

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM SUMTER COUNTY
Court of General Sessions

The Honorable Kristi F. Curtis, Circuit Court Judge

Appellate Case No. 2022-001428

RECEIVED

Jul 16 2024

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

JOQUELL WAYNE MYERS,

APPELLANT.

RECORD ON APPEAL

ALAN WILSON
Attorney General

LEWIS H. WARR
Appellant Defender

MARK R. FARTHING
Senior Assistant Deputy Attorney General

KENNETH R. YOUNG, JR.
Appellant Defender

Post Office Box 11549
Columbia, SC 29211
(803) 734-3727

23 W Calhoun Street
Sumter, SC 29150
(803)-773-4371

ATTORNEYS FOR RESPONDENT

ATTORNEYS FOR APPELLANT

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**** The following exhibits will be transported separately for review:**

State’s Exhibit #3 (Statement Recordings), State’s Exhibit #5 (Cell Phone Recordings), State’s Exhibit #7 (Multi-Camera Surveillance Footage), State’s Exhibit #9 (Facebook Recordings), State’s Exhibit #21 (Diagram), State’s Exhibit #22 (Diagram), State’s Exhibit #23 (Diagram), State’s Exhibit #24 (Diagram), State’s Exhibit #26 (Diagram)

STATE OF SOUTH CAROLINA

COUNTY OF Sumter

STATE

VS.

Joquell Wayne Myers

AKA:

Race: Black Sex: M Age: 26

DOB: 1996 SS#:

Address: 103 McCutcheon St

City, State, Zip: Mayesville, SC 291048888

DL# 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
Shan Jones

Presiding Judge:
Judge Code:
Sentence Date:

Kush Cuth
2762
10-4-22

STATE OF SOUTH CAROLINA

COUNTY OF Sumter

STATE

VS.

Joquell Wayne Myers

AKA:

Race: Black Sex: M Age: 26DOB: 1996 SS#: Address: 103 McCutcheon StCity, State, Zip: Marysville, SC 291048888DL# 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 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:

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 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.

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/rea	\$
3% to County (if paid in installments)	TBD	\$ <u>2.75</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: 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: 26

DOB: -1996 SS#:

Address: 103 McCutcheon St

City, State, Zip: Mayesville, SC 291048888

DL# SID#

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE# 2020-GS-43-0624

A/W#: 2019A4320100744

Date of Offense: 9/8/2019

S.C. Code §: 16-23-0490

CDR 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 ☒ PLEADS

TO: Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death

In 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 # 10429

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 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.

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	\$ _____
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§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: James C. Campbell Presiding Judge: Kirk Clark
 Court Reporter: Sherr Jones Judge Code: 2162
 Sentence Date: 10-4-22

State of South Carolina)
)
County of Sumter) Circuit Court
 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

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 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

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 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 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: 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.

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

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 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 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.

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Q Detective, in your interview with my client, he repeatedly told you that he didn't kill anyone, didn't he?

Q And he said he didn't shoot anyone, didn't he?

Q And repeatedly, you told him that you had seen the video and saw him shooting and that's the reason he was charged; isn't that correct?

Q Okay. And that's the reason you told him he was charged is because you had seen the video?

Q He was aware that there was a video of him from the store, wasn't he?

Q Did you ever show him the video?

Q You did not?

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 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 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 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 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.