'm turning
20 it over to you, Mr. Warr.

21 MR. WARR: Your Honor, if it pleases the Court?

22 THE COURT: Yes, sir.

23 MR. WARR: The defense calls the first witness, Joquell
24 Myers.

25 JOQUELL MYERS, after being duly sworn, testified as

1 follows:

2 THE BAILIFF: Please state for the record and spell your
3 last name, please.

4 THE WITNESS: I'm Joquell Myers, M-Y-E-R-S.

5 DIRECT EXAMINATION

6 BY MR. WARR:

7 Q Good morning, Ms. Myers. Can you please tell the jury a
8 little bit about yourself? How old were you? When you were
9 born?

10 A I'm twenty-six years old, and I'm born in Sumter, South
11 Carolina.

12 Q And what community in Sumter County did you grow up in?

13 A Oh, Maysville, South Carolina.

14 Q Okay. And what's your education level?

15 A I made it to the 12th grade.

16 Q Okay. But you didn't finish high school?

17 A No, sir.

18 Q Okay. Are you married?

19 A No, sir.

20 Q Any children?

21 A No, sir.

22 Q You're currently unemployed?

23 A Yes, sir.

24 Q Okay. Because you're in jail?

25 A Yes, sir.

1 Q Where was your last place of employment?

2 A At the rehab center. I think the name of it is the
3 Vocational Rehab place.

4 Q Okay. And what did you do in vocational rehab?

5 A We -- we put like, the little -- the little plastic,
6 little (indiscernible) protective plastic on metal for the
7 protection of love. I don't know what you call the love. The
8 little metal -- metal on the -- the little plastic on the
9 metal.

10 Q Okay. So manufacturing.

11 A Yes, sir.

12 Q Okay. And have you ever been convicted of a crime?

13 A No, sir.

14 Q So you don't have a criminal history?

15 A No, sir.

16 Q Now, where were you in the late night hours of September
17 7th? In the early morning hours of September 8th, 2019?

18 A Oh, I was at the Sunoco gas station.

19 Q And tell us tell us how you ended up there. What did you
20 do earlier in the night before you went to the Sunoco?

21 A Oh, I went home and take a shower, put on my own clothes
22 and stuff. You know what I'm saying? Went home to take a
23 shower, put on my clothes. Then me and my homeboy, Jay
24 McBride (phonetic), we went to his girlfriend's house. He --
25 she made us shirts. She made us two shirts. You know that

1 what she do. We went to pick up the shirts from her.

2 Q Okay. So you and Jay McBride, y'all left from where?

3 A Maysville.

4 Q Maysville. And at the time, whose car where you all
5 riding in?

6 A We were riding in Jay McBride's car.

7 Q Okay. And when you left Maysville, did you have a pistol
8 with you?

9 A Yes, sir.

10 Q Where did you have that pistol at?

11 A I had it in center armrest. Like little -- little center
12 thing.

13 Q And why did you have it in the center console?

14 A Because, I mean, everybody -- the police pull you over.
15 That's -- that's no allowed for carrying a pistol. Because
16 you got it. You know what I'm saying? And everybody know
17 that.

18 Q Okay. So you wanted to legally carry this handgun in the
19 car, so you put it in the closed container of the car?

20 A Yes, sir.

21 Q And why did you have the pistol? Why did you feel the
22 need to take a pistol with you?

23 A I mean, it isn't like we're staying in Beverly Hills,
24 we're staying in Sumter. You know what I'm saying? This is
25 Sumter. You know what I'm saying? Stuff go down.

1 Q It's a dangerous place. High crime rate.

2 A Yes, sir.

3 Q And you wanted to have a pistol in your car for
4 protection?

5 A Yes, sir.

6 Q And did you carry that pistol in your car on a regular
7 basis?

8 A Yes, sir.

9 Q So it wasn't an abnormal thing for you to get into a car
10 and put it in the center console so you'd have it?

11 A No, sir.

12 Q Okay. And so you weren't going out looking to use it.
13 You just want it in case somebody tried to rob you or
14 something?

15 MR. CORBETT: Objection, Your Honor.

16 A Yes, sir.

17 MR. CORBETT: Leading question.

18 THE COURT: Hang on just a minute. That is sustained.
19 Please don't lead.

20 MR. WARR: All right.

21 Q And where did you get this pistol?

22 A I bought it from the old dude. Do you know what I'm
23 saying? Bought it from the dude. I met him. We was at the
24 store. He was like, man, I got a pistol for sale. He was
25 like, give me 150. I was like, shit here, you know what I'm

1 saying?

2 Q So you bought a pistol for \$150? What type of pistol?
3 Can you describe it for the jury?

4 A Yes, sir. It was a 9mm Smith and Wesson. You know, it
5 was an MP. It's about this big.

6 Q Okay. And was that pistol a semi-automatic or a
7 revolver?

8 A It was a semi-automatic.

9 Q And you said it was a 9mm pistol?

10 A Yes, sir.

11 Q Not a .38 Special revolver?

12 A No, sir.

13 Q Not a .38 Special automatic?

14 A No, sir.

15 Q And did you know if the pistol was stolen or not when you
16 bought it from the guy?

17 A No, sir.

18 Q Okay. But you paid \$150 for it?

19 A Yes, sir.

20 Q Okay. Have you ever seen a .38 Special revolver?

21 A Yes, sir.

22 Q Like on TV?

23 A Yeah, I seen it in TV's, pawn shops. You know what I'm
24 saying? Other people.

25 Q Okay. Have you ever fired a .38 Special revolver?

1 A No. Not that I can remember, no sir. Not that I can
2 remember.

3 Q Not that you can remember? Did you ever fire your 9mm?

4 A Yes, sir.

5 Q Okay. So you'd fired that before? Did anyone in your
6 group that night have a .38 Special revolver?

7 A No, sir.

8 Q So did anyone in your group have anything other than a
9 9mm?

10 A No, sir. I think one of them had like a forty or
11 something like that. One of them had -- one of them had like
12 a 40.

13 Q One of them had a 40. How about the rest of them? So
14 40 --

15 A Everybody else had 9s.

16 Q Everybody else had 9. Do you know anyone who owns a .38
17 Special revolver?

18 A No, sir.

19 Q All right. Okay. So let's continue on with your trip to
20 the store. You ride with Jay from Maysville. You put your
21 pistol in the center console, and then you all go to Jay's
22 girlfriend's house. Where's her house?

23 A Well, really, she was at her mom's house in Dalzell
24 because she really -- at the time, she stayed with Jay in
25 Maysville. Because she was at her mom's house in Dalzell.

1 Q Okay. So you went to her mom's house in Dalzell to pick
2 up T-shirts?

3 A Yes, sir.

4 Q Can you describe that T-shirt for the jury?

5 A The T-shirt was all white. I had a credit card on the
6 front of it. Mines -- mines had free tub in the back. A free
7 tub on the back --

8 Q Okay.

9 A -- in purple letters.

10 Q All right. So from Jay's girlfriend's mom's house, where
11 were you going?

12 A Oh, we were about to go on -- we -- we was on the way to
13 go where everybody was at before we went and got dressed. But
14 as we were passing the store, as we pass the Sunoco, they --
15 they -- they called us. It was like, yo, that's y'all. Ride,
16 past. Turn around.

17 Q Okay. So you were on the way to where everybody was at.
18 Where was that at?

19 A We was on West Side.

20 Q Okay. And y'all were going to?

21 A What do you mean?

22 Q Were ya'll going to a club or?

23 A Yeah, we're about to go to SNB's (phonetic). My homeboy
24 had a performance that night.

25 Q Okay. And who was your homeboy?

1 A Shelton Ben. They call him Polo.

2 Q Okay. So you were on the way to the club with Jay, and
3 you get a call. Who did you get that call from?

4 A If I ain't mistaken, I think it was Polo.

5 Q Okay. And he told you to come back to the Sunoco?

6 A Now we was, like, we were driving past. And he must
7 have --- he must have been looking and seeing the car. And he
8 was like, yeah, we're over here. And that's when we got
9 there. We turned around. Well, we went to on -- I told Jay
10 to go to McDonald's, because I ain't had on no shirt or no
11 shoes. Because I ain't wanting to mess up the white shirt.
12 And I had brand new white Air Forces in the car, and I wanted
13 to dust them up in the car because the car needs a cleaning,
14 so I ain't had them on.

15 Q Okay. So you pulled into McDonald's and get dressed?

16 A Well, yeah, I put on my shirt and my shoes. Yeah.

17 Q And then you go back to the store?

18 A Yeah. Yeah, we went to the store.

19 Q All right. And was the red Charger there when you got
20 into the store?

21 A No, sir.

22 Q Did you know that Killer Mike (phonetic), Michael Lucas,
23 Timothy Scarborough, or Tyreke Archie were coming to the store
24 that night?

25 A No, sir.

1 Q There wasn't any agreement to meet at the store and
2 settle differences?

3 A No, sir, we don't -- we don't talk to them. You know
4 what I'm saying? We don't -- we wouldn't know what they do.

5 Q Okay. So you didn't know they were coming?

6 A No, sir.

7 Q Did you see them pull up?

8 A No, sir.

9 Q Okay. Where were you at when the red Charger pulled up?

10 A Well, I was in the -- I was in the far corner in the back
11 by the car. Like -- like in the back of the store type. You
12 know how, like, they got the little -- little things right
13 there? They had, like, two rows of cars lined up. It was
14 cars in the in the far back of the store. And it was cars
15 back there. I was like in the front, like in -- like in the
16 front side of the store, chilling.

17 Q Okay.

18 MR. WARR: Beg the Court will indulge us for one second.

19 THE COURT: Yes, sir.

20 MR. WARR: Now, Mr. Myers -- Your Honor, if I could have
21 Mr. Myers come down? I would like him to demonstrate to the
22 jury where he was at.

23 THE COURT: Okay. Sure.

24 BY MR. WARR:

25 Q Mr. Myers, do you know what this building is?

1 A Yeah, that's the Sunoco.

2 Q That's the Sunoco?

3 A Yes, sir.

4 Q Speak up for the Court.

5 A That's the Sunoco.

6 Q All right, and where were you at?

7 A I was like, right here, do you know what I'm saying?

8 Q Right here?

9 A Yeah.

10 Q Kind of behind the store or on the Wendy's side?

11 A Yeah.

12 Q And what were you doing over there when the red Charger
13 pulled up? Please speak so the jury can hear you.

14 A Yeah, my homeboy -- we was just chilling in the car.
15 Just talking. I was about to cut the short on the cigarettes.

16 Q And can you describe to the jury what cutting the short
17 is?

18 A Oh, like I smoked the front half of the cigarettes, and
19 he gets back half of the cigarettes smoke.

20 Q Okay. All right. If -- y'all were over here in this
21 area?

22 A Yes, sir.

23 Q And I believe in the video, there's a truck parked right
24 here in this corner. It's backed in. We see it in the video.
25 Do you know whose truck that is?

1 A Yes, sir.

2 Q Whose truck is that?

3 A That's my cousin's truck, Demetrius McDonald (phonetic).

4 Q And he was there that night?

5 A Yes, sir.

6 Q Speak where the jury can hear you.

7 A Yes, sir.

8 Q You can return to the stand. So it was Demetrius
9 McDonald's truck that we saw backed in here at the corner?

10 A Yeah, (indiscernible).

11 Q And is that the same truck that we saw the crime scene
12 photos of it at (indiscernible)?

13 A Yes, sir.

14 Q And to your knowledge, was that truck hit with any
15 bullets that night?

16 A Yes, sir.

17 Q Okay. So you and (indiscernible) were over behind, kind
18 of, the Wendy's side of the store sitting in his car, smoking
19 a short?

20 A No, we ain't even -- you know what I'm saying, we ain't
21 sitting in the car. We was like, just standing around the
22 car.

23 Q You were standing around outside?

24 A Yeah.

25 Q Okay. Then what happened?

1 A We were just sitting there talking, laughing. He was
2 telling me what he was going to do in the club that night.
3 You feel me? And then the shots rang up.

4 Q Okay. And did you see who fired the first shots?

5 A No, sir.

6 Q And what did you do when the shots rang out?

7 A I ain't gonna lie. I grabbed my gun, you know. So I
8 grabbed my gun and ran to the back of the store, you know what
9 I'm saying, like, I backed -- I backed towards, like, the
10 little winning side.

11 Q Okay. You ran back in this direction?

12 A Yeah, like, right there.

13 Q Toward the Wendy's?

14 A Yeah. And then got done when I was running. I turn
15 around. As I turn around and see my brother, like, this --
16 like this right here. I said, damn, he hit. You know what
17 I'm saying? Excuse me. Excuse my language. I was like, He
18 hit. So I'm like, I got to turn around. You feel me? I got
19 to. That's my brother.

20 Q Okay. And so when you heard the shots, it's your
21 testimony that you reached into the center console of that
22 car --

23 MR. CORBETT: Objection, Your Honor. Leading.

24 THE COURT: That's sustained.

25 Q When you reached into the center console, what did you

1 grab?

2 MR. CORBETT: Objection, Your Honor. Still leading.

3 THE COURT: Sustained.

4 A When I went in the car, I grabbed the gun. You know what
5 I'm saying? When I grabbed --

6 Q What type of gun was that?

7 A A 9mm Smith and Wesson.

8 Q M.P.?

9 A M.P.

10 Q Not a .38 revolver?

11 A No, sir.

12 Q Not a .38 automatic?

13 A No, sir.

14 Q Why did you get your pistol out of the console?

15 A They -- they shooting. They out here, you know what I'm
16 saying? They out here shooting and shooting. It's a lot of
17 shots. They out here shoot. Shoot. I ain't about to -- you
18 know what I'm saying? I ain't about to -- just grabbed the
19 gun, this way you -- you know what I'm saying.

20 Q Were you afraid? Is that why you got the gun out?

21 A Yeah. They out here shooting up -- a shot
22 (indiscernible).

23 Q You heard shots, and you didn't know who was firing?

24 A No, sir.

25 Q So you were afraid?

1 A Yes, sir.

2 Q And you got the gun for protection?

3 A Yes, sir.

4 Q Out of the center console?

5 A Yes, sir.

6 Q All right. So after you turn around, you see your
7 brother go to the ground, grabbing his side. What did you do?

8 A Oh, I ran back to check on him. I ran back to check on
9 him, the whatnot, because he was on the ground right there.
10 And I ran back to check on him. It's a lot of shots coming in
11 our area. You know what I'm saying? A lot of them, like --
12 it -- like it's like they do depending on this everywhere I
13 was at. I'm ducking, you know what I'm saying?

14 Q And your area was this area right here behind where that
15 truck was Back there?

16 A Yes, sir.

17 Q On the Wendy's side?

18 A Yes, sir.

19 Q Of the Sunoco gas station. Could you hear bullets hit in
20 that truck?

21 A Yes, sir. You could hear bullets hitting -- you can hear
22 bullets in their way everywhere or other, the store, all that.
23 Like you could hear them coming past you.

24 Q You can hear them whizzing by?

25 A Yeah. Yes, sir.

1 Q And what did you see after?

2 A Man when I look up, I see the red -- I see the red --
3 Charley and I ain't seen nothing but fire coming out of that
4 car. Nothing but -- straight out of that car.

5 Q Fire? Gun fire?

6 A Yes, sir.

7 Q Were they shooting in your direction?

8 A Yes, sir.

9 Q And you heard bullets hitting that Silverado pickup
10 truck?

11 A Yes, sir.

12 Q Were you already firing when you saw them firing?

13 A No, sir.

14 Q So they fired on you?

15 A Yes, sir.

16 Q And they fired on your brother who was on the ground
17 wounded?

18 A Yes, sir.

19 MR. CORBETT: Objection, Your Honor.

20 THE COURT: That's -- on the basis of leading?

21 MR. CORBETT: Leading and speculation.

22 THE COURT: Please don't lead, Mr. Warr. That's
23 sustained.

24 Q These gunshots. They were coming out of the red Charger?

25 A Yes, sir.

1 Q And they were hitting the Silverado pickup truck?

2 MR. CORBETT: Objection, Your Honor.

3 THE COURT: Mr. Ward, you need to ask your question
4 differently, sir. You're leading.

5 Q Were bullets hitting the Silverado pickup truck?

6 A Yes, sir.

7 Q Where was your brother laying on the ground?

8 A He was like, laying on the ground. Like -- it's like --
9 towards like. Yeah, like. Like right there. A little bit,
10 like. Right. Yeah.

11 Q And the Silverado pickup truck was right here?

12 A Yeah, the -- yeah.

13 Q All right. And when you saw the gunfire coming out of
14 the pickup truck, how did that make you feel? I mean, excuse
15 me, out of the red Charger. How did that make you feel?

16 A Sure. It made me feel like anybody else would feel sure
17 they shooting at us. You know what I'm saying?

18 Q You were afraid?

19 A Yeah.

20 Q You were scared you were going to get hurt?

21 A Yes, sir.

22 MR. CORBETT: Objection, Your Honor.

23 THE COURT: That's leading, sir.

24 Q Did you feel you were in danger?

25 A Yes, sir.

1 Q Have you ever been more frightened than you were that
2 night?

3 A No, sir.

4 Q And you testified you shot at the red Charger?

5 A Yes, sir.

6 Q Did you see Killer Mike at that time?

7 A No, sir.

8 Q You couldn't see him?

9 A No, sir.

10 Q Did you ever see Gregory Middleton out there that night?

11 A No, sir.

12 Q You couldn't see him?

13 A No, sir.

14 Q All you could see was the red Charger?

15 A Yes, sir. It was like -- it was literally, like, right
16 there in front of me. Like literally right there in front of
17 me. Like, literally right there. You feel that right there?
18 Like right there. Like -- know, I'm saying? I can't -- it as
19 right here. You feel me? Like just as close as me and them,
20 like, right there.

21 Q And you shot back at the red Charger?

22 MR. CORBETT: Objection, Your Honor. Leading.

23 THE COURT: It is leading, but he's already testified as
24 to that, so I'm going to allow it.

25 Q Were are you trying to kill Michael Lucas?

1 A No, sir.

2 Q But you shot at the red Charger?

3 A Yes, sir.

4 Q Where did you shoot at the red Charger? Where on the
5 car?

6 A I was shooting like at -- (indiscernible) the little
7 door -- do you know what I'm saying? Like the little door
8 part.

9 Q Okay, you were shooting down at the --

10 A Yeah.

11 MR. CORBETT: Objection, Your Honor.

12 MR. WARR: I'm asking for clarity. He's already
13 testified he shot at the door.

14 THE COURT: Go ahead.

15 Q You shot at the door? Not at the --

16 A Yeah. Yeah.

17 Q Not at the windows?

18 A No.

19 Q Not at the passenger department?

20 A No, sir.

21 Q Why did you shoot down low?

22 A Because I was just trying to get in and get on through.
23 You know what I'm saying? We ain't got no problem with him.
24 He just shooting at us for no reason.

25 Q Okay. So you were just trying to get him on through?

1 A Yeah, let him go.

2 Q And how long was he shooting at you?

3 A That man was shooting at us till he left.

4 Q Till he pulled out the parking lot?

5 A Till he pull out the parking lot. And he --

6 Q And where did he pull out of the parking lot? Did he
7 pull out -- where did he pull out? Which driveway?

8 A That little side right there. That -- look right there.

9 Q Right here?

10 A Yeah.

11 Q On the Wendy's side?

12 A Yes, sir.

13 Q And he turned and drove --

14 A Yeah. He drove straight now there.

15 Q And then turned and went out?

16 A Yes, sir.

17 Q And the whole time he was firing?

18 MR. CORBETT: Objection, Your Honor.

19 THE COURT: That's sustained. So you're leading.

20 BY MR. WARR:

21 Q It's your testimony that he fired up until the point he
22 left the parking lot?

23 MR. CORBETT: Your Honor --

24 THE COURT: And that's still leading. Sir, you can't
25 suggest the answer in your question. You're leading.

1 BY MR. WARR:

2 Q When did Mr. Lucas stop shooting?

3 A When he left. When he was like when he got done -- like
4 when he turned. When he couldn't, you know, basically
5 couldn't shoot at us no more. Like. Like I ain't, you know
6 what I'm saying? Like, he stopped. Like, when he turned
7 straight. When he turn straight, that's when he. You know
8 what I'm saying? It stopped. Like.

9 Q Which side of the car was he shooting out of?

10 A He was shooting out the passenger side. Like that -- you
11 know what I'm saying. He was driving, he was shooting out the
12 passenger side.

13 Q Why did you run out the second time over here?

14 A Because that -- when I ran back the second time, I was
15 about to put my brother in the car. Like he was around people
16 trying to help put a brother in the car as he ride past, and
17 the shots still coming. You feel me? Remember, shots still
18 coming. And I look up and it's still him, you know what I'm
19 saying? It's still him.

20 Q So you fired a second time?

21 A Yes, sir.

22 Q You shot at that red Charger how many times?

23 A I mean, I shot at it like -- like six, seven times? I
24 don't know. I don't know. Like, like six, seven times, one
25 of them.

1 Q Did you want to hurt anyone that night?

2 MR. CORBETT: Objection, Your Honor.

3 THE COURT: What's the basis?

4 MR. CORBETT: Well, it's leading. Did you want to hurt
5 anyone that night I said.

6 THE COURT: I'm going to allow the question.

7 A No, sir. We really just come out there to go to the club
8 like we -- you know what I'm saying. This is something
9 normal. My people always do like little shows and stuff. We
10 don't -- we just come out there to go to the -- go let him do
11 the show, and we was going to go home.

12 Q After the red Charger leaves the parking lot, what
13 happens? What happened?

14 A I ran back. I ran back to the side with my brother. No
15 matter. Everybody was over there like -- like they couldn't
16 pick him up because, I guess got -- I guess, the dead weight
17 he had. So I tell everybody, I'm like, man move out the way,
18 man. No way.

19 You know, I picked them up, grabbed him up just like
20 this, put him in the car. Said come on, y'all. Come on, Come
21 on, come on. Because he's looking, you know what I'm saying I
22 ain't gonna lie -- really like -- he looking like, boy, like
23 it about to be over with. So I'm looking like, boy. Like,
24 don't let it, boy -- don't let it happen today, boy. Like,
25 I'm -- I ain't going to lie, I was like, you know what I'm

1 saying? Like, boy, like, like, dang like. Well, I hope you
2 don't die today, boy. Like, you know what I'm saying? Like.

3 Q Where on his body was your brother shot?

4 A He was shot right here, like, you know, the stomach part.

5 Q So down here?

6 A Yeah, like, down here in this area type.

7 Q Was he bleeding?

8 A Yeah, he was bleeding real bad.

9 Q And what seat did you put him in?

10 A I put him in the passenger seat. In the front seat. In
11 the front passenger --

12 Q The front passenger?

13 A Yeah.

14 Q And you got in the car?

15 A Yes, sir.

16 Q Where?

17 A I got in the back passenger seat right behind him.

18 Q What did you do once you were there?

19 A So when I got in the car, I looked over to see it again,
20 like his eyes rolled back in the back of his head. So I
21 started like -- like, come on. Come on, bro. And then I
22 looked down and up with blood. You know what I'm saying? I
23 just staring back down. You know what I'm saying?

24 I ain't really know, but like -- like I just thought of,
25 like, you know what I'm saying? Stuff you see in the movie?

1 I just get it over in the seat. Like you can see I'm -- I'm
2 big, so I'm over in the seat like this. I'm over in the seat.
3 Like, you know, I'm saying? Pressing down on it, like telling
4 everybody. Oh, come on, come on, come on. We got to get him
5 to the hospital. You feel me?

6 Q And you were putting pressure on the wound?

7 A Yes, sir.

8 Q What did you do with your pistol when you got in the car?

9 A I throw my pistol before I even pick him up. I throw my
10 pistol in the back seat. You know what I'm saying? Like,
11 because I ain't -- I just throw it in the back seat to hurry
12 up to pick them up. Takes the type time, you know.

13 Q Who was driving that gray Nissan Maxima?

14 A Shelton Benjamin.

15 Q And that's the same gray Nissan Maxima we can see in
16 here?

17 A Yes, sir.

18 Q Shelton Benjamin was driving the car?

19 A Yes, sir.

20 Q And his nickname is Polo?

21 A Yes, sir.

22 Q And you grew up with him, right?

23 A Yes, sir.

24 Q Did you tell Polo to stop and shoot Christopher Fordham?

25 MR. CORBETT: Objection, Your Honor. That is a leading

1 question.

2 THE COURT: I'm going to allow that question.

3 Q No, sir.

4 Q Did you plan to shoot anybody?

5 A No, sir.

6 Q Did you have a problem with Christopher Fordham?

7 A No, sir.

8 Q Did you know Polo was going to shoot Christopher Fordham?

9 A No, sir.

10 Q Did you want Polo to drive to the hospital as fast as
11 possible?

12 A Yes, sir.

13 Q Were you afraid your brother was dying?

14 A He was dying. Do you know what I'm saying? He was. He
15 ain't -- like, he was, you know what I'm saying. He was
16 definitely dying.

17 Q And once you left the Sunoco, where did you go in that
18 gray Nissan Maxima?

19 A Oh, we were straight to -- we went straight to Toumey. I
20 don't know if you call it Toumey now. You know what I'm
21 saying? But we went straight to Toumey Hospital.

22 Q And what did you do once you got to Toumey Hospital?

23 A Sure. I jumped straight out of the car. I jumped
24 straight out the car open -- opened the passenger door.

25 Straight out the car, they was like -- I got there and the

1 rest of them already knew. It was like, tell the people,
2 like, come help us, you know what I'm saying. Type -- I was
3 going -- I was at the passenger door. I was about to walk in
4 there, but then I seen them coming out with the wheelchair.
5 As soon as they came out with the wheelchair, I'd already
6 scooped him up again, put him in the wheelchair.

7 Q Did you leave the hospital in the same car?

8 A No, sir.

9 Q Why not?

10 A Because we had more people, you know what I'm saying? We
11 had another car there and we was just -- we just got in that
12 car.

13 Q And whose car was that?

14 A I ain't really sure who car was, you know what I'm
15 saying? But it was a -- it was a red Sentra, you know what
16 I'm saying?

17 Q You got into a red Sentra at the hospital?

18 A Yes, sir.

19 Q And did you retrieve your 9mm Smith and Wesson?

20 Q No, sir. No, sir. It was so much going on at the time.
21 I just -- you feel me?

22 Q Where was it?

23 A It was still in the back seat.

24 Q Of the gray Nissan Maxima?

25 A Yes, sir.

1 Q What happened to the gray Nissan Maxima at that time?

2 A If I am mistaken, I think Flop (phonetic) parked in the
3 parking lot. You know what I'm saying? Went back in there --
4 because he stayed. I think he parked it in the parking lot
5 right there at the front of the hospital.

6 Q And why did he park it?

7 A Because it was in the driveway. I guess they probably
8 tell him to move it or whatnot.

9 Q Was it damaged?

10 A Yeah. He had a flat tire and had -- it had a couple of
11 shots in it.

12 Q Did you go back to get that car?

13 A Yeah, we went back, like I want to say, like, almost like
14 a week later, because we had to get it. We had to find a tire
15 and stuff for it, and we just found a tire.

16 Q Was your pistol still in the car?

17 A No, sir.

18 Q You're 9mm was gone --

19 A Yes, sir.

20 Q -- from the car?

21 A I ain't going out. I ain't going. I was kind of mad,
22 too.

23 A You were mad because somebody stole it?

24 A Yes, sir.

25 Q Or something?

1 A Yeah. Something happened to it -- that why I was -- you
2 know what I'm saying? I was like ain't no way, you know.

3 Q Did you ever get the pistol back?

4 A No, sir.

5 Q Have you seen it since you left it in the back seat of
6 that car?

7 A No, sir.

8 Q Do you know where it is?

9 A No, sir.

10 Q Did you shoot Killa Mike?

11 A No, sir.

12 Q Did you shoot Gregory Middleton?

13 MR. CORBETT: Your Honor.

14 THE WITNESS: No.

15 MR. CORBETT: Leading questions.

16 THE COURT: That's sustained.

17 BY MR. WARR:

18 Q Did you shoot at any person that night?

19 A Oh, I shot the red Charger. You know what I'm saying?

20 Q Were you trying to kill the driver?

21 A No, sir.

22 Q Now tell us what happened to your brother after you got
23 him to the hospital.

24 A Oh, well got no -- his mama called us and was like we
25 about to come back up there. His mama called us like, ain't

1 no need for y'all --

2 MR. CORBETT: Objection, Your Honor.

3 THE COURT: On the basis of hearsay?

4 MR. CORBETT: Hearsay.

5 THE COURT: That's sustained.

6 So don't tell us what somebody else told you.

7 THE WITNESS: Well, they shipped him to -- they shipped
8 him to -- they shipped him to Columbia.

9 BY MR. WARR:

10 Q By helicopter?

11 A Yeah, by helicopter.

12 Q Did they operate on him?

13 A Yes, sir.

14 Q Did they leave the bullet in him?

15 MR. CORBETT: Objection, Your Honor. Lack of foundation.

16 MR. WARR: He's testifying from his personal knowledge
17 from talking to his brother.

18 THE COURT: I'm going to allow the question.

19 THE WITNESS: Go ahead.

20 BY MR. WARR:

21 Q Did they leave the bullet in your brother?

22 A Oh, I'm not sure.

23 Q Okay. Can your brother walk?

24 A Like -- like how he is now? He -- they -- they got him
25 with a wheelchair. You know what I'm saying? But it's like

1 he can stand up for a little while. And you know what I'm
2 saying, but then he eventually got to sit in the wheelchair.

3 Q What kind of gun were you shooting that night?

4 MR. CORBETT: Asked and answered, Your Honor.

5 THE COURT: That's sustained.

6 BY MR. WARR:

7 Q You weren't shooting a .38 Special revolver, were you?

8 MR. CORBETT: Asked and answered, Your Honor.

9 THE COURT: That's sustained.

10 THE WITNESS: No, sir.

11 MR. WARR: (Indiscernible).

12 No further questions, Your Honor.

13 THE COURT: Mr. Corbett?

14 MR. CORBETT: Mr. Warr, tell you what. You leave it
15 there. I might need that.

16 May it please the Court?

17 THE COURT: Yes, sir.

18 CROSS-EXAMINATION

19 BY MR. CORBETT:

20 Q Your name is Joquell Myers?

21 A Yes, sir.

22 Q In July of 2019, you were 23 years old?

23 A Yes, sir.

24 Q You're currently 26 years old?

25 A Yes, sir.

1 Q Okay. You live in Mayesville?

2 A No, I stay in Clarendon County. I was locked up for
3 three years. That's why -- you know what I'm saying? I -- I
4 did stay in Mayesville, but now I stay in Manning. I'm locked
5 up.

6 Q Prior to your arrest, you were living in Mayesville?

7 A Yes, sir.

8 Q Is that correct; on the afternoon or evening of July 7th,
9 2019, you left Mayesville and came to Sumter?

10 A Yes, sir.

11 Q Is that correct; you rode to Sumter? Now there's a
12 little confusion. It's been referred to as a Nissan Maxima,
13 but it's also been referred to as an Altima.

14 A Yes. You know what I'm saying? They shaped just alike.

15 Q Do you know which one it is?

16 A It's a Altima.

17 Q Altima? So you rode to Sumter in a Nissan Altima?

18 A Yeah, they --

19 Q Silver in color?

20 A Yeah. Nah, like, it was like, like darkish-gray with --

21 Q Right.

22 A -- chrome rims on them.

23 Q Jay McBride (phonetic) was driving that Altima?

24 A Yes, sir.

25 Q Was the Diontrae Epps in that Altima?

1 A No, sir.

2 Q Sheldon Benjamin?

3 A No, sir.

4 Q Diontrae Epps is your half-brother?

5 A Y'all be killing me with that half-brother. Nah, that's
6 my brother.

7 Q Brother, okay.

8 A Yeah.

9 Q I'm sorry. What is your father's name?

10 A Kilo Epps (phonetic).

11 Q And I'm sorry, I mean, no disrespect respect in this
12 question. You and Trey Epps have the same mother and same
13 father?

14 A No, we have the same father.

15 Q Same -- okay. So technically, you are half-brothers?

16 A I mean, yeah, whatever you say.

17 Q Okay.

18 A Yeah, guess so.

19 Q So you and Trey Epps share a common father, Kilo Epps?

20 A Yes, sir.

21 Q You stopped at McDonald's on Broad Street?

22 A No. We -- we were at -- now you was talking about the
23 evening. Now, you just skipped to something else. I don't
24 know where you're at right now.

25 Q Okay. I'm sorry. When you left Mayesville and heading

1 to Sumter, what was your first stop?

2 A We -- you just said that evening when you asked me when I
3 leave Mayesville. Now you just --

4 Q What time of day did you leave Mayesville?

5 A I left early that morning. I left, like, in the morning
6 time.

7 Q Okay. So you spent the entire day away from Mayesville?

8 A Yes, sir, until that night.

9 Q Okay.

10 A When I went to change clothes.

11 Q Did you go back to Mayesville?

12 A Yeah, that night when I went to change clothes.

13 Q Okay. What time did you go back to Mayesville?

14 A I'm not sure, but I know it was like -- like a little
15 while before it was time to get ready for the club.

16 Q Okay. So you went back to get ready to go to the club?

17 A Yes, sir.

18 Q Okay. All right. Let's start from there. Who did you
19 ride with to Sumter?

20 A You talking about after I got ready?

21 Q Yes, sir.

22 A Jay McBride.

23 Q Jay McBride, okay. So now you and Jay McBride are in the
24 gray or silver Nissan Altima from Mayesville to Sumter?

25 A Yes, sir.

1 Q Okay. What is the first stop that you made?

2 A We went on to Dalzell.

3 Q Dalzell, okay. You then left Dalzell coming to Sumter?

4 A Yes, sir.

5 Q Okay. First stop you made was McDonald's?

6 A Yes, sir.

7 Q Okay. Now, while at McDonald's, you either change
8 clothes or put on a shirt and shoes?

9 A I put on my shirt and my shoes.

10 Q Okay. You then drove to the Hop In (phonetic) gas
11 station?

12 A Yeah, We went to the Sunoco.

13 Q Also known as the Sunoco?

14 A Yes, sir.

15 Q Okay. And you testified that you parked on this side?

16 A Yes, sir.

17 Q Arriving at the snow coat you met Ellquin Williams?

18 A Yes, sir. He was a -- you know, you mean, like, once we
19 got there?

20 Q Yes.

21 A He -- yeah, he was already out there.

22 Q All right. So. And he goes by Ello (phonetic)?

23 A Yes, sir.

24 Q Okay. So when you got there, you saw him?

25 A I saw him and a lot more people, you know.

1 Q Okay. Ello was in a gray Malibu?

2 A Yes, sir, that.

3 Q You got out of the Altima and went over to Ello's car?

4 A No, I got -- I got out the Altima, and we was -- you know
5 what I'm saying? We was -- I got out the Altima, and we was
6 chilling out there first. And then I went to Ello car. I
7 didn't went straight to him.

8 Q Okay. You and Ello were at his car smoking?

9 A No, we was outside of the car. The car was like -- you
10 know what I'm saying? Like, just like I tell y'all, it was
11 like the front -- the -- if you look back there, it's a lot of
12 space. It was cars parked at the back and cars parked at the
13 front. It was a lot of cars up there. Like, you know what
14 I'm saying? We was in between the cars with the doors open
15 chilling.

16 Q Now, if I may, I want to play a video for you.

17 MR. CORBETT: If you would, bring up the Facebook Live
18 video.

19 MR. WARR: I object to this, Your Honor. It's outside
20 the scope of direct.

21 THE COURT: I'm going to allow it.

22 (Thereupon, the visual recording was played and
23 transcribed herein.)

24 MR. EPPS: Killa. I'm send the little goons
25 (indiscernible) Mr. Killa. (Indiscernible). Mr. Killa.

1 We're both come find you. Mr. Killa. I'm going to send the
2 little goons in too. Mr. --

3 (Recording paused)

4 BY MR. WARR:

5 Q Now, I want you to look at this video. If I need to play
6 it back, I will. But on the far left-hand side of this
7 screen, you see an individual walk by carrying a small child.

8 A Yeah.

9 Q Who was that?

10 A That's my cousin.

11 Q What is their name?

12 A That's Lorenzo Wilson (phonetic).

13 Q Lorenzo Wilson?

14 A Yeah, and his baby, Blue (phonetic).

15 Q Now, about one month before the shooting, this video was
16 made at a hotel room, correct?

17 A No.

18 Q Was this video made in a hotel room?

19 A Yes.

20 Q Now, while you were in this hotel room, you appear on
21 this video?

22 A Yes, sir.

23 Q Is that correct?

24 A Yes, sir.

25 Q In this video -- well, first of all, let me back up for

1 just a moment.

2 (Thereupon, the visual recording was played but not
3 transcribed herein.)

4 BY MR. CORBETT:

5 Q Who is this individual?

6 A Oh, that's my brother.

7 Q Diontrae Epps?

8 A Yes, sir.

9 Q Now I'm going to play forward. There's going to be a
10 person on the right-hand side.

11 (Thereupon, the visual recording was played and
12 transcribed herein.)

13 MR. EPPS: (Indiscernible).

14 (Recording paused)

15 BY MR. CORBETT:

16 Q Who's the person wearing the hat?

17 A You talking about, that just walked -- just walked past?

18 Q Walked past.

19 A Oh, I really can't -- I -- I really can't see his face
20 just now. You can start it over (indiscernible).

21 Q Okay.

22 (Thereupon, the visual recording was played and
23 transcribed herein.)

24 MR. EPPS: (Indiscernible). I'm going to send the goons
25 out. You feel me? (Indiscernible). Mr. Killa.

1 (Recording paused)

2 BY MR. CORBETT:

3 Q Which hotel was that?

4 A It -- it might be something else now, but I -- if ain't
5 mistaken, I think that -- I think that's the Super 8. Well,
6 that's the Super 8. I ain't know if it's something else. You
7 know, I've been locked up for a little minute. I ain't know
8 if it's something else.

9 Q Where is that hotel located?

10 A That's on Broad.

11 Q On Broad Street?

12 A Yeah.

13 Q What portion of Broad Street?

14 A It was right there beside the McDonald. I don't know
15 what portion. You know what I'm saying?

16 Q I'm sorry.

17 A I ain't know what por -- it's right there. It's the one
18 right there beside McDonald's. I ain't know what -- you know
19 what I'm saying?

20 Q Near the McDonald's?

21 A Yeah. Right beside the McDonald's.

22 Q Okay.

23 (Thereupon, the visual recording was played and
24 transcribed herein.)

25 MR. EPPS: Why you think I'm riding?

1 (Recording paused)

2 BY MR. CORBETT:

3 Q Now, you've identified this person as Diontrae Epps,
4 correct?

5 A Yes, sir.

6 Q Now, who's this person on the right?

7 A It's Jay McBride.

8 Q That's Jay McBride?

9 A Now, if you would, please watch this portion and describe
10 to me what Jay McBride is doing.

11 (Thereupon, the visual recording was played and
12 transcribed herein.)

13 MR. EPPS: Mr. Killa, I'm going to send the little goons
14 in, too. Mr. --

15 (Recording paused)

16 BY MR. CORBETT:

17 Q What was Jay McBride doing?

18 A Putting his hands up in like a little --

19 MR. WARR: Objection. That's speculation. Calls for
20 speculation. Mr. Myers does not -- it will be pure
21 speculation for him to infer intent of Jay McBride based on a
22 video, watching a video.

23 THE COURT: Well, he didn't ask what his intent was. He
24 asked what gesture he was making.

25 But I think we can all see what gesture he's making, Mr.

1 Corbett. So if you'll just move along.

2 (Thereupon, the visual recording was played and
3 transcribed herein.)

4 MR. EPPS: Not me. Not me (indiscernible). Not me. No,
5 I ain't sending me. I'm going to send the goons out. You
6 feel me? Not me. Not me personally, no.

7 (Recording paused)

8 BY MR. CORBETT:

9 Q Is it correct that in this video Trey Epps said -- excuse
10 me, Diontrae Epps says that he is going to send his goons
11 after Mike Rogers?

12 A He said he going to send the goons at you. You know what
13 I'm saying. I ain't -- I ain't hear him say he going to send
14 the goons at him, Mike Rogers. That --

15 (Thereupon, the visual recording was played and
16 transcribed herein.)

17 MR. EPPS: Not me (indiscernible). Not me. No, I ain't
18 sending me at him. I'm going to send the goons at him. You
19 feel me? Not me. Not me personally, no. But it will
20 (indiscernible). Send the little goons in too. Mr.
21 (Indiscernible).

22 (Recording paused)

23 MR. WARR: Your Honor, objection. How many times is Mr.
24 Corbett going to play the same scene over and over again?

25 THE COURT: That's sustained.

1 BY MR. CORBETT:

2 Q Now, when Diontrae Epps is referring to Mr. Killa, who is
3 he talking about?

4 A I guess he talking about Killa Mike.

5 Q He's talking about Killa Mike?

6 A Guess so. I can't really tell you.

7 Q And then he says, I'm going to send the goon at you or at
8 y'all or what -- you tell me what he says.

9 A He says I'm going to send the goons at you.

10 Q Send the goons?

11 A Yeah.

12 Q Okay. What kind of person has goons available to them to
13 do this type of work?

14 MR. WARR: Your Honor, this is purely speculation.

15 THE COURT: I'm going to sustain the objection.

16 BY MR. CORBETT:

17 Q Who are the goons?

18 A I don't know.

19 Q You don't know?

20 A Nah.

21 (Thereupon, the visual recording was played but not
22 transcribed herein.)

23 BY MR. CORBETT:

24 Q Now, Mr. Myers, if you would, please watch carefully.

25 I'm going to try to move this slowly. I'm going to ask you to

1 identify a gesture for me, please.

2 (Thereupon, the visual recording was played but not
3 transcribed herein.)

4 BY MR. CORBETT:

5 Q What is this right here? The gesture that Mr. McBride is
6 making?

7 A If you listen to the -- if you listen to the video, he
8 said, we play with cards. He's doing his hand in like a
9 card -- he's doing his hand like a card gesture. If you
10 listen to the video, he says we play with cards. If you --
11 and he's doing this hand like this in a card gesture.

12 Q So that's a card gesture?

13 A Yeah, like a card.

14 Q So you do not know who the goons are, correct?

15 A No, sir.

16 Q Okay. Now, have you seen this video before?

17 A Yes, sir.

18 (Thereupon, the visual recording was played and
19 transcribed herein.)

20 UNIDENTIFIED SPEAKER: (Indiscernible).

21 (Recording paused)

22 BY MR. CORBETT:

23 Q Now I'm looking at the comments. This is Facebook Live,
24 correct?

25 A Yes, sir.

1 Q So individuals watching will appear on screen?

2 A Yes, sir.

3 Q Okay. And you've listened this. So you've heard Trey
4 Epps refer to people who are watching?

5 A Yes, sir.

6 Q Okay. I will forget the name, but I believe it's Quetta
7 (phonetic). He references Quetta?

8 A I think so. Yeah.

9 Q Okay. And he also says that his dad's watching?

10 A Yes, sir.

11 Q So we see Kilo Epps on there. That is his father and
12 your father?

13 A Yes, sir.

14 Q Is watching this video?

15 A Yes, sir.

16 Q And he talks about beating up people in that part?

17 A Yes, sir.

18 (Thereupon, the visual recording was played but not
19 transcribed herein.)

20 MR. EPPS: And you know, I beat them niggas up. Yeah, we
21 don't play with guns. (Indiscernible). We don't play with
22 guns. We fight.

23 MR. MCBRIDE: We play with cards.

24 MR. EPPS: We fight. (Indiscernible). We fight.

25 (Indiscernible). We fight, Quetta. That bitch got me all

1 sweating.

2 (Recording paused)

3 BY MR. CORBETT:

4 Q Okay, now --

5 A Did you hear Jay McBride say we play with cards?

6 Q Okay. Who's this individual in the black shirt?

7 A I can't see it.

8 (Thereupon, the visual recording was played but not
9 transcribed herein.)

10 MR. EPPS: You in here talking about Killa Mike.

11 (Recording paused)

12 THE WITNESS: That's me.

13 BY MR. CORBETT:

14 Q Right. This is you, correct?

15 A Yes, sir.

16 Q If you would, please, tell us what hand gesture you were
17 making here. I will let it play through and then back up too.

18 (Thereupon, the visual recording was played but not
19 transcribed herein.)

20 MR. EPPS: That bitch got me all sweating here talking
21 about Killa Mike.

22 UNIDENTIFIED SPEAKER: (Indiscernible) on our phones.
23 Nah, y'all going to play.

24 MR. EPPS: Come on y'all.

25 UNIDENTIFIED SPEAKER: Hey --

1 MR. EPPS: Mr. Killa --

2 (Recording paused)

3 THE WITNESS: I'm going to be real. When you -- you know
4 what I'm saying? When people on live, they just do all type
5 of stuff. I just came to the camera and did something real
6 quick. You feel me? It was a lot of people on live. I just
7 really came here and show my face real quick. You feel me?
8 They ain't really -- that ain't really nothing. I ain't
9 never -- you know what I'm saying. I ain't -- I ain't never
10 point at the screen or nothing. I'm doing it. You know what
11 I'm saying?

12 BY MR. CORBETT:

13 Q Okay. Do you do this?

14 (Attorney gesture)

15 A Nah, I did not do that. I did this.

16 (Witness gestures)

17 Q I'm sorry? Say it again.

18 A I did this.

19 (Witness gestures)

20 Q Okay. So I got it wrong?

21 A Yeah. You said I did this.

22 (Witness gestures)

23 A I never did that. I did this.

24 (Witness gestures)

25 Q Okay. So that could also be interpreted as a gun

1 gesture; could it not?

2 A Nah. That is not a gun gesture. When you ever seen a
3 gun gesture go like this?

4 (Witness gestures)

5 A I never seen a gun gesture go like this, and I'm pretty
6 sure nobody have neither.

7 (Thereupon, the visual recording was played but not
8 transcribed herein.)

9 MR. EPPS: Got me all sweating here talking about Killa
10 Mike.

11 UNIDENTIFIED SPEAKER: (Indiscernible) on our phones.
12 Nah, y'all going to play.

13 (Recording interrupted)

14 MR. WARR: Your Honor, it's unnecessary to play the video
15 again. He's already played it for Mr. Myers. Ask his
16 question and move on.

17 THE COURT: Mr. Corbett, if you're going to ask a new
18 question, that's fine, but we've already seen the video.

19 BY MR. CORBETT:

20 Q If it's not a gun gesture, what kind of gesture is it?

21 A Really don't mean nothing. You know what I'm saying? It
22 just something I just did real quick. You feel me? You know
23 what I'm saying? That don't mean nothing.

24 Q Now, after that gesture we talk about, you are then seen
25 in the video clapping; is that correct?

1 A Yes, sir.

2 Q To the song that Diontrae Epps is now singing?

3 A Yes, sir.

4 Q Okay. You are seen walking out of frame laughing?

5 A Yeah. I can't laugh? You know what I'm saying. I'm
6 just laughing. It was funny to me. It ain't hurting nobody,
7 just laughing. I can't laugh?

8 Q So you know Mr. Killa to be Killa Mike?

9 A Yeah.

10 Q Now in that video, how many of the People in that video
11 refer to themselves as Mayes Villains (phonetic)?

12 A Nobody.

13 Q Nobody? You don't refer to yourself as a Mayes Villain?

14 A Yeah. Like, what do you mean like? Well, you mean like
15 in the video or like in life?

16 Q In life?

17 A Yeah.

18 Q Okay.

19 A Like, that's where I'm from. That's where --

20 Q I'm sorry. Let me rephrase the question. Of the people
21 in that video, how many of them in their life refer to
22 themselves as Mayes Villains?

23 A I mean, a lot of them -- a lot of them don't, but like,
24 it's -- it's like, well, in this video right here, ain't
25 nothing but two of us there. It was me and Jay McBride.

1 Q You and Jay McBride were the Mayes Villains?

2 A Yeah, that's -- that's what we are. That's where we
3 from. We from Mayesville. We just put Villains on the end of
4 our name.

5 Q Okay.

6 MR. CORBETT: Okay. Would you bring up (indiscernible)
7 12 (indiscernible)? Your Honor, now referring to what I
8 believe is State's Number 6. Camera's 12 Sunoco surveillance.

9 BY MR. CORBETT:

10 Q Have you seen the video from the Sunoco surveillance
11 camera?

12 A Yes, sir.

13 Q Okay. Prior to this trial?

14 A Yes, sir.

15 Q Okay. Now in this video, do you see Timothy -- not
16 necessarily the night in question, but in this video, do you
17 see Timothy Scarbough approach the Diontrae Epps?

18 A You mean, like, in the video?

19 Q Yes.

20 A Like what? Like now?

21 Q Are you able -- well, I'm asking, are you able to see
22 that that is Trey Scarbough -- I'm sorry, Timothy Scarbough?

23 A (Indiscernible). No, I don't see him now.

24 Q Let me ask you, first of all, do you know Timothy
25 Scarbough?

1 A I done heard of him. I don't know -- I don't know about
2 Timothy Scarborough. I know about Dale (phonetic), but I
3 ain't -- like, I don't really know him like that, but I done
4 heard of him. You feel me?

5 Q If you saw him in a video, would you be able to pick him
6 out?

7 A Yeah.

8 Q Timothy Scarbough?

9 A Yes, sir.

10 Q Okay. Watch this for us if you would, please.

11 (Thereupon, the visual recording was played but not
12 transcribed herein.)

13 BY MR. CORBETT:

14 Q Do you see Timothy Scarborough in that?

15 A Well, I can -- I can tell it's him because of the chain
16 he had. You know what I'm saying? He had a -- he got a big,
17 like, last supper chain. He had on -- you feel me? You know,
18 I can see him back there because of the -- because of the
19 chain. It's big. He had a big last supper chain on back --
20 back there.

21 Q Would you be able to recognize Mike Rogers in this video?

22 A Yes, sir.

23 Q If you would continue watching with us.

24 (Thereupon, the visual recording was played but not
25 transcribed herein.)

1 (Recording interrupted)

2 THE WITNESS: Y'all ain't got like -- y'all ain't got a
3 better video? I -- I believe it is a better video because me
4 and my lawyer got a better video than this, I think.

5 BY MR. CORBETT:

6 Q Okay.

7 A Me and my attorneys.

8 Q All right. So you're not able to recognize --

9 A No.

10 Q -- Michael Rogers in that?

11 A I can't really -- you know what I'm saying? I can
12 just -- I could tell it was Dale because of his chain. I
13 can't really see is it -- you know what I'm saying? Y'all
14 ain't got a better video?

15 Q Would you be able to recognize Diontrae Epps in this
16 video?

17 A I can't really -- you know what I'm saying? Just look
18 like a bunch of black and -- black and white back there. I
19 can't see nobody, recognize nobody. You know what I'm saying?
20 Only reason I recognize him because of his chain. You can --
21 you can see his chain because it's big.

22 Q On the night in question, did you observe any of this?

23 A Nah.

24 Q On the night in question, did you see Diontrae Epps swing
25 a Michael Rogers?

1 A No, sir.

2 Q In the night in question, did you see Diontrae Epps fire
3 a weapon?

4 A No, sir.

5 Q In reviewing the video, do you see Diontrae Epps firing a
6 weapon?

7 A Yes, sir.

8 Q Please watch with us.

9 (Thereupon, the visual recording was played but not
10 transcribed herein.)

11 BY MR. CORBETT:

12 Q Now, in that video did you see Diontrae Epps firing?

13 A Yes, sir.

14 Q Were you able to tell how many shots?

15 A I have to play -- you have to play it back.

16 MR. CORBETT: We're going to slow the speed down on this.

17 MR. WARR: Your Honor, I'm going to object. This is
18 still outside the scope of direct examination. This is a
19 cross-examination. He's asking --

20 THE COURT: I don't know that --

21 MR. WARR: -- how many shots somebody fired --

22 THE COURT: I don't --

23 MR. WARR: -- in the video.

24 THE COURT: I don't know of any rule that limits the
25 scope of cross. Redirect is limited, and recross is limited,

1 but I don't know of any rule that limits him on cross to the
2 scope of direct. So I'm going to allow it.

3 (Thereupon, the visual recording was played but not
4 transcribed herein.)

5 BY MR. CORBETT:

6 Q How many shots have you seen?

7 A I'm seeing two.

8 Q If you would, please, look at the extreme right-hand side
9 of the building --

10 A (Indiscernible).

11 Q -- as we continue to allow this to play, and tell me if
12 you observe any flash or flashes.

13 (Thereupon, the visual recording was played but not
14 transcribed herein.)

15 THE WITNESS: Yeah

16 BY MR. CORBETT:

17 Q Okay.

18 A I see.

19 Q And that was Diontrae Epps?

20 A Now, I don't know, because he was behind the building.
21 You know what I'm saying? I don't know. I just seen flashes.

22 Q Now, you are seen in this video running up to the front
23 of the store?

24 A Yes, sir.

25 Q Is that correct?

1 A Yes, sir.

2 Q You are seen on video firing shots?

3 A Yes, sir.

4 Q Is that correct?

5 A Yes, sir.

6 Q You are seen in the video running around the truck and
7 firing more shots?

8 A You -- what do you mean? Them -- like, I didn't fire
9 until I get round the truck. I didn't -- know what I'm
10 saying?

11 Q If you would, please, watch with us.

12 (Thereupon, the visual recording was played but not
13 transcribed herein.)

14 BY MR. CORBETT:

15 Q Now, again, we are moving at a slower speed in this
16 video.

17 MR. CORBETT: Pause.

18 BY MR. CORBETT:

19 Q If you would, please, tell us when you see yourself.

20 A Right there. Can you see me right there behind the --

21 Q Dou see the arrow?

22 A Yeah.

23 Q Is that you right there?

24 A Yeah.

25 Q Okay. We're going to continue to play at slow speed.

1 (Thereupon, the visual recording was played but not
2 transcribed herein.)

3 MR. CORBETT: Pause.

4 BY MR. CORBETT:

5 Q Is that you firing a shot?

6 A Yeah.

7 Q We're going to continue at slow speed.

8 (Thereupon, the visual recording was played but not
9 transcribed herein.)

10 BY MR. CORBETT:

11 Q Is that you firing?

12 A Yeah.

13 Q That's you firing again?

14 A Yeah. What do you mean? Like, what do you mean? Like,
15 now I'm not. Like -- like, a moment before that I was. Like,
16 you can start it over. Like --

17 Q We'll back it up for you.

18 A All right.

19 (Thereupon, the visual recording was played but not
20 transcribed herein.)

21 THE WITNESS: I just fired one.

22 BY MR. CORBETT:

23 Q Okay.

24 A I just fired another one, and I just fired another one.

25 Q So we've got three that we know about?

1 A Yeah, that's it.

2 Q Okay. Please continue watching.

3 (Thereupon, the visual recording was played but not
4 transcribed herein.)

5 THE WITNESS: You see? Look. That's when I go to check
6 on my brother. And look, charges right there. He shooting as
7 he going out.

8 BY MR. CORBETT:

9 Q Okay, now --

10 A (Indiscernible).

11 Q -- I want to back up for just a moment to the part where
12 you go to check on your brother.

13 A Yeah.

14 Q Okay. So you're still in camera view at 11:42:12; is
15 that correct?

16 A Yeah.

17 Q Okay.

18 A Right there. The shots coming. You feel me?

19 MR. CORBETT: Pause.

20 BY MR. CORBETT:

21 Q Now, you're back in camera view by no later than
22 11:42:16?

23 A Yeah.

24 Q Four seconds from the time we lost sight of you?

25 A Yeah. He's right there. You know what I'm saying? The

1 car's like literally --

2 Q Oh.

3 A He's literally right there. You know what I'm saying?

4 Q I'll -- I'll come back to that in just one moment. If
5 you would continue to watch your movements, please?

6 (Thereupon, the visual recording was played but not
7 transcribed herein.)

8 BY MR. CORBETT:

9 Q What did we just see there?

10 A A flash.

11 Q Was that you firing?

12 A Yeah.

13 Q Okay.

14 MR. CORBETT: Please continue.

15 (Thereupon, the visual recording was played but not
16 transcribed herein.)

17 BY MR. CORBETT:

18 Q What do we see there?

19 A I -- I can't see. You can start --

20 Q All right, let -- we'll back it up and let it play
21 through for you at slow speed.

22 (Thereupon, the visual recording was played but not
23 transcribed herein.)

24 BY MR. CORBETT:

25 Q Okay. How many times did you fire?

1 A Three.

2 Q You fired three more times?

3 A Yeah.

4 Q All right. So is that a total of six that you fired?

5 A Yeah.

6 Q Total of six? Okay. Now, I'm going to back this up
7 again if I may, please.

8 (Thereupon, the visual recording was played but not
9 transcribed herein.)

10 BY MR. CORBETT:

11 Q If you would please at this time, notice the -- where the
12 red Charger is located. Are you able to identify it?

13 A Yeah. It's right there.

14 Q Okay. Is it where the arrow's on it?

15 A Yeah, right there with the person --

16 Q Okay.

17 A -- behind it.

18 Q Please watch that for us as we play.

19 (Thereupon, the visual recording was played but not
20 transcribed herein.)

21 BY MR. CORBETT:

22 Q Now, I want to pause here for just a moment. Do you see
23 the car just to the left of the pickup truck?

24 A What do you mean? Like --

25 Q Do you see the pickup truck?

1 A Yeah.

2 Q Do you see the car just to the left of it?

3 A Yeah.

4 Q Okay. And those appear to be angled in, facing the
5 Wendy's?

6 A Like, what do you mean, like -- yeah, like --

7 Q They're parked at an angle?

8 A Yeah.

9 Q In this direction?

10 A Yeah.

11 Q Where these parking lines are?

12 A Like, what you talking about? The truck -- the truck and
13 the car?

14 Q Correct.

15 A Yeah.

16 Q Okay. Now, the Charger is parked at a different angle;
17 is it not?

18 A Yeah. It's parked like --

19 Q Facing more this way?

20 A Yeah.

21 Q As the lines are here?

22 A Yeah.

23 Q Is that correct?

24 A Yes, sir.

25 Q Now, watch the Charger for me, please.

1 (Thereupon, the visual recording was played but not
2 transcribed herein.)

3 BY MR. CORBETT:

4 Q Now, up to that point, we saw no flashes from the
5 Charger's (indiscernible).

6 A You can't -- you can't see the front of the Charger. You
7 can only see the back taillight.

8 Q But we didn't see any?

9 A Nah.

10 Q This is you coming -- running in this direction?

11 A Yes, sir.

12 Q Okay. Is that the Charger we see on the extreme left?

13 A Yes, sir.

14 Q Okay. So it's pointed out toward the Rite Aid side
15 back --

16 A Yeah.

17 Q -- toward Broad Street?

18 A Yeah, like -- you know what I'm saying? It's right
19 there.

20 (Thereupon, the visual recording was played but not
21 transcribed herein.)

22 MR. CORBETT: Pause.

23 BY MR. CORBETT:

24 Q Is this the Charger?

25 A Yeah.

1 Q Okay.

2 MR. CORBETT: Please continue.

3 (Thereupon, the visual recording was played but not
4 transcribed herein.)

5 BY MR. CORBETT:

6 Q Now, the Charger --

7 MR. CORBETT: Pause.

8 BY MR. CORBETT:

9 Q Is now turned and is accelerating toward Broad Street; is
10 that correct?

11 A I can't -- you know what I'm saying? It look like it, I
12 guess. I don't know. I can't--

13 Q Do you need us to back it up?

14 A Yeah. I mean, it look like it.

15 Q Okay.

16 MR. CORBETT: Let's back (indiscernible).

17 BY MR. CORBETT:

18 Q So that's the Charger, correct?

19 A Yes, sir.

20 Q Okay. Are you able to see the map I'm pointing at?

21 A Yes, sir.

22 Q So it's now turning like this. Is that correct?

23 A Yes, sir.

24 Q Now, you saw the other video we played, right?

25 A Where the video?

1 Q Where the Charger hits Mr. Rogers?

2 A Yes, sir.

3 Q So you know that the car tried to exit out this way, then
4 had to back up and come around this way?

5 A Yes, sir.

6 Q Okay. So now we're making the turn this way?

7 A Yes, sir.

8 Q All right. Right there appears to be accelerating toward
9 Broad Street, correct?

10 A Yes, sir.

11 Q Okay. Now, where are you at this moment in time?

12 A I'm -- I'm still back there. You can see the -- I
13 still -- I'm still, like, right there, like, trying to check
14 on my brother type time. You know what I'm saying?

15 Q Okay. So 11:42:15 you're in the corner?

16 A Yes, sir.

17 Q Okay.

18 MR. CORBETT: Please continue.

19 (Thereupon, the visual recording was played but not
20 transcribed herein.)

21 BY MR. CORBETT:

22 Q So you fired three shots after the Charger has left the
23 camera view?

24 A He was firing at us.

25 Q Okay.

1 A He was firing at us.

2 Q Now, you testified he was firing out of the passenger
3 side?

4 A Yeah, he was firing at us the whole time. You feel me?
5 As he -- you know what I'm saying?

6 Q You're now looking at the rear of the Charger.

7 A Yeah, I guess --

8 Q Right?

9 A -- now. I guess now. You know what I'm saying?

10 Q You're now looking at the rear of the Charger; is that
11 correct?

12 A Yeah, I guess. I mean, yeah. I mean --

13 Q Okay. Now, is there anyone else on the other side of the
14 pickup truck in close vicinity to you who is firing a weapon?

15 A Yes, sir.

16 Q There are?

17 A Yes, sir.

18 Q Okay. Who?

19 A It was Jay McBride.

20 Q Jay McBride. Who else?

21 A That's it. It was just me and him. You can see we got
22 on a white shirt.

23 Q Now, we have a set of shell casings here denoted in
24 orange. Came from a 9mm gun, correct?

25 A Yes, sir.

1 Q We have another set denoted in blue that came from a 9mm
2 gun?

3 A Yes, sir.

4 Q We have a set in green that came from a 40 caliber gun?

5 A Yes, sir.

6 Q Okay. We have another shade of blue from 9mm?

7 A Yes, sir.

8 Q Is that correct?

9 A Yes, sir.

10 Q Down here we've got a purple 40 caliber?

11 A I mean, I don't -- I don't -- you mean -- I don't know
12 about all the way down there. I never -- I never was all the
13 way down there.

14 Q Okay. How about this 40 caliber from the Green
15 (phonetic) family from here? Do you know anything about that
16 one?

17 A No, sir. That's the -- that's the opposite side of the
18 building. I never was over there neither. But if you look --
19 if you look where I was at on that thing right there, you
20 would see that it's a 9mm. I didn't have the .38. It -- it
21 proves it right there.

22 UNIDENTIFIED SPEAKER: Thank you.

23 MR. CORBETT: Camera (indiscernible).

24 BY MR. CORBETT:

25 Q I'm going to show you what has been marked as State

1 Exhibit Number 6, Camera 16. Now, this is at slow speed, so
2 bear with us, please. Is that you?

3 A Yes, sir.

4 Q So that's you on camera firing the gun?

5 A Yes, sir.

6 Q Is that correct?

7 A Yeah. That's me on camera firing a 9 mil.

8 Q Okay. Camera one, please. What -- now we're going to
9 show this at a slower speed. Now, you see this individual
10 fall to the concrete, correct?

11 A Yes, sir.

12 Q But the night in question you did not see that?

13 A No, sir.

14 Q Do you see the red Charger strike that individual who's
15 on the concrete?

16 A Yes, sir.

17 Q Do you know who that individual is?

18 A Yeah. Yeah. That's "Killah" Mike.

19 Q That's Mr. Rogers?

20 A Yes, sir.

21 Q So the car hits Mr. Rogers, correct?

22 A Yes, sir.

23 Q Okay. Now, the car does not run over him. It begins to
24 back up; is that right?

25 A Yes, sir.

1 Q Okay. So let's watch this. The car is now making a
2 right turn, and it's heading out?

3 A Yes, sir.

4 Q So your testimony is that the driver of the red Charger
5 pulls forward and hits Mike Rogers?

6 A Yes, sir.

7 Q Throws it in reverse, backs up, puts it back in drive,
8 makes the right-hand -- since the left-hand way is blocked by
9 Mr. Rogers, makes a right-hand turn. So he pulls out, hits
10 Mr. Rogers, backs it up, puts it in drive, and comes around
11 here, and he goes out. And he does all of that while a steady
12 stream of gunfire is coming out of the car? That's your
13 testimony to this jury?

14 A I don't think he would of hit Mr. Rogers if he'd been
15 paying attention and not shooting at me; you feel what I'm
16 saying?

17 Q All right.

18 A If he was -- know what I'm saying? Car doesn't drive.
19 You know, the car gonna move when you -- when you -- when you
20 put it in drive. He's doing like this. He -- he hits him.

21 Q So he didn't have to put it in reverse to back up?

22 A He backed up after he hits him. Why would he -- why
23 would he back up, and he ain't hit him yet. You feel what I'm
24 saying? He -- he backs up. He looks at it. He backs up
25 after he hit him when he realized he hit him.

1 Q Gunshots ring out. The red car puts it in drive, pulls
2 forward, hits Mr. Rogers, correct?

3 A Like -- like, he -- he hits him like a little while after
4 the gunshots rang out. If you can look at the video, you can
5 tell by the timing.

6 Q Puts it in reverse?

7 A Yeah.

8 Q Backs up?

9 A Yes, sir.

10 Q Puts it in drive and pulls out?

11 A Yes, sir.

12 Q And your testimony is that he's -- how do you say it,
13 steady fire coming out of that?

14 A Yes, sir.

15 Q Okay.

16 MR. CORBETT: Now we're going to go to 11:43, if we may,
17 please?

18 THE WITNESS: Your Honor?

19 THE COURT: If you can -- will you see what she needs?

20 We've got a raised hand from one of the jurors. Is a --

21 MR. CORBETT: And Judge, if this is a good breaking point
22 for the Court, I'm set --

23 THE COURT: You need a break? Okay.

24 Let's go ahead and take a break. Please don't begin any
25 deliberations. We'll take about a ten-minute break.

1 (Whereupon, the jury exited the courtroom at 12:35 p.m.)

2 THE WITNESS: Okay. Your Honor, can I talk to Mr. Warr?

3 THE COURT: Just keep your seat for a minute.

4 (Recess.)

5 (Whereupon, the jury came into open court at

6 approximately 12:45 p.m.)

7 THE DEPUTY CLERK: Jury's all seated, Your Honor.

8 THE COURT: Thank you.

9 Ladies and gentlemen, we're all getting hungry, so we're
10 going to go ahead and break for lunch. I'm going to ask --
11 we're going to let you go out for lunch. If you'll please be
12 back at 2 o'clock and we'll resume.

13 Please don't begin discussing the case at all during the
14 lunch break. Thank you.

15 (Whereupon, the jury exited the courtroom at 12:46 p.m.)

16 THE COURT: Okay. We'll be at lunch.

17 MR. CORBETT: Your Honor, may I ask the Court to instruct
18 the witness not to discuss his testimony with any parties --

19 THE COURT: Sure.

20 MR. CORBETT: -- over the break?

21 THE COURT: Sure.

22 Mr. Myers, you are still on the stand, so don't discuss
23 your testimony at all during the lunch break.

24 THE WITNESS: Ah, I'm in a room by myself anyway.

25 THE COURT: Okay. Thank you.

1 (Thereupon, a luncheon recess was taken.)

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 A F T E R N O O N S E S S I O N

2 THE COURT: Thank you all. Please have a seat.

3 Okay, ready for the jury?

4 MR. CORBETT: Your Honor, one housekeeping matter, if I
5 may?

6 THE COURT: Yes, sir.

7 MR. CORBETT: Your Honor, we had, previously, this
8 morning, recalled Amanda Snapp to the witness stand. She
9 testified concerning some photographs of a pickup truck --

10 THE COURT: Um-hum.

11 MR. CORBETT: -- with what appeared to be --

12 THE COURT: State's Exhibit 40.

13 MR. CORBETT: -- State's Exhibit 40. Judge, that is
14 currently in a computer folder on our computer. And before
15 the conclusion of the trial, we will create a separate compact
16 disc with those photos and submit it to the court reporter as
17 the State's Exhibit 40.

18 THE COURT: Okay.

19 Okay. Do you want to bring the jury in?

20 (Whereupon, the jury came into open court at
21 approximately 2:13 p.m.)

22 THE DEPUTY CLERK: Jury's all seated now.

23 THE COURT: Thank you.

24 Mr. Corbett?

25 MR. CORBETT: Thank you, Your Honor.

1 RESUMED CROSS EXAMINATION

2 BY MR. CORBETT:

3 Q Mr. Myers, before the lunch break we were talking about
4 the video surveillance from the Sunoco store. And if I may
5 briefly return to that point. Now, this is State's Exhibit
6 Number 6, Camera 12. And I won't spend a great deal of time
7 here but if you would, please press play.
8 Now we've already established that that's you running up and
9 firing three times and then going around and firing an
10 additional three; is that correct?

11 A Yes, sir.

12 Q And your testimony was that there was a steady string of
13 fire coming from that car?

14 A Yes, sir.

15 Q Okay. And your testimony is that you did not take
16 advantage of the cover provided by the pickup truck or the
17 corner of the building but that you ran into close proximity
18 of that car?

19 A I mean -- yes, sir. Yeah.

20 Q How close did you get to it?

21 A I mean, the car was like -- like, right like --

22 Q As close as I am?

23 A -- on -- yeah, like --

24 Q Or do you want me to back up?

25 A Yeah, like, right there. Like, right there but you know

1 what I'm saying? They slanted tight but I was right there at
2 it.

3 Q Okay. So the car is angled this way? You come running
4 up like this, correct?

5 A Yes, sir.

6 Q At about this distance from which you describe as having
7 gunfire coming out of it?

8 A Yes, sir.

9 Q You just ran headlong into the gunfire?

10 A I mean -- yeah, I mean, shoot. He ain't looked like I
11 ain't got hit, you feel me? But yeah. I mean, I just didn't
12 get -- I guess it wasn't my time. I mean, I ain't got hit.

13 Q Now we've already looked at this, correct, Mr. Myers?

14 A Yes, sir.

15 Q Okay. And I'm going to let this play in normal speed for
16 a moment. Now, if we had the six-panel view up, you would be
17 on the far side shooting at the Charger while you go off
18 screen?

19 A Why who go off screen? Me or the Charger?

20 Q Both.

21 A You talking about like over there on the window side?

22 Q Yes.

23 A Yes, sir.

24 Q Did you see the individual walking on the right-hand side
25 of the car?

1 A Yes, sir.

2 Q Do you know who that is?

3 A Yes, sir.

4 Q Who is that?

5 A It look like "Pies".

6 Q "Pies"?

7 A Yeah.

8 Q Also known as Christopher Fordham?

9 A I mean, I guess that his real name. I ain't -- I ain't
10 ever really know his real name. All I know is "Pies".

11 Q "Pies"? Okay.

12 A Can you see me in the back seat? I'm big. You can see
13 me --

14 Q So --

15 A -- in the back seat.

16 Q What does it appear that the individual known to you as
17 "Pies" is currently doing?

18 A It look like he pulling somebody.

19 MR. WARR: Objection. Calls for speculation.

20 THE COURT: I'm sorry. Can you repeat the question?

21 Q What does it appear to you that the person that you know
22 as "Pies" is currently doing?

23 THE COURT: Yeah. I'm going to sustain the objection.

24 BY MR. CORBETT:

25 Q Now, from this video, does it appear that the person you

1 know as "Pies" is lifting someone up?

2 A Like he pulling somebody to me. But I ain't -- you know
3 what I'm saying?

4 Q Pulling somebody?

5 A Yeah.

6 Q Okay. All right. Now the car that we see in the
7 background, the gray car.

8 A Yeah.

9 Q Are you in that car?

10 A Yeah, you could clearly -- I mean, I'm big. You could
11 see me in the backseat.

12 Q All right.

13 A Where I tell you --

14 Q Now --

15 A -- I was at in the back passenger seat.

16 Q We're going to slow this down to a slower speed. Now
17 what do we observe happen there?

18 A Somebody shot.

19 Q Somebody's shot?

20 A Yeah.

21 Q Now why did you say somebody?

22 A I mean, you -- you ain't asking me who's shot. You say
23 what do we observe just now?

24 Q Okay.

25 A So I told you what I observed. Somebody shot.

1 Q Earlier this morning you said it was POLO.

2 A Yeah, but you didn't ask me who's shot. You said -- you
3 asked me what I observed just now, and I answered the
4 question.

5 Q Okay.

6 A If you had just said who that was shot, I would have told
7 you.

8 Q Who fired that shot?

9 A Look like the driver of the car. I guess -- that was
10 POLO.

11 Q POLO?

12 A Yeah.

13 Q Okay. So now, did that shot hit Christopher Fordham?

14 A I mean, I guess so, yeah. He got shot in the foot.

15 Q Now, I want to ask you this question. Was POLO trying to
16 finish off Mike Rogers?

17 A Nah.

18 MR. WARR: Objection. Calls for speculation.

19 A Like.

20 THE COURT: That's sustained.

21 Q Do you know if POLO was intending to shoot Michael Rogers
22 or Chris Fordham?

23 A I mean, how'd I know that? I mean, I ain't in a -- I
24 ain't in a --

25 Q The question is do you know?

1 A Nah. I just --

2 Q Now, your brother's in the car and has been wounded?

3 A Yeah.

4 Q Okay. You're wanting to get to the hospital?

5 A Yeah.

6 Q But here we see the gray car stop --

7 A Yeah.

8 Q -- to fire at one of these two people?

9 A I mean, yeah. I mean, I ain't driving so I can't -- you
10 know what I'm saying? All I could do is tell him to go.

11 Yeah, like that -- I can't get --

12 Q What is POLO's name please?

13 A Sheldon Benjamin.

14 Q Now upon leaving this scene where do you all go next?

15 A We go to Tuomey.

16 Q Tuomey Hospital, correct?

17 A Yeah.

18 Q Okay. All right. Now Mr. Myers, do you see the car
19 pulling up?

20 A Yes, sir.

21 Q Is that the same one we just saw at the Sunoco?

22 A Yes, sir.

23 Q You're in that car, correct?

24 A Yes, sir.

25 Q Who was driving?

1 A I just tell you. POLO.

2 Q Okay. POLO was driving?

3 A Yeah.

4 Q Now your brother Diontrae Epps is located where?

5 A In the passenger seat.

6 Q Where are you located?

7 A In the back passenger. Right behind the passenger in
8 back.

9 Q Okay. Who else is in the car?

10 A Jay McBride and Ellquin Williams.

11 Q Now is the individual POLO, Sheldon Benjamin, is that a
12 friend of yours?

13 A Yeah.

14 Q Okay. Is Jay McBride a friend of yours?

15 A Yeah.

16 Q Is Ellquin Williams a friend of yours?

17 A Yeah.

18 Q Okay. So all of you all ride to the hospital together?

19 A Yes, sir.

20 Q Okay. Watch this with me if you would please. Is that
21 you at the car?

22 A Yes, sir.

23 Q What is happening at the car?

24 A Putting him in a -- putting him in a wheelchair.

25 Q Diontrae Epps?

1 A Yes, sir.

2 Q Now, you're going back toward the grey car?

3 A Yes, sir. I mean, I don't get in it. I keep walking.

4 Q Who drives this car away from the hospital?

5 A On that --

6 Q Or away from this camera view?

7 A Oh, I think -- I think Jay. He's the only one up there
8 still.

9 Q So now we see the car leaving; is that correct?

10 A Nah, he backed right there in the parking spot.

11 Q Now I want to ask this question. Earlier in your
12 testimony when I was asking you about the Diontrae Epps --

13 A Yep.

14 Q -- you were quick to correct me on the nature of your
15 relationship.

16 A Yeah.

17 Q That he is your brother.

18 A Yeah. I mean, he is.

19 Q You two are close?

20 A Yeah.

21 Q That you care about him?

22 A Yeah. You don't care about your brother? You got a
23 brother?

24 Q So my question is this. You didn't go in the hospital
25 did you?

1 A Nah.

2 Q Your brother just went into the hospital with what you
3 have described as a life-threatening wound and you did not go
4 in?

5 A Nah.

6 Q You left him there?

7 A Yeah, with -- with Jay. We went to go get his mother
8 'cause she wasn't picking up the phone. It was late that
9 night. We went to go get his mother. She was staying right
10 there on -- on west side. On -- on -- on Purdy (phonetic), I
11 think.

12 Q With Jay?

13 A Yeah. Jay -- we left Jay there with him. We ain't -- we
14 couldn't go to the back with him, you know what I'm saying?
15 We went to go get his mother. She wouldn't pick up the phone.

16 Q So you've now described the events at the Sunoco to us.
17 You have now described the events at the hospital. You have
18 now left the hospital. Who did you leave the hospital with?

19 A I left the hospital with the same people except Jay.
20 Except we got in a different car.

21 Q Whose car?

22 A It was a red -- it was a red -- it was a red Sentra, you
23 know what I'm saying?

24 Q How did the red Sentra know to be there?

25 A They was at -- they was at the Sunoco, too. But they --

1 they just followed behind us.

2 Q So there was a group of your friends at the Sunoco who
3 went to the hospital in a different car?

4 A It wasn't a group. It was just like one person.

5 Q One person was in the car.

6 A Yeah.

7 Q Okay. So then you get into this other car, and you
8 leave?

9 A Yeah. We went to go --

10 Q Is that correct?

11 A Yes, sir.

12 Q Okay. So you've now left the hospital, okay? You've
13 described these events to us. When did you call law
14 enforcement?

15 A We ain't never called law enforcement.

16 Q That's correct. You never called law enforcement?

17 A Yeah. I mean --

18 Q You have described to us being in a massive shootout with
19 fire coming from a red car, and it never occurred to you to
20 call law enforcement?

21 A Man, it was a lot going on after that, know what I'm
22 saying? This man bleeding. We -- the only thing on my minds
23 is gettin' -- get him to the hospital. We didn't think about
24 calling no -- we didn't think about calling no police. We
25 think about getting him to the hospital.

1 Q Now according to State's Exhibit Number 1, the police
2 picked you up for an interview on September 25.

3 A 25th. Yeah, that's the same thing.

4 Q September 25?

5 A Yeah.

6 Q So you had no time between September 8th and September 25
7 to contact law enforcement?

8 A I mean, I ain't really thought of it that way but yeah, I
9 had time. But I ain't -- I ain't do it, you know what I'm
10 saying?

11 Q Now you arrive at the hospital in one car, and you leave
12 in a different car. Was that an effort to avoid law
13 enforcement?

14 A No, sir. I ain't thought about it like that. We was
15 just going to get his mother, you know what I'm saying?

16 Q So you testified that the car was left at the hospital
17 for I believe you said a week?

18 A I -- yeah, probably about that long. About -- yeah,
19 about five days to a week. We left it there for a little
20 minute. It had a flat tire.

21 Q Okay. So no one within the period of one week could
22 figure out how to fix a flat tire?

23 A I mean, I get -- you know, it's easy to fix a flat tire.
24 I guess there ain't nobody just ain't want to get it. Man,
25 shoot. It ain't my car, you feel me? I ain't -- why would I

1 go get somebody -- put a tire on somebody else's car if they
2 ain't want to go put a tire on their own car.

3 Q And your testimony is that you left the gun in the car?

4 A Yeah.

5 Q In the Tuomey Hospital parking lot?

6 A Yeah. I mean --

7 Q For a week?

8 A I ain't know if it'd been left there for a week, you feel
9 what I'm saying? I'm saying when I got there, it was gone.
10 You feel what I'm saying?

11 Q Now if we could, please, let's transition to your
12 statement to law enforcement if we may. Now we were
13 previously referencing State's Exhibit Number 1. They first
14 came to -- or first brought you in for an interview on
15 September 25th; is that correct?

16 A Yes, sir.

17 Q You were read your rights?

18 A Yes, sir.

19 Q You understood your rights?

20 A Yes, sir.

21 Q You voluntarily began talking with them.

22 A What time on the -- 20 what? On the --

23 Q On the 25th.

24 A Yeah, but I ain't -- I ain't said much.

25 Q Didn't say much and said I'm done at this point?

1 A Yes, sir.

2 Q Correct? Now on September 26 --

3 A Let -- let me -- I got to say something about the 25th.
4 I only had -- I ain't had nothing but the warrants for the
5 attempted murder on Michael Lucas. I did not get the warrants
6 until the murder until they lead me out the door. And then
7 Det. McFadden gave me a warning like, yo, you charged for
8 murder too. I did not got the warrants in the -- in the
9 investigation room. He ain't give me the warrants for the
10 murder 'til I left. Until, like, while I was leaving to go
11 back to the Sumter County.

12 Q Then on September 26th, you contacted law enforcement so
13 that you could talk with them?

14 A Yeah. I wanted to know why I'm charged with murder. I
15 mean --

16 Q And on September 26th, and I'm going to refer to State's
17 Exhibit Number 2, you were read your rights?

18 A Yes, sir.

19 Q You understood your rights?

20 A Yes, sir.

21 Q And you signed the form acknowledging such?

22 A Yes, sir.

23 Q That that statement was freely and voluntarily given to
24 the police?

25 A Yes, sir.

1 Q Okay. So it was a lengthy statement, correct?

2 A What you mean like? Long --

3 Q It was well over an hour?

4 A Yes, sir.

5 Q Okay. Now is it fair today to say that the statement
6 that you gave on September 26 is greatly different than your
7 testimony here today?

8 A Yes, sir.

9 Q So it's different. You admit that?

10 A Yes, sir.

11 Q Now would it surprise you to know that, on no less than
12 25 occasions, you were asked either what kind of gun you had,
13 where is the gun, what did you do with the gun? And in none
14 of those, no less than 25 times, did you give an answer?

15 A No, sir.

16 Q That would not surprise you?

17 A Well, you -- nah.

18 Q Okay. Would it surprise you to know that on no less than
19 ten times you used the phrase I swear to God or something
20 similar?

21 A Yes, sir.

22 Q Ten different times?

23 A When you -- like did I say it? Yes, sir.

24 Q Now at 4 minutes and 44 seconds into this statement you
25 were asked who were you shooting at?

1 A Yes, sir.

2 Q And your answer was, "I ain't shooting at nobody"; is
3 that correct?

4 A Yes, sir.

5 Q Okay. So your initial statement to the police was that
6 you didn't shoot at anyone?

7 A Yes, sir.

8 Q That's not true?

9 A No, sir.

10 Q Okay. At 5:53, when asked who drove to the hospital you
11 said you didn't remember.

12 A Yes, sir.

13 Q Did you remember between then and now that it was POLO,
14 or were you lying in here?

15 A I mean -- I mean, when -- that my -- I'm gonna explain
16 it. That was my first time getting in trouble, you feel what
17 I'm saying? I ain't never been in no investigation room or
18 nothing like that.

19 MR. CORBETT: Your Honor --

20 I'm sorry. Please hold for a moment.

21 Your Honor, may counsel and I approach?

22 THE COURT: Sure.

23 (Whereupon, a bench conference was held off the record in
24 the presence of the jury, but out of the hearing of the
25 jury.)

1 (Thereupon, counsel returned to counsel tables and the
2 following ensued:)

3 (Open court.)

4 BY MR. CORBETT:

5 Q I'm sorry. The last question was when you told police
6 you didn't remember who was driving, was that a lack of memory
7 at that point in time or a lie?

8 A I mean -- I mean, I was -- I mean, I was lying but you
9 know what I'm saying? But let me explain. Like I was saying,
10 though. I ain't never been in, like, no situation like that,
11 like, in no questioning rooms or nothing like that, you feel
12 what I'm saying? All I'm thinking in my head is look, boy,
13 this just like a movie. I ain't know what type of time they
14 on.

15 They blame -- they done blame me for a murder I know I
16 ain't do. You feel what I'm saying? I know I ain't murder
17 nobody. So I just told them I ain't know, you feel what I'm
18 saying? I just keep telling them I ain't know. I ain't know.

19 Q At 7:34, you were asked about shooting at "Killah" Mike,
20 and your response was, "I ain't -- I ain't no shooter, but I'm
21 big, bro. I'll beat you up".

22 A Yeah.

23 Q Okay. Now based on what we see in the video you were
24 shooting?

25 A Yeah, but not at "Killah" Mike.

1 Q At 8 point O on the tape, when asked if you shot it D-
2 Black or "Killah" Mike, you said, "I ain't even shoot.
3 Well -- well, I swear to God I wasn't shoot at none of them,
4 bro. I wasn't shooting at none of them".

5 A I didn't. I didn't shoot at D-Black or "Killah" Mike. I
6 didn't.

7 Q At 9:19 in response to a question, you said, "I ain't
8 care nothing about all the other charges, man. But y'all come
9 on now, don't let me go down for something I didn't do, bro.
10 Please, bro".

11 A Yeah, I was talking about --

12 Q Okay.

13 A I was talking about the murder. But I wasn't -- I ain't
14 had nothing but the attempted murder and the murder at this
15 time. The Michael Lucas and the -- the murder. You know, I
16 ain't had the -- the other thing for the car incident. I was
17 not charged with that yet.

18 Q Now, when you say I don't care about the other charges,
19 what do you mean?

20 A Really, I was just -- you know what I'm saying? I was
21 just in there just -- really, I was just talking, man, to be
22 honest with you. 'Cause I ain't -- just like I said, I ain't
23 really know what was going on, you know, I was just -- I just
24 know, man, I'm gonna be real with you. I just know for a fact
25 I ain't killed nobody. That the only thing that was on my

1 mind. And didn't kill nobody. They got me in for murder. I
2 know for a fact I ain't kill nobody.

3 Q All right. Now, we looped back around to this topic more
4 than once, and you said later on that I'll take the attempted
5 murder; is that correct?

6 A Yes, sir.

7 Q Okay. So you admit that?

8 A We -- like, what you do you mean? Like --

9 Q You admit that you attempted to murder the person in that
10 red car?

11 A I mean --

12 MR. WARR: Objection, Your Honor.

13 THE COURT: I'm going to allow the question.

14 THE WITNESS: I mean, he was shooting at me too. You
15 feel what I'm saying? But I ain't -- you know what I'm
16 saying? He be shooting at me too.

17 BY MR. CORBETT:

18 Q At one point, at 13:57, you asked if Ello got out of the
19 car, and you responded not really. Did Ello get out of the
20 car?

21 A What do you mean? Like, when?

22 Q That night when the shooting was taking place at the
23 Sunoco?

24 A I just told you we got out the car. Like, we -- you know
25 what I'm saying?

1 Q I understand that was your testimony today.

2 A I --

3 Q My question is, did you tell the police when being
4 questioned -- when asked, did Ello get out the car, did you
5 say not really?

6 A I mean, I guess so.

7 Q At 15 minutes and 30 seconds, did you say I'm six-four,
8 300 pounds. I'm not the type of person to use no guns.

9 A I don't remember saying all that, but I mean, I did say
10 the little part about, I'll beat you up. But I ain't remember
11 saying all that, but I probably did. You know, I'm saying?
12 I -- I don't really know.

13 Q At 1605 you said to the police, that's when shots just
14 fired off. I ran. I ran. You feel me? I ran. If I had a
15 gun, I wouldn't have run, bro. I'm telling you.

16 A I mean, I remember saying -- telling him I ran and all
17 that. I ain't -- you know?

18 Q Do you need us to play that portion for you to hear?

19 A I mean, if you want to. You play it, I'll say it. I'm
20 going to tell you. I ain't up here to lie to you.

21 Q We'll come back to that in a moment. At the 17-minute
22 mark, you said, I worried about none of that other stuff. I
23 mean, if y'all going to get me for attempted murder, and then
24 you continued that thought; is that correct?

25 A What do you mean?

1 Q Y'all going to get me for that attempted murder?

2 A I'm saying, like, what do you mean? You say I continue
3 that thought. I'm trying to figure out what you mean.

4 Q Very well.

5 A You need to tell me what you mean by that.

6 Q Det. McFadden began in this manner. This is from Det.
7 McFadden. We'll get to that part later. Let's talk about
8 this in order so we can get that part out of the way. Because
9 what you're telling me, I already know that. I already know
10 for a fact that you had a gun. You cannot tell me you had
11 not. I see you on camera had a gun. I see you fired a gun.

12 Stop telling me that you didn't have a gun. Don't tell
13 me that no more. Because this -- excuse me. Because this
14 thing here, all you want to do is sit here and lie. I don't
15 need lies. I need the truth on everything. You ain't the
16 only one we talking to. We talking to everybody out there.
17 Your response at 17: Oh, oh. But how am I charged with when
18 I ain't got no problem? This -- I ain't worried about none of
19 that other stuff. I mean, y'all going to get me for attempted
20 murder -- the next part I had difficulty understanding -- but
21 please don't say I killed nobody, bro, when I didn't.

22 MR. WARR: Your Honor, I'm going to object to the use of
23 this transcript. We have no way to validate its accuracy.
24 And defense has not being provided a copy of --

25 THE COURT: Well, I think -- y'all approach for just a

1 minute.

2 (Whereupon, a bench conference was held off the record in
3 the presence of the jury, but out of the hearing of the
4 jury.)

5 THE COURT: Mr. Corbett?

6 MR. CORBETT: Thanks, Your Honor.

7 MR. WARR: Just for the record, Your Honor, your ruling?

8 THE COURT: I'm going to allow the question. I
9 understand that there is no official transcript, that this is
10 each party listens to the audio tape and can discern as best
11 they can what the defendant's response is, but there is no
12 official transcript. Thank you.

13 BY MR. CORBETT:

14 Q Mr. Myers, for benefit of the record, I will note the
15 time, but at 18:57, you were asked who you saw with a gun out
16 there. Do you remember your response?

17 A I probably tell you nobody.

18 Q I ain't seen nobody with guns, man. That's what I'm
19 trying to tell y'all. Does that sound like your answer?

20 A I guess so.

21 Q That wasn't true, was it?

22 A No.

23 Q Now, at 2140, you stated -- or I'm sorry, let me ask it
24 this way. Do you remember saying this? I shoot at the red
25 Charger. The question was, who else was in the red Charger

1 was coming round to kill Trey? And your answer -- and tell me
2 if this is your answer -- I ain't know.

3 A I ain't -- who else is in the red Charger coming around
4 to kill Trey? I ain't remember that.

5 Q Bear with me one moment, please. I'm going to play
6 approximately two minutes of audio. Now, let me ask this
7 before I begin. At this point in time, had you seen the cell
8 phone video from the scene that night?

9 A Yeah, everybody's seen it. It was -- it was everywhere.

10 Q Okay. Had you seen the Sunoco surveillance video at this
11 point?

12 A Nah.

13 Q Okay.

14 (Thereupon, the audio recording was played but not
15 transcribed herein.)

16 MR. MYERS: (Indiscernible). And I ain't even going to
17 lie. Yeah, I -- I shoot at the red Charger, but listen, I
18 didn't (indiscernible). I was in the corner, and nobody was
19 (indiscernible) out there (indiscernible). Ain't nobody was
20 (indiscernible). Please (indiscernible) I didn't kill nobody,
21 bruh. I promise I ain't kill nobody, bruh.

22 DET. KELLY: Why was you shooting at the red Charger?

23 MR. MYERS: Man, I -- man, it was so much (indiscernible)
24 out there, man. I really thought they was going to come and
25 try to kill my brother. Feel what I'm saying?

1 (Indiscernible). But I'm telling you I know for a fact -- I
2 promise you 100 percent for a fact that I know for a fact I
3 didn't kill nobody.

4 DET. KELLY: (Indiscernible).

5 MR. MYERS: I ain't know.

6 DET. KELLY: Well (indiscernible).

7 MR. MYERS: I -- I ain't saying that. I ain't saying
8 that. But like it was so many shots out there, I -- I was
9 thinking, like, they trying to kill people out here tonight.
10 Feel what I'm saying? I see my people get shot. I ain't
11 even (indiscernible). He was (indiscernible) Killa Mike,
12 and -- and I -- and I just shoot. (Indiscernible).

13 This man trying to save somebody. (Indiscernible).
14 That's what I'm trying to find out, what happened. I didn't.
15 That's what I was trying to tell y'all (indiscernible). I did
16 not do it to him. I -- (indiscernible). Man, all you got to
17 do is look at the camera again, man. Y'all can tell I didn't
18 shoot that dude (indiscernible). Y'all can tell I ain't
19 lying. I ain't got no reason to lie to y'all. Y'all got the
20 (indiscernible). All that other attempt murder and -- man,
21 I'll take that (indiscernible). I can't -- I can't --

22 DET. KELLY: Who -- who was in the Charger?

23 MR. MYERS: Huh?

24 DET. KELLY: Who (Indiscernible) red Charger?

25 MR. MYERS: I -- I don't know.

1 DET. KELLY: You don't know him?

2 DET. MCFADDEN: (Indiscernible).

3 MR. MYERS: I don't know. I don't know who
4 (indiscernible). The dude -- man, I can promise you he wasn't
5 in there.

6 DET. KELLY: Mm-hmm.

7 (Recording paused)

8 MR. CORBETT: Pause.

9 BY MR. CORBETT:

10 Q On the last portion, did you hear Det. McFadden ask, then
11 why shoot at it if you don't know?

12 A Yes, sir.

13 Q And your response was, I don't know. I don't know who
14 was in there, man. The dude, man, I could promise you he
15 wasn't in there. You heard that portion?

16 A Yeah. I was telling my D-Black when I say he wasn't in
17 there.

18 Q Now, let's back up just a little bit. We heard this part
19 also. I promise you got the wrong dude, bro. On that other
20 attempted murder and crap, man, I'll take that, man, I promise
21 you.

22 A Yeah, I was talking about you got the wrong dude on
23 murder, which y'all do got the wrong dude on murder.

24 Q That sounds like an admission to attempted murder when
25 you say, I'll take that, man.

1 A I mean, I ain't really -- you know what I'm saying? I --
2 I ain't going to lie, I said it. But shoot, they shooting at
3 me. I ain't -- I don't know. You know what I'm saying? I
4 don't really know the law like that. I ain't know I'm in the
5 right, you feel me, for -- for self-defense. I don't know
6 nothing about the law because I don't get in trouble. You
7 feel what I'm saying? I'm going to be real with you. I don't
8 know nothing about the law. I don't get in trouble.

9 (Thereupon, the audio recording was played and
10 transcribed herein.)

11 MR. MYERS: (Indiscernible). I know for a fact I ain't
12 shoot him. I ain't shoot him (indiscernible). Man
13 (indiscernible). Y'all be (indiscernible).

14 DET. KELLY: (Indiscernible)?

15 MR. MYERS: I ain't -- I don't -- I don't even remember,
16 man. I don't even know, bruh.

17 DET. MCFADDEN: Where's the gun at now?

18 MR. MYERS: I don't know. I'm telling y'all.

19 DET. MCFADDEN: What'd you do with the gun?

20 MR. MYERS: Nothing.

21 DET. MCFADDEN: So it's at your house?

22 MR. MYERS: No.

23 DET. MCFADDEN: Where'd you put it?

24 MR. MYERS: Man, can I talk my mama, bruh?

25 (Recording interrupted)

1 MR. CORBETT: Pause, please.

2 (Recording paused)

3 BY MR. CORBETT:

4 Q In that particular exchange, Det. Kelly said what kind of
5 gun did you have? And you heard it there, correct? Your
6 response was, I didn't have -- I don't -- I don't even
7 remember, man. I don't even know, bruh. McFadden comes back
8 and says, where the gun at now? You respond, I don't know.
9 I'm telling y'all. Det. McFadden then asks, what -- what'd
10 you do with the gun? You respond, nothing. Det. McFadden
11 says, so it's at your house? You say, no. Det. McFadden
12 says, where'd you put it? And your response is, can I talk to
13 my mama? Is that correct?

14 A Yeah.

15 Q Okay. So that entire series of questions about the
16 gun -- all of those answers were untruthful, except with the
17 possibility of I don't know.

18 A I mean, I didn't know where the gun at. I wish I knew --
19 I told her -- if you listen, I told her I don't remember.
20 I -- I definitely remember what kind of gun I had. I just
21 didn't want to -- I just didn't want to tell them because I
22 didn't know what type of time they been on. You -- I -- if
23 I -- if I tell you something you know you didn't do, and then
24 I ask you a question, would I -- I -- I know I ain't murder
25 nobody. They in here blaming me for a crime I know I ain't

1 did. And then they asking me a bunch of questions, and they
2 want me to be truthful with them. I can't trust them. I -- I
3 can't -- you know what I'm saying? I can't -- I don't trust
4 them right now. You feel what I'm saying?

5 Q When did you find out that Mr. Middleton was killed by a
6 .38 caliber bullet?

7 A I ain't find -- I ain't find that out until -- until I
8 got -- until after I got locked up and went and got my lawyers
9 and stuff like that.

10 Q So at the time of this statement, you didn't know that?

11 A No.

12 Q Okay. So at the time of your testimony today, you did
13 know that?

14 A Yeah.

15 Q Okay. So on the 26th, what's 15 -- 18 days after the
16 shooting, you provided no information about the gun?

17 A No, sir.

18 Q Matter of fact, on several occasions in this statement,
19 your recorded statement, you asked the police what kind of gun
20 he was killed with?

21 A Yes, sir.

22 Q Okay. And matter of fact, you said something to the
23 effect of, well, if I tell y'all what kind of gun I had and
24 it turns out he was killed with that kind of gun, then y'all
25 will put this on me?

1 A I said that because I had a 9. You know what I'm saying?
2 You know how easy it is to get a 9? You can buy a 9mm for 50
3 dollars. You know how much people got 9mm? You see how much
4 people had 9mm on that board? You feel what I'm saying?

5 Q Well, let's pause there for a brief aside. You told us
6 you bought this gun for 150 dollars?

7 A I -- yeah, I said --

8 Q From who?

9 A -- I said you can buy a 9mm for 50 dollars.

10 Q From who?

11 A I bought my 9mm for 150 dollars.

12 Q From who?

13 A From -- from somebody. I ain't bought to -- you know
14 what I'm saying, I ain't bought to give their name. I bought
15 that gun so long ago. That gun was like --

16 Q Is it you don't know, or you're not about to get into it?

17 A You mean? What am I --

18 Q I'm trying to understand your answer. I asked you who
19 you bought the gun from.

20 A Man, I ain't really -- you know what I'm saying? He
21 ain't got nothing to do with this thing.

22 Q Because just like you won't -- wouldn't tell the truth in
23 this statement, you won't tell the truth right now.

24 A I'm telling the truth. I'm telling the God-honest truth.
25 I don't got no reason to lie. Everything I'm --

1 Q Who did you buy the gun from?

2 A Man, I don't know, man. I don't see what this got to do
3 with murder. You know what I'm saying?

4 (Pause.)

5 BY MR. CORBETT:

6 Q At any point in this -- the statement that you gave to
7 law enforcement, did you tell them that Polo (phonetic) or
8 Sheldon Benjamin fired and hit Chris Ford (sic)?

9 A No, sir.

10 Q Didn't tell them that at all?

11 A No, sir.

12 Q Nowhere in this statement, in the statement that you gave
13 to law enforcement do you say that gunfire was coming from
14 that red Charger?

15 A No, sir. I said they were shooting at people. Know what
16 I'm saying? I ain't said, like, gunfire, but I said they --
17 you know what I'm saying? They were shooting at people.

18 Q You never specified that gunfire was coming from the red
19 Charger, did you?

20 A I mean, we was talking about the red Charger already, so
21 I ain't -- I -- I ain't said it, that it was coming out the
22 red Charger, but we were already talking about the red Charger
23 already.

24 Q So when you're being asked who was in the red Charger --
25 bear with me one moment, please. Again, who was in the red

1 Charger?

2 MR. WARR: Objection. Asked and answered.

3 THE COURT: Let me hear the question first.

4 BY MR. CORBETT:

5 Q Then why shoot at it if you don't know? Your answer was,
6 I don't know. I don't know who was in there, man.

7 THE COURT: And that's --

8 BY MR. CORBETT:

9 Q The dude, man, I promise -- I -- I could promise you he
10 wasn't in there. Now, within that line of questioning, you
11 never said anything about gunfire coming out of the red
12 Charger.

13 A Man, I said he wasn't in there, because I was talking
14 about the D-Black. We -- every time they tried to talk about
15 something else, I was getting on the point about the murder
16 because I know I didn't murder anybody. You feel what I'm
17 saying? If you listen to the interview, you would hear that.
18 Every time they ask me about something else, I was on about
19 the murder that they was trying -- they were trying to accuse
20 me of, and I know I didn't do it. And I'm pretty sure y'all
21 know I didn't do it.

22 Q Now, the red Charger, as it was pulling away and
23 accelerating toward Broad Street, that red Charger was not a
24 threat to you, was it?

25 A Talking about, like, when it was leaving out?

1 Q Yes, sir.

2 A Nah, but it already was -- it already was shooting so
3 much times when it -- when it -- before they left out. You
4 know what I'm saying? No telling what it was going to do
5 next.

6 Q So in the video, when we see the car make the left, loop
7 around the gas pumps, and head toward Broad Street --

8 A We -- we -- well, he was -- when he came out, made the
9 left, and -- and was going straight before he take the turn,
10 he was shooting. Like, when he was going straight, he was in
11 that little corner. He was shooting. Then he wouldn't take
12 the turn to go to Broad Street, yeah.

13 Q So then he's going toward Broad Street. You run around,
14 and come up, and fire three more times?

15 A I mean, I wasn't the only one shooting. So I can't
16 really tell you that that's my -- just like I tell you, Jay
17 McBride was shooting with me.

18 Q Was anyone besides Jay McBride shooting?

19 A No. No, sir.

20 Q Just you and Jay McBride?

21 A Yes, sir, that I see at that time.

22 Q Did anyone -- did you or Jay McBride have more than one
23 gun?

24 A I mean, Jay McBride, he had 9 too. He had a SCCY 9.

25 Q How many times did you fire?

1 A I ain't -- you know what I'm saying? I ain't really -- I
2 ain't count it. But it looked like I fired six times on the
3 video. But just like I tell you, it was me and him shooting,
4 so ain't no telling who -- who light that been at that time.

5 MR. CORBETT: One moment, please, Your Honor.

6 (Pause.)

7 BY MR. CORBETT:

8 Q Now, later on in your statement, Det. Kelly also asked
9 you about what type of gun that you had, correct?

10 A Yes, sir.

11 Q And at no point during your statement did you say Smith
12 and Wesson 9mm?

13 A No, sir.

14 Q At no point in time did you tell law enforcement Smith
15 and Wesson 9mm until after you knew which round killed Mr.
16 Middleton?

17 A I mean, I been telling my lawyer what it was. We -- we
18 ain't got -- I been telling my lawyer what it was. We ain't
19 got data until like -- like, what? Like, recently. We -- we
20 just got that, like, what? Like ten months ago or something
21 like that. We just -- we -- I been telling him what it was.

22 Q Now, you indicated that you had a gun in the car?

23 A Yes, sir, the same -- the Smith and Wesson 9.

24 Q But it was Jay McBride's car?

25 A Yes, sir.

1 Q So you took your gun and put it in his car?

2 A Yeah. I mean, we was riding together. He had his gun in
3 there, too.

4 Q Do you have a concealed weapons permit?

5 A No, sir. But I ain't a felon, so if I got a -- if I got
6 a -- you know what I'm saying? It's not unlawful carrying a
7 pistol. If I got to put up, I'm not a felon, so I can have a
8 gun. It's not unlawful carrying a pistol if you got it in a,
9 you know, the little -- the little junk or the -- the arm
10 rest, or either the little -- damn. (Indiscernible). The
11 little -- the little junk you pull down in the front of the
12 car. You know what I'm talking about. But I had mine in the
13 armrest.

14 Q Who shot the Chevrolet pickup truck from the passenger
15 side?

16 A I mean, I don't know.

17 Q Was it you?

18 A No.

19 Q Wasn't you?

20 A No.

21 Q So who does that leave?

22 A I mean, I don't know. It -- it's a couple people
23 shooting out there, so how would I --

24 Q Okay. So we've gone from you and Jay McBride to now a
25 couple of people shooting?

1 A I mean, it's always a couple people shooting out there.
2 You -- you got like 100 something bullets.

3 Q And as far as we know, that bullet may still be in.
4 Deandre Epps?

5 A It may or may not. I can't tell you.

6 Q Now, in that previous line of questioning in your
7 statement, you stated that -- first of all, who is D-Black?

8 A I think -- I just -- I find out over time that his name
9 Greg Middleton.

10 Q Okay. You said that Gregory Middleton was not in the
11 car?

12 A Yeah.

13 Q How do you know that?

14 A I mean, because obviously he wasn't in the car. I mean,
15 you know, at the time, but he wasn't -- you know what I'm
16 saying? He wasn't in the car.

17 Q How is it obvious?

18 A Because he was on the outside of the car. You -- you
19 just seeing that just like me.

20 Q Did you not multiple times say in your statement that you
21 never saw D-Black out there?

22 A Nah, I never saw him, and the car was blocking him. I
23 never saw him.

24 Q So I'm asking -- you made the statement --

25 A Oh, you -- you --

1 Q -- I know he wasn't in that red Charger.

2 A Oh, I just be saying -- I just be -- you know what I'm
3 saying? I just -- I just had the feeling he wasn't in there.
4 He wasn't.

5 Q At the time you gave this statement, you hadn't seen the
6 surveillance video?

7 A No, sir.

8 Q So how would you have a feeling he wasn't in that car?

9 A I mean, I'm just saying, like, he wasn't in the car.
10 I -- he wasn't.

11 Q I'm sorry. Let me rephrase the question. On the night
12 in question, when you ran out there with your gun shooting,
13 how did you know he wasn't in the car?

14 A I didn't.

15 Q In that hotel room, why did y'all make that Facebook
16 video?

17 A I mean, I ain't know why he made the Facebook video. I
18 was just there. You know what I'm saying? I ain't know why
19 he made it.

20 MR. CORBETT: No further questions.

21 THE COURT: Redirect?

22 MR. WARR: Yes, Your Honor, if you -- if it please the
23 Court.

24 THE COURT: Yes, sir.

25 REDIRECT EXAMINATION

1 BY MR. WARR:

2 Q Mr. Myers, Trey Epps is your half-brother, correct?

3 A Yes, sir.

4 Q But you consider him like full brother?

5 A Yes, sir. We grew up together our whole life.

6 Q Okay. Did you ever have a problem with Killa Mike?

7 A No, sir.

8 Q Do you ever talk to Killa Mike?

9 A No, sir.

10 Q Ever had a dispute with Killa Mike?

11 A No, sir.

12 MR. CORBETT: Your Honor, to the leading nature of the
13 questions.

14 THE COURT: That's sustained.

15 BY MR. WARR:

16 Q Have you ever heard the word Sumter rights?

17 A Sumter what?

18 Q Sumter rights?

19 A What is that? No, I never heard of that word.

20 Q Oh, okay. When you say Mayes Villains, what do you mean?

21 A It's Mayes Veens (phonetic). That means we just Mayes
22 Vill through and through. You feel me? We like -- we just
23 from Mayesville. That way -- you know what I'm saying?

24 Q So anyone from Mayesville's a Mayes Villain?

25 A Yeah, basically.

1 Q Okay.

2 A If you -- if you grow up there your whole life, you a
3 Mayes Villain.

4 Q And somebody from Turbeville would be a Turbe Villain?

5 A Yes, sir.

6 Q All right. The video that we saw at the hospital, why
7 doesn't it show you anybody getting out the car? We don't see
8 anybody get out of the car.

9 A I don't know. It just -- I don't know. It look like it
10 just skipped to me.

11 Q Is there about a ten-second jump in that video?

12 A That what it look like to me.

13 Q So that's why it doesn't show anyone getting out the car?

14 A Yes, sir.

15 Q Because the video's incomplete. Now, are you afraid of
16 cops?

17 A I mean, I really don't trust them like that, but you know
18 what I'm saying, I ain't afraid of them. I really don't trust
19 them.

20 Q You don't trust them?

21 A And is it socially acceptable in your community to talk
22 to law enforcement?

23 MR. CORBETT: Objection, Your Honor.

24 THE COURT: And the basis of your objection?

25 MR. CORBETT: The objection is it calls for speculation,

1 or it's without foundation.

2 MR. WARR: He can testify as to what social norms are.

3 THE COURT: Well --

4 MR. CORBETT: May we approach?

5 THE COURT: -- I mean, I'll decide what he can testify
6 to. Come on up.

7 (Whereupon, a bench conference was held off the record in
8 the presence of the jury, but out of the hearing of the
9 jury.)

10 BY MR. WARR:

11 Q Mr. Myers, in Mayesville, in the young Black community,
12 is it socially acceptable to talk to law enforcement?

13 MR. CORBETT: Objection, Your Honor.

14 THE COURT: What's the basis?

15 MR. CORBETT: Your Honor, he's asking for the entire --
16 I'm trying to think of his phrasing -- young African Americans
17 who live in Mayesville, do they talk to police? How can this
18 witness have the knowledge --

19 MR. WARR: He's a member of that community.

20 THE COURT: Okay. I'm going to allow the question.

21 Thank you.

22 THE WITNESS: No, sir. We don't talk to the police.

23 BY MR. WARR:

24 Q Thank you. And when you went into that interview room,
25 did Det. McFadden present you with the Bible?

1 A No, sir.

2 Q Did he ask you to place your hand on that Bible?

3 A No, sir.

4 Q Did he ask you to raise your right hand?

5 A No, sir.

6 Q Did he ask you to solemnly swear to tell the truth, the
7 whole truth --

8 MR. CORBETT: Objection, Your --

9 BY MR. WARR:

10 Q -- and nothing but the truth?

11 MR. CORBETT: Objection, Your Honor. It's a series of
12 leading questions.

13 THE COURT: Yes, sir. That's sustained.

14 BY MR. WARR:

15 Q Were you placed under oath in the investigating room?

16 A No, sir.

17 Q And when you said, I didn't kill anyone, what did you
18 mean?

19 A I ain't kill nobody.

20 Q After they presented you with the murder warrant, how did
21 that make you feel?

22 A It made me feel like, what they got going on? I know I
23 ain't kill nobody. Shoot. I -- I'm ready to talk about this.
24 You know what I'm saying? Man, no, they got the wrong dude.

25 Q Were you afraid?

1 A Yes, sir.

2 Q Could you focus on anything else?

3 A No, sir.

4 Q When you said, I'll take the attempted murder. Just
5 don't put this murder on me. Was that a confession, or was
6 that you're say -- you being afraid to get the murder --

7 MR. CORBETT: Objection, Your Honor.

8 THE COURT: That's a leading question.

9 BY MR. WARR:

10 Q You weren't pleading guilty in a court of law?

11 A No, sir.

12 Q You were just worried about --

13 A I was just worried -- I --

14 THE COURT: That's a leading question.

15 BY MR. WARR:

16 Q What were you worried about at the time?

17 A The murder.

18 Q What else?

19 A Just that murder. I was worried about that murder.

20 Q And Mr. Corbett asked you a question on cross-
21 examination. Was anyone shooting but you and Jay McBride?
22 And you said yes. Were you referring -- what did you think he
23 was asking you or shooting at?

24 A He just asked me was anybody shooting me. You know what
25 I'm saying? He -- I thought he was referring to was we

1 shooting at the car. You know what I'm saying?

2 Q Just the red Charger?

3 A Just the red Charger.

4 Q There were other people shooting?

5 A Yes, sir.

6 Q Just not at the red Charger?

7 MR. CORBETT: Objection, Your Honor.

8 THE COURT: That's sustained.

9 BY MR. WARR:

10 Q Mr. Myers --

11 MR. WARR: With your permission, Your Honor.

12 BY MR. WARR:

13 Q -- can you come point where you were standing?

14 A Yes, sir.

15 Q When you ran out by the truck, where were you standing?

16 A Talking about, like, after I got by the truck?

17 Q Yeah.

18 A I was, like, right here. (Indiscernible) right here.

19 Q Right in here? In this area?

20 A Yeah.

21 Q In the corner?

22 A Yeah.

23 Q All right. Thank you. You can sit back down.

24 MR. WARR: I beg the Court's indulgence. Thank you.

25 Nothing further, Your Honor.

1 MR. CORBETT: Nothing. No recross.

2 THE COURT: Thanks. You can step down.

3 Mr. Warr?

4 MR. WARR: The defense rests, Your Honor.

5 DEFENSE RESTS

6 THE COURT: Okay. Ladies and gentlemen, I'm going to
7 send you out for a few minutes. Please don't begin discussing
8 the case.

9 (Whereupon, the jury exited the courtroom at 3:20 p.m.)

10 THE COURT: Okay. Mr. Warr, you want to renew your
11 motions?

12 MR. WARR: Yes, Your Honor. Renew all my motions and
13 previous objections. Reserve for the record. I'd like to
14 move for a directed verdict on the basis that the State has
15 failed to carry their burden, and it failed to prove beyond a
16 reasonable doubt and refute the defense -- self-defense
17 (indiscernible).

18 THE COURT: Mr. Meadors, do you want to be heard? Are
19 you good?

20 MR. MEADORS: No, ma'am.

21 THE COURT: Thank you. Again, I'm going to respectfully
22 deny the motions for directed verdict. I do find that there
23 is sufficient evidence for it to go to the jury. Okay, it's
24 3:30. I know we need to discuss jury charges. We need to
25 discuss the verdict form. Before we get too far into that,

1 the question is, do y'all -- do we want to try to press on and
2 try to get this to the jury today? Or do you want to have a
3 discussion on charges this afternoon and bring them back in
4 the morning?

5 MR. MEADORS: Let's say it probably would be better for
6 everybody if we had a discussion on the charges the 2nd, and
7 (indiscernible). I think that -- but I'm willing to go either
8 way.

9 MR. WARR: I would tend to agree, Your Honor. I think
10 the discussion on the charges get rather lengthy.

11 UNIDENTIFIED SPEAKER: When is Your Honor's conference
12 on?

13 THE COURT: It starts Wednesday at lunchtime. So that's
14 fine with me. I hate to leave the jury back there while we
15 have this lunch long discussion and then bring them in and
16 have this rush to get them to -- and then we'd be giving it to
17 them right at 5 p.m. So I'm going to go ahead and release
18 them, and then we can have our discussion about the verdict
19 form and the charges.

20 MR. WARR: Can we take a break, brief break before we do
21 that?

22 THE COURT: Sure.

23 MR. WARR: Just after you release them (indiscernible)?

24 THE COURT: Yeah, absolutely. So let's go ahead and
25 bring them back in so I can release them. We'll take a break,

1 and then we'll come back on the record for charges.

2 MR. CORBETT: Thank you, Your Honor.

3 THE COURT: Mm-hmm.

4 (Whereupon, the jury came into open court at
5 approximately 3:25 p.m.)

6 THE BAILIFF: (Indiscernible).

7 THE COURT: Okay. Ladies and gentlemen, we have a little
8 bit of a lengthy discussion that we need to have now to
9 determine what the appropriate jury charges are that I'm going
10 to give you at the end of the case. So both the State and the
11 defense has rested. What is left, at this point, is for the
12 attorneys to give you the closing arguments and then for me to
13 give you the instruction on the law.

14 I am reluctant to have you sit back there for 45 minutes
15 to an hour while we get ready for this and then to start
16 closing arguments at 4:30 in the afternoon, so I'm going to go
17 ahead and release you today. I'm going to ask you to be back
18 at 9:30 tomorrow morning, and we will finish up this case
19 tomorrow.

20 Once again, please don't begin having any deliberations
21 this evening. You will begin deliberating tomorrow. I
22 anticipate that we'll get it to you easily by lunchtime, and
23 we'll bring lunch in for you tomorrow. All right. Have a
24 good evening, and we'll see you tomorrow.

25 (Whereupon, the jury exited the courtroom at 3:26 p.m.)

1 THE COURT: Okay. Let's be at recess for ten minutes or
2 so.

3 MR. WARR: Thank you.

4 MR. CORBETT: Thank you, Your Honor.

5 (Recess.)

6 THE COURT: Okay. My first question is whether the
7 Defendant is requesting any lesser included offenses. Or the
8 State, for that matter.

9 MR. WARR: The Defense isn't requesting any at this time,
10 Your Honor.

11 THE COURT: Okay.

12 MR. WARR: No disrespect, but at this time, isn't this
13 the time when you're going to decide?

14 THE COURT: This is the time. I mean --

15 MR. CORBETT: It depends on whether Your Honor allows the
16 mutual combat charge.

17 THE COURT: Okay. Well, then let's talk about that. So
18 the State is requesting mutual combat. Is there anything else
19 that you're requesting at this point?

20 MR. CORBETT: Your Honor, may I ask from up here just so
21 I can be heard on the record?

22 THE COURT: Sure.

23 MR. CORBETT: Your Honor, the State would request the
24 following charges: murder as to Gregory Middleton. Your
25 Honor, we would ask that the Court include, within its murder

1 charge, accomplice liability, also known as hand of one is the
2 hand of all. Your Honor, the State would also request a
3 charge of transferred intent. And Your Honor, I acknowledge
4 that some of these items are already in the Court's charge.

5 THE COURT: Um-hum.

6 MR. CORBETT: Transferred intent. And also charge of
7 murder, and admittedly, it is an alternative theory of sorts
8 that the charge of murder include a mutual combat doctrine.

9 Your Honor, also as to Gregory Middleton, the State would
10 request the lesser included offense of voluntary manslaughter.

11 THE COURT: Okay.

12 MR. CORBETT: Your Honor, as to victim Michael Lucas, the
13 State would request the charge of attempted murder.

14 THE COURT: Yes, sir.

15 (Counsel confer.)

16 MR. CORBETT: Your Honor, as to Michael Lucas, because of
17 the number of shots fired, we would also ask that the Court
18 include a charge in compliance with -- oh, goodness, Judge.
19 It's the zone of danger case that came out several weeks ago.

20 THE COURT: I know what you're --

21 MR. CORBETT: I have the case on my desk. I'm sorry. I
22 don't have the name right in front of me.

23 THE COURT: The Blake Hewitt opinion?

24 UNIDENTIFIED SPEAKER: The who?

25 THE COURT: I think Blake Hewitt was the authoring judge

1 on it. He's -- Blake Hewitt.

2 UNIDENTIFIED SPEAKER: Oh. I wasn't paying attention.

3 MR. MEADORS: Your Honor, with all -- with much respect,
4 I think it's State v. Devonte Williams.

5 MR. CORBETT: Thank you. Your Honor, I ask too for
6 victim Christopher Fordham. The State would request the
7 charge of attempted murder along with accomplice liability.

8 With regard to victim Christopher Fordham, the State
9 would also request the statutory of the lesser included
10 offense of assault and battery of a highly aggravated nature.
11 Thank you, Your Honor.

12 THE COURT: So you are not requesting a charge on
13 accomplice liability for the attempted murder of Michael
14 Lucas?

15 (Counsel confer.)

16 MR. CORBETT: One moment, please, Your Honor.

17 THE COURT: Um-hum.

18 MR. CORBETT: Your Honor, we would also request the
19 charge of accomplice liability as to Defendant Michael Lucas,
20 based on the testimony that came out during trial.

21 THE COURT: Okay. Let's talk about those first. I guess
22 let me ask you first, Mr. Warr, what the Defendant is
23 requesting.

24 MR. WARR: Your Honor, the Defendant is requesting a
25 charge on self-defense. I have a copy of it, and if I may

1 approach?

2 THE COURT: Sure. Thank you. Okay. So let's start with
3 the murder charge as to Gregory Middleton. First of all, the
4 accomplice liability charge. Mr. Warr, do you want to be
5 heard on that? And I guess here's where I'm struggling, and
6 this really applies to the accomplish liability charge as to
7 all three of these offenses. Normally, I picture accomplice
8 liability when you have three people that go in to rob a
9 store. One person's the lookout, one person's driving the
10 getaway car. It's clearly part of the scheme that they have
11 all together. And so all three are liable if one person is
12 the shooter.

13 I'm struggling to see how that's going to fit with this
14 type of case where you've got multiple people shooting. And
15 you know, you've got one group of people on one side, and
16 you've got one group of people loosely on one side, and a
17 group of people loosely on another, but you've got any number
18 of people out there shooting.

19 So I guess I need to hear from you, Mr. Corbett, how the
20 hand of one hand of all is going to fit in with the murder
21 charge and also with the attempted murder where you have the
22 specific intent requirement. How can accomplice liability fit
23 in with that specific intent requirement?

24 MR. CORBETT: Your Honor, with regard to the murder
25 charge, victim Middleton, Judge, it's somewhat nuanced in that

1 the case law suggests that. And perhaps I'm stepping a little
2 bit too far forward in that the notion of accomplice liability
3 dovetails in with the notion of mutual conduct. That
4 particularly in the case of State v. Young, it makes numerous
5 references to how those two concepts dovetail in with each
6 other. So that was largely the request for the charge on
7 accomplice liability so that it could properly be considered
8 in light of mutual combat.

9 THE COURT: Well, so do you want to talk about mutual
10 combat first? And I've been looking at State v. Young, which
11 does ratify, I guess I would say, a mutual combat charge. It
12 says it is still a viable theory. So it states, "To
13 constitute mutual conduct, there must be a mutual intent and
14 willingness to fight.

15 The intent to fight may be manifested by the acts and
16 conduct of the parties and the circumstances surrounding and
17 leading up to the combat. There must be an antecedent
18 agreement to fight, which may be shown by evidence
19 establishing a preexisting dispute or ill will between the
20 combatants. The combatants must be armed and know the other
21 party is armed." If y'all just let me read this pertinent
22 part here real quick.

23 So I'm reading Young, and it looks to me -- I can see how
24 transferred intent and mutual combat go together. Again, I'm
25 still having trouble seeing how accomplice liability fits in

1 there.

2 Mr. Warr, let me hear from you as to your argument
3 regarding mutual combat and transferred intent, again,
4 regarding the murder charge.

5 MR. WARR: Thank you, Your Honor. Please the Court.
6 Obviously, the Defense objects on the evidentiary basis to the
7 charge of mutual combat. As you stated, mutual combat
8 requires three -- there's three elements. You have to have an
9 antecedent agreement to fight with deadly weapons or prior bad
10 blood. You have -- they have to be armed with deadly weapons;
11 a fistfight would not suffice. And they have to know that the
12 other party was armed.

13 And in this case, to charge the jury on mutual combat
14 would be a clear error of the law, because it does not apply
15 like in Bowers opinion from the appellate court that came out.
16 This -- the State has not made an evidentiary showing to
17 support the jury charge and the fact that there's no evidence
18 of at least two of the three elements.

19 To start with, mutual -- even if they could prove mutual
20 combat between Diontrae Epps and Michael Rogers and Joquell
21 Myers, there mutual combat still would not apply because
22 neither Michael Rogers nor Diontrae Epps were firing at the
23 time Gregory Middleton was shot. So that means that if
24 Joquell Myers didn't fire the fatal bullet, which he didn't,
25 then some unidentified third party fired the fatal bullet.

1 So in order for Joquell -- a mutual combat charge to
2 apply, the State would have had to have evidence the record to
3 show he was engaged in mutual combat with this unidentified
4 third party. Because neither -- and there's absolutely no
5 evidence of that. We don't know who this third party is that
6 fired this shot. But we do know for a fact that Gregory
7 Middleton was not shot by Diontrae Epps or Michael Rogers,
8 because both men had been shot and were on the ground and were
9 not firing at the time he was shot.

10 So even if there was a mutual combat shown between the
11 three of them, which I don't believe there was because I don't
12 believe Trey Epps had any kind of agreement with Michael
13 Rogers to fight. I don't think they even knew Killer Mike was
14 coming there, and there certainly is no evidence the record
15 that Joquell Myers had any kind of prior dispute with Killer
16 Mike, other than he was in the back of a Facebook video his
17 brother was making. That's not enough to show an antecedent
18 agreement to fight with deadly weapons.

19 So even if they could show that, and they were -- the
20 three of them were engaged in mutual combat, two of them were
21 down. So that only leaves Joquell Myers firing at that red
22 Charger at the time the fatal shot is fired. So that means
23 somebody else; it is not Joquell Myers. Somebody else had to
24 fire that shot, and there is absolutely no evidence of mutual
25 combat with that person.

1 And so to assign accomplice liability on the basis of
2 mutual combat in this case, it would just be a clear error of
3 law because it doesn't apply in this scenario. It's never
4 been applied this way before in any court.

5 Yes, in Young it was applied to a co-combatant, but it
6 was a co-combatant who fired and shot an innocent bystander.
7 It wasn't an unidentified person. They knew in that case that
8 there was -- they knew in that case that they were engaged in
9 mutual combat; a co-combatant fired the fatal shot.

10 This case is more like State v. Bowers because there is
11 no evidence of a prior dispute. There's no evidence of an
12 agreement to meet at a certain time at a certain place and
13 settle this dispute with the use of deadly weapons. And there
14 is -- like I said, it's more like Bowers, and it's like Taylor
15 (phonetic). And I have a copy of both of those cases, Your
16 Honor, if you would like to look at those two cases.

17 THE COURT: I've got them on here. Thank you.

18 MR. WARR: And as far as -- and for mutual combat,
19 they'll apply. It had -- they had to be actually engaged in
20 mutual combat at the time the death occurred, which clearly it
21 didn't.

22 As to accomplice liability, there has been absolutely no
23 evidence of a conspiracy in this case to kill D-Black or
24 Michael Rogers. There's no evidence of a prior agreement or a
25 conspiracy. I believe that I would object to the accomplice

1 liability charge on the same basis. The evidence in the
2 record just simply does not support that charge.

3 THE COURT: Do you want to reply?

4 MR. CORBETT: If I may, please, Your Honor.

5 THE COURT: Sure.

6 MR. CORBETT: Your Honor, with regard to mutual combat,
7 from State v. Young, this language is included: "The mutual
8 combat doctrine is triggered when both parties contribute to
9 the resulting fight. To constitute mutual combat, it is not
10 necessary that there should be a positive agreement between
11 the participating parties to enter the combat. It is
12 sufficient if they willfully enter into the conflict upon the
13 impulse of the moment.

14 "The State is required to prove the rival combatants were
15 armed for the mutual combat with deadly weapons and each
16 combatant knew the others were armed. Mutual combat may be
17 the basis of either a murder or manslaughter conviction,
18 depending on the combatant's state of mind at the time of the
19 killing. For example, whether the combatant acted with malice
20 of forethought."

21 So Judge, what we have in this particular case is we have
22 a history of ill will. That is shown clearly in the Facebook
23 video. "Sending the Goons for you." "Killer Mike and his car
24 are going to get a makeover." At least two individuals
25 arguably making firearm gestures with their hands. So we have

1 that in the Facebook video setting forth that history of ill
2 will.

3 Then what we have on scene, and fortunately this is
4 captured on video, Diontrae Epps initiates an assault upon
5 Michael Rogers. On video you see him produce his weapon and
6 fire. The State has already conceded that Michael Rogers
7 fired multiple times, and he was hit in the resulting gunfire.
8 Once those two individuals began firing, then that's when it
9 kicked off the rest of the gunfire.

10 So we know even in the light most favorable to the
11 Defendant, because the Defendant himself testified that "at
12 least me and Jay McBride were shooting." It was a little
13 fuzzier on whether there was anyone else shooting besides, but
14 we certainly know that those two then entered into this gun
15 battle.

16 THE COURT: I'm sorry. You said who and Jay McBride?

17 MR. CORBETT: The Defendant and Jay McBride.

18 THE COURT: Gotcha.

19 MR. CORBETT: So we know that those two entered into the
20 gun battle. So they knew that the guns had been produced,
21 because that's what started it, Epps and Rogers. So now, we
22 have Rogers, who is wounded, he's crawling across the
23 concrete. It appears that Middleton goes to his assistance
24 when the Defendant, Myers, runs into the scene. And by his
25 statement, he now says that, I guess we could say, a

1 compatriot of Rogers because they were in the same vehicle;
2 the red car. He now says that the red car has fired. So he
3 leaves his area from around the corner and charges headlong
4 into that gun battle, and he opens fire.

5 Now, here's where there's the great factual argument in
6 the case; what was he shooting at? That, I believe, is an
7 issue for the jury because the State alleges that he very well
8 could have been firing at Rogers, Middleton, and/or the red
9 car.

10 THE COURT: Well, let me ask you this, Mr. Corbett. Does
11 it make a difference -- it seems in the prior cases the
12 Defendant is firing at some specific target and hits somebody
13 else, whereas in this case we don't know for certain who fired
14 the shot that killed Gregory Middleton. So I mean, it could
15 have been the Defendant's bullet; it could have been Jay
16 McBride's bullet; it could have been somebody on the other
17 side who fired the shot that killed him.

18 So to me, that's the biggest issue is since we don't know
19 exactly which bullet, I mean, it could have been the
20 Defendant's bullet. It's a mutual combat where we don't know.
21 And it seems to me on the other cases, we do know that the
22 Defendant fired a fatal shot, it just wasn't the person he
23 intended to shoot.

24 MR. CORBETT: But Your Honor -- and think that's exactly
25 why mutual combat is appropriate in this case based on what

1 the Court just said. Once you initiate and/or participate in
2 that gun battle, you're criminally liable for the death of a
3 bystander.

4 Judge, I was looking for the language here where it talks
5 about creating a deadly crossfire.

6 THE COURT: And is that from --

7 MR. CORBETT: This is from Young.

8 THE COURT: Okay.

9 MR. CORBETT: It references a pocket battle, or pocket-
10 size battle with the use of semiautomatic and automatic
11 weapons. Your Honor, they use language about a -- excuse my
12 pronunciation -- fuselage of bullets that results in the death
13 of a bystander.

14 MR. WARR: Your Honor, that is based on a case out of New
15 York, if you read the case.

16 THE COURT: Anything else that you wanted to tell me
17 regarding that, Mr. Corbett?

18 MR. CORBETT: Yes, sir -- excuse me. Yes, ma'am, Your
19 Honor. Judge, also as has been seen, the State has presented
20 video evidence which the State alleges shows the Defendant
21 shooting at the victim. And the victim was close -- was in
22 extremely close proximity to Rogers. I think that needs to be
23 pointed out.

24 So Judge -- and then we have the statement. Now, one of
25 the issue that the Court raised was about knowing which bullet

1 fired. Well, one of the reasons mutual combat exists is
2 because here, we have a bullet from the deceased, but all the
3 guns disappeared from the scene. The combatants eliminated
4 the evidence, but it doesn't change the fact that they
5 triggered and escalated the gun battle.

6 THE COURT: Yes, sir, Mr. Warr?

7 MR. WARR: Your Honor, the Facebook video, frankly, the
8 State is assuming a lot. It does not show any ill will on the
9 part of Mr. Myers. It shows ill will -- I don't even think it
10 shows ill will on the part of Trey Epps. I think that they
11 had a dispute, and they were talking about fighting with
12 fists. But there was no mention of deadly weapons other than
13 the saying, we don't shoot -- we don't play with guns. And in
14 fact, there is absolutely no evidence of that.

15 And there's no evidence that Trey Epps knew Michael
16 Rogers would be at the scene. None whatsoever. You heard Mr.
17 Myers' testimony that he didn't know that Killer Mike was
18 going to be there. They just happened to stop by. This
19 wasn't a pre-arranged dispute to settle their differences at
20 the point of a gun. And if you look at State v. Taylor, this
21 is more akin to the point of State v. Taylor because Diontrae
22 Epps, he punches Killer Mike. Killer Mike draws his pistol
23 first and fires the first shot. It's all on the video.

24 So I don't believe Trey Epps knew that Killer Mike was
25 armed. But regardless of that, the State is trying to use

1 this. If they can't prove, which they can't, and they know
2 they can't, and that's why they want this charge, they know
3 they can't prove that Joquell Myers fired the fatal shot.

4 But we know for a fact if they can't prove that, then it
5 wasn't Gregory Middleton -- it wasn't Diontrae Epps and it
6 wasn't Killer Mike who fired it, because neither one were
7 firing at the time this occurred. There was no mutual combat
8 between Trey Epps and Killer Mike or Killer Mike and Joquell
9 Myers at the time.

10 And Jay McBride, there's no evidence in the record that
11 he fired toward the red Charger when Gregory Middleton was
12 behind him on the ground. And he was on the ground before the
13 first shot was fired in that direction.

14 But the fact of the matter is that leaves a third --
15 unidentified third party to fire the shot that killed Gregory
16 Middleton. If the State fails to carry their burden in a
17 straight murder case and prove that Joquell Myers fired the
18 fatal shot, that would mean a third-party fight, and we don't
19 know if there's any -- if he was in mutual combat with Joquell
20 Myers that's creating a crossfire. Was he firing at Joquell
21 Myers? We don't know who he was firing at. We haven't seen
22 any evidence of ill will between Joquell Myers and this. You
23 have to have mutual combat to charge it, and they --
24 there's --

25 THE COURT: Well, I mean, we've got your client's

1 testimony that he was firing at the red Charger, and the red
2 Charger was firing at him.

3 MR. WARR: But at the same time, Your Honor, there's no
4 evidence in the record that Michael Lucas -- that even if that
5 showed mutual combat between Michael Lucas and Gregory --
6 Michael Lucas and Joquell Myers, at the same time, Gregory
7 Middleton was not hit by a bullet fired by Michael Lucas.
8 This is a totally different --

9 THE COURT: I don't think --

10 MR. WARR: -- application of mutual combat.

11 THE COURT: I don't think that that honestly matters if
12 he was hit by Michael Lucas.

13 MR. MEADORS: Judge, could I say one brief thing?

14 THE COURT: Sure.

15 MR. MEADORS: Just quoting the opinion, I don't think it
16 has been State v. Young. "Today, we hold mutual combat can
17 properly serve as the basis for a murder charge for the death
18 of a non-combatant," which Mr. Middleton would have been,
19 "under the hand of one and hand of all theory of accomplice
20 liability. When two or more individuals engage in combat via
21 a reckless she bout, they collectively trigger an escalating
22 chain reaction that creates a high risk to any human life
23 falling within the field of fire. In that type of gunfight,
24 all individuals are willing to use lethal force and display a
25 depraved difference to human life." I think that's exactly

1 what we have here.

2 THE COURT: Which case is that?

3 MR. MEADORS: That's State v. Young.

4 MR. MEADORS: And Mr. Warr keeps saying we can't prove
5 that that gun -- his client's gun killed; that'll be for the
6 jury. I mean, they can decide and look at it. That's a
7 separate piece --

8 MR. WARR: But that's the first --

9 MR. MEADORS: Would you wait until I --

10 MR. WARR: I didn't interrupt you.

11 MR. MEADORS: Please. But as he said a minute ago, even
12 assuming his client is in a shootout with Mr. Lucas, that car
13 is right there, and Middleton and innocent bystanders, they
14 aren't helping -- helping Mr. Rogers. And that would fit
15 mutual combat. They're firing at each other. He ends up
16 getting shot. The mutual -- if the jury believes that.

17 THE COURT: Yes, sir, Mr. Warr?

18 MR. WARR: Your Honor, the first line in their jury
19 charge is if you don't find beyond a reasonable doubt that the
20 Defendant fired the shot that killed the victim, Gregory
21 Middleton, you're also to consider the doctrine of mutual
22 combat. So this -- the only time this charge would apply is
23 if the jury finds that the State couldn't carry their burden
24 of proof straight up murder. So they're wanting to muddy the
25 waters with these -- this mutual combat charge, and there is

1 no evidence of mutual combatant -- a co-combatant even.

2 Even if the State has shown evidence that there was a
3 mutual combat between Trey Epps, Joquell Myers and Michael
4 Rogers, they still can't show that one of those three co-
5 combatants fired the fatal shot. This is some random person
6 who starts shooting over there, not mutual combat.

7 To have mutual combat and to be engaged in it, you have
8 to meet the three elements. And those elements are not met by
9 anybody other than possibly Trey Epps and Michael Rogers but
10 not even them. And neither Michael Rogers or Trey Epps is
11 firing at the time. So neither one of them bullets could have
12 hit Gregory Middleton. And if Joquell Myers didn't fire the
13 fatal shot, that leaves we don't know who. And there's been
14 no showing of mutual combat between Joquell Myers and this
15 unidentified third party.

16 So it's a new way of applying mutual combat that they're
17 asking you to do. And it complicates the jury charge. And
18 the case law states that when you deliver a mutual combat
19 charge with a self-defense charge, it shifts the burden. And
20 that's what they're trying to do is shift the burden to the
21 Defense to prove he was without fault in bringing on
22 controversy. The case law is clear on that in State v.
23 Bowers.

24 THE COURT: Okay. I'm going to look at the case law
25 carefully before I make a --

1 MR. MEADORS: And again, the model's been around since
2 1800 as far as the first element of self-defense, and mutual
3 combat clearly can negate without fault. That's how it's been
4 used for years until recently in these line of -- these line
5 of cases which says it can be extended. And Your Honor, we
6 did this Friday afternoon. Corbett was in Summerton -- I mean
7 Columbia. And that preference, if you don't find that he shot
8 it, we don't have to have that in there.

9 THE COURT: Yeah, I'm --

10 MR. MEADORS: I'm not saying that. We just was trying to
11 figure something out on Friday afternoon to get to you.

12 THE COURT: That language seems to be too much of a
13 comment on facts --

14 MR. MEADORS: I agree with that.

15 THE COURT: -- for sure. But again, I'm going to look at
16 the case law carefully before I make a final determination.

17 MR. WARR: And Your Honor, I -- once -- I also object to
18 the voluntary manslaughter charge as well, as there's no
19 evidence in the record of legal provocation. I just wanted to
20 preserve that for the record or bring that objection to your
21 attention.

22 THE COURT: I feel like there's certainly somebody's
23 firing guns all around you, that that would be sufficient
24 evidence to go to the jury on sudden heat of passion. I can't
25 imagine something being more provoking than gunfire all around

1 you. So I am inclined to do the charge on voluntary
2 manslaughter.

3 Let's talk about attempted murder, the -- I'm just going
4 to pull up the case.

5 MR. MEADORS: Your Honor -- I know Your Honor remembers,
6 we tried the case State v. Nikeem (phonetic) Johnson here
7 several years back.

8 THE COURT: Um-hum.

9 MR. MEADORS: And I got the most updated charge from the
10 attorney general's office. They actually commented on it at
11 the solicitor's conference. Do you -- is that the charge you
12 put in here to -- because that charge was -- and I -- it's
13 Nikeem Johnson.

14 THE COURT: All right. You're talking about the
15 attempted murder charge --

16 MR. MEADORS: Yes, ma'am.

17 THE COURT: -- that I gave you?

18 MR. MEADORS: I didn't know if that was the same one you
19 used in Johnson.

20 THE COURT: I'm not 100 percent sure but let me see.
21 I've probably got it saved here in my charges.

22 MR. MEADORS: But it was actually beneficial to the
23 Defense.

24 THE COURT: I know we substantially pared down the
25 language so as not to run afoul of the new case law. Okay.

1 I've got the Nikeem Johnson charge in front of me. I don't
2 think this is the final version.

3 Okay. It looks like the charge that we did in that case,
4 we started out with a long one and we shortened it
5 significantly to, "The Defendant is charged with attempted
6 murder. In order to prove this crime, the State must prove
7 the Defendant, with the intent to kill, attempted to kill
8 another person with malice of forethought. In order to be
9 guilty of this offense, the Defendant must possess a specific
10 intent to kill. Thus, a specific intent to kill is a required
11 element of the offense.

12 "Malice is hatred, ill will or hostility toward another
13 person. Malice of forethought does not require that malice
14 exists for any particular time before the act is committed,
15 but malice must exist in the mind of the Defendant just before
16 and at the time the act is committed. Therefore, there must
17 be a combination of the previous ill intent -- or previous
18 evil intent and the act. Specific intent to kill and malice
19 of forethought may be established by direct evidence,
20 circumstantial evidence, or a combination of the two."

21 That's the entire charge. We took out any language about
22 inferring intent from conduct, et cetera. And I'm going to --
23 I'm going to email that to y'all so you can see the exact
24 language.

25 We know now that transferred intent is not okay for

1 attempted murder. And so what you're requesting is the
2 language from State v. Devonte Williams?

3 MR. MEADORS: Yes, ma'am.

4 THE COURT: And so I guess I'm wondering what language
5 out of this case you're requesting.

6 MR. MEADORS: Respectfully, Your Honor, this is on the
7 attempted murder of Michael Lucas?

8 THE COURT: Correct.

9 MR. MEADORS: Okay.

10 THE COURT: And okay. Let me be clear. The attempted
11 murder of Michael Lucas is from the gunfire coming out of the
12 Nissan -- the silver Nissan as it is leaving the scene?

13 MR. MEADORS: That's Christopher Fordham.

14 THE COURT: Okay.

15 MR. MEADORS: Michael Lucas is the red Charger that's
16 leaving the Defendant has said he's firing at several times.

17 THE COURT: Okay.

18 MR. MEADORS: And Judge, if I may interrupt just a
19 moment, the State v. Devonte Williams, it's away from
20 transferred intent, but it makes a distinction when a party
21 fires multiple rounds. It goes in close proximity that could
22 be hit. And that's the distinction that Williams is trying to
23 draw. So in this particular case, it depends on the jury's
24 view of the evidence of the Defendant's three shots there.

25 THE COURT: Well, so I guess what I'm asking is what

1 specific language are you requesting that I -- because
2 basically, what I understand in Williams talks about that
3 there was sufficient evidence for it to go to the jury on
4 attempted murder. So the Defendant's arguing that the Court
5 should have granted a directed verdict because there was no
6 evidence he intended to kill the particular individual named
7 in one of his attempted murder indictments.

8 MR. MEADORS: The charges you have proposed may be
9 sufficient, Your Honor, on that one.

10 THE COURT: I understand there's language in Williams
11 that says basically, if you're shooting multiple times at a
12 group of people, you know that you could hit somebody. And so
13 there was sufficient evidence in that case for it to go to the
14 jury on attempted murder, although there was only
15 circumstantial evidence of any specific intent to kill
16 somebody.

17 So it says, "After all, it's only natural to infer that
18 when someone shoots at another person, the shooter intends to
19 kill. By the same reasoning, when someone points and fires a
20 deadly weapon multiple times at a group of people he knows are
21 in the line of fire, we believe a rational juror could infer
22 the shooter intended to murder whoever may have been injured
23 in that group."

24 So Michael Lucas was shot?

25 MR. MEADORS: No, ma'am.

1 THE COURT: Michael Lucas was not shot, he was just in
2 the red Charger?

3 MR. MEADORS: Correct. Yes, ma'am.

4 THE COURT: Okay.

5 MR. MEADORS: He's the only person that was in the red
6 Charger.

7 THE COURT: Okay.

8 MR. WARR: The one that my client testified was firing at
9 him.

10 THE COURT: Gotcha. So I'm sorry. There's not any
11 specific language out of this zone of danger language --

12 MR. MEADORS: But we just quite frankly will bring you
13 all the recent case law.

14 THE COURT: Gotcha.

15 MR. WARR: Your Honor, I would object to the zone of
16 danger if you want to add any language, because that --

17 THE COURT: Yeah, I don't -- I don't think there's any
18 language in there that applies to a jury charge, necessarily.
19 But you are asking for accomplice liability charge on
20 attempted murder. So I'm not sure how that fits in.

21 MR. MEADORS: On Lucas.

22 THE COURT: Because I guess the basis for the attempted
23 murder charge is that the Defendant is firing at the red
24 Charger. Michael Lucas is in the red Charger. So I don't --
25 I don't see how accomplice liability, hand of one hand of all,

1 fits in that scenario.

2 MR. MEADORS: It may not. We may withdraw -- I guess a
3 lot we may withdraw. As I said, to start with, we'll get
4 mutual combat. I don't mean that to be anything other than
5 just --

6 THE COURT: Well, I don't -- I'm just not seeing any
7 theory where accomplice liability --

8 MR. MEADORS: On Lucas.

9 THE COURT: On Lucas.

10 MR. MEADORS: I'm sorry.

11 THE COURT: Just on Lucas --

12 MR. MEADORS: And we certainly understand the judge's
13 ruling.

14 THE COURT: Okay. Let's shift to Christopher Fordham.
15 So he -- the testimony is that there is -- somebody is firing
16 from the Nissan.

17 MR. MEADORS: Yes, ma'am.

18 THE COURT: And Christopher Fordham is shot. Of course,
19 the Defendant denies that he's the shooter. So I guess first
20 of all, tell me what evidence there is at all that the
21 Defendant is the shooter.

22 MR. CORBETT: Your Honor, with regard to that particular
23 charge, what the evidence in the case has shown is that the
24 Defendant present in court today and at least one other person
25 participated in the gun battle before they ever got into the

1 car. So they arrived in scene together, because it was
2 referenced that Jay McBride was also shooting. That the
3 individuals were together there. They constituted one side of
4 the gun battle. They then got into a car together. They then
5 pulled around, and someone from that car fired and hit
6 Christopher Fordham. Then they all fled together. They went
7 to the hospital, put Diontrae Epps out at the hospital because
8 of his injury and then left together.

9 So Judge, it's -- you know, the other word for accomplice
10 liability is the hand of one is the hand of all, and it seems
11 like we have a chain of events of them acting in concert and
12 acting together.

13 THE COURT: Mr. Warr?

14 MR. WARR: Your Honor, there is no accomplice liability
15 in this attempted murder of Christopher Fordham. It was one
16 shot clearly fired by the driver. There's no evidence in the
17 record of any kind of plan or any kind of ill will on my
18 client's part against Christopher Fordham who he only knew as
19 (indiscernible). I don't see where accomplice liability comes
20 into it at all.

21 It's clearly, they didn't know who was driving the car at
22 the time, so they charged everybody in the car with attempted
23 murder, and now they're wanting to hang onto that charge.
24 There is no evidence of any kind of conspiracy to murder
25 Christopher Fordham. It's just the driver, he stopped the

1 car, fires one quick shot, hits Christopher Fordham in the
2 leg --

3 THE COURT: It looked to me like there were a number of
4 shots coming from -- at Christopher Fordham. Because it looks
5 like he reacts and then starts running and then is hit. But I
6 don't know that that really is dispositive. But it seemed to
7 me that the jury could infer there was multiple shots coming
8 but clearly from one shooter.

9 MR. WARR: One shooter who was coming from the driver's
10 window.

11 THE COURT: I'm going to definitely charge the abhan and
12 the attempted murder of Christopher Fordham; I'm going to look
13 at the accomplice liability before I tell you on my final
14 answer.

15 MR. WARR: And as to the mutual combat, Your Honor, if
16 you're going to think about that overnight, there are some
17 language changes that we'd like to have made if you are going
18 to allow that charge. But we can discuss that at that time.

19 THE COURT: Yeah. I mean, I'm going to look at it as
20 soon as we break. So I can certainly send you any language
21 that I propose to use. I can email it to you so you can be
22 looking at it.

23 MR. MEADORS: And I guess, again, just if you're talking
24 about proposed changes, if you do give it, you're talking
25 about tonight not in the morning? I guess we'd be able to

1 view it tonight if you do give it --

2 THE COURT: Yeah. I would send it to you tonight, I
3 mean, before I leave here.

4 MR. MEADORS: And Judge, just for the record, I've looked
5 through Bowers. I don't think it's applicable here. It dealt
6 more with the self-defense, and the application of mutual
7 combat really is not an issue that we're facing here. And
8 Judge, in conclusion on this, are we through? I just wanted
9 to read one more thing from y'all that I think --

10 THE COURT: We're still going to talk about the
11 Defendant's request for self-defense. I don't -- do you want
12 to talk about that?

13 MR. MEADORS: Whatever you say. Yes, ma'am.

14 THE COURT: Well, tell me the last thing that you want to
15 tell me about mutual combat.

16 MR. MEADORS: I meant to read this earlier. "More
17 importantly, an innocent bystander would not be shot but for
18 the willingness of all combatants to turn an otherwise
19 peaceful environment, often in a residential or commercial
20 setting, into a battlefield. In a real sense, each combatant
21 aids/encourages all of the other combatants, whether friend or
22 foe, to create the lethal crossfire." That's all I -- that's
23 what I really think's here. That's all I have. Thank you.

24 THE COURT: Any discussion we need to have about the
25 Defendant's request for a self-defense charge?

1 MR. WARR: I have seen the orders; I have not read it.
2 So if you email it to me, I will see.

3 MR. MEADORS: I would rather go with your standard self-
4 defense charge, Judge, that you've used before.

5 THE COURT: It looked like it mirrored it --

6 MR. WARR: I just --

7 THE COURT: -- pretty closely. So it includes the
8 defense of others, and I think that's appropriate.

9 MR. MEADORS: Could we use Your Honor's standard charge
10 on that?

11 THE COURT: Yeah. I think mine's pretty close to what
12 the proposed one is. I think the only other charge that we
13 were considering adding in, a charge on the record of a
14 witness who's testifying, because we did have Ms. --

15 MR. MEADORS: Ms. Arkell Eaglin.

16 THE COURT: Yes. I think that's it. I think those were
17 the only additional ones that we had looked at.

18 MR. MEADORS: Your Honor, we would request a charge on
19 experts an direct and circumstantial evidence.

20 THE COURT: That was included in the one that I sent you.
21 Did you see the one that I sent?

22 MR. MEADORS: Yes, ma'am. I'm sorry.

23 THE COURT: Okay. It also has, of course, the
24 instruction on multiple charges that you guys decide each
25 separately from the other, presumption of innocence,

1 reasonable doubt, duties of the trial judge and jury, direct
2 and circumstantial evidence, and I did include the Logan
3 language that the State has.

4 "To the extent the State relies on circumstantial
5 evidence, all of the circumstances must be consistent with
6 each other and when taken together point conclusively to the
7 guilt of the accused beyond a reasonable doubt." I've got
8 that Logan language in there. Credibility of witnesses, prior
9 record of a witness. I've got a charge on expert witnesses.
10 And then we get into the specific offenses. So I do have a
11 charge on transferred intent in the murder charge section but
12 not in the attempted murder section.

13 Okay. So what I'm going to propose, I'm going to go look
14 at these cases on mutual combat. I will email you with the
15 final version of any mutual combat charge and self-defense
16 charge so y'all can look at it tonight. And we'll discuss it
17 one last time in the morning before we bring the jury in.

18 MR. MEADORS: Thank you, Your Honor.

19 MR. YOUNG: Can I ask real quick, did your circumstantial
20 evidence charge -- I know you said you include with Logan
21 language -- does it include the other reasonable hypothesis
22 language?

23 THE COURT: It says --

24 MR. YOUNG: I think that's the old one.

25 THE COURT: It's the -- it gives the -- it just -- the

1 language that I just said, "All the circumstances must be
2 consistent with each other and when taken together point
3 conclusively to the guilt of the accused beyond a reasonable
4 doubt. If these circumstances merely portray the Defendant's
5 behavior as suspicious, the proof has failed. The State has a
6 burden of proving the Defendant guilty beyond a reasonable
7 doubt. This burden rests with the State regardless of whether
8 the State relies on direct evidence, circumstantial evidence,
9 or some combination of the two."

10 MR. YOUNG: Thank you.

11 THE COURT: Okay. If we can convene at 9:30. Does that
12 suit you all okay?

13 MR. YOUNG: Yes, ma'am.

14 MR. MEADORS: Yes, ma'am. Thank you.

15 THE COURT: All right. We'll see you in the morning.

16 (End of Transcript of Record)

17

18

19

20

21

22

23

24

25

CERTIFICATE OF TRANSCRIBER

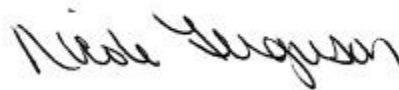
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

State of South Carolina)
)
County of Sumter)

I, NICOLE FERGUSON, a court-approved transcriber, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Sumter County, South Carolina, on the 3rd day of October, 2022.

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

August 11, 2023



Nicole Ferguson, CDLT-149
Transcriber

State of South Carolina)
)
County of Sumter) Circuit Court
) 2020-GS-43-0624

State of South Carolina)
)
 vs.) Transcript of Record
)
Joquell Myers)

October 4, 2022
Sumter, South Carolina

B E F O R E:

The Honorable Kristi F. Curtis, Judge; and a jury.

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

Attorney for the State:

John P. Meadors, Esquire
W. Jason Corbett, Esquire

Attorney for the Defendant:

Lewis H. Warr, Esquire
Kenneth R. Young, Jr., Esquire

Deanna Hinchy
Transcriber



I N D E X

Closing argument by Mr. Meadors	11
Closing argument by Mr. Warr	45
Closing argument by Mr. Corbett	73
Charge of the Court	88
Jury Verdict	118
Sentence	128

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

E X H I B I T S

NO.	DESCRIPTION	ID.	EV.

NO EXHIBITS INTRODUCED

1 THE COURT: Thank you all. Please have a seat.

2 THE BAILIFF: Be seated. The Honorable Judge Curtis
3 presiding. Good morning, Your Honor.

4 THE COURT: Good morning.

5 Can I ask you to give each of them that? And if you will
6 also, I just printed out one additional set of the verdict
7 forms, if you don't mind, take a look at it and then passing
8 it to the other side for them to take a look at the revised
9 verdict form. And you can just hand the whole stack because
10 it's --

11 THE BAILIFF: You want them stuck together?

12 THE COURT: -- those are all verdict forms. Yeah.

13 THE BAILIFF: Yes, ma'am.

14 THE COURT: That's fine. Just go hand the entire stack
15 to Mr. Warr.

16 So let me tell you what I've done pursuant to our
17 conversation in chambers.

18 Thank you.

19 Under the section on mutual combat, I've highlighted
20 it -- the changes that I made. But I think it's kind of hard
21 to see after I copied it. But I did add the language at the
22 end of the first paragraph on mutual conduct that says,
23 however, if the innocent, third-party was killed before the
24 defendant joined in the mutual combat, then the defendant
25 cannot be held responsible under the doctrine of mutual

1 combat.

2 As we talked about, I also added in the language that the
3 State has to prove that they -- the willingness to fight with
4 deadly weapons.

5 I have added in the assault and battery first degree
6 charge. So after the attempted murder instruction, you'll
7 note that it states, that the assault and battery of a high
8 aggravated nature applies only to Christopher Fordham.

9 Then the next section is the assault and battery first
10 degree that states, if you find the State's failed to prove a
11 reasonable -- beyond a reasonable doubt that the defendant
12 committed the offense of the attempted murder of Michael
13 Lucas, then you may consider assault and battery in the first
14 degree, only as to him. So I've added that in. If you'll
15 just look carefully at that assault and battery first degree
16 language. I think that accomplishes what you were requesting.

17 It's a little confusing in my mind, because the charge on
18 ab hand and assault and battery in the first degree is
19 identical -- virtually. I mean, this happens every time we --
20 we charge both of those. But it is what it is.

21 Under unlawful carrying of a pistol, I have added the
22 Section 9(a) language that it is not unlawful to have a
23 handgun if the person is in a vehicle and the handgun is
24 secured in a closed glove compartment, closed console, closed
25 trunk, or in a closed container secured by an integral

1 fastener; and transported in the luggage compartment. I've
2 also added a person can be acting lawfully, even if he is in
3 unlawful possession of a weapon, if he is entitled, or if he
4 was entitled to arm himself in self-defense. I think that is
5 it.

6 For the record, the defendant, the defense has also
7 requested a charge -- or that I delete the section on duty to
8 retreat under the Defense of Persons and Property Act. Which
9 I have declined to do because I believe the case law says that
10 the determination of whether that act applies is to be made
11 pre-trial. And that it is not part of the instruction that
12 goes to the jury.

13 I have also looked at the case of Kyles v. Whitley. The
14 defense has requested that I reopen the case under Kyles v.
15 Whitley to allow you to elicit testimony about the
16 discretionary charging of the various folks who are involved
17 in mutual combat.

18 Mr. Warr, if you want to elaborate on that, if I haven't
19 covered it sufficiently.

20 MR. WARR: That that is correct, Your Honor. We request
21 that since they have inconsistently applied the theory of
22 mutual combat by not charging any of the co-combatants with
23 mutual -- with the murder of Gregory Middleton, we would
24 request -- and they did -- and they have used their
25 prosecutorial discretion to, essentially, grant immunity to

1 these co-combatants. And they did not disclose this immunity
2 to us in discovery -- this granting of immunity to the co-
3 combatants; that that's a violation of Brady.

4 And under *Kyles v. Whitley*, the U.S. Supreme Court case,
5 that testimony -- the fact that the co-combatants were
6 selectively granted immunity from this charge could be used --
7 and if it had have been elicited, to impeach the entire
8 investigation under *Kyles v. Whitley*.

9 So therefore, we are requesting that the -- that the case
10 be reopened so that we can elicit this testimony regarding the
11 selective charging that took place in this case.

12 THE COURT: Mr. Meadors, do you want to respond, sir?

13 MR. MEADORS: All due respect, that's ridiculous.
14 Nobody's been granted immunity in this case, whatsoever. His
15 client wouldn't even tell us all who was out there. Two
16 individuals have been charged with murder. All individuals in
17 the car have been charged with attempted murder. Mutual
18 combat is really -- the last couple of years since this, kind
19 of the law has blossomed, if you will, and come out. So the
20 State has not granted any form of immunity. I know with the
21 esteemed minds on the defense, they knew mutual combat was out
22 there -- would be a theory in this case and has had that
23 available to them from cross, throughout the trials. I don't
24 have anything else to say.

25 Judge, I would like to comment briefly, if you'd allow me

1 on the mutual combat.

2 THE COURT: Sure. Let me rule first.

3 MR. MEADORS: Okay.

4 THE COURT: The motion to reopen the case is denied. I
5 do, first of all, find that the State has been very frank in
6 their request for a mutual combat charge from day one. So
7 that, certainly, wasn't any surprise or unfair surprise to the
8 defendant in any way.

9 I do find that that was certainly an issue that could be
10 raised on cross-examination. And -- and there was testimony
11 about who all was charged with attempted murder in the
12 vehicle, from all the folks that were riding in the vehicle.
13 So I don't find that there were any statements or any -- any
14 evidence that's been shown to not have been disclosed, as was
15 the case in Kyles v. Whitley. So the motion is respectfully
16 denied.

17 Mr. Meadors, I'm glad to hear from you on the mutual
18 combat.

19 MR. MEADORS: Yes, ma'am. Your Honor, before I do that,
20 and I -- as far as attempted murder of Michael Lucas, the
21 lesser on there are -- the lesser in there, is A and B first,
22 correct?

23 THE COURT: The State had requested a charge of assault
24 and battery first, as to Michael Lucas, it's my understanding.

25 MR. MEADORS: We had not requested. I want the record to

1 be clear on that. We just didn't know if it was mandatory. I
2 think they then requested it. We were just calling it to the
3 Court's attention. Was it a mandatory lesser? We were not
4 requesting it. I think they are now requesting. It's my
5 understanding.

6 MR. WARR: That's correct, Your Honor. We're requesting
7 the lesser included B charge.

8 THE COURT: Okay.

9 MR. MEADORS: And as far as Fordham, then it's assault
10 and battery of a high aggravated nature, and is it A and B
11 first on that also?

12 THE COURT: I thought I understood that you were not
13 requesting A, as to Christopher Fordham; the lesser included
14 of assault and battery first degree.

15 MR. WARR: That's correct, Your Honor.

16 MR. MEADORS: Okay.

17 MR. WARR: We are not requesting the assault -- A and B
18 first as to Christopher Fordham.

19 THE COURT: Okay.

20 MR. MEADORS: And Judge, and I would like my friend, the
21 court reporter, and I would like the record to reflect this,
22 that this is most respectful to Your Honor.

23 THE COURT: Absolutely.

24 MR. MEADORS: And I do want the record to reflect that.
25 We, respectfully, object to Your Honor's addition under the

1 mutual combat -- combat charge, however, if the innocent
2 third-party was killed before the defendant joined in mutual
3 combat, then the defendant cannot be held responsible on the
4 doctrine of mutual intent -- doctrine of mutual combat, I'm
5 sorry.

6 Judge, we feel that's a comment on the facts. I
7 respectfully, don't think that's in Young or any other case
8 law I see. And we, respectfully, take exception. That's all
9 I want to say.

10 THE COURT: Thank you.

11 Okay. Anything else before we bring the jury out?

12 MR. MEADORS: No, ma'am.

13 THE COURT: Let me just speak briefly to the order of
14 closing. Who's going to do the closing?

15 MR. MEADORS: Well, Your Honor, I'm going to start.
16 We're going to wait and see who does the final reply.

17 THE COURT: Okay. The only thing I would say is, you
18 know, of course, the State's got the right to open and close,
19 but none of this just opening on the facts and closing with
20 the loss. The State's going to give their full closing
21 argument. Mr. Warr is going to give his closing argument.
22 The reply on the part of the State, is limited to reply. No
23 new matter can be raised in the State's reply.

24 Anything else with regard to the verdict form, the
25 closing arguments, the order of closing arguments?

1 Okay. I think we're ready for the jury.

2 THE BAILIFF: Yes, ma'am.

3 THE COURT: Thank you.

4	(Pause.)

5 (Whereupon, the jury came into open court at
6 approximately 10:52 a.m.)

7 THE BAILIFF: Jurors are all seated, Your Honor.

8 THE COURT: Thank you.

9 Okay, ladies and gentlemen, thank you so much for your
10 patience this morning. I always hate to keep you waiting back
11 there, wondering what in the world we are doing out here. But
12 I can assure you, we had a number of legal issues that we had
13 to tend to this morning so that we would be ready for you and
14 can go right into closing arguments.

15 | Mr. Meadors?

16 CLOSING

17 MR. MEADORS: May it please the Court.

18 Solicitor Mr. Corbett, Mr. Warr, Mr. Young, Mr. Foreman,
19 ladies and gentlemen of the jury, good morning.

20 IN UNISON: Good morning.

21 MR. MEADORS: First of all, thank you for being here this
22 past week, yesterday, and today. I know I told you I thought
23 it would end last week, and I did. I didn't know the storm
24 was coming. But thank you for being here.

25 I'm not a jury watcher. I don't sit there and stare at

1 jurors. But the few times I've looked over, I have seen that
2 you're all listening and paying attention. And that's all any
3 of us can ask, so thank you.

4 It's about time. This part of the trial is called
5 closing arguments. It gives us a chance to review the
6 evidence with you and give you what we think, tell you what we
7 think, are the reasonable inferences of the facts. It's up to
8 all of y'all to decide what the facts are. Not to me. Not
9 Mr. Warr, but it's y'all. So thank you for listening.

10 You didn't leave your common sense at home. You brought
11 it with you all week, last week, and this week. And you'll
12 keep it through the deliberations.

13 Your Honor is going to tell you in a minute about our
14 roles and her role. She is the judge of the law. She is the
15 law. And what law she decides, based on the law that's in the
16 South Carolina jurisprudence, is the law that y'all must
17 follow, that we must follow. And we know you will follow it.
18 Whether we agree with it, or disagree with it, what Your Honor
19 says the law is, is the law.

20 What y'all will decide is, and you are 13 -- 12 finally,
21 when you go back, there, are the judge also of the facts. You
22 decide what the facts are. No disrespect, to Her Honor, is
23 just as important as a judge -- as she is. She runs the
24 courtroom. Don't get me wrong. But once she tells you what
25 the law is, you will then decide what the truth is, and

1 whether the State has met its burden beyond a reasonable
2 doubt.

3 What happened? You'll take that and decide what happened
4 and apply it to the judge's jury charge, the law. And you'll
5 decide what the verdict is. It truly is a beautiful system.
6 And I'm not just saying that to say, it is a great system,
7 when citizens from the community come in and decide what
8 happened; apply the law, decide whether the State's met its
9 burden, and render a verdict. It's just beautiful.

10 I didn't agree with much the defense said. But I'll
11 agree with one thing. Mr. Ken Young said in his opening.
12 This shouldn't happen in Sumter County. This should not
13 happen in Sumter County. I agree with him, and it needs to
14 stop.

15 Ladies and gentlemen, the defendant is charged -- and I'm
16 going to try to weave this in and out, so I won't take all
17 that long. But it's important; it's important to the
18 defendant; it's important to the families; it's important to
19 the chief from the police department; the solicitor who had
20 been here and working on this case. This is important to
21 everyone.

22 The defendant is charged with murder. What is murder?
23 Murder is the unlawful, intentional, unlawful killing of
24 another, with malice and forethought. It's an intentional
25 doing of a wrongful act. Malice, you can almost feel malice

1 when you say the word itself. Malice is a evilness, a
2 wickedness one person shows to the other.

3 Judge is going to tell you it can be express, or it can
4 be inferred from the circumstances that are presented, and the
5 circumstances that happened in this case.

6 Express malice. It doesn't happen -- happen. It doesn't
7 have to exist in any particular time, as long as it exists
8 before -- right before and at time that the shot is fired. We
9 don't have to prove premeditation in this state. That's not a
10 requirement. We don't have to prove motive in this state. We
11 have it. And we have premeditation, which can go and be an
12 example of malice for you all. Malice, evilness, wickedness,
13 one person shows. And we're going to show you that in a
14 minute, as we start.

15 (Counsel confer.)

16 (Thereupon, the video recording was played herein.)

17 UNIDENTIFIED SPEAKER: Hell, no. I'm going to
18 (indiscernible). Mr. Killah, boy you've been around the town,
19 sir. Mr. Killah, we both going to follow you. Mr. Killah,
20 I'm going to send a little bullet too. Mr. Killah, not me,
21 not me, not me, no I ain't sending (indiscernible). I'm going
22 to send the goons (indiscernible) Not me (indiscernible).
23 But he will get -- but he will get in his car. And he will
24 get a big hole. (Indiscernible). No, we don't play with
25 guns. Nobody from here play with guns. We fight. We play

1 with cars. We fight. We fight, boy. Everybody got me all
2 square in here talking about Killah Mike.

3 MR. MEADORS: Look at that. That's 1:05. Joquell Myers,
4 Joquell Myers uses his thumb as a trigger. It's kind of like
5 a revolver, isn't it? He uses his thumb as a revolver, as
6 he's singing and celebrating going to kill or going to get
7 Michael Rogers. That's malice. That's express malice. I
8 don't know how you express it any other way. We're coming to
9 get you. We're going to give you and your car a new makeover.
10 That's malice.

11 Keep playing it. I'm sorry.

12 (Thereupon, the visual recording was played herein.)

13 UNIDENTIFIED SPEAKER: (Indiscernible). Mr. Killah, who
14 do you think you are? Mr. Killah, who do you think you are?
15 Mr. Killah, who do you think you are? Mr. Killah, who do you
16 think you are? Mr. Killah -- (indiscernible).

17 MR. MEADORS: You think it was in his mind -- testimony
18 then this was just a few weeks before this happened. Was that
19 in his mind, his intent; what he was going to do; what they
20 were going to do; what had happened? And they were enjoying
21 doing it. He was enjoying doing it. And -- and until
22 yesterday, October 3rd, 2022, at 12:08, in front of y'all, he
23 said, it was funny to me, and it's still funny to me.

24 Malice, evilness, wickedness, depraved heart; that's what
25 this case is about. And what we must show to y'all and we

1 believe respectfully, we have. It's your decision.

2 Now the judge is also going to charge you. And I'm
3 trying to pair this together so I can go through one time.
4 I'm trying to. I don't know if I will. The judge is going to
5 also charge you on transferred intent. If you intended to
6 kill somebody -- if I intend to kill Mr. Caufield here, but
7 accidentally killed Mr. Corbett, that model transferred that
8 my intent to kill with malice toward Mr. Caufield to Mr.
9 Corbett. It's transferred intent and it makes sense, doesn't
10 it? You're going to have that to consider.

11 If he's shooting at Michael -- excuse me, if he's
12 shooting at Gregory Middleton, who is on the ground, and
13 doesn't even mean -- shooting at Michael Rogers when he's on
14 the ground, and then hits Gregory Middleton. It's still the
15 same intent. And we believe that's one way you can find him
16 guilty of murder. You don't get a free pass if you're trying
17 to kill one, and you kill the other, transferred intent.

18 Judge is also going to charge you -- and I have to do
19 this or Solicitor Finney, my boss will fire me. What I'm
20 fixing to say now is, I'm not telling you we agree with this
21 at all, but I have to go over the charges with you and let you
22 know what Her Honor is going to charge you.

23 She is also going to charge you on voluntary
24 manslaughter. Voluntary manslaughter is an intentional
25 killing in the sudden heat of passion with sufficient legal

1 provocation. Intentional killing, sudden heat of passion,
2 upon sufficient legal provocation. The heat of passion and
3 the sufficient legal provocation have to exist together.

4 We don't think that's appropriate. That'll be up to you
5 all. But Your Honor will charge you on that. And if heat of
6 passion -- if there are times in life where you're so angry,
7 you're so upset that you just can't control yourself; it's
8 almost an impulse to do -- to do something. You can't control
9 it, and it's based on a sufficient legal provocation, and you
10 haven't had time to cool down. If you got upset and you
11 cooled down, and then later thought about -- well, and then
12 you go back and do something? No, no, that's not what the law
13 says. The law says, if you're angry, you're really upset, and
14 it's based on a sufficient reason, then in that time the law
15 says, you don't get excused, but you might be guilty of
16 voluntary and not murder. This isn't a voluntary case. But
17 you'll have the right to consider that. It's without malice.
18 It's a killer without malice, your classic example. God knows
19 I hope it doesn't happen to any of us. We'll come home. We
20 catch our spouse in the bedroom with somebody, and we're so
21 angry, we can't control it, and we lash out and we kill
22 somebody. At that moment -- the law doesn't excuse it -- but
23 they say your reason is dethroned for a little bit. You
24 might, in that circumstance, be entitled to a voluntary
25 manslaughter. These facts don't fit that.

1 Now what if I went in and caught my wife, Trisha with
2 another man, and I left, got angry, went to the office -- hey
3 come in -- come back three hours later, then I kill him?
4 That's not a voluntary manslaughter. My passion is cooled.
5 That'd be a murder. Say all that -- in this case, as I'll
6 tell you in a little bit, Joquell Myers is charging to the
7 fight. He's excited for the fight. He is wanting to fight,
8 as he was on that video. But you'll have the option of
9 considering voluntary manslaughter, like you will not guilty,
10 like you will guilty. I'm just trying to mentally explain it
11 to you.

12 Also -- and I don't usually read. I don't like to
13 read -- but this, I want to read this to you. Your Honor is
14 also going to charge you on mutual combat. Mutual combat is a
15 doctrine that South Carolina recognizes as a basis for
16 conviction for either murder -- either murder or voluntary
17 manslaughter. If a person voluntarily -- voluntarily --
18 enters into a mutual combat with another, and deadly weapons
19 are used, ladies and gentlemen, and all parties know that
20 they're being used -- you enter into a combat, into a fight,
21 deadly weapons are used, you know deadly weapons are used, and
22 death results to an innocent party -- Gregory Middleton, in
23 this case -- death results to an innocent party, then everyone
24 engaged in the mutual combat is equally guilty. Everyone
25 engaged in the mutual combat is equally guilty, regardless of

1 whether they fired the fatal shot. All participants in the
2 mutual combat are responsible for their fellow combatants.
3 Combatants' actions resulting in foreseeable injury to an
4 innocent party. And that makes sense, doesn't it? You'll
5 have that law to consider.

6 The judge will also charge you that we must prove the
7 defendant was engaged in a mutual combat with a rival
8 combatant. Ain't no question they got some bad blood going
9 on. If that Facebook doesn't show it, I don't know what does.
10 You heard Ms. Arkell Eaglin. She couldn't go into details,
11 but there were some other altercations he had. Wonder who
12 they're with. This video was up there. Was there bad blood
13 between rival combatants? We're coming to get you. We're
14 going to give you a new makeover, you and your car.

15 We've had some new additions. I want to make sure I get
16 this right. All participants in the mutual combat are
17 responsible for their fellow combatants' actions resulting in
18 foreseeable injury to an innocent party. The judge is going
19 to charge you if the innocent party was killed before the
20 defendant joined the mutual combat, the defendant cannot be
21 held responsible under the doctrine of mutual combat.

22 What have we got to show? A mutual intent and
23 willingness to fight with deadly weapons, manifested by acts
24 and conduct of the parties and the circumstances leading up to
25 the combat. We must prove it rose from a preexisting dispute

1 between the combatants, but it's not that -- we don't have to
2 show a positive agreement. That's not reality. We've got to
3 show like the video. It's not necessarily there be a positive
4 agreement between the participating parties to enter the
5 conflict. Listen to this, please.

6 It is sufficient -- sufficient -- that they willfully
7 enter into the conflict -- it's sufficient if they willingly
8 enter the conflict -- at the impulse of a moment. We're ready
9 to fight. We're ready to fight. Shots are fired. Innocent
10 folks are killed. And we must prove that beyond a reasonable
11 doubt.

12 They don't own these streets. They don't own that
13 convenience store parking lot. This law says if you go there
14 and you have a willingness to fight, you know there's a
15 disagreement, you know you're armed, and you start fighting,
16 and you start shooting, you take it to a public commercial
17 establishment, lethal fire is going to cross, everyone
18 involved in that is responsible, whether you fired the shot or
19 not. That's up to y'all. That's up to y'all. It's up to
20 y'all.

21 We submit he fired the .38, and we'll go show you that in
22 a minute on the video. We believe we prove that beyond a
23 reasonable doubt. You'll have that. In addition to that, if
24 there's mutual combat, if you said, fine, we've established
25 that, he can be held responsible under mutual combat. That's

1 up to you. That's up to you.

2 Attempted murder. Attempted murder is when one attempts
3 to -- (indiscernible) attempted -- this stuff really isn't
4 that hard -- attempted murder with an intent, specific intent,
5 to kill. An attempt to murder with specific intent to kill.
6 Now he's charged with two of those counts, one on Michael
7 Lucas, and one on Christopher Fordham.

8 Well, how do you show that? You can't open somebody's
9 skull and look in their brain and read their brainwaves. You
10 show it by their words; you show up by their actions; you show
11 it by the number of shots that are fired. Fired once, well,
12 maybe he didn't; fire twice, fired three times, fired four
13 times, fired five times, fired six times. Fired at a vehicle
14 at it's going away. That's specific intent to kill. And as
15 I'm going to show you in a minute, what's another way of
16 showing specific intent to kill? I'll take the attempted
17 murder, Natalie, Willie. I'll take it. Don't give me that
18 other stuff. I'll take the attempted murder. Yeah, I shot
19 Eddie (phonetic). Yeah, I shot him. Give me the attempted
20 murder.

21 Ladies and gentlemen, give him the attempted murder.
22 He's asking for it. That's "expressly". Yeah, I did it.
23 They were leaving. I shot. Now here yesterday -- well, they
24 shot back. That's the first time we ever heard that, wasn't
25 it, yesterday? But he's saying to Natalie and Willie -- and

1 he's saying, y'all, I'll take the attempted murder. Now, it's
2 called the gentle art of confessing error. I'll take that
3 because I want to distance myself from this murder. Give him
4 that, too, but that's up to y'all. But he's telling y'all,
5 give me attempted murder. I did it. That was in my mind.
6 That was in my mind. That's how you show specific intent to
7 kill.

8 Now, the judge is going to also charge you a lesser
9 included offense of attempted murder on Mr. Lucas. It's
10 assault and battery in the first degree. And assault battery
11 in the first degree -- I don't agree with this. State doesn't
12 agree with this. I got to go over it because that's my job.
13 Unlaw for -- offering or attempting to injure another person
14 with the present ability to do so, and the act is accomplished
15 by means likely to produce death or great bodily injury.
16 You'll have that as a lesser of attempted murder on Michael
17 Lucas. He said, give me the attempted murder.

18 And then, finally, is the attempted murder on Christopher
19 Ford. We'll show it to you in a minute. You've seen it.
20 Think about it right now as I'm thinking about it. Shots kind
21 of died down. You got two on the ground. Christopher Fordham
22 comes out. He's trying to help Michael Rogers, and a car goes
23 by with Diontrae Epps, Joquell Myers, Sheldon Benjamin. I
24 don't -- the other two in there. Y'all may remember. There's
25 a rush to the hospital to give aid to Diontrae Epps. It

1 stops, and this kind of summarizes the whole case. It stops,
2 and what happens? Gunfire comes out of that car to somebody
3 that's trying to help. No good deed. Gunfire. What's the
4 intent of everybody in that car?

5 Judge will also charge you on the theory of accomplice
6 liability. The hand of one is the hand of all. The act of
7 one is the hand of all. Does that gunshot come from the
8 front? Is it somebody reaching around in the back? Everyone
9 in there is charged with attempted murder. Specific intent?
10 Somebody is being pulled back? That's up to y'all.

11 There're a couple other things that -- in addition to
12 that, you will be able to consider on Mr. Fordham a lesser
13 included offense of assault and battery of a high and
14 aggravated nature. That is the unlawful injuring of another
15 person in great bodily injury to another results, or the act
16 is accomplished by means to a great bodily injury could
17 result. Those are lesser included offenses I must cover with
18 you. We do not think that applies here, but you will have an
19 option to consider that because that is y'all's decision.
20 I'll take the attempted murder.

21 A couple of things I got to go through, and I'm trying to
22 do this as efficiently as I can. You will also be charged on
23 self-defense. Self-defense, it must be established. Four
24 things for there to be a self-defense, and we, State, must
25 disprove self-defense beyond a reasonable doubt. Easiest way

1 I know of how to describe it is a chair. If one of these
2 posts is gone, then self-defense is gone.

3 The first element of self-defense is the defendant must
4 be without fault in bringing on the difficulty. We submit to
5 you that that's gone, and self-defense is gone with the first
6 element. Without fault in bringing on the difficulty. We're
7 going to show you the video. And yeah, this is mutual combat.

8 Michael Rogers is there. He comes over, and then you see
9 Trae Epps swing first. They tried to -- or somebody tried to
10 say otherwise. And then, you see Trae Epps firing without
11 fault and bringing on the difficulty. Trae Epps is the one
12 that came and did it. And then, he starts firing, and then
13 seconds later, you see Joquell Myers charging -- on the right
14 side, and charging. The second wave's coming in. I don't
15 mean -- this was their words. "The goons", the bullies, the
16 whoever, they're coming in. We're coming to get you, just
17 like he was. He is the fault that brought on this. Diontrae
18 Epps is the fault. And the reason I'm bringing Diontrae Epps
19 too -- you're also going to be charged on the defense of
20 others.

21 If you believe he had the right to defend his brother,
22 the same elements must be shown. It's not easy to go through
23 all this stuff right here, but I got to do it. Same thing
24 must be shown. You must be shown that Diontrae Epps was
25 without fault bringing on the difficulty. Well, he brought it

1 on by swinging, and then charging. Defense of others, self-
2 defense gone on the first problem, we submit. That's up to
3 y'all. If you believe he acted in self-defense, it's your
4 right to find him not guilty. That is up to y'all.

5 Second element of self-defense is that he was in imminent
6 danger of suffering serious bodily injury or death, or he
7 believed he was. He brought on the difficulty. Diontrae Epps
8 brought on the difficulty. Those don't apply. The chair is
9 gone.

10 And finally, the fourth element Your Honor will charge
11 you is that he had no other -- nothing else he could do except
12 leave, retreat. He actually says he was gone and came back.
13 He did leave. He could have left. He wanted to engage. This
14 isn't a self-defense case, ladies and gentlemen, we
15 respectfully submit. But that's up to y'all. The State must
16 prove all four elements beyond a reasonable doubt. They don't
17 exist. We submit it doesn't pass the first element. That's
18 up to y'all. I'm trying to be quick on this. I promise.

19 Then, you got possession of a weapon during a violent
20 crime. If you convict him of murder or manslaughter,
21 voluntary manslaughter, those are violent crimes, and that
22 would be the possession of a weapon during a violent crime.

23 And then finally, unlawful carrying of a pistol, which
24 Your Honor will charge you on. And that last element was duty
25 to retreat. He had a duty to retreat, if he could.

1 Late Saturday night, early Saturday -- early Sunday
2 morning, September 8th, September 8th of 2019, the Sunoco. We
3 know that at 11:42:35, 36 -- that's when Timothy Scarbough
4 comes over and talks to Trae Epps. In my words, I ask him,
5 are you extending an olive branch? He said, I was.

6 (Thereupon, the visual recording was played but not
7 transcribed herein.)

8 MR. MEADORS: Before that, we know the red Charger
9 (indiscernible) some minutes prior to that, and you'll see it
10 here. And then, at 11:42:35, 36, Mr. Scarbough's over there,
11 and then, right here, if you look at your screen at 11:41:34,
12 you see Mr. Mike Rogers coming up (indiscernible). So -- and
13 he looks like his cigarette's going up and down. I'll agree
14 with that. This is a mutual combatant case. He's sitting
15 there, talking to him. This is the same individual that
16 everybody on the left side -- Mr. Epps, Mr. Myers, the other
17 folks with him -- said, we're coming to get you.

18 Now, Ms. Eaglin said, yeah, I showed him that. Wish
19 you'd stayed in the clubs, Mike -- stayed out of the clubs. I
20 showed him that. Stay out of the clubs. Did he? He did for
21 a while, but then he went back, and he killed him.

22 11:41:37. Let's see. I don't know if Mike Rogers,
23 Killah Mike -- I don't know why he's called "Killah". His
24 testimony -- it might be because he's good with the ladies. I
25 don't know. But all I know right now is that at 11:41:38,

1 Michael Rogers is a dead man walking. He's fixing to die,
2 whether he knows it or not. I tell you who does know it. The
3 same people that created that Facebook video. We coming to
4 get you. And as soon as he got there and he came over there,
5 they put their plan in action. That video was an invitation
6 to the cemetery. We're coming to get you. And he came over
7 there.

8 Did he know about that video? Arkell said he did. And
9 he came over there, and he's talking. Mutual combaters. Now
10 Mr. Warr, I think, said you can see him reaching for his gun.
11 I don't know if you can or not. Either way, it's mutual
12 combat here. Look what happens.

13 Keep going. Stop.

14 Mr. Trae Epps swings for Michael Rogers. 11:41:42.
15 That, ladies and gentlemen -- it's why I show you that -- does
16 away with self-defense. He brought on the difficulty. He
17 started it. Brings on the defense -- self-defense on the
18 defendant -- excuse me -- the defense of others that they're
19 claiming, that you'll be charged to, that he was defending his
20 brother. His brother lost his self-defense right here, in our
21 opinion, respectfully, when he initiated. Sorry that took so
22 long to get out. Then watch up here.

23 Keep going a little. Stop.

24 Trae Epps is firing. Firing back at Michael Rogers.
25 Defense of others is gone. The mutual -- the war has started.

1 Keep going, please. Stop.

2 Up in the top left -- your top left, if you will -- you
3 see Michael Rogers falling, his gun coming out. He had a gun.
4 Diontrae Epps had a gun. A willingness to fight from the
5 video to here. They both know they're armed. Testimony,
6 everybody was armed out there. You see his gun go -- you
7 actually, through the testimony I'm going to go through in a
8 little bit of Mr. Corbett and Ms. Snapp, Michael Rogers fired,
9 and you'll see all the projectiles he fired. There're fires
10 between parties. That's mutual combat -- at a convenience
11 store on September 8th of 2019 in Sumter, South Carolina.

12 Keep going. Now, stop.

13 All this time, you don't see Joquell Myers. You've had
14 the two shots. People are going out. What's going through
15 his mind? Well, we're going to see what's going through his
16 mind right now, almost telegraphed from the Facebook video.

17 Keep going. Stop.

18 That's Michael Lucas leaving. Leaving. Michael Lucas is
19 leaving. He hits Michael Rogers. Didn't mean to, we submit.
20 He just hit him. So what does he do? He backs up.

21 Keep going. Stop.

22 And here's Gregory Middleton coming down beside the car.
23 He's alive. He's alive. If he'd know he'd be a dead man
24 walking in a few -- just a few little seconds. Gregory
25 Middleton's alive. You know, Gregory Middleton is alive until

1 who shows up? I wish y'all could answer me, but you can't.
2 Do you know who's alive till he shows up? He's alive until
3 Joquell Myers shows up. Shots are being fired.

4 Keep going.

5 He's going to help Michael Rogers. 42:07 -- 42:08, and
6 look who's coming a second later. Joquell Myers. Here I
7 come. Firing. Firing. Firing. Self-defense is gone.
8 Without fault and bringing on the difficulty, let him go if
9 you find that. He comes charging and shooting. Without fault
10 in bring it on the difficulty, here comes a second wave of
11 fault. That's up to y'all.

12 Keep going, please.

13 And after he leaves, after he shoots -- and I'm going
14 back through this -- after he shoots, what does he do? He
15 goes back around, and he starts firing again, and firing
16 again, and firing again. I'll take that attempted murder.
17 That's Michael Lucas. I got to take that. Y'all don't give
18 me the rest of it.

19 Go back and play it, and I'm going to shut up, please.

20 (Thereupon, the visual recording was played but not
21 transcribed herein.)

22 MR. MEADORS: Just from 42. 41:37, please. And before
23 we do that, stop.

24 You get here as prosecutors, and you're worried about
25 timing and all that. (Indiscernible), that Shirlene

1 Skipper -- God bless her -- she comes in every trial -- Ms.
2 Skipper, when did the call come in? It came in around 1:00.
3 Well, that shows us that clocks off about an hour and 20
4 minutes. No dispute on that. This clock is just off, but
5 Shirlene Skipper told us this happened a little after 1,
6 little after the manager called, said, y'all get -- this was a
7 great response time by the police. The police did an
8 outstanding job. But that manager knew right before then, he
9 said, y'all, something's going to happen. Something's
10 happening, and called back, and something happened. You could
11 feel it. Witnesses say -- sorry about that. Witness said,
12 you could feel it. Manager said, you could feel it.

13 Keep going.

14 (Thereupon, the visual recording was played but not
15 transcribed herein.)

16 MR. MEADORS: I can't help it. I'm sorry.

17 (Pause.)

18 MR. MEADORS: See that car right there just come out and
19 turn around? People working second shift, people coming to
20 fill up their gas. And here comes, at 11:43:06, Joquell,
21 Diontrae, Sheldon, Jay McBride (phonetic), another individual,
22 and look what happens. Is that malicious? Is that a specific
23 intent to kill, firing in the zone of danger? That's up to
24 y'all.

25 Folks -- and I'm just going to come back to that one more

1 time. So what happens? Law enforcement has got this video.
2 We've got two down. You heard from the doctor, Batalis,
3 Middleton was shot from here and from here, and also had a
4 shot through his wrist.

5 And, yes, ma'am. Yes, sir. I asked Investigator
6 Caulfield. I'm not going to do that to him again, but come
7 back we'll show it again to you in a minute, when Mr.
8 Middleton's out there and he reacts; we submit to the charges.
9 There's no shot around that came -- and actually, it would
10 have had to come from this way. And what does he do? He gets
11 down, and he's going to help Mike Rogers, Killah Mike, an
12 innocent bystander, an innocent person. And what does he do?
13 And I asked Mr. Caulfield to get in that - and we can't see on
14 that car, and I wish -- we can all stand up if you want to.
15 But what does he do? He starts crawling back -- crawling
16 back -- can y'all see? He starts crawling back. Doctor,
17 would this be consistent with the injury that the victim,
18 Gregory Middleton -- yes, sir. From here to here. From here
19 to here. And it was a .38.

20 Natalie and Willie asked the defendant 26 times, what
21 type of gun did you use? What type of gun did you use? How
22 many times did you shoot? It wasn't until 1,000 and something
23 days later that he came in here yesterday and said, it was a 9
24 mm. Is that consistent? Yes, it is. Doesn't fit the other
25 way, where they would have said he got shot. It just doesn't

1 fit. There're no firearm -- it doesn't fit coming in. That's
2 the only way we submit it does fit.

3 You still have mutual combat. We believe we proved
4 beyond a reasonable doubt. Murder the old-fashioned way, but
5 it ain't the old-fashioned way anymore when groups of
6 combatants take it to commercial establishments in residential
7 areas and start fighting and shooting, and it doesn't matter
8 who they hit. Their intent is to kill and to kill, and that's
9 what this case is about. And I agree with Mr. Young. It
10 shouldn't happen, sir. But that's what this is about. It's
11 up to you.

12 So they get him in a room, talking to him, September
13 21st. Initially, he says, I ain't shoot. I don't know what
14 you're talking about. September 26, he comes back. I want to
15 talk to y'all. I want to talk to y'all. And there's no
16 dispute this statement is voluntarily and freely given.
17 Everybody submitted that. You heard him read his rights.
18 It's on tape. There's no issue on that.

19 So he comes back, and he says, what? Well, at first, he
20 denies he even shot. Denies I even shot. I didn't shoot.
21 And ladies and gentlemen, what I want you to understand,
22 respectfully -- and you may much more than I do. I'm not
23 saying that -- but during the second interview, the defendant
24 is operating in the blind. He doesn't know what the law
25 enforcement had.

1 It's funny. Testimony came out -- we don't trust the
2 police in Mayesville. Really? When you called them back
3 wanting to find out what they knew, you were trying to play
4 them. You were trying to control the room like you tried to
5 control in here yesterday some, we submit.

6 And every time, he didn't want to say something. Well, I
7 want to talk to my mother. Mr. Warr asked him about -- well,
8 you weren't under oath then, were you? What happened to good
9 old just telling the truth? Well, no, I wasn't under oath.
10 They didn't place me under oath. He said "I swear to God"
11 nine times plus. I guess that doesn't matter.

12 But he sat up here yesterday and said, yeah, I lied. I
13 lied, but you got to believe me now. Credibility,
14 believability. Y'all saw him. Y'all listened to him. You
15 saw Mr. Corbett questioning credibility, believability. Yeah,
16 I lied. I lied, but you got to believe me now. Well, no,
17 sir. No, ma'am. You don't. You had a .38. You didn't want
18 to tell anybody. Oh, .38. I care so much about. I bought
19 it. I keep in my glove compartment. Well, after you went to
20 the hospital, what did you do with it? Well, I tossed it in
21 the back. You just tossed it in the back? Yeah, I just
22 tossed it in back. We left the car there. It had a flat
23 tire. We fled the scene. Went back later, my gun was gone.

24 Makes no sense. No credible. Didn't go to the police.
25 Said he was shot at. Said he was shot at from the Charger

1 yesterday. In this two-day interview, mostly the second day,
2 not one time did he say that. Looked at the evidence -- well,
3 yeah, they were shooting at me. That's why I had to shoot
4 back at him. No, sir. No, ma'am. Credibility.
5 Believability. That's up to you. Judge is going to charge
6 you on credibility and believability. You decide what the
7 truth is from the witnesses. That's up to y'all.

8 I will briefly go through some of it. And I'm getting
9 toward the end. I apologize. I ain't shooting at nobody. I
10 don't remember. The only thing I remember -- doesn't remember
11 who drove to the hospital till yesterday. Now, he's blaming
12 somebody. Just -- he's telling the world, Sheldon did it.
13 Sheldon shot him. He's telling on Sheldon. I want that world
14 to know it. He's telling on Sheldon. I don't know who was
15 driving. I don't know who shot -- yesterday, he did.

16 Bias? He's on trial. I don't remember. Who drove the
17 car to the hospital? I don't remember. I don't remember who
18 drove. It was all, you know -- we was rushing. I ain't no
19 shooter. I'm big, bro. I beat you up. I swear to God, I
20 wasn't shooting. I wasn't shooting. I wasn't shooting at
21 none of them. Swear to God. Swear to God. I ain't care
22 about nothing, those other charges. I'll take those. I'm
23 giving him murder. Give him those other charges, please, the
24 evidence suggests, but give him murder, too.

25 And he talks about -- and this is where he's in the

1 blind. He doesn't know about that video from Sunoco's
2 (indiscernible). He knows about the video that Tyrek Archie
3 got of him, which actually was taken there. He said, don't
4 you -- do you see that video? Do you see that video? Well,
5 you'll see me on the side on that video. I never went in
6 front of that store. I was on the side. Y'all maybe see me
7 there. That's when I was shooting at that Charger. No, sir.
8 No, ma'am. And this is where they did a great job at the
9 interview. You did. We do have video. And Mr. Willie, Det.
10 Willie McFadden. Don't give me that. We got you on video.
11 Don't tell me you're not shooting. He's trying to find out
12 what the truth is.

13 And then, you remember one time he says, well, you know,
14 he was shot in the car. How could I shoot him in the car? I
15 couldn't have hit him. No, sir. He wasn't shot in the car.
16 He doesn't know they have that video. He keeps him on the
17 side of Wendy's, keeps himself over there. Y'all see the
18 difference. You see the difference. And he goes -- this is
19 State's 811, State's 422, and this is from the video.

20 (Indiscernible), would you please come up here? That's
21 looking back from the -- if you're facing the left corner of
22 Sunoco. That's Joquell shooting. That's where the bodies
23 were right in here. You tell me he didn't have an angle over
24 there? You tell me he didn't have a shot? You tell me he
25 didn't shoot him? I wasn't even in the front, y'all. Y'all

1 see me on the side. No, sir. No, ma'am. He's trying to
2 distance himself from that angle, from that front.

3 I ain't worried about other people. I'm 6-4. Y'all come
4 at me, I'm going to punch you in the face. I ain't like that.
5 I ain't the type of person to use no guns. Yes, sir, you are.
6 Do you feel me? You remember asking that, and asking Mr.
7 Jason, do you feel me? I don't feel you. I feel you
8 manipulating and trying to control, like you came out trying
9 to control at 11:42:06, 07, 08, and then you came around
10 trying to control as Michael Lucas left.

11 If I had a gun, I wouldn't run, y'all. I ain't worried
12 about none of that other stuff. If y'all are going to get me
13 for attempted murder -- but please don't say I killed nobody.
14 But I've got the attempted murder. How many times you shoot?
15 And then, he says, how can I see him if I didn't even -- how
16 can I shoot him if I didn't even see him? He was shooting at
17 Michael Rogers, who had already been hit, and it's that same
18 intent and malice that was from that Facebook to that day in
19 that parking lot, where his emotions were voluntary. They
20 were anger. And he's trying to finish off Michael Rogers just
21 like that. Did try to finish him off with shooting at
22 Christopher Fordham, Michael Rogers -- I don't know. The
23 ending of mutual combat. He was trying to finish him off, and
24 then he shot Greg Middleton, transferred into him. He doesn't
25 get a pass for that.

1 That's what this case is about. That evilness went
2 toward Michael Rogers, maybe, but he shot Greg Middleton.
3 Don't want to admit it. Doesn't even -- won't even put
4 himself in front of the store. But that's what happened, and
5 he is guilty of that.

6 And that's that total depraved heart. That's how you can
7 show malice. And it's like the mutual combat. You're out
8 there firing. You don't really care who you hit. That's why
9 the mutual combat law exists. When you go to a commercial
10 establishment, people are working second shift, third shift,
11 going in to get coats, and oh, thank God there were just two
12 people killed. So sorry for those two, but God, there could
13 have been more.

14 I didn't kill him. He was nowhere around. Altercation
15 happened in front of the store, right? So he's got -- he
16 comes on the side. The red Charger was in front of the store?
17 Exactly. The altercation happened in front of the store?
18 McFadden says yes. So y'all would see all that now if y'all
19 been to the camera. I'm not in front of the store, but on the
20 side, bro.

21 You came around the side, and you fired, and you fired,
22 and you fired, and you fired down -- and that's interesting.
23 You fired down. At what? Michael Rogers. Now, yesterday,
24 for the first time, you say, well, I was firing down at the
25 car. Down at the car. I was at the corner. I tell you, was

1 at the corner. Yeah, I shoot. I shoot at the red Charger,
2 but I didn't God dern -- I was in the corner, bro. I ain't --
3 nobody was around. No car out there, bro. Ain't nobody was
4 around. But I'll tell you right now, I'll take the attempted
5 murder whenever we're all together. But I ain't kill nobody,
6 bro. I promise, I ain't kill nobody. Why were you shooting
7 at the Charger? Man, I -- I thought they were going to try
8 and come back and kill my brother. Really? It's leaving? I
9 thought they were going to try to come and kill my brother?

10 Who else was in the red Charger? I don't know.
11 Attempted murder -- and crap, man, I'll take that. I promise
12 you. Who was in the red Charger? I don't know. Why'd you
13 shoot at it if you didn't know? I don't know. I don't know
14 who was there, man. The dude, man, I could -- I promise you
15 he wasn't in there. You what? I thought you didn't see him.
16 I promise you, Greg Middleton -- D-Black wasn't in there.
17 Remember Mr. Corbett asked him yesterday. How do you know
18 that? He couldn't answer that.

19 If y'all let me go down for that attempted murder and all
20 that other stuff -- where'd you run? I ran behind Wendy's.
21 Where'd you run? Behind Wendy's, bro, and I see my brother
22 get shot. Then, after you fired -- that's after you fired the
23 shots? I didn't fire no shots. I'm telling you. When I ran,
24 I didn't fire no shots. I promise y'all. I ain't seen nobody
25 out there. Everybody been out there. Come on, bro, but I

1 didn't kill that man. I see -- I seen on Facebook. This man
2 be dead in the back seat of the car. Y'all know all that over
3 Facebook now.

4 I ain't shoot him in the car, or without the car. What
5 kind of guns you have? I don't have -- I don't -- I don't
6 even remember, man. Where's the gun? I don't know. What
7 y'all do with the gun? Nothing. So where -- is that your
8 house? No. What'd you -- where'd you put it? Can I talk to
9 my mama? So many guns out there, and if I had the same gun to
10 shoot him, it really ain't been my gun shot. I'm still going
11 down for it, bro. Yes, sir. Yes, sir. That's the law. Did
12 he have one gun? Did he have two guns? I'm going to get to
13 that in a minute.

14 Doesn't say he shot Pies. (Indiscernible) in here
15 yesterday. I am going to tell you all what happened, bro.
16 I'll take those other charges. I'll take those first three
17 charges. Damn, y'all can charge me for them. For that
18 murder? No. I was in the car. 42:49, I guess he starts to
19 get -- I was in the corner. Ain't even going to lie you. I
20 was in the corner. Yes, I shot at -- I shot at the red car.
21 This is it. 42:49 to 43:19 on the video -- on the audio. But
22 this is what I'm trying to tell y'all. If y'all look at that
23 camera, you'll see ain't nobody was out there that night, like
24 absolutely nobody. I didn't even see -- I didn't even see D-
25 Black, like, trying to save Killah Mike or none of that. I

1 promise you. Y'all could look at that.

2 He still got him -- he's on the side. He doesn't know
3 they have the video in front. I ain't trying to lie. Y'all
4 can see all of that. You know I ain't lying. No, sir. We
5 can see it. And no. You are lying. And anyone that got
6 dirty -- you know how old -- so you shot at the red Charger?
7 Yeah. After you saw Trae was hit? Yes. What I'm trying to
8 tell y'all. You know how you could leave out -- you can leave
9 Wendy's? He was, like, over there. He was, like, at the gas
10 pump -- talking about Middleton. I was over here shooting on
11 this side. I wasn't shooting over there. Yes, sir, you were.
12 You may not have known the video had you, but you were. He
13 distanced himself to that till we get this video.

14 Nowhere in here does he say the red Charger was shooting
15 at him and that's why he shot until yesterday. The video does
16 not show shots coming out of the red Charger, and in fact, if
17 you go look at State's 13, State's 9, State's 16, you see the
18 red Charger. Intent to kill? Michael Lucas specific -- don't
19 consider a lesser included offense. He says, I'll take the
20 attempted murder. Please, give it to him, the evidence says.
21 Don't stop there.

22 You heard the testimony. Extreme angles, these are
23 coming in. The Charger's leaving. Mr. Corbett yesterday
24 says, so when he backed up, he had to do -- to put it in gear,
25 and then put it back. He said, well, he's shooting out the

1 window at me. No, sir. No, ma'am. There's no evidence of
2 that. Watch the red Charger as it goes off -- started going,
3 as I'm entering the -- nearing the finish. He's got shots on
4 the right. He's got shots on the left. Attempted murder.
5 You know he's at least shooting three times at him. You'll
6 have these back in evidence. Look at him coming in at an
7 extreme angle.

8 How do you show attempted murder and specific attempt?
9 Not only did he said (sic) "I did it, give it to me", the most
10 express way you can do it, you see more than one shot. Shot
11 at the side. Go at an angle. Who's he aiming at? Shots on
12 the other side. It's specific intent on him. If there are
13 other shots coming at him, that's mutual combat. But he
14 admits, I did this.

15 A nominal .38 family is found inside. We can't tell you
16 what it was, and it was found inside the doorway. And then,
17 you got the back, where I believe there's a shot to the
18 taillight right here in the back as it was leaving. Not a
19 threat. Leaving.

20 Now ladies and gentlemen -- play that red Charger
21 leaving, and then I'm going to conclude -- please.

22 (Thereupon, the visual recording was played but not
23 transcribed herein.)

24 MR. MEADORS: And folks, after that 6, 7, he keeps
25 shooting, 8, 9. His hand doesn't move as that red Charger

1 moves. Watch out for that argument. He stays firm, shooting
2 as that red Charger's going out. Who's in that line of fire?
3 Michael Rogers and Gregory Middleton. His arm doesn't move as
4 that red Charger's going. He keeps firing. And then, he goes
5 out. No shots coming from the red Charger, and he goes around
6 and attacks from the other side. Shoot, shoot, shoot.

7 Ladies and gentlemen, one final thing at this point, and
8 I apologize that I've taken so long. I really tried to narrow
9 this down. This is State's 26, I believe. Just look at it a
10 minute. I didn't realize the significance of this to the
11 State until yesterday. Mutual combat.

12 Ladies and gentlemen, State's 26 shows mutual combat.
13 What you don't see on here are any .38s because that's a
14 revolver. Shell casings wouldn't come out. But you see shell
15 casings from Michael Rogers that fit to his gun. You see
16 shell casings back in here, we submit -- or Mr. Epps, Diontrae
17 Epps. You see other shell casings. You see shell casings
18 over here, but we don't see any .38s because you can't have
19 .38s. He said he shot six times, maybe seven. Well, that
20 doesn't match up with anything. And if one of these, he was
21 shooting, Gregory Middleton's alive until he comes in. He's
22 alive.

23 I want to ask you, but I can't -- you know, I've seen
24 good movies. I love this job. I mean, well, maybe, that you
25 don't consider that -- I love this job because y'all get to

1 decide. I want to ask you right now to close your eyes, but
2 if I can't, maybe keep them open. But I want you to listen to
3 something.

4 (Thereupon, the visual recording was played herein.)

5 UNIDENTIFIED SPEAKER: (Indiscernible). Okay. I see
6 L.O. (phonetic). This shit about to get real. Bubba
7 (phonetic) over there -- look at Bubba just standing
8 there. The fuck. No, where L.O. at, y'all? Okay. I'm
9 about to go stand by L.O. Girl, (indiscernible). Oh,
10 look at (indiscernible), y'all. Y'all, where did these
11 niggers come from? Oh, shit. Who the fuck is that? He
12 need to go home. (Indiscernible) L.O. better -- oh,
13 baby. I might just -- I just might be recording a little
14 bit, little bit --

15 UNIDENTIFIED SPEAKER: (Indiscernible).

16 UNIDENTIFIED SPEAKER: Where, where, where, where?

17 UNIDENTIFIED SPEAKER: He over there (indiscernible).

18 (Indiscernible) I see him.

19 UNIDENTIFIED SPEAKER: Oh, my god, y'all. What the fuck?

20 Yo. I got everything. No, y'all got L.O.. Open it up now.

21 (Indiscernible). Where L.O. at?

22 UNIDENTIFIED SPEAKER: I don't know.

23 UNIDENTIFIED SPEAKER: Yo, you don't know.

24 (Indiscernible).

25 MR. MEADORS: The final legal document I'll leave you

1 with at this point is the presumption of innocence. The
2 presumption of innocence is something we all enjoy, something
3 the defendant enjoys, and it's a right that you are presumed
4 innocent, presumed innocent until proven guilty. If you're
5 proven guilty beyond a reasonable doubt, the presumption stays
6 with you from arrest through trial all the way back to the
7 jury room, and stays with you unless and until you, the jury,
8 start reviewing the evidence and decide, and take off that
9 presumption. It's sort of like a robe or a blanket.

10 If you review the evidence and start taking it off --
11 well, this isn't -- this, the State has proved beyond a
12 reasonable doubt. And if you find we've proved him guilty
13 beyond a reasonable doubt, you take off that robe or that
14 blanket. And we respectfully submit we have proved him guilty
15 of murder, attempted murder, possession of a weapon during a
16 violent crime, and unlawful carrying of a pistol. That's up
17 to y'all.

18 But at this point, I want to say, if you do find him
19 guilty, and if you come back in with a guilty verdict, bring
20 that blanket and come in here and symbolically give it to Ms.
21 Wilson, because the innocent person in this case was Gregory
22 Middleton. Thank you.

23 THE COURT: Mr. Warr?

24 MR. WARR: Thank you, Your Honor. If it would please the
25 Court, I would request about a five-minute break.

1 THE COURT: Sure.

2 Ladies and gentlemen, we're going to let you stretch your
3 legs a minute. Please don't begin discussing the case.

4 (Whereupon, the jury exited the courtroom at 11:57 a.m.)

5 (Recess.)

6 THE COURT: Okay. Mr. Warr, are we ready for the jury?

7 MR. WARR: We are, Your Honor.

8 (Pause.)

9 (Whereupon, the jury came into open court at
10 approximately 12:11 p.m.)

11 THE BAILIFF: All of the jury is seated, Your Honor.

12 THE COURT: Thank you.

13 Mr. Warr?

14 MR. WARR: If it please the Court --

15 THE COURT: Yes, sir.

16 CLOSING

17 MR. WARR: Good morning, ladies and gentlemen of the
18 jury. Thank you for being here over the past week. Over the
19 past week, you have heard the story of this case, and as with
20 any story, there are two sides, and it falls to you to decide
21 which side is credible and believable. The State opened this
22 case by telling you that this case is about credibility and
23 believability, and they are exactly right. They told you this
24 case was about credibility and believability, and then they
25 put theories before you that are neither credible nor

1 believable, nor supported by the evidence in this case.

2 Think back to the eyewitnesses that you heard from the
3 State. Not the detectives. Not the experts. Not the
4 pathologist. Not the ballistics expert, but the eyewitnesses.
5 The people that were actually there. Every single one of them
6 had a long and messy criminal history. You heard from a
7 convicted liar filing a false police report. You heard from
8 two men who had slews of drug charges. You heard from a
9 convicted forger. Were those witnesses credible? Were they
10 believable? One of the first witnesses you heard from in this
11 case was Timothy Scarbough, the man that got out of the red
12 Charger.

13 But before we get to his testimony, I want to point out
14 something to you, something very important. I want you to
15 think about the witnesses we didn't hear from. Michael Lucas
16 is still alive. Why didn't he come to testify that it was
17 Joquell Myers that shot him? He's available. The State
18 didn't make any argument that he wasn't available. They just
19 didn't call him. Why? What did he have to hide? He had to
20 hide that he was shooting. He was out there shooting, too, at
21 my client and my client's brother.

22 What about Christopher Fordham? He's still alive, too.
23 He's right here in Sumter County. But they didn't bring him
24 over. Why? Why didn't you hear from him? I want you to
25 think about that as you deliberate. Why?

1 Now, let's go back to Mr. Timothy Scarbough, who you did
2 hear from. This is Mr. Timothy Scarbough as he walks over.
3 I'm going to play a video in just a minute, but we -- I want
4 you to think back to his testimony. He testified that he
5 walked over -- he got out of that red Charger, and he walked
6 over to Trae Epps to make peace -- to make peace, as a gesture
7 of peace -- something the State characterizes as the
8 delivering of an olive branch, the universal symbol of peace.
9 Well, ladies and gentlemen, I want you to watch this video,
10 and I want you to ask yourselves, is that story credible and
11 believable?

12 (Thereupon, the visual recording was played but not
13 transcribed herein.)

14 MR. WARR: Here he comes. This is in slow motion, ladies
15 and gentlemen. Watch him. He's in the red pants, black
16 shirt. Do we see that? He's moving, and look at his head.
17 It's turned to the side and he's doing this. He's shaking his
18 finger at somebody and talking. And we don't know what he's
19 saying there, but we can tell it certainly isn't a peace
20 offering by his body language. He is telling somebody off.

21 But the State wants you to believe that's an olive
22 branch. Det. McFadden testified that that looked like a dance
23 move to him. Well, ladies and gentlemen of the jury, is that
24 man in the camera dancing? Is that lady over by the silver
25 car dancing? Nobody's dancing. Why is he dancing? Is that

1 credible? Is that believable to believe that this was a dance
2 move? Look at his body language. He was going over to start
3 a fight, not offer an olive branch.

4 Next, we heard and we've seen what happens next. Killah
5 Mike, wearing the black shirt, hat, shoes, smoking a
6 cigarette, you can see his cigarette moving as he's going
7 over. He's saying something. He's walking over to Trae Epps.
8 The State, on one hand, wants you to believe Trae Epps was
9 wanting to start a fight with Killah Mike. They didn't know
10 that Killah Mike was going to be there. Trae Epps didn't go
11 over to Killah Mike when Killah Mike arrived. Killah Mike
12 came over.

13 Is it credible and believable to believe that Trae Epps
14 began this conflict when Killah Mike came up, hand on his gun.
15 I want you to watch his right hand. His hand's on his gun the
16 whole time. He walks over. Trae Epps punches him. You see
17 the pistol come up. You can see the puff of smoke. If you
18 look very carefully, you can see the puff of smoke from the
19 first shot that hits Trae Epps right here in the stomach. And
20 you will see Trae Epps jump back. He jumps behind the truck
21 and pulls his pistol and returns fire in self-defense.

22 Let's watch the video in slow motion. Hand on the
23 pistol. Talking trash. Here comes the punch. He jumps back,
24 pulls the pistol. There's the puff of smoke, if you look at
25 his black shirt. We're going to play it again so if you

1 didn't see it, we're going to play it again. But Trae Epps,
2 all right, before I play it again, I want to point something
3 out. Even if you didn't see the puff of smoke, I submit to
4 you that it's there.

5 But Trae Epps was shot in the stomach. He jumps behind
6 the truck as soon -- before he pulls his pistol. So how was
7 he shot in the stomach behind -- when he was behind the truck
8 if Killah Mike didn't shoot him when they were face-to-face
9 between those two cars? The truck would have been in the way.
10 If you've ever stood beside a pickup truck, only your chest
11 would be exposed over the truck, not your stomach. So he had
12 to be shot at that moment, regardless if whether you see the
13 puff of smoke. But it's there.

14 Watch in the center of that red circle. Watch right
15 there. Focus on only that as we hit play. You can see the
16 puff of smoke in that red circle. It's there, and then it
17 dissipates just in a blink of an eye. But it's the puff of
18 the smoke from his gun barrel. And that's the only place that
19 Trae Epps could have been shot. Killah Mike pulls first. He
20 turns the fray deadly. But the State wants you to believe
21 that Trae Epps pulled first and turned the fray deadly. Is
22 that credible? Is that believable? No.

23 Next, I want you to think back to another eyewitness you
24 heard from. The only eyewitness that has no criminal record.
25 My client, Joquell Myers. He is the only eyewitness that was

1 actually there at the scene who testified here in this
2 courtroom that has no criminal record. I submit to you that
3 he's both credible and believable. His testimony is supported
4 by the evidence. You can see the evidence confirm his
5 testimony, and we'll walk through that.

6 But as this was happening, Joquell testified, and he was
7 on that Wendy's side behind the corner of the store over there
8 with L.O. smoking a short. He heard the commotion. He heard
9 the shots. He reached in the console of the car where he was
10 legally carrying that Smith & Wesson 9 mm MP. And he got it
11 out and he drew it out, so he'd have it in case he needed to
12 defend himself.

13 You heard the sound of that firefight. You heard the
14 sound of all those shots going off. He got it for protection,
15 and he runs towards the Wendy's side. He starts running.
16 Yeah, he runs away. He was going to get out of there, but
17 then he saw his brother go down when he looked back, wounded.
18 Shot through the stomach. A little fact that was never,
19 hardly ever mentioned by the State was that Diontrae Epps is
20 in a wheelchair now because of that bullet that Killah Mike
21 put in him.

22 He was on the ground bleeding and Joquell --

23 MR. CORBETT: Your Honor.

24 MR. WARR: -- ran to his aid --

25 MR. CORBETT: Objection. There is no evidence in the

1 record of Epp's medical condition.

2 THE COURT: The --

3 MR. WARR: Joquell Myers testified --

4 THE COURT: Hang on just a minute.

5 MR. WARR: -- to the fact that his brother's in a
6 wheelchair.

7 THE COURT: The defendant gave testimony to that effect.
8 Thank you.

9 MR. CORBETT: Very well.

10 THE COURT: But ladies and gentlemen, let me just say
11 this. Y'all have heard the same testimony that we've heard.
12 So you should rely on your own recollection of the testimony.
13 Thank you.

14 MR. WARR: Before I was so rudely interrupted, Joquell
15 Meyers ran to the aid of his brother. He ran to help his
16 brother. He looks up, and he sees the driver of that red
17 Charger, whom he didn't know who it was at the time. He knew
18 whose car it was, that it was Rilo's (phonetic), but he didn't
19 know Rilo -- for 100 percent Rilo was driving. But he saw the
20 gunfire coming out of that car. And he saw that car turning
21 to come to the Wendy's side to finish the job, to kill his
22 brother, to kill him.

23 So he opened fire on the car down low on the side, not
24 trying to kill anybody, just trying to get the car to move on
25 out. You heard that testimony, but we'll come back to that.

1 The State has asked you, ladies and gentlemen of the jury, to
2 find Joquell Myers guilty of the crime of murder beyond a
3 reasonable doubt. And in doing so, they have asked you to
4 believe four impossibilities occurred. Four. Now is that
5 credible? Is that believable? To ask you to believe the
6 impossible occurred?

7 Here we see Gregory Middleton at 11:42:06. We see him.
8 He's standing up. This is the last time in this film right
9 here that we see Gregory Middleton standing up. Look at his
10 position ladies and gentlemen of the jury. Look at where he's
11 positioned. He's out facing toward the gas pumps. His back
12 is to the Wendy's corner of the gas station where we later see
13 Joquell Myers run up and shoot. And then we see Joquell Myers
14 at 11:42:06. He's still running. He's not firing yet. He's
15 running around that pickup truck.

16 We see that this is where he's coming to, the corner of
17 the -- Wendy's corner of the Sunoco. That red car would be in
18 front of, the red Charger. That's just one picture over the
19 other. You can -- give you any reference. His back is to
20 Joquell Myers. Joquell Myers is running. He's not firing.
21 He's still running. At 11:42:07, we see Gregory Middleton go
22 to the ground. I submit to you that that is when he was shot.
23 He was leaning down like this over Killah Mike and somebody
24 from in front of him or from slightly to the right shot him
25 right here in his chest, and he went down and crawled to the

1 car.

2 But the first impossibility they want you to believe, we
3 see at 11:42:08. Gregory Middleton is on the ground. His
4 back is still to Mr. Myers, and he's face down. Mr. Myers
5 fires the first shot. They want you to believe that that
6 bullet is the one that hit Mr. Middleton after he's already on
7 the ground facing away. That's impossible. That's not
8 credible or believable.

9 The second impossibility that they want you to believe is
10 that the bullets fired by Mr. Myers could hit Gregory
11 Middleton in this position. Look at the red car. We see it
12 is right there. There's the front of it. There's the back of
13 it. There it is in that angle. It's in between Mr. Myers --
14 at 11:42:07, it's in between Mr. Myers and Gregory Middleton.
15 At 11:42:08, the red card is still there and Mr. Middleton's
16 on the ground behind it. You see the taillights of that red
17 charger at 11:42:08. And Joquell fires the first shot at the
18 red Charger.

19 Joquell testified he couldn't see D-Black out there and
20 he didn't see him out there that night. That's because he's
21 already on the ground behind the red Charger when Joquell gets
22 to a point where he could have seen him. He wasn't standing
23 up. He's on the ground behind the Charger. The Charger is in
24 between. At 11:42:09, we see Gregory Middleton is turning to
25 crawl up the side of that white car.

1 We know -- this brings us to our third impossibility.
2 The State wants you to believe that from the position Joquell
3 Myers was standing at, that he could fire a shot that hit Mr.
4 Middleton in the upper right side of his chest, traveling from
5 right to left, slightly front to back, and lodging under his
6 lung, that Joquell Myers could fire that bullet. Well, I want
7 you think back to Mr. Meadors' in-court demonstration. We
8 heard the pathologist's testimony that when Mr. Caufield was
9 laying in that position, that weird position that nobody
10 crawls in, but even in that position, the shooter would have
11 had to have been standing almost directly in front of Mr.
12 Middleton. Not behind him, not to the left side of him, but
13 directly in front.

14 And then in the other positions that, you know, army
15 crawling, which would be a more logical position, you would
16 have had to have been to the right side of him, not to the
17 left, not to the back. You can't get shot in the upper right
18 side of the chest from behind. It has to come from in front
19 of you. And we've seen the entire time here Mr. Middleton's
20 back is to Mr. Myers to his back. He falls face down.

21 11:42:09, he turns, begins to crawl. His left side is to
22 Mr. Myers as he crawls down the passenger side of that car.
23 It's impossible from where Joquell Myers was standing for him
24 to fire the fatal shot. You heard the pathologist's
25 testimony. But the State wants you to believe that's

1 possible. Is that credible? Is that believable?

2 The fourth impossibility they want you to believe is that
3 Joquell Myers was shooting .38 revolver, not a Smith & Wesson
4 9 mm, but a .38 revolver. That is impossible ladies and
5 gentlemen of the jury. Watch as Mr. Myers comes out here in
6 this video. He fires, fires, fires, fired at that red
7 Charger. You can see the shadow of the red Charger as it
8 passes over the top. He follows it around shooting at it as
9 it turns, and then he retreats at 11:42:11 behind the truck to
10 go back and check on his brother.

11 But in this same video, you can see, if you watch real
12 closely right in here, you will see a shell casing eject from
13 that pistol and fly across the screen. It's just a flip
14 motion. A little glint of motion, but it's the shell casing
15 from that Smith & Wesson 9 mm. The same Smith & Wesson 9 mm
16 that fired this grouping from firearm A, a 9 mm wasn't
17 recovered at the scene, but they matched these shell casings
18 together right there where Mr. Myers was standing, where he
19 went back and ran out and shot again.

20 The State has characterized, and those questions about
21 how many times Mr. Meyers fired, were based on how many times
22 we see him fire in the video. Some of these shots back here
23 that match this pistol, they wouldn't have been caught on
24 video. Mr. Myers doesn't honestly remember exactly how many
25 times he fired that night. But on the video we see six or

1 seven. It's hard to tell sometimes. But that is where he
2 was standing and those -- no one else was seen standing.

3 How did those 9 mm casings get there? That's where he
4 was standing. And we see in this video right here, if you
5 watch in that red circle, you will see the shell casing.
6 There it is. Just a blip across the screen, but it's the
7 shell casing ejected from that Smith & Wesson MP 9 mm.
8 Credibility and believability.

9 The State's theory that Mr. Myers had a .38 special
10 revolver is neither credible or believable. Here's a still
11 image from the video. 11:42:10. Look at that handgun in his
12 hand. It is in the shape of a 38 revolver? Here it is zoomed
13 in and some samples. They want you to believe that he's
14 shooting one of those -- a gun similar to those two at the
15 bottom, marked .38 special revolvers. They can have different
16 length barrels, but that gives you the gist of them.

17 This gun right here on the end, that is a 9 mm semi-
18 automatic Smith & Wesson MP. Look at that pistol. Look at
19 the gun in Mr. Myers' hand. Yes, it's a little fuzzy because
20 the video isn't great. But you can tell the shape of it, and
21 it's shaped like a semi-automatic pistol. And we see the
22 shell casing eject. It's impossible that he was shooting a
23 .38 revolver. Credibility and believability is what this case
24 is about.

25 In these pictures at 11:42:11, Joquell Myers, he runs

1 around -- back around the building. 11:42:13, he runs out.
2 At this time, D-Black is still crawling up the side of that
3 car and his left side is to Joquell. He didn't crawl up it
4 backwards. He crawled up crawling forward, so his left side
5 has to be to the Wendy's corner.

6 At 11:42:14, we see -- this is in the point in the video
7 where we see the car start to shake. And if you look right
8 there at 11:42:16 as I flip back and forth, you see a white
9 spot appear -- it looks like a white spot appears in the back
10 glass. I submit to you that that's Gregory Middleton getting
11 into that car after crawling up the side. And a lot of you
12 may be wondering, how could Gregory Middleton, if he was shot
13 when I think he was shot, right before while he was leaning
14 over like this and then he went down because he was shot. How
15 could he crawl that far?

16 Well, any deer hunter in the State of South Carolina can
17 attest to you to the power of adrenaline. A deer can be shot
18 through the heart and run sometimes up to almost 200 yards.
19 Adrenaline is a powerful thing. And that's how he was able to
20 crawl that far after being shot initially. The pathologist
21 testified that men sometimes shot through the heart could run
22 around the block. They would run short distances. It could
23 be a couple of seconds to a couple of minutes of life.

24 And if Mr. Middleton wasn't shot when I say he was shot
25 and he was shot sometime on the ground, why did it take him

1 nine seconds to crawl to the back of that car? He wasn't that
2 far. If he wasn't shot when he ducked for cover, why didn't
3 he run like this? Why did he crawl on the ground? Why didn't
4 he stand up and run once he got behind the car? This just
5 gives you another view of that car. Gregory Middleton had to
6 be facing with his left side to the corner as he crawled up
7 the side of that car. Credibility and believability.

8 The attempted murder of Michael Lucas is the next charge
9 the State is asking you to convict Mr. Myers of. You heard
10 Mr. Myers' testimony the other day how scared he was for his
11 brother's life. How fearful he was for his own life. You
12 heard the cell phone video rat a tat tat. There was bullets
13 whizzing by. Somebody was shooting at him. He saw fire
14 coming out of that red Charger, and he returned fire in self-
15 defense.

16 You heard his testimony that he shot down low on the side
17 of that red Charger. It would have been on the passenger
18 side. He wasn't trying to kill anyone. He was just trying to
19 make that car move on out so he could get his brother and get
20 him to Tuomey Hospital before he bled out. He wasn't trying
21 to hurt nobody. He just wanted them to get out of there.

22 And when you shoot at a man and he's driving a car, you
23 don't shoot down low on the side of the car if you're trying
24 to kill him. You shoot at the passenger compartment. You
25 shoot at the windows where the driver's sitting, not at the

1 door panels. Look at the back glass of these -- at these
2 windows, not broken. No holes in the windshield. No holes in
3 the back glass. No holes in the passenger's window. But
4 look, there's bullets, one, two, three, and then one through
5 the mirror makes four in the passenger side.

6 Well, Joquell Myers fired three times in that first
7 volley, according to the State. That's what their
8 testimony -- they want you to believe he fired three times,
9 right? Well, there's three bullet holes there. Which bullet
10 killed Mr. Middleton then? Is their theory credible? Is it
11 believable? And they can't have it both ways.

12 There is a note, there's bullet holes in the driver's
13 side of this car. State wants you to believe these could be
14 fired by Mr. Myers too, but he shot at the passenger side.
15 There was somebody shooting on the driver's side, shooting at
16 that red Charger on the driver's side. Where were all these
17 people shooting? They picked up hundreds of shell casings out
18 there. There was a lot more people shooting than the State
19 wants you to know about.

20 What about all those people that Timothy Scarbough called
21 the GDs? We see them on the AR, bunch of other guns and they
22 shoot and shoot and shoot. They might have been shooting at
23 that side. Somebody was shooting on that side of that red
24 car. Perhaps one of them people on the Rite-Aid side was
25 firing a .38 revolver.

1 Look at that windshield, ladies and gentlemen of the
2 jury. There's not one single bullet hole in it. Not one.
3 But we heard Amanda Snapp's testimony about the bullet hole in
4 the back headrest of that car. And the trajectory rods that
5 go through in between the seats and stop over the driver's
6 seat. And she told you that if that bullet had of been fired
7 from outside that car, that the bullet would have come through
8 the windshield based on that trajectory.

9 Mr. Lucas was firing. Mr. Lucas fired that shot. He was
10 driving and shooting. He was driving and shooting. He was
11 sitting in that driver's seat like this, driving that car, and
12 he was shooting in between the seats, look at that trajectory
13 rod, like this out the rear passenger window. He hit a bump.
14 Bump. Bam. Accidentally shoots the headrest in his own car.
15 How else could that bullet have gotten there? That's my
16 theory on how it could have got there.

17 And we know it didn't come from the outside because
18 there's no bullet hole in the windshield. Mr. Lucas was
19 firing. The State doesn't want you to believe that. That's
20 why they didn't emphasize these pictures to you. Credibility
21 and believability. Right over the driver's seat. Mr. Myers
22 said the man was shooting at him. That there shot proves it.
23 Credibility and believability.

24 This is the truck that belongs to Joquell Myers' cousin
25 that we see parked, back in right there at the corner by where

1 Mr. Myers was standing. It's backed in. That means the
2 driver's side is over toward where Mr. Lucas was. Joquell
3 testified he heard, he saw the bullets being fired from that
4 red Charger. He heard the bullets hit in this truck, and
5 there they are. They hit the truck. Bullet holes in the
6 driver's side of that truck. State didn't want them in.

7 Credibility and believability. Why were they introduced
8 so late? Credibility and believability. That confirms Mr.
9 Myers' story. He heard the bullets hitting the truck. He
10 fired in self-defense. He did not attempt to murder Michael
11 Lucas.

12 Next the State wants you to believe that Mr. Myers
13 attempted to murder Christopher Fordham. Mr. Fordham, he must
14 not have really cared about it, because he didn't show up at
15 court. We didn't get to hear his side. What's he hiding?
16 But yet again, the video doesn't lie. It doesn't lie. We can
17 see what happened. Right here at 11:43:04, we see a gray
18 Nissan pull around the building. We see in fact -- wait a
19 minute -- a white spot, a white t-shirt.

20 Mr. Myers testified he was wearing a white T-shirt with a
21 credit card on the front. We saw that in that last picture.
22 I forgot to mention that. We can go back and look at it.
23 Let's go back, just real quick. This still right there.
24 White T-shirt, credit card on the front.

25 Credibility, believability. He told you exactly what he

1 was wearing. 11:43:04 we see the white T-shirt in the back
2 glass. He's leaning over, reaching into the front passenger
3 seat and holding pressure to his brother's (indiscernible).
4 He's scared. The blood is gushing. His brother is moaning,
5 and he's trying to get his brother to the hospital. He's
6 trying to get him to the hospital.

7 The State wanted to make a joke of that man's
8 relationship with his brother. They said they were half-
9 brothers, and that offended my client. They're full brothers.
10 He cares about his brother. He's trying to save his life.
11 He's trying to get him to the hospital before he dies. Is he
12 worried about stopping and shooting anybody? That's crazy,
13 ladies and gentlemen of the jury, crazy. It's not believable
14 or credible.

15 You see again at 11:43:06, we can still see Joquell
16 Myers' T-shirt in the back glass. At 11:43:08, look, the
17 driver's arm is pointing out the window. The driver. We know
18 who shot Christopher Fordham. It was the driver, Sheldon
19 Benjamin, his childhood friend. You see the muzzle flash.
20 You see the shot come from the driver, Sheldon Benjamin.

21 Mr. Myers told you it was Sheldon Benjamin, his childhood
22 friend. Do you know how hard it was for him to sit up there
23 and tell the truth, and say it was my friend that was driving?
24 That was hard for him, but he did. Credibility and
25 believability. His testimony is supported by evidence.

1 The State would have you believe that Joquell Myers was
2 driving that car. Well, I submit to you there's no evidence
3 that. Look at the man in the front seat of that car. Is his
4 head touching the top of that car? You can see some daylight.
5 He's a little man. He's not a big man. We saw Sheldon
6 Benjamin at the hospital. They identified him at the
7 hospital, smaller man, not a big man, but a smaller man.
8 Sheldon Benjamin was driving that car.

9 Joquell Myers didn't know Christopher Fordham, didn't
10 have any bad will against him. Said he just knew his nickname
11 was Pies. He wasn't wanting to stop and shoot nobody. He
12 didn't have a reason. He was holding his brother's wound,
13 trying to keep his brother alive for another minute, just long
14 enough to get to Tuomey Hospital just in the nick of time.

15 The next charge that the State wants you to convict
16 Joquell Myers of is unlawful carrying of a pistol. Well, he
17 didn't commit that crime, and the State can't prove that he
18 did. He was carrying that pistol lawfully, as he did on a
19 regular basis. That 9 mm Smith and Wesson MP was in the
20 console of that car until the fight arose.

21 Once the fight started, the bullets were flying, he got
22 that gun, which was his right in self-defense, because he
23 hadn't done anything. We'll address that mutual combat mumbo
24 jumbo in a minute. Grasping at straws, that's all that is.

25 MR. MEADORS: I will object to that. That's the law Your

1 Honor is charging. It's not mumbo jumbo.

2 THE COURT: Thank you, sir.

3 MR. WARR: Anyway, he reached into the console of that
4 car where he was legally carrying that pistol, and he went to
5 his brother's aid when he saw his brother go down, and he
6 defended his brother. At no point during any of this was he
7 unlawfully carrying a firearm. Because he lawfully carried it
8 to the gas station in the center console, in the closed
9 compartment of that car, and he got it out when self-defense
10 arose, the need for protection arose. Just as any good South
11 Carolinian does. They put their pistol in the glovebox of
12 their car in the center console, legally carrying just in
13 case, because it's a dangerous world out there.

14 Possession of a weapon during a violent crime. The State
15 cannot carry its burden of proving Joquell Myers guilty beyond
16 a reasonable doubt on the murder of Gregory Middleton. They
17 can't do it. On voluntary manslaughter, they can't do it. He
18 didn't shoot him. The evidence shows that. On attempted
19 murder of Michael Lucas. It was self-defense, and they can't
20 disprove self-defense beyond a reasonable doubt. They can't
21 do it.

22 Attempted murder of Christopher Fordham. Joquell Myers
23 didn't do it. The video clearly shows he didn't do it. He
24 was sitting in the back seat taking care of his brother, just
25 like he testified to. The driver, Sheldon Benjamin, he

1 attempted to kill Christopher Fordham, not Joquell Myers. Not
2 guilty. So there is no violent crime for him that he's
3 committed. So therefore, he can't be guilty of possessing a
4 weapon during a violent crime which he didn't commit. Not
5 guilty.

6 He wasn't trying to kill anyone that day. He was just
7 trying to save his brother.

8 The judge will soon charge you on the law of mutual
9 combat. There are three elements required for mutual combat.
10 Prior ill will, or prior dispute, an antecedal (sic) agreement
11 or mutual intent to settle the dispute through fighting with
12 deadly weapons, and each party knew that the other parties
13 were armed. The State has to prove each of those three
14 elements beyond a reasonable doubt, and they can't do it.

15 What do they have? Well, they're trying to tell you that
16 the prior ill will and dispute between Mr. Myers and Killah
17 Mike is exhibited by that Facebook video. Well, Mr. Myers
18 doesn't say anything in that Facebook video. He doesn't say
19 anything. He makes some hand motions, arguably a gun, but we
20 don't know what Mr. Myers' intent was in the back of that
21 video where he's making some hand motions. We don't know. He
22 was just laughing along. His brother was making a video. His
23 brother said in the video, "We don't play with guns. We're
24 going to fight." And that's what he did. He punched Killah
25 Mike, a fistfight, not deadly weapons, a fistfight. That's

1 what he wanted.

2 But Killah Mike pulled that pistol and turned the fray
3 deadly. He turned the fray deadly. He pulled the first
4 deadly weapon. It's not credible or believable to believe
5 that that Facebook video shows any intent on the part of Mr.
6 Myers. He's just in the background. And there's a concept
7 known -- a lot of people do it -- it's called Facebook front.
8 They put on a front on social media, tough guy front. They're
9 making a video as a joke. It's not really serious. It's
10 just, ha, ha, they were laughing.

11 We don't know when this video was made, either. I mean,
12 unless you wanted to take the word of the convicted liar that
13 told us she saw it sometime in August. She couldn't tell us
14 when. Oh, and she happened to be sitting out there in the
15 audience the whole time when the judge was talking about, oh,
16 we need time frame to get this video into evidence. You
17 hadn't presented a time frame of when it was made.

18 And all of a sudden, like spring flowers in the spring, a
19 witness pops up that saw the video, and it was Killah Mike's
20 girlfriend. She saw it. That's mighty coincidental. I don't
21 know how credible or believable that is, but it's
22 coincidental.

23 But they want you to believe that that Facebook video was
24 serious. They basically said they were coming to kill Killah
25 Mike. And they said, oh, you can't beat up a car. Oh, yeah,

1 you can. There's a lot of cheating husbands out there that
2 would beg to disagree. Their girlfriend and their wife took a
3 Louisville slugger to it. You can beat up a car. That is
4 perfectly possible. Carrie Underwood made a song about it.
5 It can be done, but the State doesn't want you to believe it
6 can be done.

7 Credibility, believability. They can't prove prior ill
8 will or prior dispute between Mr. Myers and Killah Mike or Mr.
9 Myers and anybody else out there. They can't do it beyond a
10 reasonable doubt.

11 And another little theory of mutual combat they didn't
12 mention is when Mr. Gregory Middleton was shot, none of the
13 mutual combatants were firing. Killah Mike wasn't firing.
14 Diontrae Epps wasn't firing. Nobody was firing. And Joquell
15 Myers didn't shoot Gregory Middleton. So who shot Gregory
16 Middleton? Some unidentified third party with a .38 special.

17 And to prove mutual combat, the State would have to prove
18 beyond a reasonable doubt that there was prior ill will
19 between that third party and Joquell Myers and they were
20 shooting at each other, and Mr. Middleton got hit in the
21 crossfire. There's no evidence of that, none whatsoever. We
22 don't know who the third party with the .38 revolver is, so
23 how can they prove there was prior ill will? They can't.
24 It's impossible.

25 How can they prove that there was a mutual intent to

1 settle their differences with deadly weapons, mutual intent
2 and agreement? You've got to have -- infer an agreement.
3 It's not necessarily a written agreement or even a verbal
4 agreement. It can be inferred as the judge will explain to
5 you. They can't prove there was a dispute between Mr. Myers
6 and this unidentified third party that fired the .38. They
7 can't do it. It's not credible or believable to believe that
8 they can. There's no evidence. We don't know who it is.
9 They can't prove it.

10 And each party knew the other parties were armed. There
11 again, they can't prove Mr. Myers knew this third party was
12 armed. We don't know who it is. We don't know if he was
13 shooting at Joquell or if he was shooting at Killah Mike, or
14 if he was shooting at the car, or where this third party was
15 shooting. But there's no evidence of mutual combat between
16 Joquell and him. And there's no evidence of mutual combat
17 between Trae Epps and Killah Mike.

18 There's no evidence that when Trae threw that punch that
19 he knew affirmatively that Killah Mike was armed with a deadly
20 weapon and was intent on settling the dispute between them
21 with weapons.

22 The doctrine of mutual combat developed in South Carolina
23 in 1843. It was used to combat dueling, dueling. But it has
24 been applied to cases not like this one, but in cases similar.
25 But not when we don't know who the mutual combatants are, and

1 there's no evidence, none whatsoever, of prior ill will,
2 antecedal (sic) agreement or that each party knew the other
3 party was armed.

4 Joquell Myers had no ill will against Killah Mike. The
5 video that means he had ill will? Lots of people appear in
6 the background of videos on Facebook. It doesn't necessarily
7 mean you agree with what the author is saying, what the person
8 filming it is. That is nothing more -- that Facebook video is
9 nothing more than a character smear by the Court -- I mean,
10 not by the Court, excuse me, by the State. It's neither
11 credible nor believable, their theory on the Facebook profile.

12 Trae Epps also did not exhibit a mutual intent to engage
13 with deadly weapons because he threw a punch. He threw a
14 punch, yes, he did. But that's not a deadly weapon. You can
15 punch somebody, one punch. That's not the deadly weapon.

16 Killah Mike turned the fray deadly. He drew. Trae Epps
17 had the right to self-defend. Joquell Myers had the right to
18 self-defense.

19 The judge will charge you on the law of self-defense.
20 She's going to charge you. There's four elements. Each of
21 the elements must be disproved by the State beyond a
22 reasonable doubt. Disproved by the State, we'll get to that
23 in the minute.

24 MR. MEADORS: That's not a correct statement of the law.

25 THE COURT: I'm going to charge the law, ladies and

1 gentlemen, at the end of the case. And so, respectfully, the
2 law I instruct you is the law that you follow. Thank you.

3 MR. WARR: They must prove that Joquell Myers had fault
4 in bringing on the controversy, beyond a reasonable doubt.
5 The first element, defendant has to be was at fault in
6 bringing on the difficulty. Joquell Myers wasn't over there
7 when Killah Mike came over. Killah Mike came over. He was
8 looking for a fight, and Trae Epps punched him.

9 Killah Mike turned the fray deadly. He turned the fray
10 deadly. He brought on the deadly controversy. Joquell Myers
11 didn't. When he came up, his brother was on the ground
12 bleeding, shot, and he sees Michael Lucas shooting at him. He
13 hears the bullets hitting that pickup truck beside him. He
14 sees the Charger turning to come their way to finish his
15 brother off.

16 Michael Lucas brought on the controversy as far as the
17 controversy between Joquell and him, because he was shooting
18 at him before Joquell fired. He fired first. He fired first.
19 Michael Lucas fired at Joquell first, and Joquell returned
20 fire. But he wasn't trying to kill Michael Lucas. He was
21 shooting down in the side of that car just to make him move on
22 out. But Joquell fired -- didn't bring on that difficulty.

23 The next element is the defendant must have been in
24 actual, imminent danger of serious bodily harm or death, or
25 actual fear of imminent danger or serious injury -- serious

1 bodily injury or death. I submit to you that Joquell Myers
2 was in fear of imminent serious bodily injury or death. And
3 he was in fact in danger of sustaining imminent serious bodily
4 injury or death because Michael Lucas shooting at him.

5 You heard Joquell's testimony. The bullets whizzing by.
6 The bullets hitting the truck. His brother on the ground
7 bleeding who had already been shot. The fear. He's never
8 been so afraid in his life. That fear, he held that fear.

9 And the next element is when a reasonable prudent man in
10 the same situation holds the same fear. Well, you heard the
11 cellphone video. You heard all the shooting out there.
12 Absolutely, anybody would be crazy not to have been scared for
13 their life out there. Anybody would have been.

14 The next element is no other way to avoid the danger or
15 it can be characterized as a duty to retreat. Joquell Myers
16 was trying to retreat the whole time. The State wants you to
17 believe that as he was running away, he saw his brother fall,
18 he should have just kept on running. Now is that credible, is
19 that believable? To say that a man should leave his brother
20 behind? Leave him to die alone on the cold pavement?

21 A coward dies a thousand deaths, but Joquell Myers went
22 back to save his brother. And he was trying to retreat. He
23 was trying to get him to the hospital. Trying to get him into
24 that car. But he couldn't until the firing stopped. So he
25 engaged that red Charger who was firing at him, and firing at

1 his brother, and he shot at it three times.

2 The first time, the red Charger -- he runs back checks on
3 his brother. The red Charger is pulling out, still firing,
4 coming their way. Fires all the way till he gets out of the
5 parking lot. He was firing as he was driving away. That's
6 why Joquell ran out and fired again.

7 The judge is going to tell you about something. Once
8 you're engaged in self-defense, you don't have to stop until
9 the threat is gone. And that threat was not gone until
10 Michael Lucas stopped firing as he was driving and turned out
11 on to Broad Street.

12 Joquell couldn't retreat and leave his brother behind.
13 He was trying to get his brother to the hospital, but he had
14 to get that man to stop shooting and move on out first,
15 because his brother didn't have much time.

16 Mr. Myers has no burden to prove anything in this case.
17 Did you hear that? He has no burden to prove anything. That
18 means that all the proof in this case has to come from the
19 State. They have to prove this case to you beyond a
20 reasonable doubt. They have to prove every element of this
21 case to you beyond a reasonable doubt. And when there are
22 reasonable doubts raised by the evidence in this case, which
23 it was my obligation to do, they must dispel those doubts.
24 Not 1 of those doubts, not 2 of those doubts, not 3 of those
25 doubts, not 17 of those doubts, but all of those doubts must

1 somehow disappear unanimously in your minds.

2 I need to say something that's very important. It's very
3 important to me. Each and every one of you has the power to
4 say, no. One single doubt remains in my mind. You have the
5 duty and the obligation. You have the duty and the obligation
6 and the responsibility to say, no, the State has not proven
7 this man guilty beyond a reasonable doubt. His life, ladies
8 and gentlemen of the jury, is in your hands. Today we entrust
9 this man's life to you. Thank you.

10 THE COURT: Reply on behalf of the State?

11 CLOSING

12 MR. CORBETT: Good afternoon, ladies and gentlemen. It
13 is my opportunity to reply to some of the things that Mr. Warr
14 has brought before you. But I want you to know --

15 MR. MEADORS: Your Honor, can we take that off the
16 screen? I don't even know what that is. Who's got the
17 (indiscernible)?

18 UNIDENTIFIED SPEAKER: I do.

19 MR. MEADORS: Could you take it off, please?

20 UNIDENTIFIED SPEAKER: You got to turn it off up there.

21 MR. MEADORS: For the record, I object. I didn't even
22 notice that until just now.

23 THE COURT: Okay. Thank you.

24 MR. CORBETT: The volume at which I speak and the tone of
25 which I speak does not change facts. Shouting doesn't make

1 something what it's not. I once heard somebody say recently,
2 you may be entitled to your own opinions, but you're not
3 entitled to your own facts. And I believe that the evidence
4 matters greatly. Because what we're doing right now is
5 closing arguments. It's not evidence. And that is an
6 important distinction. Because I can stand up here and tell
7 you what I think, but what you need to think about is what is
8 the evidence in this case.

9 Mr. Warr literally said to you, you might not see it, but
10 it was there. This is a court of law. And evidence comes
11 from that witness stand, and it comes from these exhibits. It
12 does not come from, you might not see it, but it was there.

13 So what we have just listened to is the notion that out
14 of all the things that you have watched, the Facebook video,
15 the witness testimony, the surveillance video and the
16 defendant's statement that that defendant did nothing wrong.
17 Absolutely nothing he did was wrong.

18 And where I find that very curious is from his very own
19 testimony. Do you remember when we were talking about his
20 testimony, both in the direct examination and the cross-
21 examination, of why you said what you said to the police, and
22 then he managed to come back and say, well, people like me
23 from Mayesville don't trust the police.

24 Well, to start with, I think that's somewhat offensive to
25 people in Mayesville. But on from that, I thought, okay, even

1 if you don't trust the police, why would you not tell them
2 about your self-defense? Why would you go into a police
3 interview and say, I'll take the attempted murder and never,
4 ever say fire was coming from the red car?

5 And guys, I want y'all to know that these exhibits are
6 available to you to review.

7 Defendant's statement at the 23:30 mark, this is from the
8 26th of September:

9 "DET. KELLY: Who was in the Charger?

10 "MR. MYERS: Huh?

11 "DET. KELLY: Who was inside the red Charger?

12 "MYERS: I don't know.

13 "KELLY: You don't know?

14 "MCFADDEN: Then why shoot at it if you don't know?

15 "I don't know. I don't know who was in there, man. The
16 dude -- man, I can promise you, he wasn't in there.

17 "KELLY: He who?

18 "MYERS: D-Black. He wasn't in there.

19 "DET. KELLY: Yeah, we know that."

20 When you were asked, "If you didn't know who was in the
21 car, why did you shoot at it", isn't that the time you would
22 say, "Because whoever was in it was shooting at me"?

23 That was in September of '19. The first time --

24 MR. WARR: Your Honor, I'm going to object to the
25 statement. I never mentioned Joquell Myers' statement in my

1 closing arguments, and he's limited on his rerebuttal.

2 THE COURT: I understand, but I think it's directly
3 related to the issue of credibility. So I'm going to allow
4 it.

5 MR. CORBETT: And by the way, I don't mind objections.
6 If they're based in law, I don't consider them rude because
7 what happened was, he said, my client's the only one who has a
8 record; he was telling you the truth. That's why I'm talking
9 about the state.

10 Okay. Now, do you remember the questions I asked him,
11 hey, when you said this, that wasn't true, was it? Matter of
12 fact, I think I started with, now, you would agree with me
13 that the testimony that you are giving here today is greatly
14 different than what is in your statement. And he agreed with
15 that.

16 So then we got specific. When you said that, that was a
17 lie, wasn't it? Yes, it was. When you said this, it wasn't
18 true, was it? No, it wasn't.

19 Now, imagine that you put a video up here, that the
20 witness who is testifying about it had nothing to do with the
21 making of that video, their testimony was to, this is when I
22 saw it, okay, and then you would stand here and say, don't pay
23 any attention to that video because that was a liar on the
24 stand. Her testimony didn't change the content of that video.
25 And we'd sit here and call that person a convicted liar and

1 ignore the fact that their client admitted lying. Is that the
2 level of absurdity that we have reached?

3 Talked about his client being the only one without a
4 record, that he was telling the truth. And I want to pose for
5 a moment, and I want to be careful because for just a moment,
6 I'm not going to talk about something directly from the
7 witness stand, but I'm going to talk a little bit about
8 investigations. And here's why -- and in a moment, I believe
9 you'll see why this is important.

10 MR. WARR: I'm going to object that this is outside the
11 scope of my closing.

12 THE COURT: Well, I haven't heard where he's going with
13 it yet.

14 MR. CORBETT: Now, with regard to credibility, okay, the
15 officers will ask people questions. They get information, and
16 that oftentimes leads them to somebody else, which then may
17 even lead them to somebody else. So they can double-check.
18 They can verify. They can find evidence. That's how
19 investigations go. We all know that.

20 So when you sit down in an interview and you ask
21 somebody, hey, where's the gun, do I really need to go through
22 all of that question-and-answer again that we did yesterday?
23 No less than 25 times, a question was posed to the defendant:
24 Where's the gun? How many shots did you fire? What did you
25 do with it? Where did you get it?

1 Questions of that form, no less than 25. Because why is
2 that important? Because then the police go and say, hey, did
3 you sell this person that gun? What kind of gun was it?
4 That's the kind of thing they want to know in September of
5 2019.

6 But it wasn't just 25. It was 26. Because when he sat
7 on the witness stand and I asked him, where did you get the
8 gun? "Not telling you". "I'm not telling you." Do you
9 solemnly swear or affirm that the testimony you shall give
10 will be the truth, the whole truth, and nothing but the truth?
11 That is the question that you have to ask yourselves.

12 So we played the video at some length. And if we can go
13 back to that portion. Now, I will tell you, I don't have a
14 red circle.

15 (Pause.)

16 MR. CORBETT: And we're being asked to, even if you don't
17 see it, it's there. He showed this video to the detective,
18 and the detective was like, I'm sorry, I don't see it; I don't
19 see it. Evidence works that way, not that if you don't see
20 it, it's still there.

21 And interestingly enough, Mr. Warr did refer to Michael
22 Rogers as having his hand on his gun. I could not tell from
23 that video if he did or not, but I would not be surprised if
24 the parties believed as much, given the history that we have
25 seen so far. And I fully admit to you, because I believe it's

1 apparent from the video, that when Mike Rogers goes down, you
2 see that here, you see an object slide out of his hand. And
3 we showed that as placard number 14, State's Number 5. It
4 fired these shots. Yes, we're not discounting that, that
5 Michael Rogers did, in fact, fire.

6 But we also see shots coming from Mr. Epps. I looked at
7 it again a few moments ago. It was no more than three seconds
8 from the punch till his gun was out. No more than three
9 seconds on that video.

10 I found that portion of testimony interesting about the
11 gun. And I want to be careful, because when I do my best to
12 recollect testimony, it is your recollection that matters, not
13 mine, but I believe his testimony was something to the fact
14 of, this is Sumter; this ain't Beverly Hills. Well, the
15 reason Sumter has that reputation is because people are
16 carrying guns with them everywhere. At 1 a.m. in the Sunoco
17 parking lot.

18 Now, I want to talk a little bit about the video because
19 this one concerns me. There's been a great deal of talk about
20 the shot that was fired at 11:42:08.

21 If I may please direct your attention to the bottom-left
22 pane.

23 (Pause.)

24 MR. CORBETT: The defense does not want to talk about
25 11:42:10 because at this point, Mr. Middleton is now out of

1 sight behind the white car, and yet two more shots are still
2 fired after 11:42:08. Two more shots. We can't stop at
3 11:42:08. We have to go to 11:42:10.

4 Now, if we continue on, the Charger is now out of view,
5 heading toward Broad Street. That is the testimony that we've
6 heard. Chases after and fires what I can -- from what I can
7 see, and I do want to be careful I'm about to say, three
8 additional shots.

9 He talked about a series of impossibilities, and I
10 actually wrote one of these down because he said 11:42:08, and
11 then he said it's impossible that he has a .38 revolver. He
12 says, that's what it is, but the picture's fuzzy. Was there a
13 witness from the stand who said that, or are we now asking you
14 to guess here in closing arguments?

15 Now, I found this one curious, too, because again, this
16 is closing argument. Mr. Warr, for the very first time,
17 without the benefit of one shred of testimony -- because facts
18 matter; my opinion doesn't, and I take it very serious the
19 obligation to stand before you and to talk about the evidence.

20 So for the very first time, in this closing argument, he
21 puts the blue gun, A, firearm A, in his client's hand. 1, 2,
22 3, 4, 5, 6, 7, 8, 9, 10, 11. 11. His client testified, I
23 believe I shot six or seven times, if you remember that
24 testimony from the witness stand. Okay.

25 So firearm A is this collection of blue that Mr. Warr

1 referred to. Because here's what's going on. I won't tell
2 you what gun I had in the interview, but I will ask you what
3 gun killed the individual. I won't tell you where I got the
4 gun from. I won't tell you what I did with the gun because
5 I'm going to wait until it's time for trial. Find out that
6 the individual, Mr. Middleton, was killed with a .38. Now,
7 I've got to have a 9 mm. Now, I know which one to do.

8 But the problem is sometimes you got to think through
9 that whole story you're going to tell, because if you tell, I
10 shot six or seven, and then in closing argument, we try to put
11 firearm 8 in your hand with 11, all of a sudden the math
12 doesn't work. He was exactly right. This case is about
13 credibility and believability, from beginning to end. From
14 September 9 until the end of this case, it's about
15 believability and credibility.

16 Ladies and gentlemen, the defendant has been charged with
17 murder. Now, I will admit to you that sometimes, it's a
18 little bit strange to talk about murder from two different
19 concepts. And that is, you as a jury deciding, was that the
20 fatal shot. That is within your province as jurors.

21 And then the other concept is mutual combat. Okay.
22 Mutual combat.

23 "One engaged in such combat is equally guilty, regardless
24 of whether he used a deadly weapon or not. And
25 regardless of whether he was on one side or the other

1 makes no difference, and where all participating in the
2 mutual combat, all are equally responsible for the
3 natural consequences."

4 What are the natural consequences of lots and lots and
5 lots of gunfire in a crowded parking lot? Somebody dying.
6 That is a natural consequence. It is not the identity of the
7 victim that controls. It is the intent, the state of mind
8 which led to the mutual combat in the first place, and the
9 consequences that followed from that.

10 Mutual intent and willingness to fight "manifested by the
11 acts and conduct of the parties and the circumstances
12 attending and leading up to the combat". The mutual combat
13 doctrine is triggered when both parties contribute to the
14 resulting fight. It's not required to prove which defendant
15 fired the fatal shot when the evidence was sufficient to
16 establish that each defendant acted with mental culpability
17 required for the commission of depraved indifference murder.
18 They acted in concert to create an explosive condition which
19 resulted inevitably in the victim's death. Murder.

20 11:42:08, Greg Middleton was alive. Attempted murder,
21 the red Charger. Michael Lucas driving away, firing at that
22 car. Runs behind it. Runs behind it as it's driving out,
23 continuing to fire. And his statement says, I'll take the
24 attempted murder.

25 But wait a minute. On the day of trial, that's the first

1 time I'll say, it was shooting at me. Now, "my brother was
2 behind the pickup truck on the ground", according to their
3 testimony, and it seems -- again, me surmising some things
4 here; I want to be careful in how I say it to you -- that hey,
5 I could use the hood of the truck for cover. I could use the
6 corner of the building for cover. If that kind of fire's
7 coming -- no, I'll run headlong. Do you remember what the
8 distance when I asked him?

9 And that's one thing I want you guys to notice, because
10 in the video, you can see where his feet are -- or excuse me,
11 his body when he runs up. And it may require a pair of
12 reading glasses to do this, but you still see the post, the
13 yellow post in this picture. And Det. Snapp placed him inside
14 this parking place.

15 So remember, we had a car straddling the blue line,
16 another car, and the red Charger backed in at something of
17 this angle. We're talking just over a parking space in width.
18 Now, I want you to understand that, because when you look at a
19 aerial view, sometimes the scale looks very, very wide. But
20 use these parking places for reference, and that will give you
21 an idea of the distances that we're talking about.

22 Attempted murder, Michael Lucas in the red Charger,
23 shooting at that car. By the way, talked about there being
24 shots on the driver's side. Guys, that's in evidence.

25 I'm not going to belabor this longer than necessary, but

1 there's a photograph of what they call "trajectory rods"
2 coming out of that red car and the driver's door. I want you
3 to notice the extreme angle with which they entered. Okay.
4 So the Charger, there's been testimony that it's heading out
5 toward Broad Street, and the trajectory rods are at an extreme
6 angle to it so that you would be -- logical conclusion would
7 be that you would have to be just to the left and just behind
8 to make that shot into the door of that car.

9 Now, interestingly enough, now that we have gotten this
10 claim for the first time that shots were coming out of the red
11 car, that he's now doing this while he's driving, negotiating
12 the parking lot. But the back window's still in the car. It
13 wasn't shot out. So how is he putting down all this gunfire
14 and not breaking any glass in the car? How is he doing that
15 from inside?

16 And by the way, he has to put it in drive, pull forward,
17 hit Mr. Rogers, put it in reverse, back up, put it back in
18 drive, and negotiate that turn and wants y'all to believe that
19 he's shooting a gun while doing all of that. That's attempted
20 murder, ladies and gentlemen.

21 Now, as we move on, we also need to talk about Chris
22 Fordham and the notion of what we call "accomplice liability",
23 the hand of one is the hand of all. So we see Chris Fordham
24 go out, and he picks up Mike Rogers. And I want to be careful
25 that I don't use the wrong word. Maybe "drag" is a better

1 word. I want to be careful. I think that's the word that
2 came from the witness stand.

3 And the silver car stops. And in one of the most cold-
4 hearted things I've ever seen, Chris Fordham gets shot. Just,
5 it's hard to watch, that somebody pulling a shooting victim
6 out of a parking lot is shot.

7 Now, I want to be careful when I say this to you. My
8 recollection of the testimony is that Mr. Myers said, "I was
9 in the back passenger seat, leaning over, tending to my
10 brother in the front driver's seat." Now, we know -- well, we
11 now know that the individual known as Polo is driving, because
12 it's the first time we've ever heard that, was driving. And
13 then Sheldon Benjamin and Jay McBride were also in the car.

14 So it got me to thinking, if I'm correct about Myers
15 saying he was in the back passenger seat, please use your
16 collective recollection of that, that means that Benjamin and
17 McBride would have to be coming this way. So why do we stand
18 here and show you videos and say, oh, see that white blob in
19 the back, that's my client, when he's already put himself on
20 the other side of two people?

21 THE COURT: Can I get y'all to approach for just one
22 moment?

23 (Whereupon, a bench conference was held off the record in
24 the presence of the jury, but out of the hearing of the
25 jury.)

1 MR. CORBETT: So that is the charge concerning Mike
2 before you.

3 The other charges are somewhat evident from what you see
4 on the video, possession of weapon during the commission of a
5 violent crime and the unlawful carrying of a pistol.

6 Now, ladies and gentlemen, you were without difficulty in
7 bringing on the problem, and you have a duty to retreat. Do
8 we see any of that in the video in this case? Do we see any
9 of that?

10 Now, ladies and gentlemen, I want to back up and talk a
11 little bit about talked about carrying that gun and a need for
12 protection. This was after the Facebook video. The audacity
13 that it takes to say, I'm carrying a gun for protection, when
14 I appear on a Facebook Live video with my brother and publicly
15 announce, we're coming for you. We're coming for you. And
16 based on the testimony that we heard, less than a month later,
17 Michael Rogers is dead.

18 Mr. Warr tells you that that video wasn't serious. The
19 results of it looked deadly serious.

20 Go to the hospital after all of this, put Diontrae Epps
21 in a wheelchair, and they leave. And they leave. His brother
22 that he cared about. They left.

23 So I asked, when did you call law enforcement? "I didn't
24 do that." It's so incredibly ironic how people don't put
25 self-defense out there when something happens. Because I

1 asked that question, when did you call. But lo and behold,
2 the weapons disappear. They're gone.

3 Ladies and gentlemen, we're nearing the end of a lengthy
4 process for you guys. I know it's been long. But all of us
5 in this courtroom trust the collective wisdom and judgment
6 that you will bring to the facts of this case.

7 I'm sometimes asked, what's the hardest part of your job.
8 And I think people expect me to say, having to go to prelims,
9 indictment preparation, getting guilty pleas ready, trial
10 preparation, direct exam, cross exam. Whatever it may be, I
11 think that's the answer they're usually asking from me.

12 And here's the hardest part. Meeting families. Meeting
13 families who have lost loved ones. That's the hardest part of
14 my job, trying to help them make sense of the worst day of
15 their life. And unfortunately, it's all too often parents
16 because it's young people that are dying. That's the hardest
17 part of my job.

18 And today's an important day for that family. Today is
19 an important day for that family. I don't deny for a moment
20 it's an important day for the defendant, but it's also an
21 important day for that family because they, too, are entitled
22 to justice.

23 Bear with me one moment, please.

24 When you came in, you took an oath to well and truly try
25 the facts of the case. Not Jason Corbett's opinion of it, not

1 John Meadors' opinion, not Lewis Warr's opinion, not Ken
2 Young's opinion. To well and truly trial the facts of the
3 case. Thank you very much.

4 THE COURT: Okay. Ladies and gentlemen, we've had you in
5 here since 12:15. I still need to give you the instructions
6 on the law, but I want to see if you need to take a break
7 first. It's going to take me probably about 30 minutes to
8 give you the instruction. We do have your lunch here. It'll
9 be ready for you. But I don't want to -- I know we've had you
10 in here for a lengthy period of time.

11 Do you need a break before we move into the jury
12 instructions?

13 Okay. Let's take about ten minutes, and then I'll be
14 back to charge you. Please don't begin discussing the case
15 yet.

16 (Whereupon, the jury exited the courtroom at 1:51 p.m.)

17 (Recess.)

18 (Whereupon, the jury came into open court at
19 approximately 2:05 p.m.)

20 THE DEPUTY CLERK: They are now seated, Your Honor.

21 THE COURT: Okay. Thank you, ladies and gentlemen.
22 You've now heard all the testimony and the evidence in this
23 case, and it's now my duty to instruct you on the law that
24 applies.

25 CHARGE OF THE COURT

1 THE COURT: The indictments in this case charge the
2 defendant with murder, with two counts of attempted murder,
3 and with possession of a weapon during the commission of a
4 violent crime and unlawful carrying of a pistol.

5 I remind you that the fact that the defendant was
6 arrested, charged, and indicted in this case is not evidence
7 and cannot be considered by you as evidence of guilt, nor does
8 it create any presumption or inference of guilt. This
9 document is simply the formal written instrument which
10 contains the charges made against the defendant. It's the
11 formal document by which this case is brought into court.

12 The indictments in this case allege several different
13 offenses against the defendant. The charges are attempted
14 murder of Christopher Fordham, attempted murder of Michael
15 Lucas, murder as to Gregory Middleton, possession of a weapon
16 during the commission of a violent crime, and unlawful
17 carrying of a pistol.

18 Each charge constitutes a separate and distinct offense.
19 You must decide each charge separately on the evidence and the
20 law applicable to it, uninfluenced by your decision as to any
21 other charge. The defendant may be convicted or acquitted on
22 any or all of the offenses charged. You will be asked to
23 write a separate verdict of guilty or not guilty for each
24 charge.

25 The defendant has pled not guilty to this indictment.

1 And that plea puts the burden on the State to prove the
2 defendant guilty. A person charged with committing a criminal
3 offense in South Carolina is never required to prove himself
4 innocent. I charge you that it is an important rule of law
5 that the defendant in a criminal trial, no matter what the
6 seriousness of the charge may be, will always be presumed to
7 be innocent of the crime for which the indictments were issued
8 unless guilt has been proven by evidence satisfying you of
9 that guilt beyond a reasonable doubt.

10 This presumption of innocence does not end when you begin
11 your deliberations, but it accompanies the defendant
12 throughout the trial unless you reach a verdict based on
13 evidence satisfying you -- excuse me, unless you reach a
14 verdict of guilt based on the evidence satisfying you of that
15 guilt beyond a reasonable doubt. The presumption of innocence
16 is not mere legal theory. It's not just a legal phrase. It
17 is a substantial right to which every defendant is entitled
18 unless you, the jury, are satisfied from the evidence of the
19 defendant's guilt beyond a reasonable doubt.

20 Well, what is a reasonable doubt in the law? It's the
21 kind of doubt for which you can give a reason. It's also
22 described as the kind of doubt that would cause a reasonable
23 person to hesitate to act. Proof beyond a reasonable doubt is
24 proof that leaves you firmly convinced of the defendant's
25 guilt. There are very few things in this world that we know

1 with absolute certainty, and in criminal cases, the law does
2 not require proof that overcomes every possible doubt.

3 If, based on your consideration of the evidence, you are
4 firmly convinced that the defendant is guilty of the crime
5 charged, you must find the defendant guilty. If, on the other
6 hand, you think there is a real possibility that the defendant
7 is not guilty, you must give the defendant the benefit of the
8 doubt and find him not guilty.

9 Well, let me just pause for just a minute. I see one of
10 our jurors taking notes, and that's fine. But I do have to
11 give you a little bit of instruction about note-taking. It's
12 fine for you to take notes. You see that we're all taking
13 notes during the course of the trial. But I want you to -- in
14 your deliberations, you should rely on your own recollection.
15 The problem with note-taking is that sometimes we will rely on
16 the notetaker's memory over your own, and so it is important
17 that you rely on your own independent recollection and don't
18 rely on anyone else's notes over your own memory.

19 I remind you that during the trial, you and I have
20 certain duties to perform. As the trial judge, it's my
21 responsibility to preside over the trial of the case, and I
22 also have the duty to rule on the admissibility of the
23 evidence offered during the trial. You are to consider only
24 the competent evidence before you. You are to consider only
25 the testimony which has been presented from the witness stand,

1 the exhibits which have been made a part of the record in this
2 case, and any stipulation of the parties which has been read
3 into the record.

4 I have the additional duty to charge you the law
5 applicable. As the presiding judge, I am the sole judge of
6 the law of the case, and it's your duty as jurors to accept
7 and apply the law as I now state it to you. If you already
8 have any idea as to what the law is or what the law ought to
9 be and it does not agree with what I now tell you the law is,
10 you must abandon your previous idea because you're sworn to
11 accept the law and apply the law exactly as I state it to you
12 now.

13 In every case tried in this court before a jury, the jury
14 becomes the sole and exclusive judges of the facts. A trial
15 judge cannot comment on or make any statement to a trial jury
16 about the facts in a case. Since you, the jury, are the sole
17 judges of the facts, you're not to infer from what I've said
18 during the progress of this trial in ruling on the
19 admissibility of the evidence or otherwise or anything that I
20 say now during this course of this instruction to you that I
21 have any opinion about the facts in this case.

22 The law does not allow me to have an opinion about the
23 facts in the case. This is a matter solely for you, the jury,
24 to determine. As jurors, it's your duty to determine the
25 effect, value, weight, and truth of the evidence presented

1 during this trial.

2 Now, there are two types of evidence generally presented
3 during a trial. There is direct evidence, and there is
4 circumstantial evidence. Direct evidence directly proves the
5 existence of a fact and does not require deduction.
6 Circumstantial evidence is proof of a chain of facts and
7 circumstances indicating the existence of a fact.

8 Crimes may be proven by circumstantial evidence. The law
9 makes no distinction between the weight or value to be given
10 to either direct or circumstantial evidence. However, to the
11 extent the State relies on circumstantial evidence, all of the
12 circumstances must be consistent with each other and when
13 taken together, point conclusively to the guilt of the accused
14 beyond a reasonable doubt.

15 If these circumstances merely portray the defendant's
16 behavior as suspicious, the proof has failed. The State has
17 the burden of proving the defendant guilty beyond a reasonable
18 doubt. This burden rests with the State, regardless of
19 whether the State relies on direct evidence, circumstantial
20 evidence, or some combination of the two.

21 Now, necessarily, you must determine the credibility of
22 the witnesses who have testified in this case, and credibility
23 simply means believability. It becomes your duty as jurors to
24 analyze and evaluate the evidence and determine which evidence
25 convinces you it's truth.

1 In determining the believability of witnesses who have
2 testified in this case, you may believe one witness over
3 several or several witnesses over one. You may believe a part
4 of the testimony of a witness and reject the remaining part of
5 the testimony of the same witness. You may believe the
6 testimony of a witness in its entirety, or you may reject the
7 testimony of a witness in its entirety. You may consider
8 whether any witness has exhibited to you any interest, any
9 bias, prejudice, or other motive in this case. You can also
10 consider the appearance and manner of the witness, what their
11 demeanor is while on the witness stand.

12 I charge you further that a person who has a past
13 criminal record is competent to testify during a trial. A
14 past record does not affect the ability of that witness to
15 testify. The past record may only be considered by you, if at
16 all, in determining the witnesses' believability. Remember,
17 you are the sole judges of the facts in the case and of the
18 believability of any and all of the witnesses.

19 Now, the rules of evidence ordinarily do not permit
20 witnesses to testify to opinions or conclusions. An exception
21 to this rule exists for witnesses that we call "expert
22 witnesses". A witness who by education and experience has
23 become expert in some art, science, profession, or calling may
24 state an opinion as to relevant and material matter in which
25 the witness claims to be an expert and may also state the

1 reasons for the opinion.

2 In this case, you have heard expert testimony in the
3 fields of pathology and firearm identification. You should
4 consider any expert opinion received in evidence in this case
5 and like any other evidence, give it the way you think it
6 deserves. If you decide that the opinion of an expert witness
7 is not based on sufficient education and experience or if you
8 conclude that the reasons given in support of the opinion are
9 not sound or that the opinion is outweighed by other evidence,
10 you may disregard the opinion entirely.

11 An expert witness' testimony is to be given no greater
12 weight than that of other witnesses simply because the expert
13 is a witness -- I'm sorry, the witness is an expert. Further,
14 you are not required to accept an expert's opinion, even
15 though it is not contradicted.

16 A statement alleged to have been made by the defendant
17 has been admitted into evidence in this case. While the Court
18 has determined that the statement is admissible, I instruct
19 you that you make the ultimate decision of whether or not the
20 defendant made the statement.

21 If the defendant did make the statement, you must
22 determine whether the statement was made by the defendant
23 voluntarily and of his own free will. This means that the
24 statement was not caused by pressure, force, fear, threats,
25 coercion, or intimidation, or by hope or a promise of leniency

1 or a reward of any kind. In determining whether the statement
2 was voluntary, you should consider both the characteristics of
3 the defendant and the details of the questioning.

4 Some of the factors that you must consider are the age of
5 the defendant, the defendant's education or lack of education,
6 the defendant's mental ability or capacity, the defendant's IQ
7 or intelligence, the defendant's background and environment,
8 the place and length of detention, the nature of the
9 questioning, and the advice or lack thereof to the defendant
10 of his Constitutional rights, including but not limited to the
11 right to remain silent, that any statement can be used against
12 him in a court of law, the right to have a lawyer present,
13 that if he could not afford a lawyer, a lawyer would be
14 appointed to represent him without any cost, and that he could
15 stop making a statement at any time. You must carefully
16 consider all of the surrounding circumstances before you give
17 any weight to an alleged statement.

18 The State has the burden of proving beyond a reasonable
19 doubt that the alleged statement was voluntary. If you
20 determine it was, you may give the statement any further
21 consideration that you deem proper. You must decide what
22 weight, if any, should be given to the alleged statement. If
23 you determine the alleged statement was not the free and
24 voluntary statement of the defendant, you should not consider
25 the statement at all.

1 The defendant is charged with the murder of Gregory
2 Middleton. The State must prove beyond a reasonable doubt
3 that the defendant killed another person with malice
4 aforethought. Malice is hatred, ill will, or hostility toward
5 another person. It is the intentional doing of a wrongful act
6 without just cause or excuse and with an intent to inflict an
7 injury or under circumstances that the law will infer an evil
8 intent.

9 Malice aforethought does not require that malice exists
10 for any particular time before the act is committed, but
11 malice must exist in the mind of the defendant just before and
12 at the time the act is committed. Therefore, there must be a
13 combination of the previous evil intent and the act.

14 Malice aforethought may be express or inferred, and these
15 terms "express" and "inferred" do not mean different kinds of
16 malice, but merely the manner in which malice may be shown to
17 exist, that is either by direct evidence or by inference from
18 the facts and circumstances which are proved.

19 Express malice is shown when a person speaks words which
20 express hatred or ill will for another or when the person
21 prepared beforehand to do the act which was later
22 accomplished. Malice may be inferred from conduct showing a
23 total disregard for human life.

24 If the defendant, with malice aforethought, attempts to
25 kill another person but by mistake kills a different person,

1 the defendant still has the intent to kill. The intent to
2 kill is merely transferred from the original person the
3 defendant attempted to kill to the actual person killed. The
4 defendant would be guilty of murder, just as if the attempt
5 had resulted in the death of the person the defendant
6 attempted to kill.

7 If you find that the State has failed to prove beyond a
8 reasonable doubt that the defendant committed murder, you may
9 consider whether the State has proved beyond a reasonable
10 doubt that the defendant committed the lesser-included offense
11 of voluntary manslaughter. To prove voluntary manslaughter,
12 the State must prove beyond a reasonable doubt that the
13 defendant took the life of another in the sudden heat of
14 passion based on sufficient legal provocation. Both heat of
15 passion and sufficient legal provocation must be present at
16 the time of the killing to constitute voluntary manslaughter.

17 Sudden heat of passion may for a time affect a person's
18 self-control and temporarily disturb a person's reason. The
19 sudden heat of passion must be the type that would make an
20 ordinary person unable to coolly reflect on his actions and
21 would produce an uncontrollable impulse to do violence.

22 Sufficient legal provocation must be the type that would
23 make a person of ordinary reason and caution become enraged
24 and to lose control temporarily. The provocation needed for
25 voluntary manslaughter must come from some act of or related

1 to the victim.

2 Words alone, however vulgar or insulting, are not enough
3 to be legal provocation. Where death is caused by the use of
4 a deadly weapon, the words must be accompanied by some overt
5 threatening act which could have produced the heat of passion.
6 The exercise of a legal right, no matter how offensive it is
7 to another, is never sufficient legal provocation for
8 voluntary manslaughter.

9 If the heat of passion had cooled or if there was enough
10 time between the provocation, if any, and the killing for the
11 passion of a reasonable person to cool, the killing would not
12 be voluntary manslaughter. In deciding whether a reasonable
13 person would have had enough time to cool off, you should
14 consider all the circumstances surrounding the killing. You
15 may consider the nature of the provocation, if any, the
16 defendant's mental and physical state, and the circumstances
17 and relationship between the parties.

18 South Carolina recognizes the doctrine of mutual combat
19 as the basis for a conviction for either murder or voluntary
20 manslaughter. If a person voluntarily enters into a mutual
21 combat with another where deadly weapons are used, knowing
22 that they are being used, and death results to an innocent
23 third-party, then everyone engaged in the mutual combat is
24 equally guilty, regardless of whether they fired the fatal
25 shot. All participants in the mutual combat are responsible

1 for their fellow combatants' actions resulting in foreseeable
2 injury to an innocent third-party. However, if the innocent
3 third-party was killed before the defendant joined in the
4 mutual combat, then the defendant cannot be held responsible
5 under the doctrine of mutual combat.

6 The State bears the burden of proving beyond a reasonable
7 doubt that the defendant was engaged in mutual combat with a
8 rival combatant or combatants, that each was armed for the
9 mutual combat with a deadly weapon, that each knew the other
10 was armed. The State must prove beyond a reasonable doubt
11 that there was a mutual intent and willingness to fight with
12 deadly weapons manifested by the acts and conduct of the
13 parties and circumstances leading up to the combat.

14 The statements prove that the conflict arose from a
15 preexisting dispute between the combatants. However, it is
16 not necessary that there should be a positive agreement
17 between the participating parties to enter the conflict. It
18 is sufficient if they willfully enter into the conflict upon
19 the impulse of the moment. The State bears the burden of
20 proving each of the elements of mutual combat beyond a
21 reasonable doubt.

22 The defendant is charged with the attempted murder of
23 both Michael Lucas and Christopher Fordham. In order to prove
24 this crime, the State must prove the defendant, with the
25 intent to kill, attempted to kill another person with malice

1 aforethought. In order to be guilty of this offense, the
2 defendant must possess a specific intent to kill, thus a
3 specific intent to kill is a required element of the offense.

4 Malice is hatred, ill will, or hostility toward another
5 person. Malice aforethought does not require that malice
6 exists for any particular time before the act is committed,
7 but malice must exist in the mind of the defendant just before
8 and at the time the act is committed. Therefore, there must
9 be a combination of the previous evil intent and the act.
10 Specific intent to kill and malice aforethought may be
11 established by direct evidence, circumstantial evidence, or a
12 combination of the two.

13 If you find that the State has failed to prove beyond a
14 reasonable doubt that the defendant committed the offense of
15 the attempted murder of Christopher Fordham, you may consider
16 whether the State has proved beyond a reasonable doubt that
17 the defendant committed the lesser-included offense of assault
18 and battery of a high and aggravated nature. You will only
19 consider the offense of assault and battery of a high and
20 aggravated nature as to the victim Christopher Fordham.

21 A person commits the offense of assault and battery of a
22 high and aggravated nature if the person unlawfully injures
23 another person and great bodily injury to another person
24 results or the act is accomplished by means likely to produce
25 death or great bodily injury. Great bodily injury means

1 bodily injury which causes a substantial risk of death or
2 which causes serious permanent disfigurement or protracted
3 loss or impairment of the function of a bodily member or
4 organ.

5 If you find that the State has failed to prove beyond a
6 reasonable doubt that the defendant committed the offense of
7 the attempted murder of Michael Lucas, you may consider
8 whether the State has proved beyond a reasonable doubt that
9 the defendant committed the lesser-included offense of assault
10 and battery in the first degree. You will only consider the
11 offense of assault and battery in the first degree as to the
12 victim Michael Lucas.

13 A person commits the offense of assault and battery in
14 the first degree if the person unlawfully offers or attempts
15 to injure another person with the present ability to do so and
16 the act is either accomplished by means likely to produce
17 death or great bodily injury -- I'm sorry, not either. The
18 person offers or attempts to enter another person with the
19 present ability to do so and is accomplished by means likely
20 to produce death or great bodily injury. Again, great bodily
21 injury means bodily injury which causes a substantial risk of
22 death or which causes serious permanent disfigurement or
23 protracted loss or impairment of a function of a bodily member
24 or organ.

25 The defendant is charged with possession of a weapon

1 during the commission of or attempt to commit a violent crime.
2 The State must prove beyond a reasonable doubt that the
3 defendant was in possession of a firearm or visibly displayed
4 what appeared to be a firearm during the commission of a
5 violent crime. A firearm means any machine gun, automatic
6 rifle, pistol, or any weapon which will, is designed to, or
7 may be readily converted to expel a projectile.

8 In order to find the defendant guilty of possession of a
9 weapon during the commission of a violent crime, you must
10 first find the defendant guilty of either committing a violent
11 crime or attempting to commit a violent crime. Under our
12 South Carolina Code of Laws, murder, voluntary manslaughter,
13 attempted murder, and assault and battery of a high and
14 aggravated nature are categorized as crimes of violence under
15 South Carolina law. Assault and battery in the first degree
16 is not categorized as a crime of violence. The State must
17 prove beyond a reasonable doubt that the weapon furthered,
18 advanced, or helped in the commission of the crime.

19 The defendant is charged with unlawful carrying of a
20 pistol. The State must prove beyond a reasonable doubt that
21 the defendant carried a pistol about his person, whether
22 concealed or not. A person is about -- excuse me, a weapon is
23 about the defendant's person if it is readily accessible and
24 convenient for immediate use. The pistol need not be actually
25 touching the person of the defendant.

1 It is not unlawful to have a handgun if the person is in
2 a vehicle and the handgun is secured in a closed glove
3 compartment, closed console, closed trunk, or in a closed
4 container secured by an integral fastener and transported in
5 the luggage compartment of the vehicle. A person can be
6 acting lawfully, even if he is in unlawful possession of a
7 weapon, if he was entitled to arm himself in self-defense.

8 So I'm going to talk to you now about self-defense. The
9 defendant has raised the defense of self-defense. Self-
10 defense is a complete defense. And if it is established, you
11 must find the defendant not guilty. The State has the burden
12 of disproving self-defense by proof beyond a reasonable doubt.

13 If you have a reasonable doubt of the defendant's guilt
14 after considering all the evidence, including the evidence of
15 self-defense, then you must find the defendant not guilty.
16 If, on the other hand, you have no reasonable doubt of the
17 defendant's guilt after considering all the evidence,
18 including the evidence of self-defense, then you must find the
19 defendant guilty.

20 The following elements are required to establish self-
21 defense. First, the defendant must be without fault in
22 bringing on the difficulty. If the defendant's conduct was
23 the type which was reasonably calculated to and did provoke a
24 deadly assault, the defendant would be at fault in bringing on
25 the difficulty and would not be entitled to an acquittal based

1 on self-defense.

2 The second element of self-defense is that the defendant
3 was actually in imminent danger of death or serious bodily
4 injury or that the defendant actually believed he was in
5 imminent danger of death or serious bodily injury. If the
6 defendant was actually in imminent danger, it must be shown
7 that the circumstances would have warranted a person of
8 ordinary firmness and courage to strike the fatal blow to
9 prevent death or serious bodily injury.

10 If the defendant believed he was in imminent danger of
11 death or serious bodily injury, it must be shown that a
12 reasonably prudent person of ordinary firmness and courage
13 would have had the same belief. In deciding whether the
14 defendant actually was or believed he was in imminent danger
15 of death or serious bodily injury, you should consider all the
16 facts and circumstances surrounding the crime, including the
17 physical condition and characteristics of the defendant and
18 the victim.

19 The defendant does not have to show that he was actually
20 in danger. It's enough if the defendant believed he was in
21 imminent danger and a reasonably prudent person of ordinary
22 firmness and courage would have had the same belief. The
23 defendant has the right to act on appearances, even though the
24 defendant's beliefs may have ultimately been mistaken. It is
25 for you to decide whether the defendant's fear of immediate

1 danger of death or serious bodily injury was reasonable and
2 would have been felt by an ordinary person in the same
3 situation.

4 Evidence of prior difficulties between the defendant and
5 the victim may be considered in deciding whether a threat
6 existed, whether the defendant had a reason to believe a
7 threat existed, and how serious that threat was. The
8 intoxication of the victim may be considered in deciding
9 whether the defendant's fear of death or bodily harm was
10 reasonable.

11 The final element of self-defense is that the defendant
12 had no other probable way to avoid the danger of death or
13 serious bodily injury than to act as the defendant did in this
14 particular instance. The defendant had no duty to retreat if
15 by doing so, the danger of being killed or suffering serious
16 bodily injury would increase. A person cannot be required to
17 make an exact calculation as to the degree or amount of force
18 which may be needed to avoid death or serious bodily harm.
19 Therefore, in self-defense, the defendant has the right to use
20 the force needed to avoid death or serious bodily harm.

21 The force used in self-defense does not have to be
22 limited to the degree or amount of force used by the victim.
23 The defendant has a right to use so much force as appeared to
24 be necessary for complete self-protection and which a person
25 of ordinary reason and firmness would have believed to be

1 needed to prevent death or serious bodily harm. If the
2 defendant is justified in defending himself or others and in
3 firing the first shot, then the defendant is also justified in
4 continuing to shoot until it is apparent that the danger of
5 death or serious bodily injury has completely ended.

6 Under the law of self-defense, the defendant may take
7 another's life in the defense of others. The right to
8 intervene to protect another person is subject to the same
9 rights and limitations as the right of self-defense. The
10 defendant may take the life of a person who assaults a friend,
11 relative, or bystander if that friend, relative, or bystander
12 would have had the right of self-defense.

13 To show that the person being defended had the right of
14 self-defense, it must first be shown that the person being
15 defended and the defendant were both without fault in bringing
16 on the difficulty. If the conduct of the person defended or
17 the conduct of the defendant was the type which was reasonably
18 calculated to and did provoke a deadly assault, the person
19 would be at fault in bringing on the difficulty and would not
20 have the right of self-defense. Therefore, the defendant
21 would not have the right to use deadly force in defending that
22 person.

23 The defense of another person is excusable if the
24 defendant had reasonable grounds to believe and in good faith
25 did believe that the person being defended was in imminent

1 danger of death or serious bodily harm from the victim. In
2 deciding whether the person defended actually was or that the
3 defendant actually believed the person was in imminent danger
4 of death or serious bodily injury, you should consider all the
5 facts and circumstances surrounding the crime, including the
6 physical condition and characteristics of the parties.

7 The defendant does not have to show that the person the
8 defendant defended was actually in danger. It's enough if the
9 defendant believed the person was in imminent danger. The
10 defendant has a right to act on appearances, even though the
11 defendant's belief may have been mistaken.

12 The defendant must show that under the circumstances as
13 they appeared to the defendant, the defendant believed the
14 person defended was in danger and that a reasonably prudent
15 person of ordinary firmness and courage would have had the
16 same belief under the same circumstances. It is for you, the
17 jury, to determine whether the defendant's fear of immediate
18 danger of death or serious bodily injury to the person
19 defended was reasonable and would have been felt by an
20 ordinary person in the same situation.

21 The defendant does not have to wait until the victim gets
22 the drop on the person defended. The defendant has the right
23 to act under the law of self-preservation to prevent the
24 victim from getting the drop on the person defended.

25 Words accompanied by hostile acts may, depending on the

1 circumstances, establish self-defense. Evidence of prior
2 difficulties between the person defended and the victim may be
3 considered in deciding whether a threat existed, whether the
4 defendant had a reason to believe a threat existed, and how
5 serious that threat was. Intoxication of the victim may be
6 considered in deciding whether the defendant's fear of death
7 or bodily harm to the person defended were reasonable.

8 In order to be entitled to defend another, the person
9 defended must have had no other probable way to avoid the
10 danger of death or serious bodily injury than to act as the
11 defendant did in this particular case. Where the person being
12 defended had no duty to retreat, the defendant likewise would
13 have no duty to retreat.

14 There is no burden upon the defendant to prove self-
15 defense. The burden is on the State to disprove each of the
16 elements of self-defense beyond a reasonable doubt. If you
17 have a reasonable doubt of the defendant's guilt after
18 considering all of the evidence, including the evidence of
19 self-defense, then you must find the defendant not guilty.

20 Ladies and gentlemen, we're going to send you back to the
21 jury room with the jury forms -- excuse me, the verdict forms,
22 and I'm going to go over those with you. There are several.
23 They're fairly self-explanatory if you just read through them.

24 So as to the first charge of murder, you'll see at the
25 top, it's got the caption of the case. Says verdict form. It

1 says, "As to the charge of murder of Gregory Middleton, we,
2 the jury, unanimously find the defendant", and then you have
3 the choices of guilty or not guilty. Please don't read any
4 significance into which order these appear. One's got to come
5 first, and one's got to come second, and there's no
6 significance to that. If you choose guilty, it tells you to
7 stop your deliberations.

8 If you choose not guilty, it instructs you to go to
9 question to question 2. Question 2 is, "As to the lesser-
10 included offense of voluntary manslaughter of Gregory
11 Middleton, we, the jury, unanimously find the defendant", and
12 again, you'll choose either guilty or not guilty.

13 Your next verdict form pertains to the charges related to
14 Michael Lucas. And so at the top, again, it will say, "As to
15 the charge of attempted murder of Michael Lucas, we, the jury,
16 unanimously find the defendant", option 1 says guilty, and if
17 you choose that, you'll stop your deliberations. Option 2
18 says not guilty, in which case you'll go on to question 2.
19 Question 2 states, "As to the lesser-included offense of
20 assault and battery in the first degree of Michael Lucas, we,
21 the jury, unanimously find the defendant", again, you'll
22 choose guilty or not guilty.

23 Your third verdict form pertains to the charges with
24 respect to Christopher Fordham. It states on number 1, "As to
25 the charge of attempted murder of Christopher Fordham, we, the

1 jury, unanimously find the defendant", again, option 1 is
2 guilty. If you find him guilty, you'll stop your
3 deliberations. If you find him not guilty, it prompts you to
4 go to question 2. Question 2 states, "As to the lesser-
5 included offense of assault and battery of a high and
6 aggravated nature of Christopher Fordham, we, the jury,
7 unanimously find the defendant", and again, you will either
8 find guilty or not guilty.

9 The next verdict form is for possession of a weapon
10 during a violent crime. You simply have the option it prompts
11 you once you've reached a unanimous verdict to include your
12 verdict of guilty or not guilty.

13 And your final verdict form states, "As to the charge of
14 unlawful carrying of a pistol, we, the jury, unanimously find
15 the defendant", again, either guilty or not guilty.

16 Your verdict must be unanimous. Once you've reached a
17 unanimous verdict on the verdict form, then your jury
18 foreperson -- that's Mr. Rogers; is that correct -- you will
19 sign on behalf of the jury panel.

20 In just a moment, I'm going to send you back to the jury
21 room. Your lunch is waiting. Feel free to start eating.

22 We're going to take a few minutes to gather all of the
23 exhibits and make sure we have them all together. When we
24 bring the exhibits back to you, that's when you can start your
25 deliberations. We'll bring the verdict form back to you at

1 that time as well.

2 When you've reached a verdict, you'll knock on the door
3 and let the bailiffs know. We have had instances where the
4 jury didn't tell us they reached a verdict and we sat out here
5 and they sat in there. And eventually, it's like, never the
6 two met. So let us know if you reach a verdict.

7 If there's anything else that you need or that needs to
8 be brought to my attention, you can write a note and give it
9 to the bailiff, and they'll get it to me.

10 Any exceptions or additions before I excuse the jury?

11 MR. MEADORS: Nothing from the State.

12 MR. WARR: The defense would just renew all objections
13 and motions regarding the charges.

14 THE COURT: Thank you, sir.

15 Okay. I'm going to ask our alternate juror, Mr. Burke
16 (phonetic), if you'll remain in the courtroom, and I will let
17 everyone else go back to the jury room. Go right ahead.

18 MR. BURKE: Okay.

19 (Jury deliberates at 2:39 p.m.)

20 THE COURT: Okay. Mr. Burke, I want to thank you very
21 much for being part of this trial and for sitting as the
22 alternate for lo these many days. It's a thankless task, I
23 think, when you're the alternate and you sit through all the
24 testimony and then you don't get to participate in the
25 deliberations.

1 But just having you here as an alternate gives everybody
2 a lot of comfort that if we lose a juror or someone gets sick,
3 we have an emergency come up, that we don't have to start this
4 whole trial again. So just by being here, it lets everybody
5 kind of know we're going to make it through the end of this
6 trial.

7 And I think you saw early on, we lost one juror. She
8 realized that she knew somebody involved in the case. And so
9 we had to dismiss her.

10 So anyway, we appreciate very much you being here. This
11 is an exemption for three years. I'm going to go ahead --
12 you're free to go. These folks will show you out. Thank you.

13 MR. BURKE: Yeah, I have some things left in the
14 deliberation room --

15 THE COURT: And they'll grab that for you. I just can't
16 have you go into the deliberation room after --

17 MR. BURKE: Okay.

18 THE COURT: -- they're in there. So they'll grab that
19 for you. If you need an excuse for work, Mr. Sam can show you
20 that as well.

21 MR. BURKE: Hopefully (indiscernible) unemployed work.

22 THE COURT: Well, thank you so much.

23 Okay. Before we gather the exhibits, anything else that
24 y'all need to put on the record?

25 MR. MEADORS: No, ma'am. Just want to thank you for

1 everything. We will review the evidence now, Your Honor.

2 THE COURT: Okay. If y'all would just make sure we have
3 all the exhibits and we don't have anything that shouldn't go
4 back to the jury room.

5 MR. MEADORS: Well, and I do think we should clear this
6 up, that we talked about a stipulation earlier early in the
7 week, but that was never entered into. But it was put on the
8 record. I just wanted to clear that up.

9 THE COURT: Yeah, I can't for the life of me remember
10 what it was, but I know we did talk about a stipulation.

11 MR. MEADORS: But I think we ultimately agreed to just to
12 go forward without a stipulation. And then it was placed on
13 the record.

14 MR. WARR: It was the stipulation of the red --

15 UNIDENTIFIED SPEAKER: They shot at the red Charger.

16 MR. WARR: They shot at the red Charger.

17 UNIDENTIFIED SPEAKER: Yeah.

18 MR. MEADORS: And we didn't want it to (indiscernible) --

19 MR. WARR: And I think we did --

20 MR. YOUNG: Well, if it's not before the jury at this
21 point, it shouldn't go before them now.

22 MR. WARR: Yeah, I agree with that.

23 MR. MEADORS: Yeah.

24 MR. WARR: Yeah.

25 MR. MEADORS: But I think we were saying that's fine, but

1 we still wanted to argue he could have shot. So I think
2 that's where (indiscernible).

3 MR. WARR: Yeah.

4 MR. MEADORS: Okay. Thank you.

5 THE COURT: We read it into the record outside the
6 presence of the jury --

7 UNIDENTIFIED SPEAKER: Yeah, outside the presence of the
8 jury. Yeah.

9 THE COURT: -- but we never read it in the presence of
10 the jury.

11 MR. CORBETT: So they should get rid of that.

12 (Pause.)

13 MR. CORBETT: All right. So I'm going to be -- a laptop
14 here.

15 THE COURT: Um-hum.

16 MR. CORBETT: It's doesn't have anything on it so
17 (indiscernible) or maybe the jury wants to review anything,
18 they have a computer to do it on (indiscernible) --

19 THE COURT: Yeah. I mean, I generally don't send the
20 firearm and bullets back to the jury room.

21 MR. CORBETT: No, I can't (indiscernible) Your Honor.
22 No, I understand. No, just, what I'm asking is this comes up
23 every time. I swear. I swear to God. Without them having a
24 computer back there, if they wanted to review it --

25 THE BAILIFF: They'd have to come back out.

1 MR. CORBETT: Yeah, they'd have to come back out here
2 with the --

3 THE COURT: Mr. Young.

4 MR. YOUNG: Ma'am.

5 THE COURT: And Mr. Meadors, if you want to weigh in.

6 So we have a 9mm, and we have a box of bullets and shell
7 casings. I am not going to send both of those things back to
8 the jury room at the same time. So I'm glad to send either
9 one, and then if the jury wants to see the other, we go --

10 UNIDENTIFIED SPEAKER: Well, we'd prefer the pistol go
11 back, and even with all the books, they won't load them up
12 there in the back.

13 THE COURT: Do you all have any --

14 MR. WARR: Judge, may I open the box to see if the
15 magazine is inside the box? It may have rounds in it.

16 THE COURT: Sure. I don't --

17 MR. MEADORS: (Indiscernible) the other day did not have
18 rounds in it so --

19 THE COURT: But please check.

20 THE BAILIFF: Well, Your Honor, when we send one back
21 there, it has a --

22 UNIDENTIFIED SPEAKER: A gun lock.

23 THE BAILIFF: A gun lock in it.

24 THE COURT: There was no testimony about whether it was
25 capable of being fired.

1 UNIDENTIFIED SPEAKER: We can get a gun lock real quick.

2 THE COURT: Well, he said the magazine was empty. I
3 don't think he said that it was capable of being fired.

4 UNIDENTIFIED SPEAKER: Well, Your Honor, it can be fired
5 if you put a round.

6 THE BAILIFF: Um-hum.

7 THE COURT: Yeah, I mean, usually, there's a lock on it
8 that you can't -- if you put a bullet in it, it couldn't be
9 fired. If it's not capable of being fired, it can go back.
10 If it's empty, it cannot go back. You know what I'm saying?

11 UNIDENTIFIED SPEAKER: Well, no, I don't.

12 UNIDENTIFIED SPEAKER: (Indiscernible) Your Honor
13 (indiscernible) --

14 THE COURT: So I'm saying, if it's empty, but if I had a
15 bullet in my pocket and I put it in and I could now shoot
16 somebody with it, then it's not going back there. It's got to
17 be disabled so that it cannot shoot.

18 (Pause.)

19 THE COURT: Okay. Here's the verdict forms.

20 THE BAILIFF: Yes, ma'am.

21 THE DEPUTY CLERK: Do you want me to go off the record or
22 stay on the record?

23 THE COURT: It can be off the record. That's fine.

24 (Recess.)

25 THE COURT: Thank you. Y'all, please have a seat.

1 Ready for the jury.

2 THE BAILIFF: Can I wake you up?

3 THE COURT: Got everybody back in? Okay.

4 (Whereupon, the jury came into open court at
5 approximately 4:12 p.m.)

6 THE COURT: Okay. Ladies and gentlemen, I understand
7 you've reached a verdict.

8 THE FOREPERSON: Yes.

9 THE COURT: If you would, please hand your verdict forms
10 to the bailiff.

11 Collect those for me.

12 Okay. I have the jury's verdict form.

13 JURY VERDICT

14 THE COURT: "As to the charge of the murder of Gregory
15 Middleton," it states, "we, the jury, unanimously find the
16 defendant not guilty.

17 "As to the lesser included offense of voluntary
18 manslaughter of Gregory Middleton, we, the jury, unanimously
19 find the defendant not guilty.

20 "As to the attempted murder of Christopher Fordham, we,
21 the jury, unanimously find the defendant not guilty.

22 "As to the lesser-included offense of assault and battery
23 of a high and aggravated nature of Christopher Fordham, we,
24 the jury, unanimously find the defendant not guilty.

25 "As to the charge of the attempted murder of Michael

1 Lucas, we, the jury, unanimously find the defendant guilty.

2 "As to the charge of the possession of a firearm during
3 the commission of a violent crime, we, the jury, unanimously
4 find the defendant guilty.

5 "As to the charge of unlawful carrying of a pistol, we,
6 the jury, unanimously find the defendant guilty."

7 Ladies and gentlemen, let me ask, is this your verdict?

8 THE FOREPERSON: Yes, Your Honor.

9 UNIDENTIFIED SPEAKER: Yes.

10 THE COURT: Anything further on the part of the State?

11 MR. CORBETT: Nothing further, Your Honor.

12 THE COURT: Mr. Warr or Mr. Young, anything further on
13 the part of the defendant?

14 MR. WARR: We would request that the jury be polled, and
15 we renew our motion for a directed verdict. No. We move for
16 verdict notwithstanding -- a verdict notwithstanding the
17 verdict.

18 THE COURT: And I'll let you give me your post-trial
19 motions after we've released the jury.

20 If I could ask if you'll please poll the jury.

21 THE BAILIFF: May it please the Court, Your Honor.

22 THE COURT: Yes, sir.

23 THE BAILIFF: Ladies and gentlemen, y'all stay seated.
24 Stay seated. Stay seated.

25 Ladies and gentlemen of the jury, all I need is a yes or

1 no answer.

2 Juror Number 171, LaSean White (phonetic), is this your
3 verdict and still your verdict?

4 JUROR NUMBER 171: Yes, sir.

5 THE BAILIFF: Juror Number 152, Joanne Simmons
6 (phonetic), this is your verdict and still your verdict?

7 JUROR NUMBER 152: Yes.

8 THE BAILIFF: Juror Number 147, Gregory Roberts
9 (phonetic), is this your verdict and still your verdict?

10 JUROR NUMBER 147: Yes, sir.

11 THE BAILIFF: Juror Number 114, Jason Mosley (phonetic),
12 is this your verdict and still your verdict?

13 JUROR NUMBER 114: Yes.

14 THE BAILIFF: Juror Number 121, Ashley (phonetic) [Om-
15 bor-bleen].

16 JUROR NUMBER 121: Oberdine (phonetic).

17 THE BAILIFF: Oberdine, is this your verdict and still
18 your verdict?

19 JUROR NUMBER 121: Yes, sir.

20 THE BAILIFF: Juror number 103, Shaylah McCoy (phonetic),
21 is this your verdict and still your verdict?

22 JUROR NUMBER 103: Yes.

23 THE BAILIFF: Juror Number 53, Coretha Fullard
24 (phonetic), this your verdict and still your verdict?

25 JUROR NUMBER 53: Yes.

1 THE BAILIFF: Juror number 90, Timothy Kennedy
2 (phonetic), is this your verdict and still your verdict?

3 JUROR NUMBER 90: Yes.

4 THE BAILIFF: Juror Number 115, Michael Berkley
5 (phonetic), is this your verdict and still your verdict?

6 JUROR NUMBER 115: Yes, sir.

7 THE BAILIFF: Juror Number -- Ken Wilson (phonetic), is
8 this your verdict and still your verdict?

9 MR. WILSON: Yes, sir.

10 THE BAILIFF: Juror number 60, Janice Glover (phonetic),
11 is this your verdict and still your verdict?

12 JUROR NUMBER 60: Yes.

13 THE BAILIFF: Juror Number 99, Deanna Manser (phonetic),
14 is this your verdict and still your verdict?

15 JUROR NUMBER 99: Yes.

16 THE BAILIFF: Your Honor, jury panel has been polled.

17 THE COURT: Thank you.

18 Okay. Ladies and gentlemen, I want to thank you very
19 much for your service over the past two weeks. You have shown
20 up every day diligently without complaint, or at least not
21 complaining to me or where I could hear about it. So I do
22 thank you for that.

23 When those juror summons go out, a lot of times, we have
24 people immediately flooding the phones with reasons why they
25 cannot serve, some of them very legitimate reasons. And then

1 we have folks we don't hear anything from because they're just
2 quietly going about rearranging their entire lives, their work
3 schedule, their family schedule in order to be here, and you
4 all fall within that category. And so I cannot thank you
5 enough for your service to the community.

6 This is your exemption for three years. So if you get
7 another juror summons for circuit court, you can let the
8 clerk's office know that you've already served, and you'll be
9 exempt. We will make sure that you get a excuse for work if
10 you need to take that with you.

11 We're not going to keep you any longer. Thank you so
12 much. You are excused.

13 (Whereupon, the jury exited the courtroom at 4:17 p.m.)

14 (Pause.)

15 MR. MEADORS: Your Honor, if you'll give us a moment and
16 get the (indiscernible).

17 THE COURT: Yes. And if you all want to actually look at
18 the verdict forms, I'll actually give you a chance to look at
19 them if you want to.

20 (Pause.)

21 MR. CORBETT: Your Honor, may I see the indictments for a
22 moment, please? I just want to make sure I use the right
23 warrant on this (indiscernible) sheet.

24 Thank you.

25 (Pause.)

1 THE COURT: Okay. I'm glad to hear from y'all on the
2 sentencing.

3 MR. YOUNG: The State or the defense, Your Honor?

4 MR. CORBETT: Start with us again.

5 THE COURT: Go ahead.

6 MR. MEADORS: Your Honor, Mr. Corbett will begin.

7 MR. CORBETT: Your Honor, with regard to sentencing, the
8 Court has obviously seen all of the evidence presented in
9 trial in this case. I think Your Honor sees an incredibly
10 dangerous situation, not only among the parties, but to the
11 citizens of Sumter County who were present at that business
12 that night.

13 Your Honor, it was an attempted murder towards Michael
14 Lucas, but it was a callous disregard for everyone in that
15 parking lot and in the vicinity. Your Honor, we'd ask for a
16 sentence that would fairly and show justice to that set of
17 circumstances.

18 THE COURT: Thank you.

19 MR. MEADORS: Your Honor, I just would like to publicly
20 thank the Sumter Police Department Chief Roark and all his
21 outstanding staff for the job they did on a warzone,
22 collecting, documenting, preparing, and helping us. So thank
23 you, Chief and Sumter Police Department.

24 I want to thank my boss, (indiscernible) victim advocate
25 Tonya, and Daniel Caufield, our Chief Investigators William

1 McFadden and Natalie Kelly, and all the family for their
2 patience. That's all we have. Thank you.

3 THE COURT: Thank you.

4 Yes, sir.

5 MR. YOUNG: Please the Court. As was just stated, you
6 certainly heard everything. You've heard the arguments that
7 put each side's position as best they could. And one of the
8 things I want to just remind you because Joquell comes before
9 the Court with a clean record before September of 2019. Was
10 25, but a clean record up to that point. And you can imagine
11 just what went through his mind, and I want to take you back
12 just a few seconds to what happened that evening.

13 As you saw on the video, Lucas and his red car comes
14 coming up there, squealing tires. What's the first thing they
15 said when they get out of that? "Anybody got a problem with
16 that?" And then the so-called movement over that. My client
17 and his brother didn't go to these people. They came to them,
18 clearly looking for a fight. He didn't ask for a fight out
19 there that night, but he responded after seeing his brother
20 being shot.

21 I would hope the Court would realize that he responded as
22 I would hope my brothers would respond if I had gotten shot in
23 the same way, to retaliate against the perception of who
24 started this. That was that way of charging. Clearly, if he
25 had wanted to shoot the man and try to kill him, I know the

1 jury said otherwise, but he wouldn't have shot -- he would
2 have shot into the windows and not into the body of the car.
3 I think that's been our position all along.

4 And I'm concerned that the jury got a little confused on
5 some of these issues, mutual combat, et cetera. And by the
6 same token, Joquell didn't ask for this fight. He happened to
7 be at the wrong place at the wrong time. I think he felt like
8 he was coming to the aid of his brother and responded
9 accordingly to what he perceived as the causation and the
10 start of all of this trouble was that red Charger and Mr.
11 Lucas and his buddies.

12 So they didn't start the fight. Clearly, he was trying
13 to get him out of there. And I think, evidenced by the
14 strikes of the bullets on the car, he wasn't shooting at the
15 driver. He was shooting at the car. And I would ask the
16 Court to take that into consideration and certainly, his clean
17 record up to this point.

18 It's unfortunate that he found himself in that situation,
19 and I realized that when he was giving his interview with the
20 officers, he said, I'll take the manslaughter or attempted
21 manslaughter -- attempted murder and give me that because he
22 shot at the car. And I think at that particular point in
23 time, he was convinced by the officers that that was something
24 that he should do. The jury has obviously agreed with that.

25 But I would ask the Court to take into consideration the

1 emotional trauma that he went through those few seconds of
2 watching his brother die, or coming close to dying, and being
3 shot like that and trying to get him to the hospital. He was
4 simply trying to protect his brother. And in that course, he
5 found himself in the middle of this trial and in this case. I
6 would ask the Court to temper his sentence, to take into
7 consideration those facts and his clean record.

8 THE COURT: Thank you, sir.

9 MR. MEADORS: Your Honor, I'd just like to follow-up to
10 that, that we think the Facebook Live video does show the
11 intent prior to this, so we'd respectfully disagree with that.
12 That's all we have.

13 THE COURT: So now we have Mike Rogers is dead. We've
14 got Gregory Middleton is dead. We've got Diontrae Epps in a
15 wheelchair. We've got Christopher Fordham injured. I
16 understand Jay McBride is now deceased. I don't know what
17 from.

18 So what strikes me about seeing all the testimony in this
19 case and watching the videos is just a total disregard for
20 your own life and for the lives of others, for your own
21 safety. And I can't, for the life of me, understand why you
22 don't value your own life more.

23 When I look at what's happened, even since you've been in
24 jail, Mr. Myers, at least over the past three years, you're
25 still alive. You're safe. You haven't gotten shot in the

1 last three years while you've been in jail.

2 And I mean, I think it's sad that that's the safest place
3 you could have been the past three years. I don't know how to
4 change it, but it just strikes me as very sad. I look at all
5 these young people who have lost their lives, and I see the
6 video of just wanton shooting without any regard for your own
7 safety, without regard for the safety of others. I don't know
8 how we've gotten to this point.

9 I am certainly taking into account that you have been
10 found by this jury not guilty of murder and not guilty of the
11 attempted murder of Mr. Fordham. So I'm not sentencing you
12 with respect to those offenses. And I am not holding -- I'm
13 not taking that into consideration in fashioning this
14 sentence.

15 I do recognize that there are others who were involved in
16 the shooting who I think are equally culpable, some of whom
17 have not yet come to trial, and some may never be punished.
18 Some may have escaped detection from this particular
19 situation. And we may never know. Law enforcement may never
20 know or at least have enough evidence to prosecute those
21 people.

22 And they may be every bit as culpable as you, but that
23 doesn't take away from your culpability in this. I mean, I
24 think everybody knew what was going to happen at that gas
25 station. Even people who weren't involved in this knew

1 something bad was about to happen. And it's really just dumb
2 luck that we don't have more people who were injured.

3 So the attempted murder is a 0 to 30 offense. Possession
4 of a weapon during a violent crime is five years. Unlawful
5 carrying of a pistol is up to one year. I am taking into
6 account that you do not have a prior record.

7 SENTENCE

8 THE COURT: As to the offense of the attempted murder of
9 Michael Lucas, the sentence of the Court is 20 years.

10 UNIDENTIFIED SPEAKER: What the hell.

11 As to the offense of possession of a weapon during the
12 commission of a violent crime --

13 UNIDENTIFIED SPEAKER: (Indiscernible) back
14 (indiscernible) --

15 THE DEFENDANT: I'm ready to go, man. I didn't want to
16 (indiscernible).

17 UNIDENTIFIED SPEAKER: (Indiscernible). Come on.
18 (Indiscernible) leave your hat on.

19 THE DEFENDANT: I'm ready to go, man. Ain't going
20 (indiscernible).

21 UNIDENTIFIED SPEAKER: Quell.

22 THE DEFENDANT: (Indiscernible) didn't even get shot
23 (indiscernible).

24 UNIDENTIFIED SPEAKER: Let him go on, man.

25 UNIDENTIFIED SPEAKER: (Indiscernible).

1 THE DEFENDANT: Man, I didn't -- man, I didn't get shot
2 (indiscernible).

3 UNIDENTIFIED SPEAKER: (Indiscernible).

4 THE DEFENDANT: Come on, man. That man shoot that me all
5 the time. Don't matter shit. Man (indiscernible).

6 UNIDENTIFIED SPEAKER: Sit down (indiscernible).

7 UNIDENTIFIED SPEAKER: (Indiscernible).

8 THE DEFENDANT: Man, I'm ready to go, man.

9 UNIDENTIFIED SPEAKER: Be quiet. Be quiet.

10 UNIDENTIFIED SPEAKER: Be quiet and sit down.

11 UNIDENTIFIED SPEAKER: Quell.

12 THE COURT: The sentence of the Court as to the offense
13 of possession of a weapon during a violent crime is five
14 years. That's concurrent.

15 The sentence of the Court as to unlawful carrying of a
16 pistol is one year concurrent.

17 So the total sentence is 20 years. I am giving him
18 credit for the time that he has previously spent in the
19 detention center.

20 Anything else that I need to cover on behalf of the
21 State?

22 MR. CORBETT: Nothing from the State, Your Honor.

23 THE COURT: Mr. Young.

24 MR. YOUNG: We would ask ten days to file our motions.

25 THE COURT: Yes, sir.

1 MR. YOUNG: Thank you.

2 MR. MEADORS: Thank you.

3 MR. WARR: Thank you, Your Honor.

4 MR. CORBETT: Thank you, Your Honor.

5 THE COURT: I am glad to hear from Mr. Middleton's
6 mother, if she wants to address the Court as well.

7 MR. MEADORS: Thank you, Your Honor.

8 THE COURT: Tell me your name, ma'am.

9 MS. WILSON: My name is Lavandia Wilson. I was the
10 mother of Gregory Donta Middleton, as D-Black.

11 Oh, Lord have mercy on me.

12 It was a rough three years, but there was a God because
13 from day one, when I ask God to take my hand. And right now,
14 in this day right here, God is still holding my hand. But
15 only thing I could do was just say, thank God that it's over
16 with. But it's hard.

17 I am so terribly sad right now. But I know my son is all
18 right. He can rest in peace now also.

19 I'm trying to be good. Hold up the good part of me for
20 my 14-year-old when I go home. And it just seemed like -- I
21 know I got to go on with my life without my son. But I got
22 him in my heart, and I can remember all the good times. But
23 it's the point that the days that it's so hard not to hear his
24 voice, the nights that I can't see him to say, Ma, open the
25 door, those are the days that I have it so hard because I

1 can't do nothing but just remember things that he was saying,
2 good things.

3 And he wasn't -- oh, my God. He was my -- but I'm
4 getting this -- I got the strength, and I know I'm strong
5 because I've not been this strong for three years regardless.
6 I'm not no perfect person, but I am a child of God because I
7 do walk with God because if God didn't know at me right now, I
8 wouldn't have even be in front and talking to no one. I
9 would've been out of my mind. Some place nobody would know.
10 But I thank God for all that.

11 I have something to read, but I'm not going to read all
12 of it. And my pastor had sent this to me before the trial has
13 start because I was in one of my down moods. So he sent it to
14 me. And it had seemed like when he had sent it to me, it was
15 like my son was talking to me, and I had everything just open
16 up. I had feel so relaxed.

17 So I'm not going to read all of it. I'm going to read
18 half of it. Oh, God. Oh, Jesus, help me. Oh, Lord. Thank
19 you, Jesus. Give me the strength, Father Jesus.

20 I believe he would say, Mom, please find the strength to
21 get up. Use the love that I had for my brother and sister and
22 pour it on them from me to keep my memories alive. All the
23 dreams of the seeds that I had for my life, pass it on to
24 them. And as they live their lives, just maybe, by the grace
25 of God, they will make one of my dreams come true. Or take

1 the love you have for me and pour it on into a child who
2 doesn't have a mother, whose mother still is alive but not
3 able to be the best mother at the moment. Just please, Mama,
4 don't lay down and die while you're living in grief.

5 I know it hurts, Mom, but when you speak of me, speak of
6 my smile, laughter, and healing your heart and make your day
7 speak about the good times and how, even though we would bump
8 heads, that you were my ride or die, and I was yours. Speak
9 about how I dreamed to start my own restaurant. Speak about
10 how I was a sneaker-head, loved my shoes, would step out and
11 be dressed so clean that it would make their hair drizzle.

12 Lord, talk about how my baby sister was my heart screen.
13 Talk about how I want more and more and more in life, not only
14 for myself, but for you all. Talk about how I want so bad to
15 be a good husband, the world greatest father, the son, the
16 brother, the cousin, the uncle, and friends. Please don't let
17 the anniversary of my death, Mom, outshine the day of my birth
18 and the years of my life.

19 Yes, Ma, I know it hurt that I'm not physical here
20 anymore, and that you just don't understand. But please don't
21 forget about the God you's told me about, how good He is, and
22 how He's humble, more powerful, and then everything and
23 anyone, and how if I told -- and how if I would pray to Him,
24 that He would help.

25 So that was just something that I know my son because he

1 wasn't perfect, but I know I just talked to him about God, and
2 he was a -- he was going to church, but he ain't going to no
3 every day church, every Sunday, but he was there. And when
4 the restaurant, yes, he did open the restaurant.

5 THE COURT: How old was Gregory?

6 MS. WILSON: He was thirty. And he opened the
7 restaurant. He was like, Mom. And before all this happened,
8 me and him was discussing about opening another building. We
9 was not been looking at a building. And he was like, Mom,
10 it's time for you to get back. Open this restaurant. I said,
11 yeah, let's do that again. But it never came up.

12 But like I said, with my faith and with God, when 2022
13 came in, and I asked God, I said, whatever in your favor, I'm
14 going to humble myself because my goal is to open my
15 restaurant back what my son started, 2016.

16 And I want to thank everyone. I want to thank Mr. John
17 and the team. That what we calling y'all, the team. And I
18 want to thank you all for everything, for all the help. And I
19 love y'all. And may God bless y'all.

20 MR. MEADORS: Thank you, ma'am.

21 MS. WILSON: And just keep me in your prayer because --
22 but I know, I got some praying, boys, for Heaven is behind me.
23 Yes. Okay.

24 THE COURT: Thank you, ma'am. I appreciate you being
25 here. It's hard. I can only imagine. I see mamas on both

1 sides, too many mamas, that have to sit through trials. Just
2 heartbreaking, really, on both sides of that bench. And it's
3 an emotional rollercoaster to have to come in here every day.

4 But you can be proud that you did that for your son.

5 MS. WILSON: Yes.

6 THE COURT: Thank you.

7 MS. WILSON: And thank you.

8 MR. MEADORS: Thank you, Your Honor.

9 MS. WILSON: Thank you.

10 UNIDENTIFIED SPEAKER: Thank you, Your Honor.

11 (End of Transcript of Record)

12

13

14

15

16

17

18

19

20

21

22

23

24

25

CERTIFICATE OF TRANSCRIBER

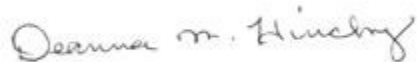
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

State of South Carolina)
)
County of Sumter)

I, DEANNA HINCHY, a court-approved transcriber, do hereby
certify that the foregoing is a true, accurate and complete
Transcript of Record of the proceedings had and evidence
introduced in the trial of the captioned case, relative to
appeal, in the Court of General Sessions for Sumter County,
South Carolina, on the 4th day of October, 2022.

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

August 10, 2023



Deanna Hinchy, CDLT-254
Transcriber

STATE OF SOUTH CAROLINA
COUNTY OF SUMTER

IN THE COURT OF GENERAL SESSIONS
FOR THE THIRD JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA,
vs.

INDICTMENT: 2020GS4300624,
2022GS431048, 2022GS430920,
2022GS431050

JOQUELL WAYNE MYERS

DEFENDANT.

JURY CHARGES

LADIES AND GENTLEMEN YOU HAVE HEARD ALL OF THE
TESTIMONY AND EVIDENCE IN THIS CASE, AND IT IS NOW MY DUTY
TO INSTRUCT YOU ON THE LAW.

THE INDICTMENTS IN THIS CASE CHARGE THE DEFENDANT WITH
MURDER, 2 COUNTS OF ATTEMPTED MURDER, POSSESSION OF A
WEAPON DURING THE COMMISSION OF A VIOLENT CRIME, AND
UNLAWFUL CARRYING OF A PISTOL. I REMIND YOU THAT THE FACT
THE DEFENDANT WAS ARRESTED, CHARGED AND INDICTED IN THIS
CASE, IS NOT EVIDENCE AND CANNOT BE CONSIDERED BY YOU AS
EVIDENCE OF GUILT, NOR DOES IT CREATE ANY PRESUMPTION OR
INFERENCE OF GUILT. THIS DOCUMENT IS SIMPLY THE FORMAL
WRITTEN INSTRUMENT WHICH CONTAINS THE CHARGES MADE
AGAINST THE DEFENDANT. IT IS THE FORMAL DOCUMENT BY WHICH
THIS CASE IS BROUGHT INTO COURT.

MULTIPLE CHARGES

THE INDICTMENTS IN THIS CASE ALLEGE SEVERAL DIFFERENT OFFENSES AGAINST THE DEFENDANT. THE CHARGES ARE:

INDICTMENT NO. 1: ATTEMPTED MURDER OF CHRISTOPHER FORDHAM

INDICTMENT NO. 2: ATTEMPTED MURDER OF MICHAEL LUCAS

INDICTMENT NO. 3: MURDER/POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

INDICTMENT NO. 4: UNLAWFUL CARRYING OF A PISTOL

EACH CHARGE CONSTITUTES A SEPARATE AND DISTINCT OFFENSE. YOU MUST DECIDE EACH CHARGE SEPARATELY ON THE EVIDENCE AND THE LAW APPLICABLE TO IT UNINFLUENCED BY YOUR DECISION AS TO ANY OTHER INDICTMENT. THE DEFENDANT MAY BE CONVICTED OR ACQUITTED ON ANY OR ALL OF THE OFFENSES CHARGED. YOU WILL BE ASKED TO WRITE A SEPARATE VERDICT OF GUILTY OR NOT GUILTY FOR EACH CHARGE.

PRESUMPTION OF INNOCENCE

THE DEFENDANT HAS PLED NOT GUILTY TO THIS INDICTMENT, AND THAT PLEA PUTS THE BURDEN ON THE STATE TO PROVE THE DEFENDANT GUILTY. A PERSON CHARGED WITH COMMITTING A CRIMINAL OFFENSE IN SOUTH CAROLINA IS NEVER REQUIRED TO

PROVE HIMSELF INNOCENT.

✓ I CHARGE YOU THAT IT IS AN IMPORTANT RULE OF LAW THAT THE DEFENDANT IN A CRIMINAL TRIAL, NO MATTER WHAT THE SERIOUSNESS OF THE CHARGE MAY BE, WILL ALWAYS BE PRESUMED TO BE INNOCENT OF THE CRIME FOR WHICH THE INDICTMENTS WERE ISSUED UNLESS GUILT HAS BEEN PROVEN BY EVIDENCE SATISFYING YOU OF THAT GUILT BEYOND A REASONABLE DOUBT. THIS PRESUMPTION OF INNOCENCE DOES NOT END WHEN YOU BEGIN YOUR DELIBERATIONS, BUT IT ACCOMPANIES THE DEFENDANT THROUGHOUT THE TRIAL UNLESS YOU REACH A VERDICT OF GUILT BASED ON EVIDENCE SATISFYING YOU OF THAT GUILT BEYOND A REASONABLE DOUBT.

THE PRESUMPTION OF INNOCENCE IS NOT MERE LEGAL THEORY. IT IS NOT JUST A LEGAL PHRASE. IT IS A SUBSTANTIAL RIGHT TO WHICH EVERY DEFENDANT IS ENTITLED UNLESS YOU, THE JURY, ARE SATISFIED FROM THE EVIDENCE OF THE DEFENDANT'S GUILT BEYOND A REASONABLE DOUBT.

✓ **REASONABLE DOUBT**

WHAT IS A REASONABLE DOUBT IN THE LAW? IT'S THE KIND OF DOUBT FOR WHICH YOU CAN GIVE A REASON, IT'S ALSO DESCRIBED AS THE KIND OF DOUBT THAT WOULD CAUSE A REASONABLE

PERSON TO HESITATE TO ACT.

✓ PROOF BEYOND A REASONABLE DOUBT IS PROOF THAT LEAVES YOU FIRMLY CONVINCED OF THE DEFENDANT'S GUILT. THERE ARE VERY FEW THINGS IN THIS WORLD THAT WE KNOW WITH ABSOLUTE CERTAINTY, AND IN CRIMINAL CASES THE LAW DOES NOT REQUIRE PROOF THAT OVERCOMES EVERY POSSIBLE DOUBT. IF, BASED ON YOUR CONSIDERATION OF THE EVIDENCE, YOU ARE FIRMLY CONVINCED THAT THE DEFENDANT IS GUILTY OF THE CRIME CHARGED, YOU MUST FIND THE DEFENDANT GUILTY. IF ON THE OTHER HAND, YOU THINK THERE IS A REAL POSSIBILITY THAT THE DEFENDANT IS NOT GUILTY, YOU MUST GIVE THE DEFENDANT THE BENEFIT OF THE DOUBT AND FIND HIM NOT GUILTY.¹

✓ **DUTIES OF JURY AND TRIAL JUDGE**

I REMIND YOU THAT, DURING THIS TRIAL, YOU AND I HAVE CERTAIN DUTIES TO PERFORM. AS THE TRIAL JUDGE, IT IS MY RESPONSIBILITY TO PRESIDE OVER THE TRIAL OF THIS CASE, AND I ALSO HAVE THE DUTY TO RULE ON THE ADMISSIBILITY OF THE EVIDENCE OFFERED DURING THIS TRIAL. YOU ARE TO CONSIDER

¹ State v. McHoney, 344 S.C. 85, 544 S.E.2d 30 (2001); State v. Needs, 333 S.C. 134, 508 S.E.2d 857 (1998).

ONLY THE COMPETENT EVIDENCE BEFORE YOU. YOU ARE TO CONSIDER ONLY THE TESTIMONY WHICH HAS BEEN PRESENTED FROM THIS WITNESS STAND, THE EXHIBITS WHICH HAVE BEEN MADE A PART OF THE RECORD IN THIS CASE, AND ANY STIPULATION OF THE PARTIES WHICH HAS BEEN READ INTO THE RECORD.

I HAVE THE ADDITIONAL DUTY TO CHARGE YOU THE LAW APPLICABLE TO THIS CASE. AS THE PRESIDING JUDGE, I AM THE SOLE JUDGE OF THE LAW OF THIS CASE, AND IT IS YOUR DUTY AS JURORS TO ACCEPT AND APPLY THE LAW AS I NOW STATE IT TO YOU. IF YOU ALREADY HAVE ANY IDEA AS TO WHAT THE LAW IS OR WHAT THE LAW OUGHT TO BE AND IT DOES NOT AGREE WITH WHAT I NOW TELL YOU THE LAW IS, YOU MUST ABANDON YOUR PREVIOUS IDEA BECAUSE YOU ARE SWORN TO ACCEPT THE LAW AND APPLY THE LAW EXACTLY AS I STATE IT TO YOU.

IN EVERY CASE TRIED IN THIS COURT BEFORE A JURY, THE JURY BECOMES THE SOLE AND EXCLUSIVE JUDGES OF THE FACTS IN A CASE. A TRIAL JUDGE CANNOT COMMENT ON, OR MAKE ANY STATEMENT TO A TRIAL JURY ABOUT THE FACTS IN A CASE. SINCE YOU, THE JURY, ARE THE SOLE JUDGE OF THE FACTS IN THIS CASE, YOU ARE NOT TO INFER FROM WHAT I HAVE SAID DURING THE PROGRESS OF THIS TRIAL IN RULING UPON THE ADMISSIBILITY OF

EVIDENCE, OR OTHERWISE, OR ANYTHING THAT I SAY NOW DURING THE COURSE OF THIS INSTRUCTION TO YOU, THAT I HAVE ANY OPINION ABOUT THE FACTS IN THIS CASE. THE LAW DOES NOT ALLOW ME TO HAVE AN OPINION ABOUT THE FACTS IN THIS CASE. THIS IS A MATTER SOLELY FOR YOU, THE JURY, TO DETERMINE. AS JURORS, IT IS YOUR DUTY TO DETERMINE THE EFFECT, VALUE, WEIGHT, AND TRUTH OF THE EVIDENCE PRESENTED DURING THIS TRIAL.

DIRECT AND CIRCUMSTANTIAL EVIDENCE

THERE ARE TWO TYPES OF EVIDENCE WHICH ARE GENERALLY PRESENTED DURING A TRIAL—DIRECT EVIDENCE AND CIRCUMSTANTIAL EVIDENCE. DIRECT EVIDENCE DIRECTLY PROVES THE EXISTENCE OF A FACT AND DOES NOT REQUIRE DEDUCTION. CIRCUMSTANTIAL EVIDENCE IS PROOF OF A CHAIN OF FACTS AND CIRCUMSTANCES INDICATING THE EXISTENCE OF A FACT.

CRIMES MAY BE PROVEN BY CIRCUMSTANTIAL EVIDENCE. THE LAW MAKES NO DISTINCTION BETWEEN THE WEIGHT OR VALUE TO BE GIVEN TO EITHER DIRECT OR CIRCUMSTANTIAL EVIDENCE, HOWEVER, TO THE EXTENT THE STATE RELIES ON CIRCUMSTANTIAL

EVIDENCE, ALL OF THE CIRCUMSTANCES MUST BE CONSISTENT WITH EACH OTHER, AND WHEN TAKEN TOGETHER, POINT CONCLUSIVELY TO THE GUILT OF THE ACCUSED BEYOND A REASONABLE DOUBT. IF THESE CIRCUMSTANCES MERELY PORTRAY THE DEFENDANT'S BEHAVIOR AS SUSPICIOUS, THE PROOF HAS FAILED.

THE STATE HAS THE BURDEN OF PROVING THE DEFENDANT GUILTY BEYOND A REASONABLE DOUBT. THIS BURDEN RESTS WITH THE STATE REGARDLESS OF WHETHER THE STATE RELIES ON DIRECT EVIDENCE, CIRCUMSTANTIAL EVIDENCE, OR SOME COMBINATION OF THE TWO.

CREDIBILITY OF WITNESSES

NECESSARILY, YOU MUST DETERMINE THE CREDIBILITY OF WITNESSES WHO HAVE TESTIFIED IN THIS CASE. CREDIBILITY SIMPLY MEANS BELIEVABILITY. IT BECOMES YOUR DUTY AS JURORS TO ANALYZE AND TO EVALUATE THE EVIDENCE AND DETERMINE WHICH EVIDENCE CONVINCES YOU OF ITS TRUTH. IN DETERMINING THE BELIEVABILITY OF WITNESSES WHO HAVE TESTIFIED IN THIS CASE, YOU MAY BELIEVE ONE WITNESS OVER

SEVERAL WITNESSES OR SEVERAL WITNESSES OVER ONE WITNESS. YOU MAY BELIEVE A PART OF THE TESTIMONY OF A WITNESS AND REJECT THE REMAINING PART OF THE TESTIMONY OF THAT SAME WITNESS. YOU MAY BELIEVE THE TESTIMONY OF A WITNESS IN ITS ENTIRETY OR REJECT THE TESTIMONY OF A WITNESS IN ITS ENTIRETY. YOU MAY CONSIDER WHETHER ANY WITNESS HAS EXHIBITED TO YOU ANY INTEREST, BIAS, PREJUDICE, OR OTHER MOTIVE IN THIS CASE. YOU MAY ALSO CONSIDER THE APPEARANCE AND MANNER OF THE WITNESS WHILE ON THE WITNESS STAND.

✓ **PRIOR RECORD OF WITNESS**

A PERSON WHO HAS A PAST CRIMINAL RECORD IS COMPETENT TO TESTIFY DURING A TRIAL. A PAST RECORD DOES NOT AFFECT THE ABILITY OF THAT WITNESS TO TESTIFY. THE PAST RECORD MAY ONLY BE CONSIDERED BY YOU, IF AT ALL, IN DETERMINING THE WITNESS' BELIEVABILITY.

REMEMBER, YOU ARE THE SOLE JUDGES OF THE FACTS IN THE CASE AND OF THE BELIEVABILITY OF ANY AND ALL OF THE WITNESSES.

✓ **EXPERT WITNESSES**

THE RULES OF EVIDENCE ORDINARILY DO NOT PERMIT WITNESSES TO TESTIFY TO OPINIONS OR CONCLUSIONS. AN EXCEPTION TO THIS RULE EXISTS FOR WITNESSES WE CALL "EXPERT WITNESSES". A WITNESS WHO, BY EDUCATION AND EXPERIENCE, HAS BECOME EXPERT IN SOME ART, SCIENCE, PROFESSION, OR CALLING MAY STATE AN OPINION AS TO RELEVANT AND MATERIAL MATTER, IN WHICH THE WITNESS CLAIMS TO BE AN EXPERT, AND MAY ALSO STATE THE REASONS FOR THE OPINION.

IN THIS CASE YOU HAVE HEARD EXPERT TESTIMONY IN THE FIELDS OF PATHOLOGY AND FIREARM IDENTIFICATION. YOU SHOULD CONSIDER ANY EXPERT OPINION RECEIVED IN EVIDENCE IN THIS CASE AND, LIKE ANY OTHER EVIDENCE, GIVE IT THE WEIGHT YOU THINK IT DESERVES. IF YOU DECIDE THAT THE OPINION OF AN EXPERT WITNESS IS NOT BASED ON SUFFICIENT EDUCATION AND EXPERIENCE, OR IF YOU CONCLUDE THAT THE REASONS GIVEN IN SUPPORT OF THE OPINION ARE NOT SOUND, OR THAT THE OPINION IS OUTWEIGHED BY OTHER EVIDENCE, YOU MAY DISREGARD THE OPINION ENTIRELY.

AN EXPERT WITNESS' TESTIMONY IS TO BE GIVEN NO GREATER WEIGHT THAN THAT OF OTHER WITNESSES SIMPLY BECAUSE THE

WITNESS IS AN EXPERT. FURTHER, YOU ARE NOT REQUIRED TO
ACCEPT AN EXPERT'S OPINION, EVEN THOUGH IT IS NOT
CONTRADICTED.

Statement

MURDER

THE DEFENDANT IS CHARGED WITH THE MURDER OF GREGORY
MIDDLETON. THE STATE MUST PROVE BEYOND A REASONABLE
DOUBT THAT THE DEFENDANT KILLED ANOTHER PERSON WITH
MALICE AFORETHOUGHT.

MALICE IS HATRED, ILL-WILL, OR HOSTILITY TOWARDS ANOTHER
PERSON. IT IS THE INTENTIONAL DOING OF A WRONGFUL ACT
WITHOUT JUST CAUSE OR EXCUSE AND WITH AN INTENT TO INFLICT
AN INJURY OR UNDER CIRCUMSTANCES THAT THE LAW WILL INFER
AN EVIL INTENT.

MALICE AFORETHOUGHT DOES NOT REQUIRE THAT MALICE
EXISTS FOR ANY PARTICULAR TIME BEFORE THE ACT IS
COMMITTED, BUT MALICE MUST EXIST IN THE MIND OF THE
DEFENDANT JUST BEFORE AND AT THE TIME OF THE ACT IS
COMMITTED. THEREFORE, THERE MUST BE A COMBINATION OF THE
PREVIOUS EVIL INTENT AND THE ACT.

MALICE AFORETHOUGHT MAY BE EXPRESS OR INFERRED. THESE TERMS, "EXPRESS" AND "INFERRED" DO NOT MEAN DIFFERENT KINDS OF MALICE BUT MERELY THE MANNER IN WHICH MALICE MAY BE SHOWN TO EXIST. THAT IS EITHER BY DIRECT EVIDENCE OR BY INFERENCE FROM THE FACTS AND CIRCUMSTANCES WHICH ARE PROVED. EXPRESS MALICE IS SHOWN WHEN A PERSON SPEAKS WORDS WHICH EXPRESS HATRED OR ILL WILL FOR ANOTHER OR WHEN THE PERSON PREPARED BEFOREHAND TO DO THE ACT WHICH WAS LATER ACCOMPLISHED;

MALICE MAY BE INFERRED FROM CONDUCT SHOWING A TOTAL DISREGARD FOR HUMAN LIFE.

TRANSFERRED INTENT

IF THE DEFENDANT, WITH MALICE AFORETHOUGHT, ATTEMPTS TO KILL ANOTHER PERSON, BUT BY MISTAKE, KILLS A DIFFERENT PERSON, THE DEFENDANT STILL HAS THE INTENT TO KILL. THE INTENT TO KILL IS MERELY TRANSFERRED FROM THE ORIGINAL PERSON THE DEFENDANT ATTEMPTED TO KILL TO THE ACTUAL PERSON KILLED. THE DEFENDANT WOULD BE GUILTY OF MURDER JUST AS IF THE ATTEMPT HAD RESULTED IN THE DEATH OF THE PERSON THE DEFENDANT ATTEMPTED TO KILL.

✓ VOLUNTARY MANSLAUGHTER

IF YOU FIND THAT THE STATE HAS FAILED TO PROVE BEYOND A REASONABLE DOUBT THAT THE DEFENDANT COMMITTED MURDER, YOU MAY CONSIDER WHETHER THE STATE HAS PROVED BEYOND A REASONABLE DOUBT THAT THE DEFENDANT COMMITTED VOLUNTARY MANSLAUGHTER.

TO PROVE VOLUNTARY MANSLAUGHTER, THE STATE MUST PROVE BEYOND A REASONABLE DOUBT THAT THE DEFENDANT TOOK THE LIFE OF ANOTHER IN THE SUDDEN HEAT OF PASSION BASED ON SUFFICIENT LEGAL PROVOCATION. BOTH HEAT OF PASSION AND SUFFICIENT LEGAL PROVOCATION MUST BE PRESENT AT THE TIME OF THE KILLING TO CONSTITUTE VOLUNTARY MANSLAUGHTER.

SUDDEN HEAT OF PASSION MAY, FOR A TIME, AFFECT A PERSON'S SELF-CONTROL AND TEMPORARILY DISTURB A PERSON'S REASON. THE SUDDEN HEAT OF PASSION MUST BE THE TYPE THAT WOULD MAKE AN ORDINARY PERSON UNABLE TO COOLY REFLECT ON HIS ACTIONS AND WOULD PRODUCE AN UNCONTROLLABLE IMPULSE TO DO VIOLENCE.

SUFFICIENT LEGAL PROVOCATION MUST BE THE TYPE THAT WOULD MAKE A PERSON OF ORDINARY REASON AND CAUTION BECOME ENRAGED AND TO LOSE CONTROL TEMPORARILY. THE PROVOCATION NEEDED FOR VOLUNTARY MANSLAUGHTER MUST COME FROM SOME ACT OF, OR RELATED TO, THE VICTIM.⁴⁹

WORDS ALONE, HOWEVER VULGAR OR INSULTING, ARE NOT ENOUGH TO BE LEGAL PROVOCATION. WHERE DEATH IS CAUSED BY THE USE OF A DEADLY WEAPON, THE WORDS MUST BE ACCOMPANIED BY SOME OVERT, THREATENING ACT WHICH COULD HAVE PRODUCED THE HEAT OF PASSION.

THE EXERCISE OF A LEGAL RIGHT, NO MATTER HOW OFFENSIVE IT IS TO ANOTHER, IS NEVER SUFFICIENT LEGAL PROVOCATION FOR VOLUNTARY MANSLAUGHTER.

IF THE HEAT OF PASSION HAD COOLED, OR IF THERE WAS ENOUGH TIME BETWEEN THE PROVOCATION, IF ANY, AND THE KILLING FOR THE PASSION OF A REASONABLE PERSON TO COOL, THE KILLING WOULD NOT BE VOLUNTARY MANSLAUGHTER. IN DECIDING WHETHER A REASONABLE PERSON WOULD HAVE HAD ENOUGH TIME TO COOL OFF, YOU SHOULD CONSIDER ALL THE CIRCUMSTANCES

⁴⁹ State v. Locklair, 341 S.C. 352, 535 S.E.2d 420 (2000).

SURROUNDING THE KILLING. YOU MAY CONSIDER THE NATURE OF THE PROVOCATION, IF ANY; THE DEFENDANT'S MENTAL AND PHYSICAL STATE; AND THE CIRCUMSTANCES AND RELATIONSHIPS BETWEEN THE PARTIES.

✓ **MUTUAL COMBAT**

SOUTH CAROLINA RECOGNIZES THE DOCTRINE OF MUTUAL COMBAT AS THE BASIS FOR A CONVICTION FOR EITHER MURDER OR VOLUNTARY MANSLAUGHTER. IF A PERSON VOLUNTARILY ENTERS INTO A MUTUAL COMBAT WITH ANOTHER WHERE DEADLY WEAPONS ARE USED, KNOWING THAT THEY ARE BEING USED, AND DEATH RESULTS TO AN INNOCENT THIRD PARTY, THEN EVERYONE ENGAGED IN THE MUTUAL COMBAT IS EQUALLY GUILTY, REGARDLESS OF WHETHER THEY FIRED THE FATAL SHOT. ALL PARTICIPANTS IN THE MUTUAL COMBAT ARE RESPONSIBLE FOR THEIR FELLOW COMBATANTS ACTIONS RESULTING IN FORESEEABLE INJURY TO AN INNOCENT THIRD PARTY. HOWEVER, IF THE INNOCENT THIRD PARTY WAS KILLED BEFORE THE DEFENDANT JOINED IN THE MUTUAL COMBAT, THEN THE DEFENDANT CANNOT BE HELD RESPONSIBLE UNDER THE DOCTRINE OF MUTUAL COMBAT.

✓ THE STATE BEARS THE BURDEN OF PROVING BEYOND A REASONABLE DOUBT THAT THE DEFENDANT WAS ENGAGED IN MUTUAL COMBAT WITH A RIVAL COMBATANT OR COMBATANTS, THAT EACH WAS ARMED FOR THE MUTUAL COMBAT WITH A DEADLY WEAPON, AND THAT EACH KNEW THE OTHER WAS ARMED. THE STATE MUST PROVE BEYOND A REASONABLE DOUBT THAT THERE WAS A MUTUAL INTENT AND WILLINGNESS TO FIGHT WITH DEADLY WEAPONS MANIFESTED BY THE ACTS AND CONDUCT OF THE PARTIES AND THE CIRCUMSTANCES LEADING UP TO THE COMBAT. THE STATE MUST PROVE THAT THE CONFLICT AROSE FROM A PRE-EXISTING DISPUTE BETWEEN THE COMBATANTS. HOWEVER, IT IS NOT NECESSARY THAT THERE SHOULD BE A POSITIVE AGREEMENT BETWEEN THE PARTICIPATING PARTIES TO ENTER THE CONFLICT. IT IS SUFFICIENT IF THEY WILLFULLY ENTER INTO THE CONFLICT UPON THE IMPULSE OF THE MOMENT. THE STATE BEARS THE BURDEN OF PROVING EACH OF THE ELEMENTS OF MUTUAL COMBAT BEYOND A REASONABLE DOUBT.

ATTEMPTED MURDER - § 16-3-29

THE DEFENDANT IS CHARGED WITH THE ATTEMPTED MURDER OF BOTH MICHAEL LUCAS AND CHRISTOPHER FORDHAM. IN ORDER TO

PROVE THIS CRIME, THE STATE MUST PROVE THE DEFENDANT, WITH THE INTENT TO KILL, ATTEMPTED TO KILL ANOTHER PERSON WITH MALICE AFORETHOUGHT.

IN ORDER TO BE GUILTY OF THIS OFFENSE, THE DEFENDANT MUST POSSESS A SPECIFIC INTENT TO KILL. THUS, A SPECIFIC INTENT TO KILL IS A REQUIRED ELEMENT OF THE OFFENSE.

MALICE IS HATRED, ILL-WILL, OR HOSTILITY TOWARDS ANOTHER PERSON.

✓ MALICE AFORETHOUGHT DOES NOT REQUIRE THAT MALICE EXISTS FOR ANY PARTICULAR TIME BEFORE THE ACT IS COMMITTED, BUT MALICE MUST EXIST IN THE MIND OF THE DEFENDANT JUST BEFORE AND AT THE TIME THE ACT IS COMMITTED. THEREFORE, THERE MUST BE A COMBINATION OF THE PREVIOUS EVIL INTENT AND THE ACT.

✓ SPECIFIC INTENT TO KILL AND MALICE AFORETHOUGHT MAY BE ESTABLISHED BY DIRECT EVIDENCE, CIRCUMSTANTIAL EVIDENCE, OR A COMBINATION OF THE TWO.

✓ **ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED NATURE - § 16-3-600(B)**

✓ IF YOU FIND THAT THE STATE HAS FAILED TO PROVE BEYOND A REASONABLE DOUBT THAT THE DEFENDANT COMMITTED THE OFFENSE OF THE ATTEMPTED MURDER OF CHRISTOPHER FORDHAM (ONLY), YOU MAY CONSIDER WHETHER THE STATE HAS PROVED BEYOND A REASONABLE DOUBT THAT THE DEFENDANT COMMITTED THE LESSER INCLUDED OFFENSE OF ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED NATURE. YOU WILL ONLY CONSIDER THIS OFFENSE AS TO THE VICTIM CHRISTOPHER FORDHAM.

✓ A PERSON COMMITS THE OFFENSE OF ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED NATURE IF THE PERSON UNLAWFULLY INJURES ANOTHER PERSON, AND:

(A) GREAT BODILY INJURY TO ANOTHER PERSON RESULTS; OR

(B) THE ACT IS ACCOMPLISHED BY MEANS LIKELY TO PRODUCE DEATH OR GREAT BODILY INJURY.

✓ GREAT BODILY INJURY MEANS BODILY INJURY WHICH CAUSES A SUBSTANTIAL RISK OF DEATH OR WHICH CAUSES SERIOUS, PERMANENT DISFIGUREMENT OR PROTRACTED LOSS OR IMPAIRMENT OF THE FUNCTION OF A BODILY MEMBER OR ORGAN.

✓ **ASSAULT AND BATTERY – FIRST DEGREE - § 16-3-600(c)**

IF YOU FIND THAT THE STATE HAS FAILED TO PROVE BEYOND A REASONABLE DOUBT THAT THE DEFENDANT COMMITTED THE OFFENSE OF THE ATTEMPTED MURDER OF MICHAEL LUCAS (ONLY), YOU MAY CONSIDER WHETHER THE STATE HAS PROVED BEYOND A REASONABLE DOUBT THAT THE DEFENDANT COMMITTED THE LESSER INCLUDED OFFENSE OF ASSAULT AND BATTERY IN THE FIRST DEGREE. YOU WILL ONLY CONSIDER THIS OFFENSE AS TO THE VICTIM MICHAEL LUCAS.

✓ A PERSON COMMITS THE OFFENSE OF ASSAULT AND BATTERY IN THE FIRST DEGREE IF THE PERSON UNLAWFULLY:

✓ OFFERS OR ATTEMPTS TO INJURE ANOTHER PERSON WITH THE PRESENT ABILITY TO DO SO, AND THE ACT EITHER:

✓ IS ACCOMPLISHED BY MEANS LIKELY TO PRODUCE DEATH OR GREAT BODILY INJURY;

✓ GREAT BODILY INJURY MEANS BODILY INJURY WHICH CAUSES A SUBSTANTIAL RISK OF DEATH OR WHICH CAUSES SERIOUS, PERMANENT DISFIGUREMENT OR PROTRACTED LOSS OR IMPAIRMENT OF THE FUNCTION OF A BODILY MEMBER OR ORGAN.

POSSESSION OF WEAPON DURING THE COMMISSION OF, OR ATTEMPT TO COMMIT, A VIOLENT CRIME - § 16-23-490

THE DEFENDANT IS CHARGED WITH POSSESSION OF A WEAPON DURING THE COMMISSION OF, OR ATTEMPT TO COMMIT, A VIOLENT

✓ CRIME. THE STATE MUST PROVE BEYOND A REASONABLE DOUBT THAT THE DEFENDANT WAS IN POSSESSION OF A FIREARM OR VISIBLY DISPLAYED WHAT APPEARED TO BE A FIREARM VISIBLY DURING THE COMMISSION OF A VIOLENT CRIME.

✓ A FIREARM MEANS ANY MACHINE GUN, AUTOMATIC RIFLE, REVOLVER, PISTOL, OR ANY WEAPON WHICH WILL, IS DESIGNED TO, OR MAY BE READILY CONVERTED TO EXPEL A PROJECTILE.

✓ IN ORDER TO FIND THE DEFENDANT GUILTY OF POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME, YOU MUST FIRST FIND THE DEFENDANT GUILTY OF EITHER COMMITTING A VIOLENT CRIME OR ATTEMPTING THE COMMIT A VIOLENT CRIME.

✓ MURDER, VOLUNTARY MANSLAUGHTER, ATTEMPTED MURDER, AND ABHIAN ARE CATEGORIZED AS CRIMES OF VIOLENCE UNDER SOUTH CAROLINA LAW.

Violent crimes are listed in S.C. Code Ann. § 16-1-6.

✓ THE STATE MUST PROVE BEYOND A REASONABLE DOUBT THAT THE WEAPON FURTHERED, ADVANCED, OR HELPED IN THE COMMISSION OF THE CRIME.

✓ **UNLAWFUL CARRYING OF PISTOL - § 16-23-20**

✓ THE DEFENDANT IS CHARGED WITH UNLAWFUL CARRYING OF A PISTOL. THE STATE MUST PROVE BEYOND A REASONABLE DOUBT THAT THE DEFENDANT CARRIED A PISTOL ABOUT HIS PERSON, WHETHER CONCEALED OR NOT.

✓ A WEAPON IS ABOUT THE DEFENDANT'S PERSON IF IT IS READILY ACCESSIBLE AND CONVENIENT FOR IMMEDIATE USE. THE PISTOL NEED NOT BE ACTUALLY TOUCHING THE PERSON OF THE DEFENDANT.

16-23-20(9)(a)

✓ IT IS NOT UNLAWFUL TO HAVE A HANDGUN IF THE PERSON IS IN A VEHICLE AND THE HANDGUN IS SECURED IN A CLOSED GLOVE COMPARTMENT, CLOSED CONSOLE, CLOSED TRUNK, OR IN A CLOSED CONTAINER SECURED BY AN INTEGRAL FASTENER AND TRANSPORTED IN THE LUGGAGE COMPARTMENT OF THE VEHICLE;

✓ A PERSON CAN BE ACTING LAWFULLY, EVEN IF HE IS IN UNLAWFUL POSSESSION OF A WEAPON, IF HE WAS ENTITLED TO ARM HIMSELF IN SELF DEFENSE.

✓ **SELF DEFENSE**

✓ THE DEFENDANT HAS RAISED THE DEFENSE OF SELF-DEFENSE. SELF-DEFENSE IS A COMPLETE DEFENSE AND, IF IT IS ESTABLISHED, YOU MUST FIND THE DEFENDANT NOT GUILTY. THE STATE HAS THE

BURDEN OF DISPROVING SELF-DEFENSE BY PROOF BEYOND A REASONABLE DOUBT.⁸³ IF YOU HAVE A REASONABLE DOUBT OF THE DEFENDANT'S GUILT AFTER CONSIDERING ALL THE EVIDENCE, INCLUDING THE EVIDENCE OF SELF-DEFENSE, THEN YOU MUST FIND THE DEFENDANT NOT GUILTY. ON THE OTHER HAND, IF YOU HAVE NO REASONABLE DOUBT OF THE DEFENDANT'S GUILT AFTER CONSIDERING ALL THE EVIDENCE, INCLUDING THE EVIDENCE OF SELF-DEFENSE, THEN YOU MUST FIND THE DEFENDANT GUILTY.

THE FOLLOWING ELEMENTS ARE REQUIRED TO ESTABLISH SELF-DEFENSE.

✓ **(1) WITHOUT FAULT**

FIRST, THE DEFENDANT MUST BE WITHOUT FAULT IN BRINGING ON THE DIFFICULTY. IF THE DEFENDANT'S CONDUCT WAS THE TYPE WHICH WAS REASONABLY CALCULATED TO, AND DID, PROVOKE A DEADLY ASSAULT, THE DEFENDANT WOULD BE AT FAULT IN BRINGING ON THE DIFFICULTY AND WOULD NOT BE ENTITLED TO AN ACQUITTAL BASED ON SELF-DEFENSE.

✓ **(2) IMMINENT DANGER**

⁸³ State v. Addison, 343 S.C. 290, 540 S.E.2d 449 (2000).

✓ THE SECOND ELEMENT OF SELF-DEFENSE IS THAT THE DEFENDANT WAS ACTUALLY IN IMMINENT DANGER OF DEATH OR SERIOUS BODILY INJURY OR THAT THE DEFENDANT ACTUALLY BELIEVED HE WAS IN IMMINENT DANGER OF DEATH OR SERIOUS BODILY INJURY.

✓ IF THE DEFENDANT WAS ACTUALLY IN IMMINENT DANGER, IT MUST BE SHOWN THAT THE CIRCUMSTANCES WOULD HAVE WARRANTED A PERSON OF ORDINARY FIRMNESS AND COURAGE TO STRIKE THE FATAL BLOW TO PREVENT DEATH OR SERIOUS BODILY INJURY. IF THE DEFENDANT BELIEVED HE WAS IN IMMINENT DANGER OF DEATH OR SERIOUS BODILY INJURY, IT MUST BE SHOWN THAT A REASONABLY PRUDENT PERSON OF ORDINARY FIRMNESS AND COURAGE WOULD HAVE HAD THE SAME BELIEF.

✓ IN DECIDING WHETHER THE DEFENDANT ACTUALLY WAS, OR BELIEVED HE WAS, IN IMMINENT DANGER OF DEATH OR SERIOUS BODILY INJURY, YOU SHOULD CONSIDER ALL THE FACTS AND CIRCUMSTANCES SURROUNDING THE CRIME, INCLUDING THE PHYSICAL CONDITION AND CHARACTERISTICS OF THE DEFENDANT AND THE VICTIM.

✓ **RIGHT TO ACT ON APPEARANCES**

✓ THE DEFENDANT DOES NOT HAVE TO SHOW THAT HE (SHE) WAS ACTUALLY IN DANGER. IT IS ENOUGH IF THE DEFENDANT BELIEVED HE (SHE) WAS IN IMMINENT DANGER AND A REASONABLY PRUDENT PERSON OF ORDINARY FIRMNESS AND COURAGE WOULD HAVE HAD THE SAME BELIEF. THE DEFENDANT HAS THE RIGHT TO ACT ON APPEARANCES EVEN THOUGH THE DEFENDANT'S BELIEFS MAY HAVE BEEN MISTAKEN.⁸⁶ IT IS FOR YOU TO DECIDE WHETHER THE DEFENDANT'S FEAR OF IMMEDIATE DANGER OF DEATH OR SERIOUS BODILY INJURY WAS REASONABLE AND WOULD HAVE BEEN FELT BY AN ORDINARY PERSON IN THE SAME SITUATION.

✓ **PRIOR DIFFICULTIES**

EVIDENCE OF PRIOR DIFFICULTIES BETWEEN THE DEFENDANT AND THE VICTIM MAY BE CONSIDERED IN DECIDING WHETHER A THREAT EXISTED, WHETHER THE DEFENDANT HAD A REASON TO BELIEVE A THREAT EXISTED, AND HOW SERIOUS THAT THREAT WAS.

INTOXICATION

⁸⁶ Gilchrist v. State, 364 S.C. 173, 612 S.E.2d 702 (2005); State v. Jackson, 227 S.C. 271, 87 S.E.2d 681 (1995).

✓ THE INTOXICATION OF THE VICTIM MAY BE CONSIDERED IN DECIDING WHETHER THE DEFENDANT'S FEAR OF DEATH OR BODILY HARM WAS REASONABLE.

✓ **(3) NO OTHER WAY TO AVOID DANGER**

✓ THE FINAL ELEMENT OF SELF-DEFENSE IS THAT THE DEFENDANT HAD NO OTHER PROBABLE WAY TO AVOID THE DANGER OF DEATH OR SERIOUS BODILY INJURY THAN TO ACT AS THE DEFENDANT DID IN THIS PARTICULAR INSTANCE.

INCREASED RISK OF HARM

✓ THE DEFENDANT HAD NO DUTY TO RETREAT IF, BY DOING SO, THE DANGER OF BEING KILLED OR SUFFERING SERIOUS BODILY INJURY WOULD INCREASE.

✓ **DEGREE OF FORCE**

A PERSON CANNOT BE REQUIRED TO MAKE AN EXACT CALCULATION AS TO THE DEGREE OR AMOUNT OF FORCE WHICH MAY BE NEEDED TO AVOID DEATH OR SERIOUS BODILY HARM. THEREFORE, IN SELF-DEFENSE, THE DEFENDANT HAS THE RIGHT TO USE THE FORCE NEEDED TO AVOID DEATH OR SERIOUS BODILY

HARM. THE FORCE USED IN SELF-DEFENSE DOES NOT HAVE TO BE LIMITED TO THE DEGREE OR AMOUNT OF FORCE USED BY THE VICTIM. THE DEFENDANT HAS THE RIGHT TO USE SO MUCH FORCE AS APPEARED TO BE NECESSARY FOR COMPLETE SELF-PROTECTION, AND WHICH A PERSON OF ORDINARY REASON AND FIRMNESS WOULD HAVE BELIEVED TO BE NEEDED TO PREVENT DEATH OR SERIOUS BODILY HARM.

✓ **CONTINUING UNTIL THREAT OF HARM IS ENDED**

IF THE DEFENDANT IS JUSTIFIED IN DEFENDING HIMSELF (HERSELF) OR OTHERS AND IN FIRING THE FIRST SHOT, THEN THE DEFENDANT IS ALSO JUSTIFIED IN CONTINUING TO SHOOT UNTIL IT IS APPARENT THAT THE DANGER OF DEATH OR SERIOUS BODILY INJURY HAS COMPLETELY ENDED.

✓ **DEFENSE OF OTHERS**

✓ UNDER THE LAW OF SELF-DEFENSE, THE DEFENDANT MAY TAKE ANOTHER'S LIFE IN THE DEFENSE OF OTHERS. THE RIGHT TO INTERVENE TO PROTECT ANOTHER PERSON IS SUBJECT TO THE SAME RIGHTS AND LIMITATIONS AS THE RIGHT OF SELF-DEFENSE.

✓ THE DEFENDANT MAY TAKE THE LIFE OF PERSON WHO ASSAULTS A FRIEND, RELATIVE, OR BYSTANDER IF THAT FRIEND, RELATIVE, OR BYSTANDER WOULD HAVE HAD THE RIGHT OF SELF-DEFENSE.

TO SHOW THAT THE PERSON BEING DEFENDED HAD THE RIGHT OF SELF-DEFENSE, IT MUST FIRST BE SHOWN THAT THE PERSON BEING DEFENDED AND THE DEFENDANT WERE BOTH WITHOUT FAULT IN BRINGING ON THE DIFFICULTY. IF THE CONDUCT OF THE PERSON DEFENDED OR THE DEFENDANT WAS THE TYPE WHICH WAS REASONABLY CALCULATED TO, AND DID, PROVOKE A DEADLY ASSAULT, THE PERSON WOULD BE AT FAULT IN BRINGING ON THE DIFFICULTY AND WOULD NOT HAVE THE RIGHT OF SELF-DEFENSE. THEREFORE, THE DEFENDANT WOULD NOT HAVE THE RIGHT TO USE DEADLY FORCE IN DEFENDING THAT PERSON.

✓ THE DEFENSE OF ANOTHER PERSON IS EXCUSABLE IF THE DEFENDANT HAD REASONABLE GROUNDS TO BELIEVE, AND IN GOOD FAITH DID BELIEVE, THAT THE PERSON BEING DEFENDED WAS IN IMMINENT DANGER OF DEATH OR SERIOUS BODILY HARM FROM THE VICTIM.

✓ IN DECIDING WHETHER THE PERSON DEFENDED ACTUALLY WAS, OR THAT THE DEFENDANT ACTUALLY BELIEVED THE PERSON WAS,

IN IMMINENT DANGER OF DEATH OR SERIOUS BODILY INJURY, YOU SHOULD CONSIDER ALL THE FACTS AND CIRCUMSTANCES SURROUNDING THE CRIME, INCLUDING THE PHYSICAL CONDITION AND CHARACTERISTICS OF THE PARTIES.

✓ **RIGHT TO ACT ON APPEARANCES**

✓ THE DEFENDANT DOES NOT HAVE TO SHOW THAT THE PERSON THE DEFENDANT DEFENDED WAS ACTUALLY IN DANGER. IT IS ENOUGH IF THE DEFENDANT BELIEVED THE PERSON WAS IN IMMINENT DANGER. THE DEFENDANT HAS THE RIGHT TO ACT ON APPEARANCES EVEN THOUGH THE DEFENDANT'S BELIEFS MAY HAVE BEEN MISTAKEN. THE DEFENDANT MUST SHOW THAT, UNDER THE CIRCUMSTANCES AS THEY APPEARED TO THE DEFENDANT, THE DEFENDANT BELIEVED THE PERSON DEFENDED WAS IN DANGER AND THAT A REASONABLY PRUDENT PERSON OF ORDINARY FIRMNESS AND COURAGE WOULD HAVE HAD THE SAME BELIEF UNDER THE SAME CIRCUMSTANCES.⁸⁸ IT IS FOR YOU, THE JURY, TO DECIDE WHETHER THE DEFENDANT'S FEAR OF IMMEDIATE DANGER OF DEATH OR SERIOUS BODILY INJURY TO THE PERSON DEFENDED

⁸⁸ State v. Jackson, 277 S.C. 271, 87 S.E.2d 681 (1995).

WAS REASONABLE AND WOULD HAVE BEEN FELT BY AN ORDINARY PERSON IN THE SAME SITUATION. THE DEFENDANT DOES NOT HAVE TO WAIT UNTIL THE VICTIM GETS THE DROP ON THE PERSON DEFENDED; THE DEFENDANT HAS THE RIGHT TO ACT UNDER THE LAW OF SELF-PRESERVATION TO PREVENT THE VICTIM FROM GETTING THE DROP ON THE PERSON DEFENDED.

WORDS ACCOMPANIED BY HOSTILE ACTS

✓ WORDS ACCOMPANIED BY HOSTILE ACTS MAY, DEPENDING ON THE CIRCUMSTANCES, ESTABLISH SELF-DEFENSE.⁸⁹

PRIOR DIFFICULTIES

✓ EVIDENCE OF PRIOR DIFFICULTIES BETWEEN THE PERSON DEFENDED AND THE VICTIM MAY BE CONSIDERED IN DECIDING WHETHER A THREAT EXISTED, WHETHER THE DEFENDANT HAD A REASON TO BELIEVE A THREAT EXISTED, AND HOW SERIOUS THAT THREAT WAS.

INTOXICATION

⁸⁹ State v. Fuller, 297 S.C. 440, 377 S.E.2d 328 (1989).

✓ THE INTOXICATION OF THE VICTIM MAY BE CONSIDERED IN DECIDING WHETHER THE DEFENDANT'S FEAR OF DEATH OR BODILY HARM TO THE PERSON DEFENDED WERE REASONABLE.

DUTY TO RETREAT

✓ IN ORDER TO BE ENTITLED TO DEFEND ANOTHER, THE PERSON DEFENDED MUST HAVE HAD NO OTHER PROBABLE WAY TO AVOID THE DANGER OF DEATH OR SERIOUS BODILY INJURY THAN TO ACT AS THE DEFENDANT DID IN THIS PARTICULAR INSTANCE.

WHERE THE PERSON BEING DEFENDED HAD NO DUTY TO RETREAT, THE DEFENDANT LIKEWISE WOULD HAVE NO DUTY TO RETREAT.

✓ THERE IS NO BURDEN UPON THE DEFENDANT TO PROVE SELF DEFENSE. THE BURDEN IS ON THE STATE TO DISPROVE EACH OF THE ELEMENTS OF SELF DEFENSE BEYOND A REASONABLE DOUBT. IF YOU HAVE A REASONABLE DOUBT OF THE DEFENDANT'S GUILT AFTER CONSIDERING ALL OF THE EVIDENCE, INCLUDING THE EVIDENCE OF SELF DEFENSE, THEN YOU MUST FIND THE DEFENDANT NOT GUILTY.

EXPLAIN VERDICT FORMS

VERDICT MUST BE UNANIMOUS.

2019A4320100750

STATE OF SOUTH CAROLINA

County/ ☒ Sumter Municipal

Sumter Municipal

THE STATE
against

Joquell Wanyne Myers

Address: 103 Mccutcheon St

Mayesville, SC 29104-8888

Phone: (803)464-0209 SSN: 249-99-6123

Sex: M Race: B Height: 6 5 Weight: 285

DL State: SC DL #: 103620632

Agency ORI #: SC0430100

Prosecuting Agency: Sumter Police Department

Prosecuting Officer: Willie J Mcfadden - S00217

Offense: Weapons / Poss. weapon during violent crime, if
not also sentenced to life without parole or death

Offense Code: 0549

Code/Ordinance Sec: 16-23-0490

This warrant is CERTIFIED FOR SERVICE in the

County/ ☐ Sumter Municipal

The accused

is to be arrested and brought before me to be
dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to
defendant
on

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Sumter Municipal Court
190 East Canal St
Sumter, SC 29150

AUDIT COPY

AUDIT COPY

AUDIT COPY

AUDIT COPY

AUDIT COPY

AUDIT COPY

AUDIT COPY

County/ ☒ Sumter Municipal

Personally appeared before me the affiant

being duly sworn deposes and says that defendant

did within this county and state on or about 9/8/2019

State of South Carolina (or ordinance of ☐ County/ ☒ Sumter Municipal

in the following particulars:

DESCRIPTION OF OFFENSE: Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:

That on Sept. 8, 2019, while at the Hop-In Gas Station located at 1083 Broad Street, in the City of Sumter, State of South Carolina,
Defendant Joquell Myers did use a handgun to commit the violent crime of Murder at the above location. Defendant is seen on
video surveillance footage with firearm and law enforcement will attest to the same.

Signature of Affiant

STATE OF SOUTH CAROLINA

County/ ☒ Sumter Municipal

Affiant's Address P.O. Box 1119

Sumter, SC 29151-

Affiant's Telephone (803)436-2790

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 9/8/2019 defendant Joquell Wanyne Myers

did violate the criminal laws of the State of South Carolina (or ordinance of
County/ ☒ Sumter Municipal) as set forth below:

DESCRIPTION OF OFFENSE: Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or
her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as
soon thereafter as is practicable
Sworn to and subscribed before me

on 9/25/2019

Judge's Address 190 East Canal Street

Sumter, SC 29150-

Judge's Telephone (803)436-2280

Signature of Issuing Judge

Bryan Keith Griffin (Sumter)

Judge Code: 8283

Issuing Court: ☐ Magistrate

☒ Municipal

☐ Circuit

AUDIT COPY

AUDIT COPY

AUDIT COPY

AUDIT COPY

AUDIT COPY

ARREST WARRANT

2019A4320100744

STATE OF SOUTH CAROLINA

County/ ☒ Municipality of

Sumter Municipal

THE STATE

against

Joquell Wanye Myers

Address: 103 McCutcheon St

Marysville, SC 29104-8888

Phone: (803)464-0209 SSN: 249-99-6123

Sex: M Race: B Height: 6 5 Weight: 285

Date of Birth: 6/21/1996 DL #: 103620632

Agency ORI #: SC0430100

Prosecuting Agency: Sumter Police Department

Prosecuting Officer: Willie J Mcfadden - S00217

Offense: Weapons / Poss. weapon during violent crime, if

not also sentenced to life without parole or death

Offense Code: 0549

Code/Ordinance Sec: 16-23-0490

This warrant is CERTIFIED FOR SERVICE in the

County/ ☐ Municipality of

The accused

is to be arrested and brought before me to be

dealt with according to the law.

(L.S.)

Signature of Judge

RETURN

A copy of this arrest warrant was delivered to

defendant

on

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Sumter Municipal Court

190 East Canal St

Sumter, SC 29150

AUDIT COPY

AUDIT COPY

AUDIT COPY

AUDIT COPY

AUDIT COPY

AUDIT COPY

AUDIT COPY

County/ ☒ Municipality of

Sumter Municipal

Personally appeared before me the affiant

being duly sworn deposes and says that defendant

did within this county and state on or about

State of South Carolina (or ordinance of

in the following particulars:

DESCRIPTION OF OFFENSE: Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death

I further state that there is probable cause to believe that the defendant named above did commit

the crime set forth and that probable cause is based on the following facts:

That on Sept. 8, 2019, while at the Hop-In Gas Station located at 1083 Broad Street, in the City of Sumter, State of South Carolina,

Defendant Joquell Myers did have a handgun on his person during the violent crime of Attempted Murder at the above location.

Defendant fired several shots at the Victim, as the Victim was attempting to flee the area. Defendant is seen on video surveillance

and has been identified by the Victim as committing the above stated offense. Law Enforcement will attest to the same.

Signature of Affiant

STATE OF SOUTH CAROLINA

County/ ☒ Municipality of

Sumter Municipal

Affiant's Address

P.O. Box 1119

Sumter, SC 29151-

Affiant's Telephone (803)436-2790

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 9/8/2019 defendant Joquell Wanye Myers

did violate the criminal laws of the State of South Carolina (or ordinance of

County/ ☒ Municipality of Sumter Municipal

) as set forth below:

DESCRIPTION OF OFFENSE: Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or

her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as

soon thereafter as is practicable

Sworn to and subscribed before me

on 9/19/2019

Judge's Address 190 East Canal Street

Sumter, SC 29150-

Judge's Telephone (803)436-2280

Signature of Issuing Judge

Bryan Keith Griffin (Sumter)

Judge Code: 8283

Issuing Court: ☐ Magistrate ☒ Municipal

AUDIT COPY

AUDIT COPY

AUDIT COPY

AUDIT COPY

April 21, 2003

SCCA 518

AFFIDAVIT

JUDGE'S SIGNATURE

who

DECISION:

Joquell Wanye Myers

violate the criminal laws of the

Sumter Municipal

ARREST WARRANT

2019A4320100743

STATE OF SOUTH CAROLINA

County/ ☒ Municipality of

Sumter Municipal

THE STATE

against

Joquell Wanye Myers

Address: 103 Mccutcheon St

Mayesville, SC 29104-8888

Phone: (803)464-0209 SSN: 249-99-6123

Sex: M Race: B Height: 6 5 Weight: 285

DL State: SC DL #: 103620632

DOB: 6/21/1996 Agency ORI #: SC0430100

Prosecuting Agency: Sumter Police Department

Prosecuting Officer: Willie J Mcfadden - S00217

Offense: Weapons / Unlawful carrying of pistol

Offense Code: 0044

Code/Ordinance Sec: 16-23-0020

This warrant is CERTIFIED FOR SERVICE in the

County/ ☐ Municipality of

is to be arrested and brought before me to be

dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to

defendant

on

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Sumter Municipal Court

190 East Canal St

Sumter, SC 29150

AUDIT COPY

AUDIT COPY

AUDIT COPY

AUDIT COPY

AUDIT COPY

AUDIT COPY

AUDIT COPY

STATE OF SOUTH CAROLINA

County/ ☒ Municipality of

Sumter Municipal

Personally appeared before me the affiant

being duly sworn deposes and says that defendant

did within this county and state on or about 9/8/2019

State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of

in the following particulars:

DESCRIPTION OF OFFENSE: Weapons / Unlawful carrying of pistol

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That on Sept. 8, 2019, while at the Hop-In Gas Station located at 1083 Broad Street, in the City of Sumter, State of South Carolina, Defendant Joquell Myers did commit the crime of unlawful carrying of a pistol. Defendant is seen on video surveillance and by a witness as having a handgun at the above location. Law Enforcement will attest to the same.

Signature of Affiant

STATE OF SOUTH CAROLINA

County/ ☒ Municipality of

Sumter Municipal

Affiant's Address P.O. Box 1119

Sumter, SC 29151-

Affiant's Telephone (803)436-2790

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 9/8/2019

defendant Joquell Wanye Myers

did violate the criminal laws of the State of South Carolina (or ordinance of

County/ ☒ Municipality of Sumter Municipal) as set forth below:

DESCRIPTION OF OFFENSE: Weapons / Unlawful carrying of pistol

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Sworn to and subscribed before me

on 9/19/2019

Judge's Address 190 East Canal Street

Sumter, SC 29150-

Signature of Issuing Judge

Bryan Keith Griffin (Sumter)

Judge Code: 8283

Issuing Court: ☐ Magistrate ☒ Municipal ☐ Circuit

AUDIT COPY

AUDIT COPY

AUDIT COPY

AUDIT COPY

AUDIT COPY

AUDIT COPY

AFFIDAVIT SIGNATURE

OFFICER:

Willie J Mcfadden

Joquell Wanye Myers

9/8/2019

County/ ☒ Municipality of

Sumter Municipal

violate the criminal laws of the

S.C. Attorney General

April 21, 2003

SCCA 518

ARREST WARRANT

2019A4320100742

STATE OF SOUTH CAROLINA
County/ ☒ Municipality of

Sumter Municipal

THE STATE
against

Joquell Wanye Myers

Address: 103 McCutcheon St

Mayesville, SC 29104-8888

Phone: (803)464-0209 SSN: 249-99-6123

Sex: M Race: B Height: 6 5 Weight: 285

DL State: SC DL #: 103620632

Agency ORI #: SC0430100

Prosecuting Agency: Sumter Police Department

Prosecuting Officer: Willie J Mcfadden - S00217

Offense: Assault / Attempted Murder

Offense Code: 3410

Code/Ordinance Sec: 16-03-0029

This warrant is CERTIFIED FOR SERVICE in the

County/ ☐ Municipality of

is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant on

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Sumter Municipal Court
190 East Canal St
Sumter, SC 29150

AUDIT COPY

AUDIT COPY

AUDIT COPY

AUDIT COPY

AUDIT COPY

AUDIT COPY

AFFIDAVIT SIGNATURE

DECISION:

Willie J Mcfadden

Joquell Wanye Myers

9/8/2019

Sumter Municipal

violate the criminal laws of the

DESCRIPTION OF OFFENSE: Assault / Attempted Murder

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That on Sept. 8, 2019, while at the Hop-In Gas Station located at 1083 Broad Street, in the City of Sumter, State of South Carolina, Defendant Joquell Myers did attempt to kill the Victim at the above location. Defendant did have a handgun and fired several shots at the Victim as the Victim was attempting to flee the area. Defendant is seen on video surveillance and has been identified by the Victim as committing the above stated offense. Law Enforcement will attest to the same.

Signature of Affiant

STATE OF SOUTH CAROLINA

County/ ☒ Municipality of

Sumter Municipal

Affiant's Address P.O. Box 1119

Sumter, SC 29151-

Affiant's Telephone (803)436-2790

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 9/8/2019 defendant Joquell Wanye Myers

did violate the criminal laws of the State of South Carolina (or ordinance of

County/ ☒ Municipality of Sumter Municipal

) as set forth below:

DESCRIPTION OF OFFENSE: Assault / Attempted Murder

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable Sworn to and subscribed before me

on 9/19/2019

Judge's Address 190 East Canal Street

Sumter, SC 29150-

Judge's Telephone (803)436-2280

Signature of Issuing Judge Bryan Keith Griffin (Sumter)

Judge Code: 8283

Issuing Court: ☐ Magistrate ☒ Municipal ☐ Circuit

AUDIT COPY

AUDIT COPY

AUDIT COPY

ARREST WARRANT

2019A4320100749

STATE OF SOUTH CAROLINA

County/ ☒ Municipality of

Sumter Municipal

THE STATE

against

Joquell Wanye Myers

Address: 103 Mccutcheon St

Mayesville, SC 29104-8888

Phone: (803)464-0209 SSN: 249-99-6123

Sex: M Race: B Height: 6 5 Weight: 285

DL State: SC DL #: 103620632

Agency ORI #: SC0430100

Prosecuting Agency: Sumter Police Department

Prosecuting Officer: Willie J Mcfadden - S00217

Offense: Murder / Murder

Offense Code: 0116

Code/Ordinance Sec: 16-03-0010

This warrant is CERTIFIED FOR SERVICE in the

County/ ☐ Municipality of

The accused

is to be arrested and brought before me to be

dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to

defendant

on

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Sumter Municipal Court

190 East Canal St

Sumter, SC 29150

AUDIT COPY

AUDIT COPY

AUDIT COPY

AUDIT COPY

AUDIT COPY

AUDIT COPY

AUDIT COPY

County/ ☒ Municipality of

Sumter Municipal

Personally appeared before me the affiant

being duly sworn deposes and says that defendant

did within this county and state on or about

State of South Carolina (or ordinance of

in the following particulars:

DESCRIPTION OF OFFENSE: Murder / Murder

AFFIDAVIT

JUDGE'S SIGNATURE

Willie J Mcfadden

Joquell Wanye Myers

9/8/2019

County/ ☒ Municipality of

Sumter Municipal

April 24, 2003

SCCA 518

who

violate the criminal laws of the

STATE OF SOUTH CAROLINA

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That on Sept. 8, 2019, while at the Hop-In Gas Station located at 1083 Broad Street, in the City of Sumter, State of South Carolina, Joquell Myers did with malice aforethought shoot Gregory Middleton (Victim) while Middleton was attempting to assist another gunshot victim (Michael Rogers). Defendant was seen on video surveillance footage firing several shots towards Middleton when one of the bullets entered Middleton's chest area. Autopsy results show the bullet that entered Middleton's chest hit the heart causing his death to be ruled a homicide. Law Enforcement will attest to same.

Signature of Affiant

STATE OF SOUTH CAROLINA

County/ ☒ Municipality of

Sumter Municipal

Affiant's Address

P.O. Box 1119

Sumter, SC 29151-

Affiant's Telephone

(803)436-2790

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 9/8/2019 defendant Joquell Wanye Myers

did violate the criminal laws of the State of South Carolina (or ordinance of

County/ ☒ Municipality of Sumter Municipal

) as set forth below:

DESCRIPTION OF OFFENSE: Murder / Murder

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Sworn to and subscribed before me

on 9/25/2019

Judge's Address 190 East Canal Street

Sumter, SC 29150-

Judge's Telephone (803)436-2280

Signature of Issuing Judge

Bryan Keith Griffin (Sumter)

Judge Code: 8283

Issuing Court: ☐ Magistrate ☒ Municipal

AUDIT COPY

AUDIT COPY

AUDIT COPY

AUDIT COPY

AUDIT COPY