THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED
Jul 16 2024
SC Court of Appeals

APPEAL FROM SUMTER COUNTY
Court of General Sessions

The Honorable Kristi F. Curtis, Circuit Court Judge

Appellate Case No. 2022-001428

THE STATE,

RESPONDENT,

V.

JOQUELL WAYNE MYERS,

APPELLANT.

RECORD ON APPEAL

ALAN WILSON
Attorney General

MARK R. FARTHING
Senior Assistant Deputy Attorney General

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

ATTORNEYS FOR RESPONDENT

LEWIS H. WARR
Appellant Defender

KENNETH R. YOUNG, JR.
Appellant Defender

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

ATTORNEYS FOR APPELLANT

VOLUME 2 of 2

INDEX

Index i

VOLUME ONE

Sentencing Sheets 1

Transcript "9-26-2022" pp. 1, 31-32, 60-118 7

Transcript "9-27-2022" pp. 1, 18-72, 75-100, 106-125 69

Transcript "9-28-2022" p. 1, 4-56, 60-105, 107-124 171

Transcript "9-29-2022" p. 1, 33-107, 111-135, 138-146, 148-204 289

VOLUME TWO

Transcript "10-3-2022" pp. 1, 7-19, 22-102, 106-147, 150-179 456

Transcript "10-4-2022" pp. 1, 4-112, 118-119, 123-134 623

Jury Charges 747

Indictments 776

Arrest Warrants 784

Certificate of Appellant 789

**** 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	)	
	)	Circuit Court
County of Sumter	)	2020-GS-43-0624

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

October 3, 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

Nicole Ferguson
Transcriber

MR. MEADORS: May it please the Court? Your Honor, the State of South Carolina calls Det. William McFadden.

THE BAILIFF: (Indiscernible), raise your right hand, state your name.

MR. MCFADDEN: William McFadden.

WILLIAM MCFADDEN, after being duly sworn, testified as follows:

THE BAILIFF: Thank you, sir. Step forward, please. State your name for the record, and spell your last name, please.

THE WITNESS: William McFadden, M-C-F-A-D-D-E-N.

DIRECT EXAMINATION

BY MR. MEADORS:

Q Good morning, Det. McFadden.

A Good morning.

Q I have called you back today to talk about State's 9, the Facebook live video; you familiar with what I'm talking about?

A Yes, sir.

MR. MEADORS: It has been entered as State's Facebook 9, and I'll now ask that Inv. Caufield publish that, please.

(Thereupon, the visual recording was played.)

DIONTRAE EPPS: Killer. I'm (indiscernible). (Indiscernible), Mr. Killer. Boy, you break my (indiscernible), Mr. Killer. Both them follow you, Mr. Killer. I'm (indiscernible).

THE WITNESS: Mr. Diontrae Epps and Jay McBride in the video.

MR. MEADORS: Wait. Wait.

THE WITNESS: Okay.

MR. MEADORS: We're going to go back thorough it in a minute, just -- let's play it through, please.

THE WITNESS: Okay.

(Thereupon, the visual recording was played.)

UNIDENTIFIED SPEAKER: (Indiscernible), not me, man. Not me, man. (Indiscernible). I'm gonna (indiscernible), feel me?

UNIDENTIFIED SPEAKER: (Indiscernible).

UNIDENTIFIED SPEAKER: Not me (indiscernible). But it (indiscernible), but he will -- him and his cop will (indiscernible), and (indiscernible).

UNIDENTIFIED SPEAKER: (Indiscernible).

UNIDENTIFIED SPEAKER: Okay. (Indiscernible).

UNIDENTIFIED SPEAKER: All right.

UNIDENTIFIED SPEAKER: (Indiscernible). Don't play with guns. Don't (indiscernible) going to play with guns, you fire. Don't play with cars.

UNIDENTIFIED SPEAKER: He fired (indiscernible) car. He fired, bro. (Indiscernible) got me all sweaty in here talking about (indiscernible).

UNIDENTIFIED SPEAKER: (Indiscernible).

UNIDENTIFIED SPEAKER: Yes, I (indiscernible).

UNIDENTIFIED SPEAKER: (Indiscernible).

UNIDENTIFIED SPEAKER: Oh. Who do you think you are, Mr. Killer? Who do you think you are, Mr. Killer? Who do you think you are, Mr. Killer? Who do you think you are? (Indiscernible). (Indiscernible).

BY MR. MEADORS:

Q All right. Now, I'm going to ask you, as we go back through, if you can identify some of these folks, okay?

A Sir?

Q Can you hear me? I'm going to ask you, as we go back through, if you can identify any of these folks.

A Yes, sir.

Q Okay.

(Thereupon, the visual recording was played.)

DIONTRAE EPPS: Killer. I'm a (indiscernible), Mr. Killer. Boy you break my --

MR. MEADORS: Stop, please.

BY MR. MEADORS:

Q Who is this in the first video?

A That is Diontrae Epps.

MR. MEADORS: Go ahead.

(Thereupon, the visual recording was played.)

DIONTRAE EPPS: (Indiscernible), Mr. Killer. Both of them follow you, Mr. Killer.

THE WITNESS: In the corner, right there, is Jay McBride. You can see him acting like he's shooting a gun.

BY MR. MEADORS:

Q What's his name?

A Jay McBride.

Q Okay.

MR. MEADORS: Please continue.

DIONTRAE EPPS: I'm a (indiscernible). Not me (indiscernible). Not me (indiscernible). I'm (indiscernible). Not me personally, though. But he will get it (indiscernible) him and his car.

MR. MEADORS: Stop, please.

BY MR. MEADORS:

Q Do you know who that is?

A Yes, that's still Jay McBride, as well. He's just walking around with the hat. He has a hat on the whole time, turned to the sideways.

MR. MEADORS: Okay. Go ahead.

(Thereupon, the visual recording was played.)

DIONTRAE EPPS: (Indiscernible).

THE WITNESS: That's Vincent Willard.

BY MR. MEADORS:

Q I'm sorry. Who?

A Vincent Willard. He's also from Mayesville. He's -- nickname is Butter Love (phonetic).

Q Okay.

(Thereupon, the visual recording was played.)

DIONTRAE EPPS: (Indiscernible).

UNIDENTIFIED SPEAKER: (Indiscernible).

DIONTRAE EPPS: Nobody out there with (indiscernible).

UNIDENTIFIED SPEAKER: All right.

DIONTRAE EPPS: And (indiscernible). Don't play with guns. (Indiscernible) play with guns, you fire. Don't play with cars (indiscernible).

UNIDENTIFIED SPEAKER: (Indiscernible). Somebody got me all --

MR. MEADORS: Stop.

BY MR. MEADORS:

Q Who is this?

A That's Joquell Myers, the defendant in this case.

Q Okay.

(Thereupon, the visual recording was played.)

UNIDENTIFIED SPEAKER: I didn't mean to talk about killing, like --

UNIDENTIFIED SPEAKER: (Indiscernible).

BY MR. MEADORS:

Q What's he doing there? If you can tell, if anything?

A He holding the finger to me. It appears that he's shooting a gun, as well.

MR. MEADORS: Go ahead.

(Thereupon, the visual recording was played.)

UNIDENTIFIED SPEAKER: (Indiscernible).

MR. MEADORS: Stop.

BY MR. MEADORS:

Q He was doing this. Do you know what that is?

A Yeah, that's hand signals for gang -- it's their -- with their phone (indiscernible), the rolling part was, like, rolling 60 crips.

Q All right.

MR. MEADORS: Can you go back and show where you said you saw him with what looked like a gun? Can you go back to that?

(Thereupon, the visual recording was played.)

UNIDENTIFIED SPEAKER: (Indiscernible).

THE WITNESS: Right there.

MR. MEADORS: Stop.

THE WITNESS: And then, you see him rolling his hand like this right here. And then he does -- keep it going.

MR. MEADORS: Go back (indiscernible).

(Thereupon, the visual recording was played.)

UNIDENTIFIED SPEAKER: (Indiscernible).

BY MR. MEADORS:

Q Is that what you're talking about?

A Yes, sir.

Q Does it appear his phone was doing that?

A That's right.

Q And based on your training and experience as an investigator -- look at that, what does that mean to you?

A Insinuating that he has a gun.

MR. MEADORS: Let's go ahead.

(Thereupon, the visual recording was played.)

UNIDENTIFIED SPEAKER: (Indiscernible).

MR. MEADORS: Now, stop here.

BY MR. MEADORS:

Q Is Mr. Joquell Myers joining in the singing, the clapping of Mr. Killer?

A That is correct.

MR. MEADORS: Go ahead.

UNIDENTIFIED SPEAKER: Who do you think you are, Mr. Killer? Who do you think you are, Mr. Killer? Who do you think you are, Mr. Killer? Who do you think you are, Mr. Killer?

BY MR. MEADORS:

Q Did they appear to be enjoying themselves?

A Very much so.

Q How did you get this video? This Facebook --

A It was --

Q -- live video?

A It was sent to us anonymously.

Q I couldn't understand the last word you said.

A Anonymous. Anonymous.

Q Okay. It was sent to you anonymously?
A Yes, sir.
Q And does that happen sometimes? Folks in the community will send you evidence in an ongoing investigation?
A That is correct.
Q Do you know the definition of a goon?
A Yes, a goon, maybe, is like a soldier, somebody that is -- pretty much was sent -- a goon is a soldier for that particular gang.

MR. MEADORS: Beg Court's indulgence.

(Pause.)

MR. YOUNG: Your Honor, for the record, I'd like to renew my objection to that video.

THE COURT: Yes, sir.

BY MR. MEADORS:

Q Now, Detective, in that video, you've identified Jay McBride, Diontrae Epps, and Joquell Myers?
A And Vincent Willard, as well.
Q I'm sorry?
A And Vincent Willard, he's in there as well.
Q How many of those individuals were at Sunoco on September 8th, 2019?
A Joquell Myers, the defendant; his brother, Diontrae Epps; and also Jay McBride, the one you seen in the video doing like this, was at Sunoco as well.

Q And do you see Diontrae Epps firing a gun at the video on Sunoco -- at Sunoco on September 8th of 2019?
A Yes, I do.
Q And do you see Joquell Myers firing the gun at Sunoco on September 8th of 2019?
A That is correct. Yes, I do.
Q How many individuals did you charge for murder at Sunoco on September 8th, 2019?
A Everyone that we saw firing a handgun got charged with murder, which would be Joquell Myers and his brother, Diontrae Epps.
Q And from the car, we see right at the end of the video, there appears to be a flash, which I think is undisputed, coming from that car?
A That is correct.
Q Who all did you charge for attempted murder on Christopher Foreman -- Fordham, from that car?
A We charged everyone in the vehicle with attempted murder for Chris Fordham, which would be Joquell Myers, the defendant; his brother, Diontrae Epps; Ellquin Williams; and also -- Ellquin Williams, Sheldon Benjamin. It was a total of five of them, all together, vehicle that we charged.
Q Diontrae Epps?
A Diontrae Epps.
Q Joquell Myers.

A Joquell Myers; Sheldon Benjamin, also known as POLO; and also -- the other one was -- hold on just a second. So Diontrae, Joquell Myers, Ellquin Williams, Sheldon Benjamin, and Jay McBride got charged for attempted murder.

Q And Mr. Fordham was an individual shot from the car?

A Yes, sir.

Q And the individual driving the red Charger away was who?

A The one that was driving the red Charger away was Michael Lucas.

MR. MEADORS: Beg Court's indulgence. Your Honor, I think that's all this time.

Thank you, very much.

THE COURT: Mr. Warr?

MR. YOUNG: If it pleases the Court?

THE COURT: Yes, sir.

CROSS-EXAMINATION

BY MR. WARR:

Q Det. McFadden, in that Facebook video we just watched, did Trae Epps say he was going to shoot anybody?

A He said that there will be a hit. And normally, when somebody say, will be a hit --

Q Whoa. Whoa. I don't want your speculation. I want what he said. Answer the question. Did he say he was going to shoot somebody?

A No, sir, he didn't.

Q Didn't he say that, "We don't play with guns in Mayesville, we fight", and held up his fists?
A Yes, sir, that's what he said.
Q Okay. And you defined the word "goon" earlier; did that definition come from Webster's? Or where did you come up with that?
A No, only through training with our gang detective. He pretty much --
Q Are you a gang detective?
A No, sir.
Q Okay. So you don't have -- you don't specialize in gangs?
A No, sir, I don't.
Q Okay. And you testified that you charged everyone out there at the scene firing -- that was seen firing a gun with murder -- Trae Epps and Joquell Myers?
A Yes, sir.
Q Were there other people out there firing guns at the scene?
A Yes, but we don't know who all was firing a gun.
Q Okay. But there were other people out there?
A Yes, sir, it was.
Q Okay. Trae Epps and Joquell Myers didn't fire 100 round each?
A No, sir, they didn't.

Q And Michael Rogers was firing at the scene, too, wasn't he?
A Yes, sir, he did.
Q And then, the attempted murder of Christopher Fordham; you charged five people. You charged Deontrae Epps, Ellquin Williams Sheldon Benjamin, Jay McBride, and Joquell Myers?
A Yes, sir.
Q Were any of those charges -- have any of those charges been dismissed or are they all still charged?
A I have to preview the court record, because I don't know. I know Jay McBride is deceased at this point in time, so I don't know.
Q Oh. Okay.
A I know his courts won't be coming up.
Q You didn't appear at a preliminary hearing in Jay McBride's case?
A Yes, I did.
Q Okay.
A I think it was a long time ago. I can't remember the exact date and time.
Q You don't recall the case being dismissed for lack of probable cause?
A I don't remember. I'd have to look at the court records. Honestly, I don't remember.
Q Okay. Det. McFadden, the Facebook video, do you know

when that was recorded?
A No, sir, just based off the --
Q So you don't know how long before the shooting this was recorded?
A All I can tell you is that August 8th, per another witness that testified.
Q Okay. Do you know if Killah Mike ever saw this video live?
A I don't know if he did or he didn't.
Q Okay. So you don't know if he ever saw the video?
A I don't know that, per the witnesses.
MR. WARR: Okay. No further questions, Your Honor.

REDIRECT EXAMINATION

BY MR. MEADORS:
Q What is Webster's definition of goons?
A Sir?
Q What is Webster's definition of goons?
A A soldier. I would --
Q Thugs, bullies?
A Correct. Thugs and bullies.
MR. MEADORS: (Indiscernible).
THE COURT: Thank you, sir; you can step down.
MR. MEADORS: Your Honor, we -- to -- for a time -- Your Honor, this may be a good time for a break. I think it'll help down the road.

an effort to address some of his concerns.

THE COURT: Okay.

(Whereupon, the jury came into open court at approximately 10:47 a.m.)

THE BAILIFF: Jury is all seated, Your Honor.

THE COURT: Okay. Thank you.

Mr. Meadors?

MR. CORBETT: Your Honor, may it please the Court? Jason Corbett on behalf of the State. At this time, we would recall Det. Amanda Snapp.

THE COURT: Okay.

THE BAILIFF: (Indiscernible), state your name.

MS. SNAPP: Amanda Snapp.

AMANDA SNAPP, after being duly sworn, testified as follows:

THE BAILIFF: Thank you. (Indiscernible). State your name for the record; spell your last name, please.

THE WITNESS: Amanda Snapp, S-N-A-P-P.

MR. CORBETT: And Judge, I'm sorry. I should have asked this previously. Are the monitors in the jury box turned on?

THE COURT: I can't answer that. The monitors in the jury box, these? The ones in the jury box?

UNIDENTIFIED SPEAKER: (Indiscernible).

THE BAILIFF: Oh, I'm sorry.

MR. CORBETT: They're on.

THE BAILIFF: There they are.

THE COURT: Okay. Thank you.

DIRECT EXAMINATION

BY MR. CORBETT:

Q Det. Snapp, welcome back.

A Thank you, sir.

THE WITNESS: Good morning.

UNIDENTIFIED JUROR: Good morning.

UNIDENTIFIED JUROR: Morning.

BY MR. CORBETT:

Q If we could, we wanted to touch on one more matter; have you had occasion to see the surveillance video from the Sunoco gas station, the night in question?

A Yes, I have.

Q Okay. And I know that in the video it's a little bit dark on that side facing back toward the Wendy's, but did there appear to be a pickup truck parked near that corner?

A Yes, there appeared to be a light-colored pickup on the Wendy's side of the building.

Q Okay. Now, did you have occasion to examine a pickup truck sometime after the shooting?

A Yes, I did.

Q Okay. Do you remember about how many days elapsed between?

A So the incident occurred on September 8th, and the truck

in question arrived at a body shop here in Sumter on the 13th.
Q Okay.
A So a few days.
Q Okay. So about five days --
A Five Days.
Q -- later --
A Yes.
Q -- correct?
A Yes.
Q Okay. Now, did you go to the body shop and look at that truck?
A Yes, I did.
Q Okay. Did it have in it what appeared to be bullet holes?
A Yes, it did.
Q Okay. Were you able to recover any testable or usable evidence, in terms of bullets?
A I did not recover any from that vehicle, no.
Q Okay. Now, I know that me and you are making a little bit of a leap here, but we've seen a darker outline of a truck at the Sunoco; five days later, you're examining a truck with bullet holes?
A Correct.
Q All right. You can't definitively tell us they're the same truck?

A Not definitively. And the video was a little grainy, as well, so you can't specifically say that that was the exact vehicle.

Q Okay. But we do have a truck that came to a body shop five days later, and it had bullet holes in it?

A Yes, it did.

Q Okay. All right. Did you take some pictures of that vehicle?

A Yes, I did.

MR. CORBETT: Okay. Judge, is this without objection, Mr. Warr?

MR. YOUNG: Without any objection.

MR. CORBETT: Judge, I believe without objection, we're going to show a series of photographs that will be State's Number 40

(WHEREUPON, State's Exhibit No. 40 was marked for identification only.)

THE COURT: Okay. 40 is admitted.

(WHEREUPON, State's Exhibit No. 40 was received into evidence.)

MR. CORBETT: And Judge, are the large monitors available?

THE COURT: Yes.

BY MR. CORBETT:

Q Now, Det. Snapp, if you don't mind, I'm going to step

here, so I can see the monitor.
A Okay.
Q Is this the pickup truck in question?
A Yes, this is a pickup truck at Scott Will Toyota dealership --
Q All right.
A -- body Shop.
Q Okay.
MR. CORBETT: Next photograph, please.
BY MR. CORBETT:
Q Okay. Now, we appear to see some damage on the pickup truck with some writing around it?
A That would be correct. When I received the call about this vehicle, the body shop had already started looking at it. And when you go to a body shop, they mark a lot of areas of -- any areas of damage. They'll put little markers around and take photos as well, so that is what you see.
Q So it appears to me that there are some --there's some pink writing as well as pink lines?
A Yes. That would be from --
Q Is --
A -- from the shop.
Q Not from you?
A No.
Q Okay. All right.

MR. CORBETT: Next photo, please.

BY MR. CORBETT:

Q Now, are we looking at suspected gunshots here?

A Yes, it appears that there are at least two holes on that side, from what I can tell, and an indentation where one came from another side.

Q Okay. So it looks like we've got -- all right. Well, let me stop there for a moment. Are you able to tell which side of the truck this is, in terms of passenger or driver?

A This is the driver's side.

Q Okay. So on the driver's side, the picture appears to show two holes going in, and what appears to be an impact coming from the opposite direction as well?

A Best as I can tell, yes.

MR. CORBETT: Okay. Next picture, please.

BY MR. CORBETT:

Q Just a different angle of the same picture?

A Yes.

Q Okay.

MR. CORBETT: Next.

BY MR. CORBETT:

Q And this picture gives us some reference for it being the driver's side?

A Correct.

Q Okay.

A And I think the reason that it's kind of at an odd angle is because I didn't have very much space, because it was a tight little area in the garage there, so I think that's why it's a little tight looking.

MR. CORBETT: Okay. Next photo, please.

BY MR. CORBETT:

Q Okay. And again, we see some of the same mark writing there?

A Uh-huh.

MR. CORBETT: Okay. Next photo.

BY MR. CORBETT:

Q And this is still the driver's side, but looking from front to back?

A Yes, driver's side.

Q Okay. Now, which side are we looking at here?

A This is the passenger side.

Q Okay. And that's also asuspected bullet hit?

A It appears -- appears to be another bullet hole there.

MR. CORBETT: Okay. Next, please.

BY MR. CORBETT:

Q And just a little bit wider angle?

A That's correct.

MR. CORBETT: Okay. Next, please.

BY MR. CORBETT:

Q Okay. We're now moving down the side of the

passenger -- I'm sorry. We're now moving along the passenger side of the truck?

A Yes.

MR. MEADORS: Okay. Next photo, please.

BY MR. CORBETT:

Q Okay. Now, are you able to tell us what we see here?

A In this photo, it looks like the body shop has marked an area right in that area that you have the pointer. That would be, possibly, a bullet coming from the other side that would have impacted going outwards. And then right above it in the railing, there's another hole --

Q Okay.

A -- likely from a bullet.

MR. CORBETT: And next picture, please.

BY MR. CORBETT:

Q All right. That's a little bit --

A Similar.

Q -- picture -- okay.

A Similar picture.

MR. CORBETT: Next photo, please.

THE WITNESS: This is showing more closely the bed railing --

MR. CORBETT: Okay.

THE WITNESS: -- with that hole going in, it appears.

BY MR. CORBETT:

Q Now, are we still standing on the passenger side?
A Yes, this is the passenger side.
Q Now, in this one, the hole appears to be going in; is that correct?
A Best I can gather, it appears to be going in, yes.
MR. CORBETT: Okay. Next photograph, please.
THE WITNESS: I think this photo is showing going from that hole in the railing, and it appears to skip across that bed cover, and then goes across towards the opposite way.
BY MR. CORBETT:
Q And that's an overhead view of the rail?
A Yes.
MR. CORBETT: Okay. Next photo, please.
BY MR. CORBETT:
Q And now we're back to the -- I don't want to put words in your mouth, but driver's side?
A Yes, that would be the driver's side taillight.
Q And what did that appear to be?
MR. CORBETT: I'm sorry. Backup one for me, please.
BY MR. CORBETT:
Q What does that appear to be?
A To me, it appears to be a entry wound -- or entry hole.
Q Okay. A little more difficult to tell with plastic?
A Plastic breaks up more, yes.
Q Now, I think we're back at the railing; is that correct?

A Yes, that'd be.
Q Okay. And again, appearing to be an entry on that side?
A Correct. Best as I can tell, it would be entry.
MR. CORBETT: I'm sorry. Okay. I'm sorry.
BY MR. CORBETT:
Q Now, which side are you standing on here, for this picture?
A This is the passenger side.
Q Okay. That's the same bed railing?
A Correct.
Q Okay. And I know we've talked about this before, but the orange rod there is?
A Those are trajectory rods showing the direction of travel by the bullet.
Q Okay. So you added that?
A Yes, I did.
Q Okay. Detective -- or I'm sorry. Det. Snapp, and this appears to be a bullet strike on the driver's side, just below the gas tank?
A Yes.
Q A closer up view?
A Correct.
Q And I believe that's the closer up view of the driver's side, just behind the cab?
A Yes. These ones have the scale markers on them, just to

show the size.

Q Okay. Now, Det. Snapp, so I'm trying not to ask the same thing twice, but -- so five days after the Sunoco shooting, you examine a pickup truck that appears to have bullet entries on both sides of it?

A That's correct.

Q Okay. And the video evidence suggests that there was a pickup truck parked at the corner of the Sunoco here on what I would call the Wendy's side?

A Yes, there was.

Q Thank you. That's all that I have.

BY MR. CORBETT:

Q Now, Detective Snapp, I'm going to show you this picture as well. And is that your trajectory rod?

A Yes, that's a trajectory rod going into that wheel well area, and then it passes into the underside of the vehicle, it appears.

Q Same bullet hole we looked at earlier?

A Yes.

Q And again here was nothing recovered in terms of bullets that could be tested?

A That's correct. I did not recover any.

Q Thank you.

MR. WARR: If it pleases the Court?

THE COURT: Yes, sir.

CROSS-EXAMINATION

BY MR. WARR:

Q Detective Snapp, the pickup truck that was parked at the Wendy's side of the building, it was backed in, correct?

A I believe it was.

Q In the video?

A Yes.

Q And that's the same pickup truck that Mr. Myers runs down the passenger side of, correct?

Q According to the video, yes.

Q And there were bullet holes in the driver's side of that truck?

A Yes, there were.

Q All right. And no bullets were actually recovered, right?

A No, there were not.

Q And you went to Scott Wille (phonetic) to look at the truck?

A Yes, I did.

Q Okay. Do you remember who the truck belonged to?

A Let's see. According to my notes, it belonged to a Linda MacDonald (phonetic).

Q Okay. Thank you. Nothing further.

THE COURT: Anything further, Mr. Corbett?

MR. CORBETT: Nothing further, Your Honor.

THE COURT: Thank you, ma'am. You can step down.

Yes, sir?

MR. MEADORS: Your Honor, the State of South Carolina rests.

THE COURT: Okay. Ladies and gentlemen, I'm going to excuse you while we take up a few matters of law. Please don't begin discussing the case.

(Whereupon, the jury exited the courtroom at 11:03 a.m.)

THE COURT: Okay, Mr. Warr?

MR. WARR: Your Honor, we would move for a directed verdict on all charges in this case. Specifically, the State has failed to carry the burden to prove these -- from the evidence they presented, they cannot prove the charge of murder beyond a reasonable doubt. From the evidence that they have presented in this case, they cannot refute self-defense as would be required by State v Dickey in the -- as far as the attempted murder of Michael Lucas goes, they have presented no evidence to refute self-defense. And we would move for a directed verdict on the attempted murder of Christopher Fordham as well as the accompanying weapons charges. And Your Honor, there's been no evidence presented in this case of a specific intent to kill as it goes to the attempted murder charges as well.

THE COURT: Thank you.

MR. MEADORS: May it please the Court?

THE COURT: Yes, sir.

MR. MEADORS: Your Honor, I think we've got it by Rule 19, South Carolina Rule Criminal Procedure, in the motion for a directed verdict, judge must consider the nonexistence of any evidence. We think there's overwhelming evidence of malice, expressed and inferred, as far as the murder trial, starting with the Facebook video.

I don't know what evidence there is of self-defense. I tried State v. Dickey. I'm very familiar with that case. I don't know what evidence of self-defense there is at this point. Judge, as far as the attempted murder of specific intent, we have the defendant, through his statement saying, I'll take the attempted murder. I'll take the attempted murder. And then, you see him following around, shooting at the red Charger, pursuing it as it's leaving. I don't know any other way to show specific intent, as far as that charge, and as far as the charge against Mr. Gordon (phonetic).

After they're shot, they're all leaving and the car stops and pauses and a shot comes from that vehicle. We do believe it hits Mr. Ford and obviously there's some transferred intent issues we'd like Your Honor to consider and some other charges at the appropriate point. But at this point, we do believe under Rule 19, there's evidence to go forward.

THE COURT: The motion for a directed verdict is respectfully denied. I do think there are a number of jury

questions. I think specific intent can be, and in most cases is, determined from the circumstances. You rarely have somebody who states their specific intent to kill a person or to try to kill a person, I should say. It can be and usually is from circumstantial evidence. So I'm going to respectfully deny the motion for a directed verdict. Let's talk about whether your client intends to testify.

MR. WARR: Your Honor, I also would like to renew all previous objections for the record.

THE COURT: Thank you. And that you are protected for the record.

Mr. Myers, we talked previously about your right to remain silent. And again, let me just go over that with you. You always have the right to choose whether or not you want to testify. No one can force you to testify. You have a Constitutional right to remain silent. That goes along with the fact that you don't have to prove yourself innocent. The State has the burden of proving you guilty.

So as we talked about earlier in the trial, if you determine that you do not want to testify, I will be instructing the jury on your Constitutional rights. I'll be instructing them on the fact that the State has the burden of proof and that you do not have the obligation to prove yourself innocent. I will instruct them that they should not even discuss the fact that you chose not to testify during

their deliberations. It should not be a factor that they consider in any way. But again, this is your day in court, so you get to make that determination. So have you all discussed this?

MR. MYERS: Yes, ma'am.

MR. WARR: We have, Your Honor.

THE COURT: And can you tell me what is your decision, Mr. Myers?

MR. MYERS: Well, I'm going to take the stand.

THE COURT: You are going to take the stand?

MR. MYERS: Yes, ma'am.

THE COURT: Okay. Anything else we need to discuss before we bring the jury in?

MR. WARR: No, Your Honor.

THE COURT: Okay. We're ready for the jury.

(Whereupon, the jury came into open court at approximately 11:08 a.m.)

THE BAILIFF: The jury is seated, Your Honor.

THE COURT: Okay. The State has rested, so I'm turning it over to you, Mr. Warr.

MR. WARR: Your Honor, if it pleases the Court?

THE COURT: Yes, sir.

MR. WARR: The defense calls the first witness, Joquell Myers.

JOQUELL MYERS, after being duly sworn, testified as

follows:

THE BAILIFF: Please state for the record and spell your last name, please.

THE WITNESS: I'm Joquell Myers, M-Y-E-R-S.

DIRECT EXAMINATION

BY MR. WARR:

Q Good morning, Ms. Myers. Can you please tell the jury a little bit about yourself? How old were you? When you were born?

A I'm twenty-six years old, and I'm born in Sumter, South Carolina.

Q And what community in Sumter County did you grow up in?

A Oh, Maysville, South Carolina.

Q Okay. And what's your education level?

A I made it to the 12th grade.

Q Okay. But you didn't finish high school?

A No, sir.

Q Okay. Are you married?

A No, sir.

Q Any children?

A No, sir.

Q You're currently unemployed?

A Yes, sir.

Q Okay. Because you're in jail?

A Yes, sir.

Q Where was your last place of employment?
A At the rehab center. I think the name of it is the Vocational Rehab place.
Q Okay. And what did you do in vocational rehab?
A We -- we put like, the little -- the little plastic, little (indiscernible) protective plastic on metal for the protection of love. I don't know what you call the love. The little metal -- metal on the -- the little plastic on the metal.
Q Okay. So manufacturing.
A Yes, sir.
Q Okay. And have you ever been convicted of a crime?
A No, sir.
Q So you don't have a criminal history?
A No, sir.
Q Now, where were you in the late night hours of September 7th? In the early morning hours of September 8th, 2019?
A Oh, I was at the Sunoco gas station.
Q And tell us tell us how you ended up there. What did you do earlier in the night before you went to the Sunoco?
A Oh, I went home and take a shower, put on my own clothes and stuff. You know what I'm saying? Went home to take a shower, put on my clothes. Then me and my homeboy, Jay McBride (phonetic), we went to his girlfriend's house. He -- she made us shirts. She made us two shirts. You know that

what she do. We went to pick up the shirts from her.
Q Okay. So you and Jay McBride, y'all left from where?
A Maysville.
Q Maysville. And at the time, whose car where you all riding in?
A We were riding in Jay McBride's car.
Q Okay. And when you left Maysville, did you have a pistol with you?
A Yes, sir.
Q Where did you have that pistol at?
A I had it in center armrest. Like little -- little center thing.
Q And why did you have it in the center console?
A Because, I mean, everybody -- the police pull you over. That's -- that's no allowed for carrying a pistol. Because you got it. You know what I'm saying? And everybody know that.
Q Okay. So you wanted to legally carry this handgun in the car, so you put it in the closed container of the car?
A Yes, sir.
Q And why did you have the pistol? Why did you feel the need to take a pistol with you?
A I mean, it isn't like we're staying in Beverly Hills, we're staying in Sumter. You know what I'm saying? This is Sumter. You know what I'm saying? Stuff go down.

Q It's a dangerous place. High crime rate.
A Yes, sir.
Q And you wanted to have a pistol in your car for protection?
A Yes, sir.
Q And did you carry that pistol in your car on a regular basis?
A Yes, sir.
Q So it wasn't an abnormal thing for you to get into a car and put it in the center console so you'd have it?
A No, sir.
Q Okay. And so you weren't going out looking to use it. You just want it in case somebody tried to rob you or something?
MR. CORBETT: Objection, Your Honor.
A Yes, sir.
MR. CORBETT: Leading question.
THE COURT: Hang on just a minute. That is sustained. Please don't lead.
MR. WARR: All right.
Q And where did you get this pistol?
A I bought it from the old dude. Do you know what I'm saying? Bought it from the dude. I met him. We was at the store. He was like, man, I got a pistol for sale. He was like, give me 150. I was like, shit here, you know what I'm

saying?
Q So you bought a pistol for $150? What type of pistol? Can you describe it for the jury?
A Yes, sir. It was a 9mm Smith and Wesson. You know, it was an MP. It's about this big.
Q Okay. And was that pistol a semi-automatic or a revolver?
A It was a semi-automatic.
Q And you said it was a 9mm pistol?
A Yes, sir.
Q Not a .38 Special revolver?
A No, sir.
Q Not a .38 Special automatic?
A No, sir.
Q And did you know if the pistol was stolen or not when you bought it from the guy?
A No, sir.
Q Okay. But you paid $150 for it?
A Yes, sir.
Q Okay. Have you ever seen a .38 Special revolver?
A Yes, sir.
Q Like on TV?
A Yeah, I seen it in TV's, pawn shops. You know what I'm saying? Other people.
Q Okay. Have you ever fired a .38 Special revolver?

A No. Not that I can remember, no sir. Not that I can remember.
Q Not that you can remember? Did you ever fire your 9mm?
A Yes, sir.
Q Okay. So you'd fired that before? Did anyone in your group that night have a .38 Special revolver?
A No, sir.
Q So did anyone in your group have anything other than a 9mm?
A No, sir. I think one of them had like a forty or something like that. One of them had -- one of them had like a 40.
Q One of them had a 40. How about the rest of them? So 40 --
A Everybody else had 9s.
Q Everybody else had 9. Do you know anyone who owns a .38 Special revolver?
A No, sir.
Q All right. Okay. So let's continue on with your trip to the store. You ride with Jay from Maysville. You put your pistol in the center console, and then you all go to Jay's girlfriend's house. Where's her house?
A Well, really, she was at her mom's house in Dalzell because she really -- at the time, she stayed with Jay in Maysville. Because she was at her mom's house in Dalzell.

Q Okay. So you went to her mom's house in Dalzell to pick up T-shirts?
A Yes, sir.
Q Can you describe that T-shirt for the jury?
A The T-shirt was all white. I had a credit card on the front of it. Mines -- mines had free tub in the back. A free tub on the back --
Q Okay.
A -- in purple letters.
Q All right. So from Jay's girlfriend's mom's house, where were you going?
A Oh, we were about to go on -- we -- we was on the way to go where everybody was at before we went and got dressed. But as we were passing the store, as we pass the Sunoco, they -- they -- they called us. It was like, yo, that's y'all. Ride, past. Turn around.
Q Okay. So you were on the way to where everybody was at. Where was that at?
A We was on West Side.
Q Okay. And y'all were going to?
A What do you mean?
Q Were ya'll going to a club or?
A Yeah, we're about to go to SNB's (phonetic). My homeboy had a performance that night.
Q Okay. And who was your homeboy?

A Shelton Ben. They call him Polo.
Q Okay. So you were on the way to the club with Jay, and you get a call. Who did you get that call from?
A If I ain't mistaken, I think it was Polo.
Q Okay. And he told you to come back to the Sunoco?
A Now we was, like, we were driving past. And he must have --- he must have been looking and seeing the car. And he was like, yeah, we're over here. And that's when we got there. We turned around. Well, we went to on -- I told Jay to go to McDonald's, because I ain't had on no shirt or no shoes. Because I ain't wanting to mess up the white shirt. And I had brand new white Air Forces in the car, and I wanted to dust them up in the car because the car needs a cleaning, so I ain't had them on.
Q Okay. So you pulled into McDonald's and get dressed?
A Well, yeah, I put on my shirt and my shoes. Yeah.
Q And then you go back to the store?
A Yeah. Yeah, we went to the store.
Q All right. And was the red Charger there when you got into the store?
A No, sir.
Q Did you know that Killer Mike (phonetic), Michael Lucas, Timothy Scarborough, or Tyreke Archie were coming to the store that night?
A No, sir.

Q There wasn't any agreement to meet at the store and settle differences?
A No, sir, we don't -- we don't talk to them. You know what I'm saying? We don't -- we wouldn't know what they do.
Q Okay. So you didn't know they were coming?
A No, sir.
Q Did you see them pull up?
A No, sir.
Q Okay. Where were you at when the red Charger pulled up?
A Well, I was in the -- I was in the far corner in the back by the car. Like -- like in the back of the store type. You know how, like, they got the little -- little things right there? They had, like, two rows of cars lined up. It was cars in the in the far back of the store. And it was cars back there. I was like in the front, like in -- like in the front side of the store, chilling.
Q Okay.
MR. WARR: Beg the Court will indulge us for one second.
THE COURT: Yes, sir.
MR. WARR: Now, Mr. Myers -- Your Honor, if I could have Mr. Myers come down? I would like him to demonstrate to the jury where he was at.
THE COURT: Okay. Sure.
BY MR. WARR:
Q Mr. Myers, do you know what this building is?

A Yeah, that's the Sunoco.
Q That's the Sunoco?
A Yes, sir.
Q Speak up for the Court.
A That's the Sunoco.
Q All right, and where were you at?
A I was like, right here, do you know what I'm saying?
Q Right here?
A Yeah.
Q Kind of behind the store or on the Wendy's side?
A Yeah.
Q And what were you doing over there when the red Charger pulled up? Please speak so the jury can hear you.
A Yeah, my homeboy -- we was just chilling in the car. Just talking. I was about to cut the short on the cigarettes.
Q And can you describe to the jury what cutting the short is?
A Oh, like I smoked the front half of the cigarettes, and he gets back half of the cigarettes smoke.
Q Okay. All right. If -- y'all were over here in this area?
A Yes, sir.
Q And I believe in the video, there's a truck parked right here in this corner. It's backed in. We see it in the video. Do you know whose truck that is?

A Yes, sir.
Q Whose truck is that?
A That's my cousin's truck, Demetrius McDonald (phonetic).
Q And he was there that night?
A Yes, sir.
Q Speak where the jury can hear you.
A Yes, sir.
Q You can return to the stand. So it was Demetrius McDonald's truck that we saw backed in here at the corner?
A Yeah, (indiscernible).
Q And is that the same truck that we saw the crime scene photos of it at (indiscernible)?
A Yes, sir.
Q And to your knowledge, was that truck hit with any bullets that night?
A Yes, sir.
Q Okay. So you and (indiscernible) were over behind, kind of, the Wendy's side of the store sitting in his car, smoking a short?
A No, we ain't even -- you know what I'm saying, we ain't sitting in the car. We was like, just standing around the car.
Q You were standing around outside?
A Yeah.
Q Okay. Then what happened?

A We were just sitting there talking, laughing. He was telling me what he was going to do in the club that night. You feel me? And then the shots rang up.

Q Okay. And did you see who fired the first shots?

A No, sir.

Q And what did you do when the shots rang out?

A I ain't gonna lie. I grabbed my gun, you know. So I grabbed my gun and ran to the back of the store, you know what I'm saying, like, I backed -- I backed towards, like, the little winning side.

Q Okay. You ran back in this direction?

A Yeah, like, right there.

Q Toward the Wendy's?

A Yeah. And then got done when I was running. I turn around. As I turn around and see my brother, like, this -- like this right here. I said, damn, he hit. You know what I'm saying? Excuse me. Excuse my language. I was like, He hit. So I'm like, I got to turn around. You feel me? I got to. That's my brother.

Q Okay. And so when you heard the shots, it's your testimony that you reached into the center console of that car --

MR. CORBETT: Objection, Your Honor. Leading.

THE COURT: That's sustained.

Q When you reached into the center console, what did you

grab?

MR. CORBETT: Objection, Your Honor. Still leading.

THE COURT: Sustained.

A When I went in the car, I grabbed the gun. You know what I'm saying? When I grabbed --

Q What type of gun was that?

A A 9mm Smith and Wesson.

Q M.P.?

A M.P.

Q Not a .38 revolver?

A No, sir.

Q Not a .38 automatic?

A No, sir.

Q Why did you get your pistol out of the console?

A They -- they shooting. They out here, you know what I'm saying? They out here shooting and shooting. It's a lot of shots. They out here shoot. Shoot. I ain't about to -- you know what I'm saying? I ain't about to -- just grabbed the gun, this way you -- you know what I'm saying.

Q Were you afraid? Is that why you got the gun out?

A Yeah. They out here shooting up -- a shot (indiscernible).

Q You heard shots, and you didn't know who was firing?

A No, sir.

Q So you were afraid?

A Yes, sir.
Q And you got the gun for protection?
A Yes, sir.
Q Out of the center console?
A Yes, sir.
Q All right. So after you turn around, you see your brother go to the ground, grabbing his side. What did you do?
A Oh, I ran back to check on him. I ran back to check on him, the whatnot, because he was on the ground right there. And I ran back to check on him. It's a lot of shots coming in our area. You know what I'm saying? A lot of them, like -- it -- like it's like they do depending on this everywhere I was at. I'm ducking, you know what I'm saying?
Q And your area was this area right here behind where that truck was Back there?
A Yes, sir.
Q On the Wendy's side?
A Yes, sir.
Q Of the Sunoco gas station. Could you hear bullets hit in that truck?
A Yes, sir. You could hear bullets hitting -- you can hear bullets in their way everywhere or other, the store, all that. Like you could hear them coming past you.
Q You can hear them whizzing by?
A Yeah. Yes, sir.

Q And what did you see after?
A Man when I look up, I see the red -- I see the red -- Charley and I ain't seen nothing but fire coming out of that car. Nothing but -- straight out of that car.
Q Fire? Gun fire?
A Yes, sir.
Q Were they shooting in your direction?
A Yes, sir.
Q And you heard bullets hitting that Silverado pickup truck?
A Yes, sir.
Q Were you already firing when you saw them firing?
A No, sir.
Q So they fired on you?
A Yes, sir.
Q And they fired on your brother who was on the ground wounded?
A Yes, sir.
MR. CORBETT: Objection, Your Honor.
THE COURT: That's -- on the basis of leading?
MR. CORBETT: Leading and speculation.
THE COURT: Please don't lead, Mr. Warr. That's sustained.
Q These gunshots. They were coming out of the red Charger?
A Yes, sir.

Q And they were hitting the Silverado pickup truck?

MR. CORBETT: Objection, Your Honor.

THE COURT: Mr. Ward, you need to ask your question differently, sir. You're leading.

Q Were bullets hitting the Silverado pickup truck?

A Yes, sir.

Q Where was your brother laying on the ground?

A He was like, laying on the ground. Like -- it's like -- towards like. Yeah, like. Like right there. A little bit, like. Right. Yeah.

Q And the Silverado pickup truck was right here?

A Yeah, the -- yeah.

Q All right. And when you saw the gunfire coming out of the pickup truck, how did that make you feel? I mean, excuse me, out of the red Charger. How did that make you feel?

A Sure. It made me feel like anybody else would feel sure they shooting at us. You know what I'm saying?

Q You were afraid?

A Yeah.

Q You were scared you were going to get hurt?

A Yes, sir.

MR. CORBETT: Objection, Your Honor.

THE COURT: That's leading, sir.

Q Did you feel you were in danger?

A Yes, sir.

Q Have you ever been more frightened than you were that night?
A No, sir.
Q And you testified you shot at the red Charger?
A Yes, sir.
Q Did you see Killer Mike at that time?
A No, sir.
Q You couldn't see him?
A No, sir.
Q Did you ever see Gregory Middleton out there that night?
A No, sir.
Q You couldn't see him?
A No, sir.
Q All you could see was the red Charger?
A Yes, sir. It was like -- it was literally, like, right there in front of me. Like literally right there in front of me. Like, literally right there. You feel that right there? Like right there. Like -- know, I'm saying? I can't -- it as right here. You feel me? Like just as close as me and them, like, right there.
Q And you shot back at the red Charger?
MR. CORBETT: Objection, Your Honor. Leading.
THE COURT: It is leading, but he's already testified as to that, so I'm going to allow it.
Q Were are you trying to kill Michael Lucas?

A No, sir.
Q But you shot at the red Charger?
A Yes, sir.
Q Where did you shoot at the red Charger? Where on the car?
A I was shooting like at -- (indiscernible) the little door -- do you know what I'm saying? Like the little door part.
Q Okay, you were shooting down at the --
A Yeah.
MR. CORBETT: Objection, Your Honor.
MR. WARR: I'm asking for clarity. He's already testified he shot at the door.
THE COURT: Go ahead.
Q You shot at the door? Not at the --
A Yeah. Yeah.
Q Not at the windows?
A No.
Q Not at the passenger department?
A No, sir.
Q Why did you shoot down low?
A Because I was just trying to get in and get on through. You know what I'm saying? We ain't got no problem with him. He just shooting at us for no reason.
Q Okay. So you were just trying to get him on through?

A Yeah, let him go.
Q And how long was he shooting at you?
A That man was shooting at us till he left.
Q Till he pulled out the parking lot?
A Till he pull out the parking lot. And he --
Q And where did he pull out of the parking lot? Did he pull out -- where did he pull out? Which driveway?
A That little side right there. That -- look right there.
Q Right here?
A Yeah.
Q On the Wendy's side?
A Yes, sir.
Q And he turned and drove --
A Yeah. He drove straight now there.
Q And then turned and went out?
A Yes, sir.
Q And the whole time he was firing?
MR. CORBETT: Objection, Your Honor.
THE COURT: That's sustained. So you're leading.
BY MR. WARR:
Q It's your testimony that he fired up until the point he left the parking lot?
MR. CORBETT: Your Honor --
THE COURT: And that's still leading. Sir, you can't suggest the answer in your question. You're leading.

BY MR. WARR:

Q When did Mr. Lucas stop shooting?

A When he left. When he was like when he got done -- like when he turned. When he couldn't, you know, basically couldn't shoot at us no more. Like. Like I ain't, you know what I'm saying? Like, he stopped. Like, when he turned straight. When he turn straight, that's when he. You know what I'm saying? It stopped. Like.

Q Which side of the car was he shooting out of?

A He was shooting out the passenger side. Like that -- you know what I'm saying. He was driving, he was shooting out the passenger side.

Q Why did you run out the second time over here?

A Because that -- when I ran back the second time, I was about to put my brother in the car. Like he was around people trying to help put a brother in the car as he ride past, and the shots still coming. You feel me? Remember, shots still coming. And I look up and it's still him, you know what I'm saying? It's still him.

Q So you fired a second time?

A Yes, sir.

Q You shot at that red Charger how many times?

A I mean, I shot at it like -- like six, seven times? I don't know. I don't know. Like, like six, seven times, one of them.

Q Did you want to hurt anyone that night?

MR. CORBETT: Objection, Your Honor.

THE COURT: What's the basis?

MR. CORBETT: Well, it's leading. Did you want to hurt anyone that night I said.

THE COURT: I'm going to allow the question.

A No, sir. We really just come out there to go to the club like we -- you know what I'm saying. This is something normal. My people always do like little shows and stuff. We don't -- we just come out there to go to the -- go let him do the show, and we was going to go home.

Q After the red Charger leaves the parking lot, what happens? What happened?

A I ran back. I ran back to the side with my brother. No matter. Everybody was over there like -- like they couldn't pick him up because, I guess got -- I guess, the dead weight he had. So I tell everybody, I'm like, man move out the way, man. No way.

You know, I picked them up, grabbed him up just like this, put him in the car. Said come on, y'all. Come on, Come on, come on. Because he's looking, you know what I'm saying I ain't gonna lie -- really like -- he looking like, boy, like it about to be over with. So I'm looking like, boy. Like, don't let it, boy -- don't let it happen today, boy. Like, I'm -- I ain't going to lie, I was like, you know what I'm

saying? Like, boy, like, like, dang like. Well, I hope you don't die today, boy. Like, you know what I'm saying? Like.

Q Where on his body was your brother shot?

A He was shot right here, like, you know, the stomach part.

Q So down here?

A Yeah, like, down here in this area type.

Q Was he bleeding?

A Yeah, he was bleeding real bad.

Q And what seat did you put him in?

A I put him in the passenger seat. In the front seat. In the front passenger --

Q The front passenger?

A Yeah.

Q And you got in the car?

A Yes, sir.

Q Where?

A I got in the back passenger seat right behind him.

Q What did you do once you were there?

A So when I got in the car, I looked over to see it again, like his eyes rolled back in the back of his head. So I started like -- like, come on. Come on, bro. And then I looked down and up with blood. You know what I'm saying? I just staring back down. You know what I'm saying?

I ain't really know, but like -- like I just thought of, like, you know what I'm saying? Stuff you see in the movie?

I just get it over in the seat. Like you can see I'm -- I'm big, so I'm over in the seat like this. I'm over in the seat. Like, you know, I'm saying? Pressing down on it, like telling everybody. Oh, come on, come on, come on. We got to get him to the hospital. You feel me?

Q And you were putting pressure on the wound?

A Yes, sir.

Q What did you do with your pistol when you got in the car?

A I throw my pistol before I even pick him up. I throw my pistol in the back seat. You know what I'm saying? Like, because I ain't -- I just throw it in the back seat to hurry up to pick them up. Takes the type time, you know.

Q Who was driving that gray Nissan Maxima?

A Shelton Benjamin.

Q And that's the same gray Nissan Maxima we can see in here?

A Yes, sir.

Q Shelton Benjamin was driving the car?

A Yes, sir.

Q And his nickname is Polo?

A Yes, sir.

Q And you grew up with him, right?

A Yes, sir.

Q Did you tell Polo to stop and shoot Christopher Fordham?

MR. CORBETT: Objection, Your Honor. That is a leading

question.

THE COURT: I'm going to allow that question.

Q No, sir.

Q Did you plan to shoot anybody?

A No, sir.

Q Did you have a problem with Christopher Fordham?

A No, sir.

Q Did you know Polo was going to shoot Christopher Fordham?

A No, sir.

Q Did you want Polo to drive to the hospital as fast as possible?

A Yes, sir.

Q Were you afraid your brother was dying?

A He was dying. Do you know what I'm saying? He was. He ain't -- like, he was, you know what I'm saying. He was definitely dying.

Q And once you left the Sunoco, where did you go in that gray Nissan Maxima?

A Oh, we were straight to -- we went straight to Toumey. I don't know if you call it Toumey now. You know what I'm saying? But we went straight to Toumey Hospital.

Q And what did you do once you got to Toumey Hospital?

A Sure. I jumped straight out of the car. I jumped straight out the car open -- opened the passenger door. Straight out the car, they was like -- I got there and the

rest of them already knew. It was like, tell the people, like, come help us, you know what I'm saying. Type -- I was going -- I was at the passenger door. I was about to walk in there, but then I seen them coming out with the wheelchair. As soon as they came out with the wheelchair, I'd already scooped him up again, put him in the wheelchair.

Q Did you leave the hospital in the same car?

A No, sir.

Q Why not?

A Because we had more people, you know what I'm saying? We had another car there and we was just -- we just got in that car.

Q And whose car was that?

A I ain't really sure who car was, you know what I'm saying? But it was a -- it was a red Sentra, you know what I'm saying?

Q You got into a red Sentra at the hospital?

A Yes, sir.

Q And did you retrieve your 9mm Smith and Wesson?

Q No, sir. No, sir. It was so much going on at the time. I just -- you feel me?

Q Where was it?

A It was still in the back seat.

Q Of the gray Nissan Maxima?

A Yes, sir.

Q What happened to the gray Nissan Maxima at that time?
A If I am mistaken, I think Flop (phonetic) parked in the parking lot. You know what I'm saying? Went back in there -- because he stayed. I think he parked it in the parking lot right there at the front of the hospital.
Q And why did he park it?
A Because it was in the driveway. I guess they probably tell him to move it or whatnot.
Q Was it damaged?
A Yeah. He had a flat tire and had -- it had a couple of shots in it.
Q Did you go back to get that car?
A Yeah, we went back, like I want to say, like, almost like a week later, because we had to get it. We had to find a tire and stuff for it, and we just found a tire.
Q Was your pistol still in the car?
A No, sir.
Q You're 9mm was gone --
A Yes, sir.
Q -- from the car?
A I ain't going out. I ain't going. I was kind of mad, too.
A You were mad because somebody stole it?
A Yes, sir.
Q Or something?

A Yeah. Something happened to it -- that why I was -- you know what I'm saying? I was like ain't no way, you know.
Q Did you ever get the pistol back?
A No, sir.
Q Have you seen it since you left it in the back seat of that car?
A No, sir.
Q Do you know where it is?
A No, sir.
Q Did you shoot Killa Mike?
A No, sir.
Q Did you shoot Gregory Middleton?
MR. CORBETT: Your Honor.
THE WITNESS: No.
MR. CORBETT: Leading questions.
THE COURT: That's sustained.
BY MR. WARR:
Q Did you shoot at any person that night?
A Oh, I shot the red Charger. You know what I'm saying?
Q Were you trying to kill the driver?
A No, sir.
Q Now tell us what happened to your brother after you got him to the hospital.
A Oh, well got no -- his mama called us and was like we about to come back up there. His mama called us like, ain't

no need for y'all --

MR. CORBETT: Objection, Your Honor.

THE COURT: On the basis of hearsay?

MR. CORBETT: Hearsay.

THE COURT: That's sustained.

So don't tell us what somebody else told you.

THE WITNESS: Well, they shipped him to -- they shipped him to -- they shipped him to Columbia.

BY MR. WARR:

Q By helicopter?

A Yeah, by helicopter.

Q Did they operate on him?

A Yes, sir.

Q Did they leave the bullet in him?

MR. CORBETT: Objection, Your Honor. Lack of foundation.

MR. WARR: He's testifying from his personal knowledge from talking to his brother.

THE COURT: I'm going to allow the question.

THE WITNESS: Go ahead.

BY MR. WARR:

Q Did they leave the bullet in your brother?

A Oh, I'm not sure.

Q Okay. Can your brother walk?

A Like -- like how he is now? He -- they -- they got him with a wheelchair. You know what I'm saying? But it's like

he can stand up for a little while. And you know what I'm saying, but then he eventually got to sit in the wheelchair.

Q What kind of gun were you shooting that night?

MR. CORBETT: Asked and answered, Your Honor.

THE COURT: That's sustained.

BY MR. WARR:

Q You weren't shooting a .38 Special revolver, were you?

MR. CORBETT: Asked and answered, Your Honor.

THE COURT: That's sustained.

THE WITNESS: No, sir.

MR. WARR: (Indiscernible).

No further questions, Your Honor.

THE COURT: Mr. Corbett?

MR. CORBETT: Mr. Warr, tell you what. You leave it there. I might need that.

May it please the Court?

THE COURT: Yes, sir.

CROSS-EXAMINATION

BY MR. CORBETT:

Q Your name is Joquell Myers?

A Yes, sir.

Q In July of 2019, you were 23 years old?

A Yes, sir.

Q You're currently 26 years old?

A Yes, sir.

Q Okay. You live in Mayesville?
A No, I stay in Clarendon County. I was locked up for three years. That's why -- you know what I'm saying? I -- I did stay in Mayesville, but now I stay in Manning. I'm locked up.
Q Prior to your arrest, you were living in Mayesville?
A Yes, sir.
Q Is that correct; on the afternoon or evening of July 7th, 2019, you left Mayesville and came to Sumter?
A Yes, sir.
Q Is that correct; you rode to Sumter? Now there's a little confusion. It's been referred to as a Nissan Maxima, but it's also been referred to as an Altima.
A Yes. You know what I'm saying? They shaped just alike.
Q Do you know which one it is?
A It's a Altima.
Q Altima? So you rode to Sumter in a Nissan Altima?
A Yeah, they --
Q Silver in color?
A Yeah. Nah, like, it was like, like darkish-gray with --
Q Right.
A -- chrome rims on them.
Q Jay McBride (phonetic) was driving that Altima?
A Yes, sir.
Q Was the Diontrae Epps in that Altima?

A No, sir.
Q Sheldon Benjamin?
A No, sir.
Q Diontrae Epps is your half-brother?
A Y'all be killing me with that half-brother. Nah, that's my brother.
Q Brother, okay.
A Yeah.
Q I'm sorry. What is your father's name?
A Kilo Epps (phonetic).
Q And I'm sorry, I mean, no disrespect respect in this question. You and Trey Epps have the same mother and same father?
A No, we have the same father.
Q Same -- okay. So technically, you are half-brothers?
A I mean, yeah, whatever you say.
Q Okay.
A Yeah, guess so.
Q So you and Trey Epps share a common father, Kilo Epps?
A Yes, sir.
Q You stopped at McDonald's on Broad Street?
A No. We -- we were at -- now you was talking about the evening. Now, you just skipped to something else. I don't know where you're at right now.
Q Okay. I'm sorry. When you left Mayesville and heading

to Sumter, what was your first stop?
A We -- you just said that evening when you asked me when I leave Mayesville. Now you just --
Q What time of day did you leave Mayesville?
A I left early that morning. I left, like, in the morning time.
Q Okay. So you spent the entire day away from Mayesville?
A Yes, sir, until that night.
Q Okay.
A When I went to change clothes.
Q Did you go back to Mayesville?
A Yeah, that night when I went to change clothes.
Q Okay. What time did you go back to Mayesville?
A I'm not sure, but I know it was like -- like a little while before it was time to get ready for the club.
Q Okay. So you went back to get ready to go to the club?
A Yes, sir.
Q Okay. All right. Let's start from there. Who did you ride with to Sumter?
A You talking about after I got ready?
Q Yes, sir.
A Jay McBride.
Q Jay McBride, okay. So now you and Jay McBride are in the gray or silver Nissan Altima from Mayesville to Sumter?
A Yes, sir.

Q Okay. What is the first stop that you made?
A We went on to Dalzell.
Q Dalzell, okay. You then left Dalzell coming to Sumter?
A Yes, sir.
Q Okay. First stop you made was McDonald's?
A Yes, sir.
Q Okay. Now, while at McDonald's, you either change clothes or put on a shirt and shoes?
A I put on my shirt and my shoes.
Q Okay. You then drove to the Hop In (phonetic) gas station?
A Yeah, We went to the Sunoco.
Q Also known as the Sunoco?
A Yes, sir.
Q Okay. And you testified that you parked on this side?
A Yes, sir.
Q Arriving at the snow coat you met Ellquin Williams?
A Yes, sir. He was a -- you know, you mean, like, once we got there?
Q Yes.
A He -- yeah, he was already out there.
Q All right. So. And he goes by Ello (phonetic)?
A Yes, sir.
Q Okay. So when you got there, you saw him?
A I saw him and a lot more people, you know.

Q Okay. Ello was in a gray Malibu?
A Yes, sir, that.
Q You got out of the Altima and went over to Ello's car?
A No, I got -- I got out the Altima, and we was -- you know what I'm saying? We was -- I got out the Altima, and we was chilling out there first. And then I went to Ello car. I didn't went straight to him.
Q Okay. You and Ello were at his car smoking?
A No, we was outside of the car. The car was like -- you know what I'm saying? Like, just like I tell y'all, it was like the front -- the -- if you look back there, it's a lot of space. It was cars parked at the back and cars parked at the front. It was a lot of cars up there. Like, you know what I'm saying? We was in between the cars with the doors open chilling.
Q Now, if I may, I want to play a video for you.
MR. CORBETT: If you would, bring up the Facebook Live video.
MR. WARR: I object to this, Your Honor. It's outside the scope of direct.
THE COURT: I'm going to allow it.
(Thereupon, the visual recording was played and transcribed herein.)
MR. EPPS: Killa. I'm send the little goons (indiscernible) Mr. Killa. (Indiscernible). Mr. Killa.

We're both come find you. Mr. Killa. I'm going to send the little goons in too. Mr. --

(Recording paused)

BY MR. WARR:

Q Now, I want you to look at this video. If I need to play it back, I will. But on the far left-hand side of this screen, you see an individual walk by carrying a small child.

A Yeah.

Q Who was that?

A That's my cousin.

Q What is their name?

A That's Lorenzo Wilson (phonetic).

Q Lorenzo Wilson?

A Yeah, and his baby, Blue (phonetic).

Q Now, about one month before the shooting, this video was made at a hotel room, correct?

A No.

Q Was this video made in a hotel room?

A Yes.

Q Now, while you were in this hotel room, you appear on this video?

A Yes, sir.

Q Is that correct?

A Yes, sir.

Q In this video -- well, first of all, let me back up for

just a moment.

(Thereupon, the visual recording was played but not transcribed herein.)

BY MR. CORBETT:

Q Who is this individual?

A Oh, that's my brother.

Q Diontrae Epps?

A Yes, sir.

Q Now I'm going to play forward. There's going to be a person on the right-hand side.

(Thereupon, the visual recording was played and transcribed herein.)

MR. EPPS: (Indiscernible).

(Recording paused)

BY MR. CORBETT:

Q Who's the person wearing the hat?

A You talking about, that just walked -- just walked past?

Q Walked past.

A Oh, I really can't -- I -- I really can't see his face just now. You can start it over (indiscernible).

Q Okay.

(Thereupon, the visual recording was played and transcribed herein.)

MR. EPPS: (Indiscernible). I'm going to send the goons out. You feel me? (Indiscernible). Mr. Killa.

(Recording paused)

BY MR. CORBETT:

Q Which hotel was that?

A It -- it might be something else now, but I -- if ain't mistaken, I think that -- I think that's the Super 8. Well, that's the Super 8. I ain't know if it's something else. You know, I've been locked up for a little minute. I ain't know if it's something else.

Q Where is that hotel located?

A That's on Broad.

Q On Broad Street?

A Yeah.

Q What portion of Broad Street?

A It was right there beside the McDonald. I don't know what portion. You know what I'm saying?

Q I'm sorry.

A I ain't know what por -- it's right there. It's the one right there beside McDonald's. I ain't know what -- you know what I'm saying?

Q Near the McDonald's?

A Yeah. Right beside the McDonald's.

Q Okay.

(Thereupon, the visual recording was played and transcribed herein.)

MR. EPPS: Why you think I'm riding?

(Recording paused)

BY MR. CORBETT:

Q Now, you've identified this person as Diontrae Epps, correct?

A Yes, sir.

Q Now, who's this person on the right?

A It's Jay McBride.

Q That's Jay McBride?

A Now, if you would, please watch this portion and describe to me what Jay McBride is doing.

(Thereupon, the visual recording was played and transcribed herein.)

MR. EPPS: Mr. Killa, I'm going to send the little goons in, too. Mr. --

(Recording paused)

BY MR. CORBETT:

Q What was Jay McBride doing?

A Putting his hands up in like a little --

MR. WARR: Objection. That's speculation. Calls for speculation. Mr. Myers does not -- it will be pure speculation for him to infer intent of Jay McBride based on a video, watching a video.

THE COURT: Well, he didn't ask what his intent was. He asked what gesture he was making.

But I think we can all see what gesture he's making, Mr.

Corbett. So if you'll just move along.

(Thereupon, the visual recording was played and transcribed herein.)

MR. EPPS: Not me. Not me (indiscernible). Not me. No, I ain't sending me. I'm going to send the goons out. You feel me? Not me. Not me personally, no.

(Recording paused)

BY MR. CORBETT:

Q Is it correct that in this video Trey Epps said -- excuse me, Diontrae Epps says that he is going to send his goons after Mike Rogers?

A He said he going to send the goons at you. You know what I'm saying. I ain't -- I ain't hear him say he going to send the goons at him, Mike Rogers. That --

(Thereupon, the visual recording was played and transcribed herein.)

MR. EPPS: Not me (indiscernible). Not me. No, I ain't sending me at him. I'm going to send the goons at him. You feel me? Not me. Not me personally, no. But it will (indiscernible). Send the little goons in too. Mr. (Indiscernible).

(Recording paused)

MR. WARR: Your Honor, objection. How many times is Mr. Corbett going to play the same scene over and over again?

THE COURT: That's sustained.

BY MR. CORBETT:

Q Now, when Diontrae Epps is referring to Mr. Killa, who is he talking about?

A I guess he talking about Killa Mike.

Q He's talking about Killa Mike?

A Guess so. I can't really tell you.

Q And then he says, I'm going to send the goon at you or at y'all or what -- you tell me what he says.

A He says I'm going to send the goons at you.

Q Send the goons?

A Yeah.

Q Okay. What kind of person has goons available to them to do this type of work?

MR. WARR: Your Honor, this is purely speculation.

THE COURT: I'm going to sustain the objection.

BY MR. CORBETT:

Q Who are the goons?

A I don't know.

Q You don't know?

A Nah.

(Thereupon, the visual recording was played but not transcribed herein.)

BY MR. CORBETT:

Q Now, Mr. Myers, if you would, please watch carefully. I'm going to try to move this slowly. I'm going to ask you to

identify a gesture for me, please.

(Thereupon, the visual recording was played but not transcribed herein.)

BY MR. CORBETT:

Q What is this right here? The gesture that Mr. McBride is making?

A If you listen to the -- if you listen to the video, he said, we play with cards. He's doing his hand in like a card -- he's doing his hand like a card gesture. If you listen to the video, he says we play with cards. If you -- and he's doing this hand like this in a card gesture.

Q So that's a card gesture?

A Yeah, like a card.

Q So you do not know who the goons are, correct?

A No, sir.

Q Okay. Now, have you seen this video before?

A Yes, sir.

(Thereupon, the visual recording was played and transcribed herein.)

UNIDENTIFIED SPEAKER: (Indiscernible).

(Recording paused)

BY MR. CORBETT:

Q Now I'm looking at the comments. This is Facebook Live, correct?

A Yes, sir.

Q So individuals watching will appear on screen?
A Yes, sir.
Q Okay. And you've listened this. So you've heard Trey Epps refer to people who are watching?
A Yes, sir.
Q Okay. I will forget the name, but I believe it's Quetta (phonetic). He references Quetta?
A I think so. Yeah.
Q Okay. And he also says that his dad's watching?
A Yes, sir.
Q So we see Kilo Epps on there. That is his father and your father?
A Yes, sir.
Q Is watching this video?
A Yes, sir.
Q And he talks about beating up people in that part?
A Yes, sir.

(Thereupon, the visual recording was played but not transcribed herein.)

MR. EPPS: And you know, I beat them niggas up. Yeah, we don't play with guns. (Indiscernible). We don't play with guns. We fight.

MR. MCBRIDE: We play with cards.

MR. EPPS: We fight. (Indiscernible). We fight. (Indiscernible). We fight, Quetta. That bitch got me all

sweating.

(Recording paused)

BY MR. CORBETT:

Q Okay, now --

A Did you hear Jay McBride say we play with cards?

Q Okay. Who's this individual in the black shirt?

A I can't see it.

(Thereupon, the visual recording was played but not transcribed herein.)

MR. EPPS: You in here talking about Killa Mike.

(Recording paused)

THE WITNESS: That's me.

BY MR. CORBETT:

Q Right. This is you, correct?

A Yes, sir.

Q If you would, please, tell us what hand gesture you were making here. I will let it play through and then back up too.

(Thereupon, the visual recording was played but not transcribed herein.)

MR. EPPS: That bitch got me all sweating here talking about Killa Mike.

UNIDENTIFIED SPEAKER: (Indiscernible) on our phones. Nah, y'all going to play.

MR. EPPS: Come on y'all.

UNIDENTIFIED SPEAKER: Hey --

MR. EPPS: Mr. Killa --

(Recording paused)

THE WITNESS: I'm going to be real. When you -- you know what I'm saying? When people on live, they just do all type of stuff. I just came to the camera and did something real quick. You feel me? It was a lot of people on live. I just really came here and show my face real quick. You feel me? They ain't really -- that ain't really nothing. I ain't never -- you know what I'm saying. I ain't -- I ain't never point at the screen or nothing. I'm doing it. You know what I'm saying?

BY MR. CORBETT:

Q Okay. Do you do this?

(Attorney gesture)

A Nah, I did not do that. I did this.

(Witness gestures)

Q I'm sorry? Say it again.

A I did this.

(Witness gestures)

Q Okay. So I got it wrong?

A Yeah. You said I did this.

(Witness gestures)

A I never did that. I did this.

(Witness gestures)

Q Okay. So that could also be interpreted as a gun

gesture; could it not?
A Nah. That is not a gun gesture. When you ever seen a gun gesture go like this?
(Witness gestures)
A I never seen a gun gesture go like this, and I'm pretty sure nobody have neither.
(Thereupon, the visual recording was played but not transcribed herein.)
MR. EPPS: Got me all sweating here talking about Killa Mike.
UNIDENTIFIED SPEAKER: (Indiscernible) on our phones. Nah, y'all going to play.
(Recording interrupted)
MR. WARR: Your Honor, it's unnecessary to play the video again. He's already played it for Mr. Myers. Ask his question and move on.
THE COURT: Mr. Corbett, if you're going to ask a new question, that's fine, but we've already seen the video.
BY MR. CORBETT:
Q If it's not a gun gesture, what kind of gesture is it?
A Really don't mean nothing. You know what I'm saying? It just something I just did real quick. You feel me? You know what I'm saying? That don't mean nothing.
Q Now, after that gesture we talk about, you are then seen in the video clapping; is that correct?

A Yes, sir.
Q To the song that Diontrae Epps is now singing?
A Yes, sir.
Q Okay. You are seen walking out of frame laughing?
A Yeah. I can't laugh? You know what I'm saying. I'm just laughing. It was funny to me. It ain't hurting nobody, just laughing. I can't laugh?
Q So you know Mr. Killa to be Killa Mike?
A Yeah.
Q Now in that video, how many of the People in that video refer to themselves as Mayes Villains (phonetic)?
A Nobody.
Q Nobody? You don't refer to yourself as a Mayes Villain?
A Yeah. Like, what do you mean like? Well, you mean like in the video or like in life?
Q In life?
A Yeah.
Q Okay.
A Like, that's where I'm from. That's where --
Q I'm sorry. Let me rephrase the question. Of the people in that video, how many of them in their life refer to themselves as Mayes Villains?
A I mean, a lot of them -- a lot of them don't, but like, it's -- it's like, well, in this video right here, ain't nothing but two of us there. It was me and Jay McBride.

Q You and Jay McBride were the Mayes Villains?
A Yeah, that's -- that's what we are. That's where we from. We from Mayesville. We just put Villains on the end of our name.
Q Okay.
MR. CORBETT: Okay. Would you bring up (indiscernible) 12 (indiscernible)? Your Honor, now referring to what I believe is State's Number 6. Camera's 12 Sunoco surveillance.
BY MR. CORBETT:
Q Have you seen the video from the Sunoco surveillance camera?
A Yes, sir.
Q Okay. Prior to this trial?
A Yes, sir.
Q Okay. Now in this video, do you see Timothy -- not necessarily the night in question, but in this video, do you see Timothy Scarbough approach the Diontrae Epps?
A You mean, like, in the video?
Q Yes.
A Like what? Like now?
Q Are you able -- well, I'm asking, are you able to see that that is Trey Scarbough -- I'm sorry, Timothy Scarbough?
A (Indiscernible). No, I don't see him now.
Q Let me ask you, first of all, do you know Timothy Scarbough?

A I done heard of him. I don't know -- I don't know about Timothy Scarborough. I know about Dale (phonetic), but I ain't -- like, I don't really know him like that, but I done heard of him. You feel me?

Q If you saw him in a video, would you be able to pick him out?

A Yeah.

Q Timothy Scarbough?

A Yes, sir.

Q Okay. Watch this for us if you would, please.

(Thereupon, the visual recording was played but not transcribed herein.)

BY MR. CORBETT:

Q Do you see Timothy Scarborough in that?

A Well, I can -- I can tell it's him because of the chain he had. You know what I'm saying? He had a -- he got a big, like, last supper chain. He had on -- you feel me? You know, I can see him back there because of the -- because of the chain. It's big. He had a big last supper chain on back -- back there.

Q Would you be able to recognize Mike Rogers in this video?

A Yes, sir.

Q If you would continue watching with us.

(Thereupon, the visual recording was played but not transcribed herein.)

(Recording interrupted)

THE WITNESS: Y'all ain't got like -- y'all ain't got a better video? I -- I believe it is a better video because me and my lawyer got a better video than this, I think.

BY MR. CORBETT:

Q Okay.

A Me and my attorneys.

Q All right. So you're not able to recognize --

A No.

Q -- Michael Rogers in that?

A I can't really -- you know what I'm saying? I can just -- I could tell it was Dale because of his chain. I can't really see is it -- you know what I'm saying? Y'all ain't got a better video?

Q Would you be able to recognize Diontrae Epps in this video?

A I can't really -- you know what I'm saying? Just look like a bunch of black and -- black and white back there. I can't see nobody, recognize nobody. You know what I'm saying? Only reason I recognize him because of his chain. You can -- you can see his chain because it's big.

Q On the night in question, did you observe any of this?

A Nah.

Q On the night in question, did you see Diontrae Epps swing a Michael Rogers?

A No, sir.
Q In the night in question, did you see Diontrae Epps fire a weapon?
A No, sir.
Q In reviewing the video, do you see Diontrae Epps firing a weapon?
A Yes, sir.
Q Please watch with us.
(Thereupon, the visual recording was played but not transcribed herein.)
BY MR. CORBETT:
Q Now, in that video did you see Diontrae Epps firing?
A Yes, sir.
Q Were you able to tell how many shots?
A I have to play -- you have to play it back.
MR. CORBETT: We're going to slow the speed down on this.
MR. WARR: Your Honor, I'm going to object. This is still outside the scope of direct examination. This is a cross-examination. He's asking --
THE COURT: I don't know that --
MR. WARR: -- how many shots somebody fired --
THE COURT: I don't --
MR. WARR: -- in the video.
THE COURT: I don't know of any rule that limits the scope of cross. Redirect is limited, and recross is limited,

but I don't know of any rule that limits him on cross to the scope of direct. So I'm going to allow it.

(Thereupon, the visual recording was played but not transcribed herein.)

BY MR. CORBETT:

Q How many shots have you seen?

A I'm seeing two.

Q If you would, please, look at the extreme right-hand side of the building --

A (Indiscernible).

Q -- as we continue to allow this to play, and tell me if you observe any flash or flashes.

(Thereupon, the visual recording was played but not transcribed herein.)

THE WITNESS: Yeah

BY MR. CORBETT:

Q Okay.

A I see.

Q And that was Diontrae Epps?

A Now, I don't know, because he was behind the building. You know what I'm saying? I don't know. I just seen flashes.

Q Now, you are seen in this video running up to the front of the store?

A Yes, sir.

Q Is that correct?

A Yes, sir.
Q You are seen on video firing shots?
A Yes, sir.
Q Is that correct?
A Yes, sir.
Q You are seen in the video running around the truck and firing more shots?
A You -- what do you mean? Them -- like, I didn't fire until I get round the truck. I didn't -- know what I'm saying?
Q If you would, please, watch with us.
(Thereupon, the visual recording was played but not transcribed herein.)
BY MR. CORBETT:
Q Now, again, we are moving at a slower speed in this video.
MR. CORBETT: Pause.
BY MR. CORBETT:
Q If you would, please, tell us when you see yourself.
A Right there. Can you see me right there behind the --
Q Dou see the arrow?
A Yeah.
Q Is that you right there?
A Yeah.
Q Okay. We're going to continue to play at slow speed.

(Thereupon, the visual recording was played but not transcribed herein.)

MR. CORBETT: Pause.

BY MR. CORBETT:

Q Is that you firing a shot?

A Yeah.

Q We're going to continue at slow speed.

(Thereupon, the visual recording was played but not transcribed herein.)

BY MR. CORBETT:

Q Is that you firing?

A Yeah.

Q That's you firing again?

A Yeah. What do you mean? Like, what do you mean? Like, now I'm not. Like -- like, a moment before that I was. Like, you can start it over. Like --

Q We'll back it up for you.

A All right.

(Thereupon, the visual recording was played but not transcribed herein.)

THE WITNESS: I just fired one.

BY MR. CORBETT:

Q Okay.

A I just fired another one, and I just fired another one.

Q So we've got three that we know about?

A Yeah, that's it.
Q Okay. Please continue watching.
(Thereupon, the visual recording was played but not transcribed herein.)
THE WITNESS: You see? Look. That's when I go to check on my brother. And look, charges right there. He shooting as he going out.
BY MR. CORBETT:
Q Okay, now --
A (Indiscernible).
Q -- I want to back up for just a moment to the part where you go to check on your brother.
A Yeah.
Q Okay. So you're still in camera view at 11:42:12; is that correct?
A Yeah.
Q Okay.
A Right there. The shots coming. You feel me?
MR. CORBETT: Pause.
BY MR. CORBETT:
Q Now, you're back in camera view by no later than 11:42:16?
A Yeah.
Q Four seconds from the time we lost sight of you?
A Yeah. He's right there. You know what I'm saying? The

car's like literally --

Q Oh.

A He's literally right there. You know what I'm saying?

Q I'll -- I'll come back to that in just one moment. If you would continue to watch your movements, please?

(Thereupon, the visual recording was played but not transcribed herein.)

BY MR. CORBETT:

Q What did we just see there?

A A flash.

Q Was that you firing?

A Yeah.

Q Okay.

MR. CORBETT: Please continue.

(Thereupon, the visual recording was played but not transcribed herein.)

BY MR. CORBETT:

Q What do we see there?

A I -- I can't see. You can start --

Q All right, let -- we'll back it up and let it play through for you at slow speed.

(Thereupon, the visual recording was played but not transcribed herein.)

BY MR. CORBETT:

Q Okay. How many times did you fire?

A Three.
Q You fired three more times?
A Yeah.
Q All right. So is that a total of six that you fired?
A Yeah.
Q Total of six? Okay. Now, I'm going to back this up again if I may, please.

(Thereupon, the visual recording was played but not transcribed herein.)

BY MR. CORBETT:
Q If you would please at this time, notice the -- where the red Charger is located. Are you able to identify it?
A Yeah. It's right there.
Q Okay. Is it where the arrow's on it?
A Yeah, right there with the person --
Q Okay.
A -- behind it.
Q Please watch that for us as we play.

(Thereupon, the visual recording was played but not transcribed herein.)

BY MR. CORBETT:
Q Now, I want to pause here for just a moment. Do you see the car just to the left of the pickup truck?
A What do you mean? Like --
Q Do you see the pickup truck?

A Yeah.
Q Do you see the car just to the left of it?
A Yeah.
Q Okay. And those appear to be angled in, facing the Wendy's?
A Like, what do you mean, like -- yeah, like --
Q They're parked at an angle?
A Yeah.
Q In this direction?
A Yeah.
Q Where these parking lines are?
A Like, what you talking about? The truck -- the truck and the car?
Q Correct.
A Yeah.
Q Okay. Now, the Charger is parked at a different angle; is it not?
A Yeah. It's parked like --
Q Facing more this way?
A Yeah.
Q As the lines are here?
A Yeah.
Q Is that correct?
A Yes, sir.
Q Now, watch the Charger for me, please.

(Thereupon, the visual recording was played but not transcribed herein.)

BY MR. CORBETT:

Q Now, up to that point, we saw no flashes from the Charger's (indiscernible).

A You can't -- you can't see the front of the Charger. You can only see the back taillight.

Q But we didn't see any?

A Nah.

Q This is you coming -- running in this direction?

A Yes, sir.

Q Okay. Is that the Charger we see on the extreme left?

A Yes, sir.

Q Okay. So it's pointed out toward the Rite Aid side back --

A Yeah.

Q -- toward Broad Street?

A Yeah, like -- you know what I'm saying? It's right there.

(Thereupon, the visual recording was played but not transcribed herein.)

MR. CORBETT: Pause.

BY MR. CORBETT:

Q Is this the Charger?

A Yeah.

Q Okay.

MR. CORBETT: Please continue.

(Thereupon, the visual recording was played but not transcribed herein.)

BY MR. CORBETT:

Q Now, the Charger --

MR. CORBETT: Pause.

BY MR. CORBETT:

Q Is now turned and is accelerating toward Broad Street; is that correct?

A I can't -- you know what I'm saying? It look like it, I guess. I don't know. I can't--

Q Do you need us to back it up?

A Yeah. I mean, it look like it.

Q Okay.

MR. CORBETT: Let's back (indiscernible).

BY MR. CORBETT:

Q So that's the Charger, correct?

A Yes, sir.

Q Okay. Are you able to see the map I'm pointing at?

A Yes, sir.

Q So it's now turning like this. Is that correct?

A Yes, sir.

Q Now, you saw the other video we played, right?

A Where the video?

Q Where the Charger hits Mr. Rogers?
A Yes, sir.
Q So you know that the car tried to exit out this way, then had to back up and come around this way?
A Yes, sir.
Q Okay. So now we're making the turn this way?
A Yes, sir.
Q All right. Right there appears to be accelerating toward Broad Street, correct?
A Yes, sir.
Q Okay. Now, where are you at this moment in time?
A I'm -- I'm still back there. You can see the -- I still -- I'm still, like, right there, like, trying to check on my brother type time. You know what I'm saying?
Q Okay. So 11:42:15 you're in the corner?
A Yes, sir.
Q Okay.

MR. CORBETT: Please continue.

(Thereupon, the visual recording was played but not transcribed herein.)

BY MR. CORBETT:
Q So you fired three shots after the Charger has left the camera view?
A He was firing at us.
Q Okay.

A He was firing at us.
Q Now, you testified he was firing out of the passenger side?
A Yeah, he was firing at us the whole time. You feel me? As he -- you know what I'm saying?
Q You're now looking at the rear of the Charger.
A Yeah, I guess --
Q Right?
A -- now. I guess now. You know what I'm saying?
Q You're now looking at the rear of the Charger; is that correct?
A Yeah, I guess. I mean, yeah. I mean --
Q Okay. Now, is there anyone else on the other side of the pickup truck in close vicinity to you who is firing a weapon?
A Yes, sir.
Q There are?
A Yes, sir.
Q Okay. Who?
A It was Jay McBride.
Q Jay McBride. Who else?
A That's it. It was just me and him. You can see we got on a white shirt.
Q Now, we have a set of shell casings here denoted in orange. Came from a 9mm gun, correct?
A Yes, sir.

Q We have another set denoted in blue that came from a 9mm gun?
A Yes, sir.
Q We have a set in green that came from a 40 caliber gun?
A Yes, sir.
Q Okay. We have another shade of blue from 9mm?
A Yes, sir.
Q Is that correct?
A Yes, sir.
Q Down here we've got a purple 40 caliber?
A I mean, I don't -- I don't -- you mean -- I don't know about all the way down there. I never -- I never was all the way down there.
Q Okay. How about this 40 caliber from the Green (phonetic) family from here? Do you know anything about that one?
A No, sir. That's the -- that's the opposite side of the building. I never was over there neither. But if you look -- if you look where I was at on that thing right there, you would see that it's a 9mm. I didn't have the .38. It -- it proves it right there.
UNIDENTIFIED SPEAKER: Thank you.
MR. CORBETT: Camera (indiscernible).
BY MR. CORBETT:
Q I'm going to show you what has been marked as State

Exhibit Number 6, Camera 16. Now, this is at slow speed, so bear with us, please. Is that you?

A Yes, sir.

Q So that's you on camera firing the gun?

A Yes, sir.

Q Is that correct?

A Yeah. That's me on camera firing a 9 mil.

Q Okay. Camera one, please. What -- now we're going to show this at a slower speed. Now, you see this individual fall to the concrete, correct?

A Yes, sir.

Q But the night in question you did not see that?

A No, sir.

Q Do you see the red Charger strike that individual who's on the concrete?

A Yes, sir.

Q Do you know who that individual is?

A Yeah. Yeah. That's "Killah" Mike.

Q That's Mr. Rogers?

A Yes, sir.

Q So the car hits Mr. Rogers, correct?

A Yes, sir.

Q Okay. Now, the car does not run over him. It begins to back up; is that right?

A Yes, sir.

Q Okay. So let's watch this. The car is now making a right turn, and it's heading out?
A Yes, sir.
Q So your testimony is that the driver of the red Charger pulls forward and hits Mike Rogers?
A Yes, sir.
Q Throws it in reverse, backs up, puts it back in drive, makes the right-hand -- since the left-hand way is blocked by Mr. Rogers, makes a right-hand turn. So he pulls out, hits Mr. Rogers, backs it up, puts it in drive, and comes around here, and he goes out. And he does all of that while a steady stream of gunfire is coming out of the car? That's your testimony to this jury?
A I don't think he would of hit Mr. Rogers if he'd been paying attention and not shooting at me; you feel what I'm saying?
Q All right.
A If he was -- know what I'm saying? Car doesn't drive. You know, the car gonna move when you -- when you -- when you put it in drive. He's doing like this. He -- he hits him.
Q So he didn't have to put it in reverse to back up?
A He backed up after he hits him. Why would he -- why would he back up, and he ain't hit him yet. You feel what I'm saying? He -- he backs up. He looks at it. He backs up after he hit him when he realized he hit him.

Q Gunshots ring out. The red car puts it in drive, pulls forward, hits Mr. Rogers, correct?

A Like -- like, he -- he hits him like a little while after the gunshots rang out. If you can look at the video, you can tell by the timing.

Q Puts it in reverse?

A Yeah.

Q Backs up?

A Yes, sir.

Q Puts it in drive and pulls out?

A Yes, sir.

Q And your testimony is that he's -- how do you say it, steady fire coming out of that?

A Yes, sir.

Q Okay.

MR. CORBETT: Now we're going to go to 11:43, if we may, please?

THE WITNESS: Your Honor?

THE COURT: If you can -- will you see what she needs?

We've got a raised hand from one of the jurors. Is a --

MR. CORBETT: And Judge, if this is a good breaking point for the Court, I'm set --

THE COURT: You need a break? Okay.

Let's go ahead and take a break. Please don't begin any deliberations. We'll take about a ten-minute break.

RESUMED CROSS EXAMINATION

BY MR. CORBETT:

Q Mr. Myers, before the lunch break we were talking about the video surveillance from the Sunoco store. And if I may briefly return to that point. Now, this is State's Exhibit Number 6, Camera 12. And I won't spend a great deal of time here but if you would, please press play.

Now we've already established that that's you running up and firing three times and then going around and firing an additional three; is that correct?

A Yes, sir.

Q And your testimony was that there was a steady string of fire coming from that car?

A Yes, sir.

Q Okay. And your testimony is that you did not take advantage of the cover provided by the pickup truck or the corner of the building but that you ran into close proximity of that car?

A I mean -- yes, sir. Yeah.

Q How close did you get to it?

A I mean, the car was like -- like, right like --

Q As close as I am?

A -- on -- yeah, like --

Q Or do you want me to back up?

A Yeah, like, right there. Like, right there but you know

what I'm saying? They slanted tight but I was right there at it.

Q Okay. So the car is angled this way? You come running up like this, correct?

A Yes, sir.

Q At about this distance from which you describe as having gunfire coming out of it?

A Yes, sir.

Q You just ran headlong into the gunfire?

A I mean -- yeah, I mean, shoot. He ain't looked like I ain't got hit, you feel me? But yeah. I mean, I just didn't get -- I guess it wasn't my time. I mean, I ain't got hit.

Q Now we've already looked at this, correct, Mr. Myers?

A Yes, sir.

Q Okay. And I'm going to let this play in normal speed for a moment. Now, if we had the six-panel view up, you would be on the far side shooting at the Charger while you go off screen?

A Why who go off screen? Me or the Charger?

Q Both.

A You talking about like over there on the window side?

Q Yes.

A Yes, sir.

Q Did you see the individual walking on the right-hand side of the car?

A Yes, sir.
Q Do you know who that is?
A Yes, sir.
Q Who is that?
A It look like "Pies".
Q "Pies"?
A Yeah.
Q Also known as Christopher Fordham?
A I mean, I guess that his real name. I ain't -- I ain't ever really know his real name. All I know is "Pies".
Q "Pies"? Okay.
A Can you see me in the back seat? I'm big. You can see me --
Q So --
A -- in the back seat.
Q What does it appear that the individual known to you as "Pies" is currently doing?
A It look like he pulling somebody.
MR. WARR: Objection. Calls for speculation.
THE COURT: I'm sorry. Can you repeat the question?
Q What does it appear to you that the person that you know as "Pies" is currently doing?
THE COURT: Yeah. I'm going to sustain the objection.
BY MR. CORBETT:
Q Now, from this video, does it appear that the person you

know as "Pies" is lifting someone up?
A Like he pulling somebody to me. But I ain't -- you know what I'm saying?
Q Pulling somebody?
A Yeah.
Q Okay. All right. Now the car that we see in the background, the gray car.
A Yeah.
Q Are you in that car?
A Yeah, you could clearly -- I mean, I'm big. You could see me in the backseat.
Q All right.
A Where I tell you --
Q Now --
A -- I was at in the back passenger seat.
Q We're going to slow this down to a slower speed. Now what do we observe happen there?
A Somebody shot.
Q Somebody's shot?
A Yeah.
Q Now why did you say somebody?
A I mean, you -- you ain't asking me who's shot. You say what do we observe just now?
Q Okay.
A So I told you what I observed. Somebody shot.

Q Earlier this morning you said it was POLO.
A Yeah, but you didn't ask me who's shot. You said -- you asked me what I observed just now, and I answered the question.
Q Okay.
A If you had just said who that was shot, I would have told you.
Q Who fired that shot?
A Look like the driver of the car. I guess -- that was POLO.
Q POLO?
A Yeah.
Q Okay. So now, did that shot hit Christopher Fordham?
A I mean, I guess so, yeah. He got shot in the foot.
Q Now, I want to ask you this question. Was POLO trying to finish off Mike Rogers?
A Nah.
MR. WARR: Objection. Calls for speculation.
A Like.
THE COURT: That's sustained.
Q Do you know if POLO was intending to shoot Michael Rogers or Chris Fordham?
A I mean, how'd I know that? I mean, I ain't in a -- I ain't in a --
Q The question is do you know?

A Nah. I just --
Q Now, your brother's in the car and has been wounded?
A Yeah.
Q Okay. You're wanting to get to the hospital?
A Yeah.
Q But here we see the gray car stop --
A Yeah.
Q -- to fire at one of these two people?
A I mean, yeah. I mean, I ain't driving so I can't -- you know what I'm saying? All I could do is tell him to go. Yeah, like that -- I can't get --
Q What is POLO's name please?
A Sheldon Benjamin.
Q Now upon leaving this scene where do you all go next?
A We go to Tuomey.
Q Tuomey Hospital, correct?
A Yeah.
Q Okay. All right. Now Mr. Myers, do you see the car pulling up?
A Yes, sir.
Q Is that the same one we just saw at the Sunoco?
A Yes, sir.
Q You're in that car, correct?
A Yes, sir.
Q Who was driving?

A I just tell you. POLO.
Q Okay. POLO was driving?
A Yeah.
Q Now your brother Diontrae Epps is located where?
A In the passenger seat.
Q Where are you located?
A In the back passenger. Right behind the passenger in back.
Q Okay. Who else is in the car?
A Jay McBride and Ellquin Williams.
Q Now is the individual POLO, Sheldon Benjamin, is that a friend of yours?
A Yeah.
Q Okay. Is Jay McBride a friend of yours?
A Yeah.
Q Is Ellquin Williams a friend of yours?
A Yeah.
Q Okay. So all of you all ride to the hospital together?
A Yes, sir.
Q Okay. Watch this with me if you would please. Is that you at the car?
A Yes, sir.
Q What is happening at the car?
A Putting him in a -- putting him in a wheelchair.
Q Diontrae Epps?

A Yes, sir.
Q Now, you're going back toward the grey car?
A Yes, sir. I mean, I don't get in it. I keep walking.
Q Who drives this car away from the hospital?
A On that --
Q Or away from this camera view?
A Oh, I think -- I think Jay. He's the only one up there still.
Q So now we see the car leaving; is that correct?
A Nah, he backed right there in the parking spot.
Q Now I want to ask this question. Earlier in your testimony when I was asking you about the Diontrae Epps --
A Yep.
Q -- you were quick to correct me on the nature of your relationship.
A Yeah.
Q That he is your brother.
A Yeah. I mean, he is.
Q You two are close?
A Yeah.
Q That you care about him?
A Yeah. You don't care about your brother? You got a brother?
Q So my question is this. You didn't go in the hospital did you?

A Nah.
Q Your brother just went into the hospital with what you have described as a life-threatening wound and you did not go in?
A Nah.
Q You left him there?
A Yeah, with -- with Jay. We went to go get his mother 'cause she wasn't picking up the phone. It was late that night. We went to go get his mother. She was staying right there on -- on west side. On -- on -- on Purdy (phonetic), I think.
Q With Jay?
A Yeah. Jay -- we left Jay there with him. We ain't -- we couldn't go to the back with him, you know what I'm saying? We went to go get his mother. She wouldn't pick up the phone.
Q So you've now described the events at the Sunoco to us. You have now described the events at the hospital. You have now left the hospital. Who did you leave the hospital with?
A I left the hospital with the same people except Jay. Except we got in a different car.
Q Whose car?
A It was a red -- it was a red -- it was a red Sentra, you know what I'm saying?
Q How did the red Sentra know to be there?
A They was at -- they was at the Sunoco, too. But they --

they just followed behind us.
Q So there was a group of your friends at the Sunoco who went to the hospital in a different car?
A It wasn't a group. It was just like one person.
Q One person was in the car.
A Yeah.
Q Okay. So then you get into this other car, and you leave?
A Yeah. We went to go --
Q Is that correct?
A Yes, sir.
Q Okay. So you've now left the hospital, okay? You've described these events to us. When did you call law enforcement?
A We ain't never called law enforcement.
Q That's correct. You never called law enforcement?
A Yeah. I mean --
Q You have described to us being in a massive shootout with fire coming from a red car, and it never occurred to you to call law enforcement?
A Man, it was a lot going on after that, know what I'm saying? This man bleeding. We -- the only thing on my minds is gettin' -- get him to the hospital. We didn't think about calling no -- we didn't think about calling no police. We think about getting him to the hospital.

Q Now according to State's Exhibit Number 1, the police picked you up for an interview on September 25.
A 25th. Yeah, that's the same thing.
Q September 25?
A Yeah.
Q So you had no time between September 8th and September 25 to contact law enforcement?
A I mean, I ain't really thought of it that way but yeah, I had time. But I ain't -- I ain't do it, you know what I'm saying?
Q Now you arrive at the hospital in one car, and you leave in a different car. Was that an effort to avoid law enforcement?
A No, sir. I ain't thought about it like that. We was just going to get his mother, you know what I'm saying?
Q So you testified that the car was left at the hospital for I believe you said a week?
A I -- yeah, probably about that long. About -- yeah, about five days to a week. We left it there for a little minute. It had a flat tire.
Q Okay. So no one within the period of one week could figure out how to fix a flat tire?
A I mean, I get -- you know, it's easy to fix a flat tire. I guess there ain't nobody just ain't want to get it. Man, shoot. It ain't my car, you feel me? I ain't -- why would I

go get somebody -- put a tire on somebody else's car if they ain't want to go put a tire on their own car.

Q And your testimony is that you left the gun in the car?

A Yeah.

Q In the Tuomey Hospital parking lot?

A Yeah. I mean --

Q For a week?

A I ain't know if it'd been left there for a week, you feel what I'm saying? I'm saying when I got there, it was gone. You feel what I'm saying?

Q Now if we could, please, let's transition to your statement to law enforcement if we may. Now we were previously referencing State's Exhibit Number 1. They first came to -- or first brought you in for an interview on September 25th; is that correct?

A Yes, sir.

Q You were read your rights?

A Yes, sir.

Q You understood your rights?

A Yes, sir.

Q You voluntarily began talking with them.

A What time on the -- 20 what? On the --

Q On the 25th.

A Yeah, but I ain't -- I ain't said much.

Q Didn't say much and said I'm done at this point?

A Yes, sir.
Q Correct? Now on September 26 --
A Let -- let me -- I got to say something about the 25th. I only had -- I ain't had nothing but the warrants for the attempted murder on Michael Lucas. I did not get the warrants util the murder until they lead me out the door. And then Det. McFadden gave me a warning like, yo, you charged for murder too. I did not got the warrants in the -- in the investigation room. He ain't give me the warrants for the murder 'til I left. Until, like, while I was leaving to go back to the Sumter County.
Q Then on September 26th, you contacted law enforcement so that you could talk with them?
A Yeah. I wanted to know why I'm charged with murder. I mean --
Q And on September 26th, and I'm going to refer to State's Exhibit Number 2, you were read your rights?
A Yes, sir.
Q You understood your rights?
A Yes, sir.
Q And you signed the form acknowledging such?
A Yes, sir.
Q That that statement was freely and voluntarily given to the police?
A Yes, sir.

Q Okay. So it was a lengthy statement, correct?
A What you mean like? Long --
Q It was well over an hour?
A Yes, sir.
Q Okay. Now is it fair today to say that the statement that you gave on September 26 is greatly different than your testimony here today?
A Yes, sir.
Q So it's different. You admit that?
A Yes, sir.
Q Now would it surprise you to know that, on no less than 25 occasions, you were asked either what kind of gun you had, where is the gun, what did you do with the gun? And in none of those, no less than 25 times, did you give an answer?
A No, sir.
Q That would not surprise you?
A Well, you -- nah.
Q Okay. Would it surprise you to know that on no less than ten times you used the phrase I swear to God or something similar?
A Yes, sir.
Q Ten different times?
A When you -- like did I say it? Yes, sir.
Q Now at 4 minutes and 44 seconds into this statement you were asked who were you shooting at?

A Yes, sir.
Q And your answer was, "I ain't shooting at nobody"; is that correct?
A Yes, sir.
Q Okay. So your initial statement to the police was that you didn't shoot at anyone?
A Yes, sir.
Q That's not true?
A No, sir.
Q Okay. At 5:53, when asked who drove to the hospital you said you didn't remember.
A Yes, sir.
Q Did you remember between then and now that it was POLO, or were you lying in here?
A I mean -- I mean, when -- that my -- I'm gonna explain it. That was my first time getting in trouble, you feel what I'm saying? I ain't never been in no investigation room or nothing like that.

MR. CORBETT: Your Honor --

I'm sorry. Please hold for a moment.

Your Honor, may counsel and I approach?

THE COURT: Sure.

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

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

(Open court.)

BY MR. CORBETT:

Q I'm sorry. The last question was when you told police you didn't remember who was driving, was that a lack of memory at that point in time or a lie?

A I mean -- I mean, I was -- I mean, I was lying but you know what I'm saying? But let me explain. Like I was saying, though. I ain't never been in, like, no situation like that, like, in no questioning rooms or nothing like that, you feel what I'm saying? All I'm thinking in my head is look, boy, this just like a movie. I ain't know what type of time they on.

They blame -- they done blame me for a murder I know I ain't do. You feel what I'm saying? I know I ain't murder nobody. So I just told them I ain't know, you feel what I'm saying? I just keep telling them I ain't know. I ain't know.

Q At 7:34, you were asked about shooting at "Killah" Mike, and your response was, "I ain't -- I ain't no shooter, but I'm big, bro. I'll beat you up".

A Yeah.

Q Okay. Now based on what we see in the video you were shooting?

A Yeah, but not at "Killah" Mike.

Q At 8 point O on the tape, when asked if you shot it D-Black or "Killah" Mike, you said, "I ain't even shoot. Well -- well, I swear to God I wasn't shoot at none of them, bro. I wasn't shooting at none of them".

A I didn't. I didn't shoot at D-Black or "Killah" Mike. I didn't.

Q At 9:19 in response to a question, you said, "I ain't care nothing about all the other charges, man. But y'all come on now, don't let me go down for something I didn't do, bro. Please, bro".

A Yeah, I was talking about --

Q Okay.

A I was talking about the murder. But I wasn't -- I ain't had nothing but the attempted murder and the murder at this time. The Michael Lucas and the -- the murder. You know, I ain't had the -- the other thing for the car incident. I was not charged with that yet.

Q Now, when you say I don't care about the other charges, what do you mean?

A Really, I was just -- you know what I'm saying? I was just in there just -- really, I was just talking, man, to be honest with you. 'Cause I ain't -- just like I said, I ain't really know what was going on, you know, I was just -- I just know, man, I'm gonna be real with you. I just know for a fact I ain't killed nobody. That the only thing that was on my

mind. And didn't kill nobody. They got me in for murder. I know for a fact I ain't kill nobody.

Q All right. Now, we looped back around to this topic more than once, and you said later on that I'll take the attempted murder; is that correct?

A Yes, sir.

Q Okay. So you admit that?

A We -- like, what you do you mean? Like --

Q You admit that you attempted to murder the person in that red car?

A I mean --

MR. WARR: Objection, Your Honor.

THE COURT: I'm going to allow the question.

THE WITNESS: I mean, he was shooting at me too. You feel what I'm saying? But I ain't -- you know what I'm saying? He be shooting at me too.

BY MR. CORBETT:

Q At one point, at 13:57, you asked if Ello got out of the car, and you responded not really. Did Ello get out of the car?

A What do you mean? Like, when?

Q That night when the shooting was taking place at the Sunoco?

A I just told you we got out the car. Like, we -- you know what I'm saying?

Q I understand that was your testimony today.
A I --
Q My question is, did you tell the police when being questioned -- when asked, did Ello get out the car, did you say not really?
A I mean, I guess so.
Q At 15 minutes and 30 seconds, did you say I'm six-four, 300 pounds. I'm not the type of person to use no guns.
A I don't remember saying all that, but I mean, I did say the little part about, I'll beat you up. But I ain't remember saying all that, but I probably did. You know, I'm saying? I -- I don't really know.
Q At 1605 you said to the police, that's when shots just fired off. I ran. I ran. You feel me? I ran. If I had a gun, I wouldn't have run, bro. I'm telling you.
A I mean, I remember saying -- telling him I ran and all that. I ain't -- you know?
Q Do you need us to play that portion for you to hear?
A I mean, if you want to. You play it, I'll say it. I'm going to tell you. I ain't up here to lie to you.
Q We'll come back to that in a moment. At the 17-minute mark, you said, I worried about none of that other stuff. I mean, if y'all going to get me for attempted murder, and then you continued that thought; is that correct?
A What do you mean?

Q Y'all going to get me for that attempted murder?
A I'm saying, like, what do you mean? You say I continue that thought. I'm trying to figure out what you mean.
Q Very well.
A You need to tell me what you mean by that.
Q Det. McFadden began in this manner. This is from Det. McFadden. We'll get to that part later. Let's talk about this in order so we can get that part out of the way. Because what you're telling me, I already know that. I already know for a fact that you had a gun. You cannot tell me you had not. I see you on camera had a gun. I see you fired a gun.

Stop telling me that you didn't have a gun. Don't tell me that no more. Because this -- excuse me. Because this thing here, all you want to do is sit here and lie. I don't need lies. I need the truth on everything. You ain't the only one we talking to. We talking to everybody out there. Your response at 17: Oh, oh. But how am I charged with when I ain't got no problem? This -- I ain't worried about none of that other stuff. I mean, y'all going to get me for attempted murder -- the next part I had difficulty understanding -- but please don't say I killed nobody, bro, when I didn't.

MR. WARR: Your Honor, I'm going to object to the use of this transcript. We have no way to validate its accuracy. And defense has not being provided a copy of --

THE COURT: Well, I think -- y'all approach for just a

minute.

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

THE COURT: Mr. Corbett?

MR. CORBETT: Thanks, Your Honor.

MR. WARR: Just for the record, Your Honor, your ruling?

THE COURT: I'm going to allow the question. I understand that there is no official transcript, that this is each party listens to the audio tape and can discern as best they can what the defendant's response is, but there is no official transcript. Thank you.

BY MR. CORBETT:

Q Mr. Myers, for benefit of the record, I will note the time, but at 18:57, you were asked who you saw with a gun out there. Do you remember your response?

A I probably tell you nobody.

Q I ain't seen nobody with guns, man. That's what I'm trying to tell y'all. Does that sound like your answer?

A I guess so.

Q That wasn't true, was it?

A No.

Q Now, at 2140, you stated -- or I'm sorry, let me ask it this way. Do you remember saying this? I shoot at the red Charger. The question was, who else was in the red Charger

was coming round to kill Trey? And your answer -- and tell me if this is your answer -- I ain't know.

A I ain't -- who else is in the red Charger coming around to kill Trey? I ain't remember that.

Q Bear with me one moment, please. I'm going to play approximately two minutes of audio. Now, let me ask this before I begin. At this point in time, had you seen the cell phone video from the scene that night?

A Yeah, everybody's seen it. It was -- it was everywhere.

Q Okay. Had you seen the Sunoco surveillance video at this point?

A Nah.

Q Okay.

(Thereupon, the audio recording was played but not transcribed herein.)

MR. MYERS: (Indiscernible). And I ain't even going to lie. Yeah, I -- I shoot at the red Charger, but listen, I didn't (indiscernible). I was in the corner, and nobody was (indiscernible) out there (indiscernible). Ain't nobody was (indiscernible). Please (indiscernible) I didn't kill nobody, bruh. I promise I ain't kill nobody, bruh.

DET. KELLY: Why was you shooting at the red Charger?

MR. MYERS: Man, I -- man, it was so much (indiscernible) out there, man. I really thought they was going to come and try to kill my brother. Feel what I'm saying?

(Indiscernible). But I'm telling you I know for a fact -- I promise you 100 percent for a fact that I know for a fact I didn't kill nobody.

DET. KELLY: (Indiscernible).

MR. MYERS: I ain't know.

DET. KELLY: Well (indiscernible).

MR. MYERS: I -- I ain't saying that. I ain't saying that. But like it was so many shots out there, I -- I was thinking, like, they trying to kill people out here tonight. Feel what I'm saying? I see my people get shot. I ain't even (indiscernible). He was (indiscernible) Killa Mike, and -- and I -- and I just shoot. (Indiscernible).

This man trying to save somebody. (Indiscernible). That's what I'm trying to find out, what happened. I didn't. That's what I was trying to tell y'all (indiscernible). I did not do it to him. I -- (indiscernible). Man, all you got to do is look at the camera again, man. Y'all can tell I didn't shoot that dude (indiscernible). Y'all can tell I ain't lying. I ain't got no reason to lie to y'all. Y'all got the (indiscernible). All that other attempt murder and -- man, I'll take that (indiscernible). I can't -- I can't --

DET. KELLY: Who -- who was in the Charger?

MR. MYERS: Huh?

DET. KELLY: Who (Indiscernible) red Charger?

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

DET. KELLY: You don't know him?

DET. MCFADDEN: (Indiscernible).

MR. MYERS: I don't know. I don't know who (indiscernible). The dude -- man, I can promise you he wasn't in there.

DET. KELLY: Mm-hmm.

(Recording paused)

MR. CORBETT: Pause.

BY MR. CORBETT:

Q On the last portion, did you hear Det. McFadden ask, then why shoot at it if you don't know?

A Yes, sir.

Q And your response was, I don't know. I don't know who was in there, man. The dude, man, I could promise you he wasn't in there. You heard that portion?

A Yeah. I was telling my D-Black when I say he wasn't in there.

Q Now, let's back up just a little bit. We heard this part also. I promise you got the wrong dude, bro. On that other attempted murder and crap, man, I'll take that, man, I promise you.

A Yeah, I was talking about you got the wrong dude on murder, which y'all do got the wrong dude on murder.

Q That sounds like an admission to attempted murder when you say, I'll take that, man.

A I mean, I ain't really -- you know what I'm saying? I -- I ain't going to lie, I said it. But shoot, they shooting at me. I ain't -- I don't know. You know what I'm saying? I don't really know the law like that. I ain't know I'm in the right, you feel me, for -- for self-defense. I don't know nothing about the law because I don't get in trouble. You feel what I'm saying? I'm going to be real with you. I don't know nothing about the law. I don't get in trouble.

(Thereupon, the audio recording was played and transcribed herein.)

MR. MYERS: (Indiscernible). I know for a fact I ain't shoot him. I ain't shoot him (indiscernible). Man (indiscernible). Y'all be (indiscernible).

DET. KELLY: (Indiscernible)?

MR. MYERS: I ain't -- I don't -- I don't even remember, man. I don't even know, bruh.

DET. MCFADDEN: Where's the gun at now?

MR. MYERS: I don't know. I'm telling y'all.

DET. MCFADDEN: What'd you do with the gun?

MR. MYERS: Nothing.

DET. MCFADDEN: So it's at your house?

MR. MYERS: No.

DET. MCFADDEN: Where'd you put it?

MR. MYERS: Man, can I talk my mama, bruh?

(Recording interrupted)

MR. CORBETT: Pause, please.

(Recording paused)

BY MR. CORBETT:

Q In that particular exchange, Det. Kelly said what kind of gun did you have? And you heard it there, correct? Your response was, I didn't have -- I don't -- I don't even remember, man. I don't even know, bruh. McFadden comes back and says, where the gun at now? You respond, I don't know. I'm telling y'all. Det. McFadden then asks, what -- what'd you do with the gun? You respond, nothing. Det. McFadden says, so it's at your house? You say, no. Det. McFadden says, where'd you put it? And your response is, can I talk to my mama? Is that correct?

A Yeah.

Q Okay. So that entire series of questions about the gun -- all of those answers were untruthful, except with the possibility of I don't know.

A I mean, I didn't know where the gun at. I wish I knew -- I told her -- if you listen, I told her I don't remember. I -- I definitely remember what kind of gun I had. I just didn't want to -- I just didn't want to tell them because I didn't know what type of time they been on. You -- I -- if I -- if I tell you something you know you didn't do, and then I ask you a question, would I -- I -- I know I ain't murder nobody. They in here blaming me for a crime I know I ain't

did. And then they asking me a bunch of questions, and they want me to be truthful with them. I can't trust them. I -- I can't -- you know what I'm saying? I can't -- I don't trust them right now. You feel what I'm saying?

Q When did you find out that Mr. Middleton was killed by a .38 caliber bullet?

A I ain't find -- I ain't find that out until -- until I got -- until after I got locked up and went and got my lawyers and stuff like that.

Q So at the time of this statement, you didn't know that?

A No.

Q Okay. So at the time of your testimony today, you did know that?

A Yeah.

Q Okay. So on the 26th, what's 15 -- 18 days after the shooting, you provided no information about the gun?

A No, sir.

Q Matter of fact, on several occasions in this statement, your recorded statement, you asked the police what kind of gun he was killed with?

A Yes, sir.

Q Okay. And matter of fact, you said something to the effect of, well, if I tell y'all what kind of gun I had and it turns out he was killed with that kind of gun, then y'all will put this on me?

A I said that because I had a 9. You know what I'm saying? You know how easy it is to get a 9? You can buy a 9mm for 50 dollars. You know how much people got 9mm? You see how much people had 9mm on that board? You feel what I'm saying?
Q Well, let's pause there for a brief aside. You told us you bought this gun for 150 dollars?
A I -- yeah, I said --
Q From who?
A -- I said you can buy a 9mm for 50 dollars.
Q From who?
A I bought my 9mm for 150 dollars.
Q From who?
A From -- from somebody. I ain't bought to -- you know what I'm saying, I ain't bought to give their name. I bought that gun so long ago. That gun was like --
Q Is it you don't know, or you're not about to get into it?
A You mean? What am I --
Q I'm trying to understand your answer. I asked you who you bought the gun from.
A Man, I ain't really -- you know what I'm saying? He ain't got nothing to do with this thing.
Q Because just like you won't -- wouldn't tell the truth in this statement, you won't tell the truth right now.
A I'm telling the truth. I'm telling the God-honest truth. I don't got no reason to lie. Everything I'm --

Q Who did you buy the gun from?
A Man, I don't know, man. I don't see what this got to do with murder. You know what I'm saying?
(Pause.)
BY MR. CORBETT:
Q At any point in this -- the statement that you gave to law enforcement, did you tell them that Polo (phonetic) or Sheldon Benjamin fired and hit Chris Ford (sic)?
A No, sir.
Q Didn't tell them that at all?
A No, sir.
Q Nowhere in this statement, in the statement that you gave to law enforcement do you say that gunfire was coming from that red Charger?
A No, sir. I said they were shooting at people. Know what I'm saying? I ain't said, like, gunfire, but I said they -- you know what I'm saying? They were shooting at people.
Q You never specified that gunfire was coming from the red Charger, did you?
A I mean, we was talking about the red Charger already, so I ain't -- I -- I ain't said it, that it was coming out the red Charger, but we were already talking about the red Charger already.
Q So when you're being asked who was in the red Charger -- bear with me one moment, please. Again, who was in the red

Charger?

MR. WARR: Objection. Asked and answered.

THE COURT: Let me hear the question first.

BY MR. CORBETT:

Q Then why shoot at it if you don't know? Your answer was, I don't know. I don't know who was in there, man.

THE COURT: And that's --

BY MR. CORBETT:

Q The dude, man, I promise -- I -- I could promise you he wasn't in there. Now, within that line of questioning, you never said anything about gunfire coming out of the red Charger.

A Man, I said he wasn't in there, because I was talking about the D-Black. We -- every time they tried to talk about something else, I was getting on the point about the murder because I know I didn't murder anybody. You feel what I'm saying? If you listen to the interview, you would hear that. Every time they ask me about something else, I was on about the murder that they was trying -- they were trying to accuse me of, and I know I didn't do it. And I'm pretty sure y'all know I didn't do it.

Q Now, the red Charger, as it was pulling away and accelerating toward Broad Street, that red Charger was not a threat to you, was it?

A Talking about, like, when it was leaving out?

Q Yes, sir.
A Nah, but it already was -- it already was shooting so much times when it -- when it -- before they left out. You know what I'm saying? No telling what it was going to do next.
Q So in the video, when we see the car make the left, loop around the gas pumps, and head toward Broad Street --
A We -- we -- well, he was -- when he came out, made the left, and -- and was going straight before he take the turn, he was shooting. Like, when he was going straight, he was in that little corner. He was shooting. Then he wouldn't take the turn to go to Broad Street, yeah.
Q So then he's going toward Broad Street. You run around, and come up, and fire three more times?
A I mean, I wasn't the only one shooting. So I can't really tell you that that's my -- just like I tell you, Jay McBride was shooting with me.
Q Was anyone besides Jay McBride shooting?
A No. No, sir.
Q Just you and Jay McBride?
A Yes, sir, that I see at that time.
Q Did anyone -- did you or Jay McBride have more than one gun?
A I mean, Jay McBride, he had 9 too. He had a SCCY 9.
Q How many times did you fire?

A I ain't -- you know what I'm saying? I ain't really -- I ain't count it. But it looked like I fired six times on the video. But just like I tell you, it was me and him shooting, so ain't no telling who -- who light that been at that time.

MR. CORBETT: One moment, please, Your Honor.

(Pause.)

BY MR. CORBETT:

Q Now, later on in your statement, Det. Kelly also asked you about what type of gun that you had, correct?

A Yes, sir.

Q And at no point during your statement did you say Smith and Wesson 9mm?

A No, sir.

Q At no point in time did you tell law enforcement Smith and Wesson 9mm until after you knew which round killed Mr. Middleton?

A I mean, I been telling my lawyer what it was. We -- we ain't got -- I been telling my lawyer what it was. We ain't got data until like -- like, what? Like, recently. We -- we just got that, like, what? Like ten months ago or something like that. We just -- we -- I been telling him what it was.

Q Now, you indicated that you had a gun in the car?

A Yes, sir, the same -- the Smith and Wesson 9.

Q But it was Jay McBride's car?

A Yes, sir.

Q So you took your gun and put it in his car?
A Yeah. I mean, we was riding together. He had his gun in there, too.
Q Do you have a concealed weapons permit?
A No, sir. But I ain't a felon, so if I got a -- if I got a -- you know what I'm saying? It's not unlawful carrying a pistol. If I got to put up, I'm not a felon, so I can have a gun. It's not unlawful carrying a pistol if you got it in a, you know, the little -- the little junk or the -- the arm rest, or either the little -- damn. (Indiscernible). The little -- the little junk you pull down in the front of the car. You know what I'm talking about. But I had mine in the armrest.
Q Who shot the Chevrolet pickup truck from the passenger side?
A I mean, I don't know.
Q Was it you?
A No.
Q Wasn't you?
A No.
Q So who does that leave?
A I mean, I don't know. It -- it's a couple people shooting out there, so how would I --
Q Okay. So we've gone from you and Jay McBride to now a couple of people shooting?

A I mean, it's always a couple people shooting out there. You -- you got like 100 something bullets.
Q And as far as we know, that bullet may still be in. Deandre Epps?
A It may or may not. I can't tell you.
Q Now, in that previous line of questioning in your statement, you stated that -- first of all, who is D-Black?
A I think -- I just -- I find out over time that his name Greg Middleton.
Q Okay. You said that Gregory Middleton was not in the car?
A Yeah.
Q How do you know that?
A I mean, because obviously he wasn't in the car. I mean, you know, at the time, but he wasn't -- you know what I'm saying? He wasn't in the car.
Q How is it obvious?
A Because he was on the outside of the car. You -- you just seeing that just like me.
Q Did you not multiple times say in your statement that you never saw D-Black out there?
A Nah, I never saw him, and the car was blocking him. I never saw him.
Q So I'm asking -- you made the statement --
A Oh, you -- you --

Q -- I know he wasn't in that red Charger.
A Oh, I just be saying -- I just be -- you know what I'm saying? I just -- I just had the feeling he wasn't in there. He wasn't.
Q At the time you gave this statement, you hadn't seen the surveillance video?
A No, sir.
Q So how would you have a feeling he wasn't in that car?
A I mean, I'm just saying, like, he wasn't in the car. I -- he wasn't.
Q I'm sorry. Let me rephrase the question. On the night in question, when you ran out there with your gun shooting, how did you know he wasn't in the car?
A I didn't.
Q In that hotel room, why did y'all make that Facebook video?
A I mean, I ain't know why he made the Facebook video. I was just there. You know what I'm saying? I ain't know why he made it.

MR. CORBETT: No further questions.

THE COURT: Redirect?

MR. WARR: Yes, Your Honor, if you -- if it please the Court.

THE COURT: Yes, sir.

REDIRECT EXAMINATION

BY MR. WARR:

Q Mr. Myers, Trey Epps is your half-brother, correct?

A Yes, sir.

Q But you consider him like full brother?

A Yes, sir. We grew up together our whole life.

Q Okay. Did you ever have a problem with Killa Mike?

A No, sir.

Q Do you ever talk to Killa Mike?

A No, sir.

Q Ever had a dispute with Killa Mike?

A No, sir.

MR. CORBETT: Your Honor, to the leading nature of the questions.

THE COURT: That's sustained.

BY MR. WARR:

Q Have you ever heard the word Sumter rights?

A Sumter what?

Q Sumter rights?

A What is that? No, I never heard of that word.

Q Oh, okay. When you say Mayes Villains, what do you mean?

A It's Mayes Veens (phonetic). That means we just Mayes Vill through and through. You feel me? We like -- we just from Mayesville. That way -- you know what I'm saying?

Q So anyone from Mayesville's a Mayes Villain?

A Yeah, basically.

Q Okay.
A If you -- if you grow up there your whole life, you a Mayes Villain.
Q And somebody from Turbeville would be a Turbe Villain?
A Yes, sir.
Q All right. The video that we saw at the hospital, why doesn't it show you anybody getting out the car? We don't see anybody get out of the car.
A I don't know. It just -- I don't know. It look like it just skipped to me.
Q Is there about a ten-second jump in that video?
A That what it look like to me.
Q So that's why it doesn't show anyone getting out the car?
A Yes, sir.
Q Because the video's incomplete. Now, are you afraid of cops?
A I mean, I really don't trust them like that, but you know what I'm saying, I ain't afraid of them. I really don't trust them.
Q You don't trust them?
A And is it socially acceptable in your community to talk to law enforcement?
MR. CORBETT: Objection, Your Honor.
THE COURT: And the basis of your objection?
MR. CORBETT: The objection is it calls for speculation,

or it's without foundation.

MR. WARR: He can testify as to what social norms are.

THE COURT: Well --

MR. CORBETT: May we approach?

THE COURT: -- I mean, I'll decide what he can testify to. Come on up.

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

BY MR. WARR:

Q Mr. Myers, in Mayesville, in the young Black community, is it socially acceptable to talk to law enforcement?

MR. CORBETT: Objection, Your Honor.

THE COURT: What's the basis?

MR. CORBETT: Your Honor, he's asking for the entire -- I'm trying to think of his phrasing -- young African Americans who live in Mayesville, do they talk to police? How can this witness have the knowledge --

MR. WARR: He's a member of that community.

THE COURT: Okay. I'm going to allow the question. Thank you.

THE WITNESS: No, sir. We don't talk to the police.

BY MR. WARR:

Q Thank you. And when you went into that interview room, did Det. McFadden present you with the Bible?

A No, sir.
Q Did he ask you to place your hand on that Bible?
A No, sir.
Q Did he ask you to raise your right hand?
A No, sir.
Q Did he ask you to solemnly swear to tell the truth, the whole truth --
MR. CORBETT: Objection, Your --
BY MR. WARR:
Q -- and nothing but the truth?
MR. CORBETT: Objection, Your Honor. It's a series of leading questions.
THE COURT: Yes, sir. That's sustained.
BY MR. WARR:
Q Were you placed under oath in the investigating room?
A No, sir.
Q And when you said, I didn't kill anyone, what did you mean?
A I ain't kill nobody.
Q After they presented you with the murder warrant, how did that make you feel?
A It made me feel like, what they got going on? I know I ain't kill nobody. Shoot. I -- I'm ready to talk about this. You know what I'm saying? Man, no, they got the wrong dude.
Q Were you afraid?

A Yes, sir.
Q Could you focus on anything else?
A No, sir.
Q When you said, I'll take the attempted murder. Just don't put this murder on me. Was that a confession, or was that you're say -- you being afraid to get the murder --
MR. CORBETT: Objection, Your Honor.
THE COURT: That's a leading question.
BY MR. WARR:
Q You weren't pleading guilty in a court of law?
A No, sir.
Q You were just worried about --
A I was just worried -- I --
THE COURT: That's a leading question.
BY MR. WARR:
Q What were you worried about at the time?
A The murder.
Q What else?
A Just that murder. I was worried about that murder.
Q And Mr. Corbett asked you a question on cross-examination. Was anyone shooting but you and Jay McBride? And you said yes. Were you referring -- what did you think he was asking you or shooting at?
A He just asked me was anybody shooting me. You know what I'm saying? He -- I thought he was referring to was we

shooting at the car. You know what I'm saying?
Q Just the red Charger?
A Just the red Charger.
Q There were other people shooting?
A Yes, sir.
Q Just not at the red Charger?
MR. CORBETT: Objection, Your Honor.
THE COURT: That's sustained.
BY MR. WARR:
Q Mr. Myers --
MR. WARR: With your permission, Your Honor.
BY MR. WARR:
Q -- can you come point where you were standing?
A Yes, sir.
Q When you ran out by the truck, where were you standing?
A Talking about, like, after I got by the truck?
Q Yeah.
A I was, like, right here. (Indiscernible) right here.
Q Right in here? In this area?
A Yeah.
Q In the corner?
A Yeah.
Q All right. Thank you. You can sit back down.
MR. WARR: I beg the Court's indulgence. Thank you.
Nothing further, Your Honor.

MR. CORBETT: Nothing. No recross.

THE COURT: Thanks. You can step down.

Mr. Warr?

MR. WARR: The defense rests, Your Honor.

DEFENSE RESTS

THE COURT: Okay. Ladies and gentlemen, I'm going to send you out for a few minutes. Please don't begin discussing the case.

(Whereupon, the jury exited the courtroom at 3:20 p.m.)

THE COURT: Okay. Mr. Warr, you want to renew your motions?

MR. WARR: Yes, Your Honor. Renew all my motions and previous objections. Reserve for the record. I'd like to move for a directed verdict on the basis that the State has failed to carry their burden, and it failed to prove beyond a reasonable doubt and refute the defense -- self-defense (indiscernible).

THE COURT: Mr. Meadors, do you want to be heard? Are you good?

MR. MEADORS: No, ma'am.

THE COURT: Thank you. Again, I'm going to respectfully deny the motions for directed verdict. I do find that there is sufficient evidence for it to go to the jury. Okay, it's 3:30. I know we need to discuss jury charges. We need to discuss the verdict form. Before we get too far into that,

THE COURT: Okay. Let's be at recess for ten minutes or so.

MR. WARR: Thank you.

MR. CORBETT: Thank you, Your Honor.

(Recess.)

THE COURT: Okay. My first question is whether the Defendant is requesting any lesser included offenses. Or the State, for that matter.

MR. WARR: The Defense isn't requesting any at this time, Your Honor.

THE COURT: Okay.

MR. WARR: No disrespect, but at this time, isn’t this the time when you're going to decide?

THE COURT: This is the time. I mean --

MR. CORBETT: It depends on whether Your Honor allows the mutual combat charge.

THE COURT: Okay. Well, then let's talk about that. So the State is requesting mutual combat. Is there anything else that you're requesting at this point?

MR. CORBETT: Your Honor, may I ask from up here just so I can be heard on the record?

THE COURT: Sure.

MR. CORBETT: Your Honor, the State would request the following charges: murder as to Gregory Middleton. Your Honor, we would ask that the Court include, within its murder

charge, accomplice liability, also known as hand of one is the hand of all. Your Honor, the State would also request a charge of transferred intent. And Your Honor, I acknowledge that some of these items are already in the Court's charge.

THE COURT: Um-hum.

MR. CORBETT: Transferred intent. And also charge of murder, and admittedly, it is an alternative theory of sorts that the charge of murder include a mutual combat doctrine.

Your Honor, also as to Gregory Middleton, the State would request the lesser included offense of voluntary manslaughter.

THE COURT: Okay.

MR. CORBETT: Your Honor, as to victim Michael Lucas, the State would request the charge of attempted murder.

THE COURT: Yes, sir.

(Counsel confer.)

MR. CORBETT: Your Honor, as to Michael Lucas, because of the number of shots fired, we would also ask that the Court include a charge in compliance with -- oh, goodness, Judge. It's the zone of danger case that came out several weeks ago.

THE COURT: I know what you're --

MR. CORBETT: I have the case on my desk. I'm sorry. I don't have the name right in front of me.

THE COURT: The Blake Hewitt opinion?

UNIDENTIFIED SPEAKER: The who?

THE COURT: I think Blake Hewitt was the authoring judge

on it. He's -- Blake Hewitt.

UNIDENTIFIED SPEAKER: Oh. I wasn't paying attention.

MR. MEADORS: Your Honor, with all -- with much respect, I think it's State v. Devonte Williams.

MR. CORBETT: Thank you. Your Honor, I ask too for victim Christopher Fordham. The State would request the charge of attempted murder along with accomplice liability.

With regard to victim Christopher Fordham, the State would also request the statutory of the lesser included offense of assault and battery of a highly aggravated nature. Thank you, Your Honor.

THE COURT: So you are not requesting a charge on accomplice liability for the attempted murder of Michael Lucas?

(Counsel confer.)

MR. CORBETT: One moment, please, Your Honor.

THE COURT: Um-hum.

MR. CORBETT: Your Honor, we would also request the charge of accomplice liability as to Defendant Michael Lucas, based on the testimony that came out during trial.

THE COURT: Okay. Let's talk about those first. I guess let me ask you first, Mr. Warr, what the Defendant is requesting.

MR. WARR: Your Honor, the Defendant is requesting a charge on self-defense. I have a copy of it, and if I may

approach?

THE COURT: Sure. Thank you. Okay. So let's start with the murder charge as to Gregory Middleton. First of all, the accomplice liability charge. Mr. Warr, do you want to be heard on that? And I guess here's where I'm struggling, and this really applies to the accomplish liability charge as to all three of these offenses. Normally, I picture accomplice liability when you have three people that go in to rob a store. One person's the lookout, one person's driving the getaway car. It's clearly part of the scheme that they have all together. And so all three are liable if one person is the shooter.

I'm struggling to see how that's going to fit with this type of case where you've got multiple people shooting. And you know, you've got one group of people on one side, and you've got one group of people loosely on one side, and a group of people loosely on another, but you've got any number of people out there shooting.

So I guess I need to hear from you, Mr. Corbett, how the hand of one hand of all is going to fit in with the murder charge and also with the attempted murder where you have the specific intent requirement. How can accomplice liability fit in with that specific intent requirement?

MR. CORBETT: Your Honor, with regard to the murder charge, victim Middleton, Judge, it's somewhat nuanced in that

the case law suggests that. And perhaps I'm stepping a little bit too far forward in that the notion of accomplice liability dovetails in with the notion of mutual conduct. That particularly in the case of State v. Young, it makes numerous references to how those two concepts dovetail in with each other. So that was largely the request for the charge on accomplice liability so that it could properly be considered in light of mutual combat.

THE COURT: Well, so do you want to talk about mutual combat first? And I've been looking at State v. Young, which does ratify, I guess I would say, a mutual combat charge. It says it is still a viable theory. So it states, "To constitute mutual conduct, there must be a mutual intent and willingness to fight.

The intent to fight may be manifested by the acts and conduct of the parties and the circumstances surrounding and leading up to the combat. There must be an antecedent agreement to fight, which may be shown by evidence establishing a preexisting dispute or ill will between the combatants. The combatants must be armed and know the other party is armed." If y'all just let me read this pertinent part here real quick.

So I'm reading Young, and it looks to me -- I can see how transferred intent and mutual combat go together. Again, I'm still having trouble seeing how accomplice liability fits in

there.

Mr. Warr, let me hear from you as to your argument regarding mutual combat and transferred intent, again, regarding the murder charge.

MR. WARR: Thank you, Your Honor. Please the Court. Obviously, the Defense objects on the evidentiary basis to the charge of mutual combat. As you stated, mutual combat requires three -- there's three elements. You have to have an antecedent agreement to fight with deadly weapons or prior bad blood. You have -- they have to be armed with deadly weapons; a fistfight would not suffice. And they have to know that the other party was armed.

And in this case, to charge the jury on mutual combat would be a clear error of the law, because it does not apply like in Bowers opinion from the appellate court that came out. This -- the State has not made an evidentiary showing to support the jury charge and the fact that there's no evidence of at least two of the three elements.

To start with, mutual -- even if they could prove mutual combat between Diontrae Epps and Michael Rogers and Joquell Myers, there mutual combat still would not apply because neither Michael Rogers nor Diontrae Epps were firing at the time Gregory Middleton was shot. So that means that if Joquell Myers didn't fire the fatal bullet, which he didn't, then some unidentified third party fired the fatal bullet.

So in order for Joquell -- a mutual combat charge to apply, the State would have had to have evidence the record to show he was engaged in mutual combat with this unidentified third party. Because neither -- and there's absolutely no evidence of that. We don't know who this third party is that fired this shot. But we do know for a fact that Gregory Middleton was not shot by Diontrae Epps or Michael Rogers, because both men had been shot and were on the ground and were not firing at the time he was shot.

So even if there was a mutual combat shown between the three of them, which I don't believe there was because I don't believe Trey Epps had any kind of agreement with Michael Rogers to fight. I don't think they even knew Killer Mike was coming there, and there certainly is no evidence the record that Joquell Myers had any kind of prior dispute with Killer Mike, other than he was in the back of a Facebook video his brother was making. That's not enough to show an antecedent agreement to fight with deadly weapons.

So even if they could show that, and they were -- the three of them were engaged in mutual combat, two of them were down. So that only leaves Joquell Myers firing at that red Charger at the time the fatal shot is fired. So that means somebody else; it is not Joquell Myers. Somebody else had to fire that shot, and there is absolutely no evidence of mutual combat with that person.

And so to assign accomplice liability on the basis of mutual combat in this case, it would just be a clear error of law because it doesn't apply in this scenario. It's never been applied this way before in any court.

Yes, in Young it was applied to a co-combatant, but it was a co-combatant who fired and shot an innocent bystander. It wasn't an unidentified person. They knew in that case that there was -- they knew in that case that they were engaged in mutual combat; a co-combatant fired the fatal shot.

This case is more like State v. Bowers because there is no evidence of a prior dispute. There's no evidence of an agreement to meet at a certain time at a certain place and settle this dispute with the use of deadly weapons. And there is -- like I said, it's more like Bowers, and it's like Taylor (phonetic). And I have a copy of both of those cases, Your Honor, if you would like to look at those two cases.

THE COURT: I've got them on here. Thank you.

MR. WARR: And as far as -- and for mutual combat, they'll apply. It had -- they had to be actually engaged in mutual combat at the time the death occurred, which clearly it didn't.

As to accomplice liability, there has been absolutely no evidence of a conspiracy in this case to kill D-Black or Michael Rogers. There's no evidence of a prior agreement or a conspiracy. I believe that I would object to the accomplice

liability charge on the same basis. The evidence in the record just simply does not support that charge.

THE COURT: Do you want to reply?

MR. CORBETT: If I may, please, Your Honor.

THE COURT: Sure.

MR. CORBETT: Your Honor, with regard to mutual combat, from State v. Young, this language is included: "The mutual combat doctrine is triggered when both parties contribute to the resulting fight. To constitute mutual combat, it is not necessary that there should be a positive agreement between the participating parties to enter the combat. It is sufficient if they willfully enter into the conflict upon the impulse of the moment.

"The State is required to prove the rival combatants were armed for the mutual combat with deadly weapons and each combatant knew the others were armed. Mutual combat may be the basis of either a murder or manslaughter conviction, depending on the combatant's state of mind at the time of the killing. For example, whether the combatant acted with malice of forethought."

So Judge, what we have in this particular case is we have a history of ill will. That is shown clearly in the Facebook video. "Sending the Goons for you." "Killer Mike and his car are going to get a makeover." At least two individuals arguably making firearm gestures with their hands. So we have

that in the Facebook video setting forth that history of ill will.

Then what we have on scene, and fortunately this is captured on video, Diontrae Epps initiates and assault upon Michael Rogers. On video you see him produce his weapon and fire. The State has already conceded that Michael Rogers fired multiple times, and he was hit in the resulting gunfire. Once those two individuals began firing, then that's when it kicked off the rest of the gunfire.

So we know even in the light most favorable to the Defendant, because the Defendant himself testified that "at least me and Jay McBride were shooting." It was a little fuzzier on whether there was anyone else shooting besides, but we certainly know that those two then entered into this gun battle.

THE COURT: I'm sorry. You said who and Jay McBride?

MR. CORBETT: The Defendant and Jay McBride.

THE COURT: Gotcha.

MR. CORBETT: So we know that those two entered into the gun battle. So they knew that the guns had been produced, because that's what started it, Epps and Rogers. So now, we have Rogers, who is wounded, he's crawling across the concrete. It appears that Middleton goes to his assistance when the Defendant, Myers, runs into the scene. And by his statement, he now says that, I guess we could say, a

compatriot of Rogers because they were in the same vehicle; the red car. He now says that the red car has fired. So he leaves his area from around the corner and charges headlong into that gun battle, and he opens fire.

Now, here's where there's the great factual argument in the case; what was he shooting at? That, I believe, is an issue for the jury because the State alleges that he very well could have been firing at Rogers, Middleton, and/or the red car.

THE COURT: Well, let me ask you this, Mr. Corbett. Does it make a difference -- it seems in the prior cases the Defendant is firing at some specific target and hits somebody else, whereas in this case we don't know for certain who fired the shot that killed Gregory Middleton. So I mean, it could have been the Defendant's bullet; it could have been Jay McBride's bullet; it could have been somebody on the other side who fired the shot that killed him.

So to me, that's the biggest issue is since we don't know exactly which bullet, I mean, it could have been the Defendant's bullet. It's a mutual combat where we don't know. And it seems to me on the other cases, we do know that the Defendant fired a fatal shot, it just wasn't the person he intended to shoot.

MR. CORBETT: But Your Honor -- and think that's exactly why mutual combat is appropriate in this case based on what

the Court just said. Once you initiate and/or participate in that gun battle, you're criminally liable for the death of a bystander.

Judge, I was looking for the language here where it talks about creating a deadly crossfire.

THE COURT: And is that from --

MR. CORBETT: This is from Young.

THE COURT: Okay.

MR. CORBETT: It references a pocket battle, or pocket-size battle with the use of semiautomatic and automatic weapons. Your Honor, they use language about a -- excuse my pronunciation -- fuselage of bullets that results in the death of a bystander.

MR. WARR: Your Honor, that is based on a case out of New York, if you read the case.

THE COURT: Anything else that you wanted to tell me regarding that, Mr. Corbett?

MR. CORBETT: Yes, sir -- excuse me. Yes, ma'am, Your Honor. Judge, also as has been seen, the State has presented video evidence which the State alleges shows the Defendant shooting at the victim. And the victim was close -- was in extremely close proximity to Rogers. I think that needs to be pointed out.

So Judge -- and then we have the statement. Now, one of the issue that the Court raised was about knowing which bullet

fired. Well, one of the reasons mutual combat exists is because here, we have a bullet from the deceased, but all the guns disappeared from the scene. The combatants eliminated the evidence, but it doesn't change the fact that they triggered and escalated the gun battle.

THE COURT: Yes, sir, Mr. Warr?

MR. WARR: Your Honor, the Facebook video, frankly, the State is assuming a lot. It does not show any ill will on the part of Mr. Myers. It shows ill will -- I don't even think it shows ill will on the part of Trey Epps. I think that they had a dispute, and they were talking about fighting with fists. But there was no mention of deadly weapons other than the saying, we don't shoot -- we don't play with guns. And in fact, there is absolutely no evidence of that.

And there's no evidence that Trey Epps knew Michael Rogers would be at the scene. None whatsoever. You heard Mr. Myers' testimony that he didn't know that Killer Mike was going to be there. They just happened to stop by. This wasn't a pre-arranged dispute to settle their differences at the point of a gun. And if you look at State v. Taylor, this is more akin to the point of State v. Taylor because Diontrae Epps, he punches Killer Mike. Killer Mike draws his pistol first and fires the first shot. It's all on the video.

So I don't believe Trey Epps knew that Killer Mike was armed. But regardless of that, the State is trying to use

this. If they can't prove, which they can't, and they know they can't, and that's why they want this charge, they know they can't prove that Joquell Myers fired the fatal shot.

But we know for a fact if they can't prove that, then it wasn't Gregory Middleton -- it wasn't Diontrae Epps and it wasn't Killer Mike who fired it, because neither one were firing at the time this occurred. There was no mutual combat between Trey Epps and Killer Mike or Killer Mike and Joquell Myers at the time.

And Jay McBride, there's no evidence in the record that he fired toward the red Charger when Gregory Middleton was behind him on the ground. And he was on the ground before the first shot was fired in that direction.

But the fact of the matter is that leaves a third -- unidentified third party to fire the shot that killed Gregory Middleton. If the State fails to carry their burden in a straight murder case and prove that Joquell Myers fired the fatal shot, that would mean a third-party fight, and we don't know if there's any -- if he was in mutual combat with Joquell Myers that's creating a crossfire. Was he firing at Joquell Myers? We don't know who he was firing at. We haven't seen any evidence of ill will between Joquell Myers and this. You have to have mutual combat to charge it, and they -- there's --

THE COURT: Well, I mean, we've got your client's

testimony that he was firing at the red Charger, and the red Charger was firing at him.

MR. WARR: But at the same time, Your Honor, there's no evidence in the record that Michael Lucas -- that even if that showed mutual combat between Michael Lucas and Gregory -- Michael Lucas and Joquell Myers, at the same time, Gregory Middleton was not hit by a bullet fired by Michael Lucas. This is a totally different --

THE COURT: I don't think --

MR. WARR: -- application of mutual combat.

THE COURT: I don't think that that honestly matters if he was hit by Michael Lucas.

MR. MEADORS: Judge, could I say one brief thing?

THE COURT: Sure.

MR. MEADORS: Just quoting the opinion, I don't think it has been State v. Young. "Today, we hold mutual combat can properly serve as the basis for a murder charge for the death of a non-combatant," which Mr. Middleton would have been, "under the hand of one and hand of all theory of accomplice liability. When two or more individuals engage in combat via a reckless she bout, they collectively trigger an escalating chain reaction that creates a high risk to any human life falling within the field of fire. In that type of gunfight, all individuals are willing to use lethal force and display a depraved difference to human life." I think that's exactly

what we have here.

THE COURT: Which case is that?

MR. MEADORS: That's State v. Young.

MR. MEADORS: And Mr. Warr keeps saying we can't prove that that gun -- his client's gun killed; that'll be for the jury. I mean, they can decide and look at it. That's a separate piece --

MR. WARR: But that's the first --

MR. MEADORS: Would you wait until I --

MR. WARR: I didn't interrupt you.

MR. MEADORS: Please. But as he said a minute ago, even assuming his client is in a shootout with Mr. Lucas, that car is right there, and Middleton and innocent bystanders, they aren't helping -- helping Mr. Rogers. And that would fit mutual combat. They're firing at each other. He ends up getting shot. The mutual -- if the jury believes that.

THE COURT: Yes, sir, Mr. Warr?

MR. WARR: Your Honor, the first line in their jury charge is if you don't find beyond a reasonable doubt that the Defendant fired the shot that killed the victim, Gregory Middleton, you're also to consider the doctrine of mutual combat. So this -- the only time this charge would apply is if the jury finds that the State couldn't carry their burden of proof straight up murder. So they're wanting to muddy the waters with these -- this mutual combat charge, and there is

no evidence of mutual combatant -- a co-combatant even.

Even if the State has shown evidence that there was a mutual combat between Trey Epps, Joquell Myers and Michael Rogers, they still can't show that one of those three co-combatants fired the fatal shot. This is some random person who starts shooting over there, not mutual combat.

To have mutual combat and to be engaged in it, you have to meet the three elements. And those elements are not met by anybody other than possibly Trey Epps and Michael Rogers but not even them. And neither Michael Rogers or Trey Epps is firing at the time. So neither one of them bullets could have hit Gregory Middleton. And if Joquell Myers didn't fire the fatal shot, that leaves we don't know who. And there's been no showing of mutual combat between Joquell Myers and this unidentified third party.

So it's a new way of applying mutual combat that they're asking you to do. And it complicates the jury charge. And the case law states that when you deliver a mutual combat charge with a self-defense charge, it shifts the burden. And that's what they're trying to do is shift the burden to the Defense to prove he was without fault in bringing on controversy. The case law is clear on that in State v. Bowers.

THE COURT: Okay. I'm going to look at the case law carefully before I make a --

MR. MEADORS: And again, the model's been around since 1800 as far as the first element of self-defense, and mutual combat clearly can negate without fault. That's how it's been used for years until recently in these line of -- these line of cases which says it can be extended. And Your Honor, we did this Friday afternoon. Corbett was in Summerton -- I mean Columbia. And that preference, if you don't find that he shot it, we don't have to have that in there.

THE COURT: Yeah, I'm --

MR. MEADORS: I'm not saying that. We just was trying to figure something out on Friday afternoon to get to you.

THE COURT: That language seems to be too much of a comment on facts --

MR. MEADORS: I agree with that.

THE COURT: -- for sure. But again, I'm going to look at the case law carefully before I make a final determination.

MR. WARR: And Your Honor, I -- once -- I also object to the voluntary manslaughter charge as well, as there's no evidence in the record of legal provocation. I just wanted to preserve that for the record or bring that objection to your attention.

THE COURT: I feel like there's certainly somebody's firing guns all around you, that that would be sufficient evidence to go to the jury on sudden heat of passion. I can't imagine something being more provoking than gunfire all around

you. So I am inclined to do the charge on voluntary manslaughter.

Let's talk about attempted murder, the -- I'm just going to pull up the case.

MR. MEADORS: Your Honor -- I know Your Honor remembers, we tried the case State v. Nikeem (phonetic) Johnson here several years back.

THE COURT: Um-hum.

MR. MEADORS: And I got the most updated charge from the attorney general's office. They actually commented on it at the solicitor's conference. Do you -- is that the charge you put in here to -- because that charge was -- and I -- it's Nikeem Johnson.

THE COURT: All right. You're talking about the attempted murder charge --

MR. MEADORS: Yes, ma'am.

THE COURT: -- that I gave you?

MR. MEADORS: I didn't know if that was the same one you used in Johnson.

THE COURT: I'm not 100 percent sure but let me see. I've probably got it saved here in my charges.

MR. MEADORS: But it was actually beneficial to the Defense.

THE COURT: I know we substantially pared down the language so as not to run afoul of the new case law. Okay.

I've got the Nikeem Johnson charge in front of me. I don't think this is the final version.

Okay. It looks like the charge that we did in that case, we started out with a long one and we shortened it significantly to, "The Defendant is charged with attempted murder. In order to prove this crime, the State must prove the Defendant, with the intent to kill, attempted to kill another person with malice of forethought. In order to be guilty of this offense, the Defendant must possess a specific intent to kill. Thus, a specific intent to kill is a required element of the offense.

"Malice is hatred, ill will or hostility toward another person. Malice of forethought does not require that malice exists for any particular time before the act is committed, but malice must exist in the mind of the Defendant just before and at the time the act is committed. Therefore, there must be a combination of the previous ill intent -- or previous evil intent and the act. Specific intent to kill and malice of forethought may be established by direct evidence, circumstantial evidence, or a combination of the two."

That's the entire charge. We took out any language about inferring intent from conduct, et cetera. And I'm going to -- I'm going to email that to y'all so you can see the exact language.

We know now that transferred intent is not okay for

attempted murder. And so what you're requesting is the language from State v. Devonte Williams?

MR. MEADORS: Yes, ma'am.

THE COURT: And so I guess I'm wondering what language out of this case you're requesting.

MR. MEADORS: Respectfully, Your Honor, this is on the attempted murder of Michael Lucas?

THE COURT: Correct.

MR. MEADORS: Okay.

THE COURT: And okay. Let me be clear. The attempted murder of Michael Lucas is from the gunfire coming out of the Nissan -- the silver Nissan as it is leaving the scene?

MR. MEADORS: That's Christopher Fordham.

THE COURT: Okay.

MR. MEADORS: Michael Lucas is the red Charger that's leaving the Defendant has said he's firing at several times.

THE COURT: Okay.

MR. MEADORS: And Judge, if I may interrupt just a moment, the State v. Devonte Williams, it's away from transferred intent, but it makes a distinction when a party fires multiple rounds. It goes in close proximity that could be hit. And that's the distinction that Williams is trying to draw. So in this particular case, it depends on the jury's view of the evidence of the Defendant's three shots there.

THE COURT: Well, so I guess what I'm asking is what

specific language are you requesting that I -- because basically, what I understand in Williams talks about that there was sufficient evidence for it to go to the jury on attempted murder. So the Defendant's arguing that the Court should have granted a directed verdict because there was no evidence he intended to kill the particular individual named in one of his attempted murder indictments.

MR. MEADORS: The charges you have proposed may be sufficient, Your Honor, on that one.

THE COURT: I understand there's language in Williams that says basically, if you're shooting multiple times at a group of people, you know that you could hit somebody. And so there was sufficient evidence in that case for it to go to the jury on attempted murder, although there was only circumstantial evidence of any specific intent to kill somebody.

So it says, "After all, it's only natural to infer that when someone shoots at another person, the shooter intends to kill. By the same reasoning, when someone points and fires a deadly weapon multiple times at a group of people he knows are in the line of fire, we believe a rational juror could infer the shooter intended to murder whoever may have been injured in that group."

So Michael Lucas was shot?

MR. MEADORS: No, ma'am.

THE COURT: Michael Lucas was not shot, he was just in the red Charger?

MR. MEADORS: Correct. Yes, ma'am.

THE COURT: Okay.

MR. MEADORS: He's the only person that was in the red Charger.

THE COURT: Okay.

MR. WARR: The one that my client testified was firing at him.

THE COURT: Gotcha. So I'm sorry. There's not any specific language out of this zone of danger language --

MR. MEADORS: But we just quite frankly will bring you all the recent case law.

THE COURT: Gotcha.

MR. WARR: Your Honor, I would object to the zone of danger if you want to add any language, because that --

THE COURT: Yeah, I don't -- I don't think there's any language in there that applies to a jury charge, necessarily. But you are asking for accomplice liability charge on attempted murder. So I'm not sure how that fits in.

MR. MEADORS: On Lucas.

THE COURT: Because I guess the basis for the attempted murder charge is that the Defendant is firing at the red Charger. Michael Lucas is in the red Charger. So I don't -- I don't see how accomplice liability, hand of one hand of all,

fits in that scenario.

MR. MEADORS: It may not. We may withdraw -- I guess a lot we may withdraw. As I said, to start with, we'll get mutual combat. I don't mean that to be anything other than just --

THE COURT: Well, I don't -- I'm just not seeing any theory where accomplice liability --

MR. MEADORS: On Lucas.

THE COURT: On Lucas.

MR. MEADORS: I'm sorry.

THE COURT: Just on Lucas --

MR. MEADORS: And we certainly understand the judge's ruling.

THE COURT: Okay. Let's shift to Christopher Fordham. So he -- the testimony is that there is -- somebody is firing from the Nissan.

MR. MEADORS: Yes, ma'am.

THE COURT: And Christopher Fordham is shot. Of course, the Defendant denies that he's the shooter. So I guess first of all, tell me what evidence there is at all that the Defendant is the shooter.

MR. CORBETT: Your Honor, with regard to that particular charge, what the evidence in the case has shown is that the Defendant present in court today and at least one other person participated in the gun battle before they ever got into the

car. So they arrived in scene together, because it was referenced that Jay McBride was also shooting. That the individuals were together there. They constituted one side of the gun battle. They then got into a car together. They then pulled around, and someone from that car fired and hit Christopher Fordham. Then they all fled together. They went to the hospital, put Diontrae Epps out at the hospital because of his injury and then left together.

So Judge, it's -- you know, the other word for accomplice liability is the hand of one is the hand of all, and it seems like we have a chain of events of them acting in concert and acting together.

THE COURT: Mr. Warr?

MR. WARR: Your Honor, there is no accomplice liability in this attempted murder of Christopher Fordham. It was one shot clearly fired by the driver. There's no evidence in the record of any kind of plan or any kind of ill will on my client's part against Christopher Fordham who he only knew as (indiscernible). I don't see where accomplice liability comes into it at all.

It's clearly, they didn't know who was driving the car at the time, so they charged everybody in the car with attempted murder, and now they're wanting to hang onto that charge. There is no evidence of any kind of conspiracy to murder Christopher Fordham. It's just the driver, he stopped the

car, fires one quick shot, hits Christopher Fordham in the leg --

THE COURT: It looked to me like there were a number of shots coming from -- at Christopher Fordham. Because it looks like he reacts and then starts running and then is hit. But I don't know that that really is dispositive. But it seemed to me that the jury could infer there was multiple shots coming but clearly from one shooter.

MR. WARR: One shooter who was coming from the driver's window.

THE COURT: I'm going to definitely charge the abhan and the attempted murder of Christopher Fordham; I'm going to look at the accomplice liability before I tell you on my final answer.

MR. WARR: And as to the mutual combat, Your Honor, if you're going to think about that overnight, there are some language changes that we'd like to have made if you are going to allow that charge. But we can discuss that at that time.

THE COURT: Yeah. I mean, I'm going to look at it as soon as we break. So I can certainly send you any language that I propose to use. I can email it to you so you can be looking at it.

MR. MEADORS: And I guess, again, just if you're talking about proposed changes, if you do give it, you're talking about tonight not in the morning? I guess we'd be able to

view it tonight if you do give it --

THE COURT: Yeah. I would send it to you tonight, I mean, before I leave here.

MR. MEADORS: And Judge, just for the record, I've looked through Bowers. I don't think it's applicable here. It dealt more with the self-defense, and the application of mutual combat really is not an issue that we're facing here. And Judge, in conclusion on this, are we through? I just wanted to read one more thing from y'all that I think --

THE COURT: We're still going to talk about the Defendant's request for self-defense. I don't -- do you want to talk about that?

MR. MEADORS: Whatever you say. Yes, ma'am.

THE COURT: Well, tell me the last thing that you want to tell me about mutual combat.

MR. MEADORS: I meant to read this earlier. "More importantly, an innocent bystander would not be shot but for the willingness of all combatants to turn an otherwise peaceful environment, often in a residential or commercial setting, into a battlefield. In a real sense, each combatant aids/encourages all of the other combatants, whether friend or foe, to create the lethal crossfire." That's all I -- that's what I really think's here. That's all I have. Thank you.

THE COURT: Any discussion we need to have about the Defendant's request for a self-defense charge?

MR. WARR: I have seen the orders; I have not read it. So if you email it to me, I will see.

MR. MEADORS: I would rather go with your standard self-defense charge, Judge, that you've used before.

THE COURT: It looked like it mirrored it --

MR. WARR: I just --

THE COURT: -- pretty closely. So it includes the defense of others, and I think that's appropriate.

MR. MEADORS: Could we use Your Honor's standard charge on that?

THE COURT: Yeah. I think mine's pretty close to what the proposed one is. I think the only other charge that we were considering adding in, a charge on the record of a witness who's testifying, because we did have Ms. --

MR. MEADORS: Ms. Arkell Eaglin.

THE COURT: Yes. I think that's it. I think those were the only additional ones that we had looked at.

MR. MEADORS: Your Honor, we would request a charge on experts an direct and circumstantial evidence.

THE COURT: That was included in the one that I sent you. Did you see the one that I sent?

MR. MEADORS: Yes, ma'am. I'm sorry.

THE COURT: Okay. It also has, of course, the instruction on multiple charges that you guys decide each separately from the other, presumption of innocence,

reasonable doubt, duties of the trial judge and jury, direct and circumstantial evidence, and I did include the Logan language that the State has.

"To the extent the State relies on circumstantial evidence, all of the circumstances must be consistent with each other and when taken together point conclusively to the guilt of the accused beyond a reasonable doubt." I've got that Logan language in there. Credibility of witnesses, prior record of a witness. I've got a charge on expert witnesses. And then we get into the specific offenses. So I do have a charge on transferred intent in the murder charge section but not in the attempted murder section.

Okay. So what I'm going to propose, I'm going to go look at these cases on mutual combat. I will email you with the final version of any mutual combat charge and self-defense charge so y'all can look at it tonight. And we'll discuss it one last time in the morning before we bring the jury in.

MR. MEADORS: Thank you, Your Honor.

MR. YOUNG: Can I ask real quick, did your circumstantial evidence charge -- I know you said you include with Logan language -- does it include the other reasonable hypothesis language?

THE COURT: It says --

MR. YOUNG: I think that's the old one.

THE COURT: It's the -- it gives the -- it just -- the

language that I just said, "All the circumstances must be consistent with each other and when taken together point conclusively to the guilt of the accused beyond a reasonable doubt. If these circumstances merely portray the Defendant's behavior as suspicious, the proof has failed. The State has a burden of proving the Defendant guilty beyond a reasonable doubt. This burden rests with the State regardless of whether the State relies on direct evidence, circumstantial evidence, or some combination of the two."

MR. YOUNG: Thank you.

THE COURT: Okay. If we can convene at 9:30. Does that suit you all okay?

MR. YOUNG: Yes, ma'am.

MR. MEADORS: Yes, ma'am. Thank you.

THE COURT: All right. We'll see you in the morning.

(End of Transcript of Record)

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

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

October 4, 2022
Sumter, South Carolina

B E F O R E:

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

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

Attorney for the State:

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

Attorney for the Defendant:

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

Deanna Hinchy
Transcriber

THE COURT: Thank you all. Please have a seat.

THE BAILIFF: Be seated. The Honorable Judge Curtis presiding. Good morning, Your Honor.

THE COURT: Good morning.

Can I ask you to give each of them that? And if you will also, I just printed out one additional set of the verdict forms, if you don't mind, take a look at it and then passing it to the other side for them to take a look at the revised verdict form. And you can just hand the whole stack because it's --

THE BAILIFF: You want them stuck together?

THE COURT: -- those are all verdict forms. Yeah.

THE BAILIFF: Yes, ma'am.

THE COURT: That's fine. Just go hand the entire stack to Mr. Warr.

So let me tell you what I've done pursuant to our conversation in chambers.

Thank you.

Under the section on mutual combat, I've highlighted it -- the changes that I made. But I think it's kind of hard to see after I copied it. But I did add the language at the end of the first paragraph on mutual conduct that says, however, if the innocent, third-party was killed before the defendant joined in the mutual combat, then the defendant cannot be held responsible under the doctrine of mutual

combat.

As we talked about, I also added in the language that the State has to prove that they -- the willingness to fight with deadly weapons.

I have added in the assault and battery first degree charge. So after the attempted murder instruction, you'll note that it states, that the assault and battery of a high aggravated nature applies only to Christopher Fordham.

Then the next section is the assault and battery first degree that states, if you find the State's failed to prove a reasonable -- beyond a reasonable doubt that the defendant committed the offense of the attempted murder of Michael Lucas, then you may consider assault and battery in the first degree, only as to him. So I've added that in. If you'll just look carefully at that assault and battery first degree language. I think that accomplishes what you were requesting.

It's a little confusing in my mind, because the charge on ab hand and assault and battery in the first degree is identical -- virtually. I mean, this happens every time we -- we charge both of those. But it is what it is.

Under unlawful carrying of a pistol, I have added the Section 9(a) language that it is not unlawful to have a handgun if the person is in a vehicle and the handgun is secured in a closed glove compartment, closed console, closed trunk, or in a closed container secured by an integral

fastener; and transported in the luggage compartment. I've also added a person can be acting lawfully, even if he is in unlawful possession of a weapon, if he is entitled, or if he was entitled to arm himself in self-defense. I think that is it.

For the record, the defendant, the defense has also requested a charge -- or that I delete the section on duty to retreat under the Defense of Persons and Property Act. Which I have declined to do because I believe the case law says that the determination of whether that act applies is to be made pre-trial. And that it is not part of the instruction that goes to the jury.

I have also looked at the case of Kyles v. Whitley. The defense has requested that I reopen the case under Kyles v. Whitley to allow you to elicit testimony about the discretionary charging of the various folks who are involved in mutual combat.

Mr. Warr, if you want to elaborate on that, if I haven't covered it sufficiently.

MR. WARR: That that is correct, Your Honor. We request that since they have inconsistently applied the theory of mutual combat by not charging any of the co-combatants with mutual -- with the murder of Gregory Middleton, we would request -- and they did -- and they have used their prosecutorial discretion to, essentially, grant immunity to

these co-combatants. And they did not disclose this immunity to us in discovery -- this granting of immunity to the co-combatants; that that's a violation of Brady.

And under Kyles v. Whitley, the U.S. Supreme Court case, that testimony -- the fact that the co-combatants were selectively granted immunity from this charge could be used -- and if it had have been elicited, to impeach the entire investigation under Kyles v. Whitley.

So therefore, we are requesting that the -- that the case be reopened so that we can elicit this testimony regarding the selective charging that took place in this case.

THE COURT: Mr. Meadors, do you want to respond, sir?

MR. MEADORS: All due respect, that's ridiculous. Nobody's been granted immunity in this case, whatsoever. His client wouldn't even tell us all who was out there. Two individuals have been charged with murder. All individuals in the car have been charged with attempted murder. Mutual combat is really -- the last couple of years since this, kind of the law has blossomed, if you will, and come out. So the State has not granted any form of immunity. I know with the esteemed minds on the defense, they knew mutual combat was out there -- would be a theory in this case and has had that available to them from cross, throughout the trials. I don't have anything else to say.

Judge, I would like to comment briefly, if you'd allow me

on the mutual combat.

THE COURT: Sure. Let me rule first.

MR. MEADORS: Okay.

THE COURT: The motion to reopen the case is denied. I do, first of all, find that the State has been very frank in their request for a mutual combat charge from day one. So that, certainly, wasn't any surprise or unfair surprise to the defendant in any way.

I do find that that was certainly an issue that could be raised on cross-examination. And -- and there was testimony about who all was charged with attempted murder in the vehicle, from all the folks that were riding in the vehicle. So I don't find that there were any statements or any -- any evidence that's been shown to not have been disclosed, as was the case in Kyles v. Whitley. So the motion is respectfully denied.

Mr. Meadors, I'm glad to hear from you on the mutual combat.

MR. MEADORS: Yes, ma'am. Your Honor, before I do that, and I -- as far as attempted murder of Michael Lucas, the lesser on there are -- the lesser in there, is A and B first, correct?

THE COURT: The State had requested a charge of assault and battery first, as to Michael Lucas, it's my understanding.

MR. MEADORS: We had not requested. I want the record to

be clear on that. We just didn't know if it was mandatory. I think they then requested it. We were just calling it to the Court's attention. Was it a mandatory lesser? We were not requesting it. I think they are now requesting. It's my understanding.

MR. WARR: That's correct, Your Honor. We're requesting the lesser included B charge.

THE COURT: Okay.

MR. MEADORS: And as far as Fordham, then it's assault and battery of a high aggravated nature, and is it A and B first on that also?

THE COURT: I thought I understood that you were not requesting A, as to Christopher Fordham; the lesser included of assault and battery first degree.

MR. WARR: That's correct, Your Honor.

MR. MEADORS: Okay.

MR. WARR: We are not requesting the assault -- A and B first as to Christopher Fordham.

THE COURT: Okay.

MR. MEADORS: And Judge, and I would like my friend, the court reporter, and I would like the record to reflect this, that this is most respectful to Your Honor.

THE COURT: Absolutely.

MR. MEADORS: And I do want the record to reflect that. We, respectfully, object to Your Honor's addition under the

mutual combat -- combat charge, however, if the innocent third-party was killed before the defendant joined in mutual combat, then the defendant cannot be held responsible on the doctrine of mutual intent -- doctrine of mutual combat, I'm sorry.

Judge, we feel that's a comment on the facts. I respectfully, don't think that's in Young or any other case law I see. And we, respectfully, take exception. That's all I want to say.

THE COURT: Thank you.

Okay. Anything else before we bring the jury out?

MR. MEADORS: No, ma'am.

THE COURT: Let me just speak briefly to the order of closing. Who's going to do the closing?

MR. MEADORS: Well, Your Honor, I'm going to start. We're going to wait and see who does the final reply.

THE COURT: Okay. The only thing I would say is, you know, of course, the State's got the right to open and close, but none of this just opening on the facts and closing with the loss. The State's going to give their full closing argument. Mr. Warr is going to give his closing argument. The reply on the part of the State, is limited to reply. No new matter can be raised in the State's reply.

Anything else with regard to the verdict form, the closing arguments, the order of closing arguments?

Okay. I think we're ready for the jury.

THE BAILIFF: Yes, ma'am.

THE COURT: Thank you.

(Pause.)

(Whereupon, the jury came into open court at approximately 10:52 a.m.)

THE BAILIFF: Jurors are all seated, Your Honor.

THE COURT: Thank you.

Okay, ladies and gentlemen, thank you so much for your patience this morning. I always hate to keep you waiting back there, wondering what in the world we are doing out here. But I can assure you, we had a number of legal issues that we had to tend to this morning so that we would be ready for you and can go right into closing arguments.

Mr. Meadors?

CLOSING

MR. MEADORS: May it please the Court.

Solicitor Mr. Corbett, Mr. Warr, Mr. Young, Mr. Foreman, ladies and gentlemen of the jury, good morning.

IN UNISON: Good morning.

MR. MEADORS: First of all, thank you for being here this past week, yesterday, and today. I know I told you I thought it would end last week, and I did. I didn't know the storm was coming. But thank you for being here.

I'm not a jury watcher. I don't sit there and stare at

jurors. But the few times I've looked over, I have seen that you're all listening and paying attention. And that's all any of us can ask, so thank you.

It's about time. This part of the trial is called closing arguments. It gives us a chance to review the evidence with you and give you what we think, tell you what we think, are the reasonable inferences of the facts. It's up to all of y'all to decide what the facts are. Not to me. Not Mr. Warr, but it's y'all. So thank you for listening.

You didn't leave your common sense at home. You brought it with you all week, last week, and this week. And you'll keep it through the deliberations.

Your Honor is going to tell you in a minute about our roles and her role. She is the judge of the law. She is the law. And what law she decides, based on the law that's in the South Carolina jurisprudence, is the law that y'all must follow, that we must follow. And we know you will follow it. Whether we agree with it, or disagree with it, what Your Honor says the law is, is the law.

What y'all will decide is, and you are 13 -- 12 finally, when you go back, there, are the judge also of the facts. You decide what the facts are. No disrespect, to Her Honor, is just as important as a judge -- as she is. She runs the courtroom. Don't get me wrong. But once she tells you what the law is, you will then decide what the truth is, and

whether the State has met its burden beyond a reasonable doubt.

What happened? You'll take that and decide what happened and apply it to the judge's jury charge, the law. And you'll decide what the verdict is. It truly is a beautiful system. And I'm not just saying that to say, it is a great system, when citizens from the community come in and decide what happened; apply the law, decide whether the State's met its burden, and render a verdict. It's just beautiful.

I didn't agree with much the defense said. But I'll agree with one thing. Mr. Ken Young said in his opening. This shouldn't happen in Sumter County. This should not happen in Sumter County. I agree with him, and it needs to stop.

Ladies and gentlemen, the defendant is charged -- and I'm going to try to weave this in and out, so I won't take all that long. But it's important; it's important to the defendant; it's important to the families; it's important to the chief from the police department; the solicitor who had been here and working on this case. This is important to everyone.

The defendant is charged with murder. What is murder? Murder is the unlawful, intentional, unlawful killing of another, with malice and forethought. It's an intentional doing of a wrongful act. Malice, you can almost feel malice

when you say the word itself. Malice is a evilness, a wickedness one person shows to the other.

Judge is going to tell you it can be express, or it can be inferred from the circumstances that are presented, and the circumstances that happened in this case.

Express malice. It doesn't happen -- happen. It doesn't have to exist in any particular time, as long as it exists before -- right before and at time that the shot is fired. We don't have to prove premeditation in this state. That's not a requirement. We don't have to prove motive in this state. We have it. And we have premeditation, which can go and be an example of malice for you all. Malice, evilness, wickedness, one person shows. And we're going to show you that in a minute, as we start.

(Counsel confer.)

(Thereupon, the video recording was played herein.)

UNIDENTIFIED SPEAKER: Hell, no. I'm going to (indiscernible). Mr. Killah, boy you've been around the town, sir. Mr. Killah, we both going to follow you. Mr. Killah, I'm going to send a little bullet too. Mr. Killah, not me, not me, not me, no I ain't sending (indiscernible). I'm going to send the goons (indiscernible) Not me (indiscernible). But he will get -- but he will get in his car. And he will get a big hole. (Indiscernible). No, we don't play with guns. Nobody from here play with guns. We fight. We play

with cars. We fight. We fight, boy. Everybody got me all square in here talking about Killah Mike.

MR. MEADORS: Look at that. That's 1:05. Joquell Myers, Joquell Myers uses his thumb as a trigger. It's kind of like a revolver, isn't it? He uses his thumb as a revolver, as he's singing and celebrating going to kill or going to get Michael Rogers. That's malice. That's express malice. I don't know how you express it any other way. We're coming to get you. We're going to give you and your car a new makeover. That's malice.

Keep playing it. I'm sorry.

(Thereupon, the visual recording was played herein.)

UNIDENTIFIED SPEAKER: (Indiscernible). Mr. Killah, who do you think you are? Mr. Killah, who do you think you are? Mr. Killah, who do you think you are? Mr. Killah, who do you think you are? Mr. Killah -- (indiscernible).

MR. MEADORS: You think it was in his mind -- testimony then this was just a few weeks before this happened. Was that in his mind, his intent; what he was going to do; what they were going to do; what had happened? And they were enjoying doing it. He was enjoying doing it. And -- and until yesterday, October 3rd, 2022, at 12:08, in front of y'all, he said, it was funny to me, and it's still funny to me.

Malice, evilness, wickedness, depraved heart; that's what this case is about. And what we must show to y'all and we

believe respectfully, we have. It's your decision.

Now the judge is also going to charge you. And I'm trying to pair this together so I can go through one time. I'm trying to. I don't know if I will. The judge is going to also charge you on transferred intent. If you intended to kill somebody -- if I intend to kill Mr. Caufield here, but accidentally killed Mr. Corbett, that model transferred that my intent to kill with malice toward Mr. Caufield to Mr. Corbett. It's transferred intent and it makes sense, doesn't it? You're going to have that to consider.

If he's shooting at Michael -- excuse me, if he's shooting at Gregory Middleton, who is on the ground, and doesn't even mean -- shooting at Michael Rogers when he's on the ground, and then hits Gregory Middleton. It's still the same intent. And we believe that's one way you can find him guilty of murder. You don't get a free pass if you're trying to kill one, and you kill the other, transferred intent.

Judge is also going to charge you -- and I have to do this or Solicitor Finney, my boss will fire me. What I'm fixing to say now is, I'm not telling you we agree with this at all, but I have to go over the charges with you and let you know what Her Honor is going to charge you.

She is also going to charge you on voluntary manslaughter. Voluntary manslaughter is an intentional killing in the sudden heat of passion with sufficient legal

provocation. Intentional killing, sudden heat of passion, upon sufficient legal provocation. The heat of passion and the sufficient legal provocation have to exist together.

We don't think that's appropriate. That'll be up to you all. But Your Honor will charge you on that. And if heat of passion -- if there are times in life where you're so angry, you're so upset that you just can't control yourself; it's almost an impulse to do -- to do something. You can't control it, and it's based on a sufficient legal provocation, and you haven't had time to cool down. If you got upset and you cooled down, and then later thought about -- well, and then you go back and do something? No, no, that's not what the law says. The law says, if you're angry, you're really upset, and it's based on a sufficient reason, then in that time the law says, you don't get excused, but you might be guilty of voluntary and not murder. This isn't a voluntary case. But you'll have the right to consider that. It's without malice. It's a killer without malice, your classic example. God knows I hope it doesn't happen to any of us. We'll come home. We catch our spouse in the bedroom with somebody, and we're so angry, we can't control it, and we lash out and we kill somebody. At that moment -- the law doesn't excuse it -- but they say your reason is dethroned for a little bit. You might, in that circumstance, be entitled to a voluntary manslaughter. These facts don't fit that.

Now what if I went in and caught my wife, Trisha with another man, and I left, got angry, went to the office -- hey come in -- come back three hours later, then I kill him? That's not a voluntary manslaughter. My passion is cooled. That'd be a murder. Say all that -- in this case, as I'll tell you in a little bit, Joquell Myers is charging to the fight. He's excited for the fight. He is wanting to fight, as he was on that video. But you'll have the option of considering voluntary manslaughter, like you will not guilty, like you will guilty. I'm just trying to mentally explain it to you.

Also -- and I don't usually read. I don't like to read -- but this, I want to read this to you. Your Honor is also going to charge you on mutual combat. Mutual combat is a doctrine that South Carolina recognizes as a basis for conviction for either murder -- either murder or voluntary manslaughter. If a person voluntarily -- voluntarily -- enters into a mutual combat with another, and deadly weapons are used, ladies and gentlemen, and all parties know that they're being used -- you enter into a combat, into a fight, deadly weapons are used, you know deadly weapons are used, and death results to an innocent party -- Gregory Middleton, in this case -- death results to an innocent party, then everyone engaged in the mutual combat is equally guilty. Everyone engaged in the mutual combat is equally guilty, regardless of

whether they fired the fatal shot. All participants in the mutual combat are responsible for their fellow combatants. Combatants' actions resulting in foreseeable injury to an innocent party. And that makes sense, doesn't it? You'll have that law to consider.

The judge will also charge you that we must prove the defendant was engaged in a mutual combat with a rival combatant. Ain't no question they got some bad blood going on. If that Facebook doesn't show it, I don't know what does. You heard Ms. Arkell Eaglin. She couldn't go into details, but there were some other altercations he had. Wonder who they're with. This video was up there. Was there bad blood between rival combatants? We're coming to get you. We're going to give you a new makeover, you and your car.

We've had some new additions. I want to make sure I get this right. All participants in the mutual combat are responsible for their fellow combatants' actions resulting in foreseeable injury to an innocent party. The judge is going to charge you if the innocent party was killed before the defendant joined the mutual combat, the defendant cannot be held responsible under the doctrine of mutual combat.

What have we got to show? A mutual intent and willingness to fight with deadly weapons, manifested by acts and conduct of the parties and the circumstances leading up to the combat. We must prove it rose from a preexisting dispute

between the combatants, but it's not that -- we don't have to show a positive agreement. That's not reality. We've got to show like the video. It's not necessarily there be a positive agreement between the participating parties to enter the conflict. Listen to this, please.

It is sufficient -- sufficient -- that they willfully enter into the conflict -- it's sufficient if they willingly enter the conflict -- at the impulse of a moment. We're ready to fight. We're ready to fight. Shots are fired. Innocent folks are killed. And we must prove that beyond a reasonable doubt.

They don't own these streets. They don't own that convenience store parking lot. This law says if you go there and you have a willingness to fight, you know there's a disagreement, you know you're armed, and you start fighting, and you start shooting, you take it to a public commercial establishment, lethal fire is going to cross, everyone involved in that is responsible, whether you fired the shot or not. That's up to y'all. That's up to y'all. It's up to y'all.

We submit he fired the .38, and we'll go show you that in a minute on the video. We believe we prove that beyond a reasonable doubt. You'll have that. In addition to that, if there's mutual combat, if you said, fine, we've established that, he can be held responsible under mutual combat. That's

up to you. That's up to you.

Attempted murder. Attempted murder is when one attempts to -- (indiscernible) attempted -- this stuff really isn't that hard -- attempted murder with an intent, specific intent, to kill. An attempt to murder with specific intent to kill. Now he's charged with two of those counts, one on Michael Lucas, and one on Christopher Fordham.

Well, how do you show that? You can't open somebody's skull and look in their brain and read their brainwaves. You show it by their words; you show up by their actions; you show it by the number of shots that are fired. Fired once, well, maybe he didn't; fire twice, fired three times, fired four times, fired five times, fired six times. Fired at a vehicle at it's going away. That's specific intent to kill. And as I'm going to show you in a minute, what's another way of showing specific intent to kill? I'll take the attempted murder, Natalie, Willie. I'll take it. Don't give me that other stuff. I'll take the attempted murder. Yeah, I shot Eddie (phonetic). Yeah, I shot him. Give me the attempted murder.

Ladies and gentlemen, give him the attempted murder. He's asking for it. That's "expressly". Yeah, I did it. They were leaving. I shot. Now here yesterday -- well, they shot back. That's the first time we ever heard that, wasn't it, yesterday? But he's saying to Natalie and Willie -- and

he's saying, y'all, I'll take the attempted murder. Now, it's called the gentle art of confessing error. I'll take that because I want to distance myself from this murder. Give him that, too, but that's up to y'all. But he's telling y'all, give me attempted murder. I did it. That was in my mind. That was in my mind. That's how you show specific intent to kill.

Now, the judge is going to also charge you a lesser included offense of attempted murder on Mr. Lucas. It's assault and battery in the first degree. And assault battery in the first degree -- I don't agree with this. State doesn't agree with this. I got to go over it because that's my job. Unlaw for -- offering or attempting to injure another person with the present ability to do so, and the act is accomplished by means likely to produce death or great bodily injury. You'll have that as a lesser of attempted murder on Michael Lucas. He said, give me the attempted murder.

And then, finally, is the attempted murder on Christopher Ford. We'll show it to you in a minute. You've seen it. Think about it right now as I'm thinking about it. Shots kind of died down. You got two on the ground. Christopher Fordham comes out. He's trying to help Michael Rogers, and a car goes by with Diontrae Epps, Joquell Myers, Sheldon Benjamin. I don't -- the other two in there. Y'all may remember. There's a rush to the hospital to give aid to Diontrae Epps. It

stops, and this kind of summarizes the whole case. It stops, and what happens? Gunfire comes out of that car to somebody that's trying to help. No good deed. Gunfire. What's the intent of everybody in that car?

Judge will also charge you on the theory of accomplice liability. The hand of one is the hand of all. The act of one is the hand of all. Does that gunshot come from the front? Is it somebody reaching around in the back? Everyone in there is charged with attempted murder. Specific intent? Somebody is being pulled back? That's up to y'all.

There're a couple other things that -- in addition to that, you will be able to consider on Mr. Fordham a lesser included offense of assault and battery of a high and aggravated nature. That is the unlawful injuring of another person in great bodily injury to another results, or the act is accomplished by means to a great bodily injury could result. Those are lesser included offenses I must cover with you. We do not think that applies here, but you will have an option to consider that because that is y'all's decision. I'll take the attempted murder.

A couple of things I got to go through, and I'm trying to do this as efficiently as I can. You will also be charged on self-defense. Self-defense, it must be established. Four things for there to be a self-defense, and we, State, must disprove self-defense beyond a reasonable doubt. Easiest way

I know of how to describe it is a chair. If one of these posts is gone, then self-defense is gone.

The first element of self-defense is the defendant must be without fault in bringing on the difficulty. We submit to you that that's gone, and self-defense is gone with the first element. Without fault in bringing on the difficulty. We're going to show you the video. And yeah, this is mutual combat.

Michael Rogers is there. He comes over, and then you see Trae Epps swing first. They tried to -- or somebody tried to say otherwise. And then, you see Trae Epps firing without fault and bringing on the difficulty. Trae Epps is the one that came and did it. And then, he starts firing, and then seconds later, you see Joquell Myers charging -- on the right side, and charging. The second wave's coming in. I don't mean -- this was their words. "The goons", the bullies, the whoever, they're coming in. We're coming to get you, just like he was. He is the fault that brought on this. Diontrae Epps is the fault. And the reason I'm bringing Diontrae Epps too -- you're also going to be charged on the defense of others.

If you believe he had the right to defend his brother, the same elements must be shown. It's not easy to go through all this stuff right here, but I got to do it. Same thing must be shown. You must be shown that Diontrae Epps was without fault bringing on the difficulty. Well, he brought it

on by swinging, and then charging. Defense of others, self-defense gone on the first problem, we submit. That's up to y'all. If you believe he acted in self-defense, it's your right to find him not guilty. That is up to y'all.

Second element of self-defense is that he was in imminent danger of suffering serious bodily injury or death, or he believed he was. He brought on the difficulty. Diontrae Epps brought on the difficulty. Those don't apply. The chair is gone.

And finally, the fourth element Your Honor will charge you is that he had no other -- nothing else he could do except leave, retreat. He actually says he was gone and came back. He did leave. He could have left. He wanted to engage. This isn't a self-defense case, ladies and gentlemen, we respectfully submit. But that's up to y'all. The State must prove all four elements beyond a reasonable doubt. They don't exist. We submit it doesn't pass the first element. That's up to y'all. I'm trying to be quick on this. I promise.

Then, you got possession of a weapon during a violent crime. If you convict him of murder or manslaughter, voluntary manslaughter, those are violent crimes, and that would be the possession of a weapon during a violent crime.

And then finally, unlawful carrying of a pistol, which Your Honor will charge you on. And that last element was duty to retreat. He had a duty to retreat, if he could.

Late Saturday night, early Saturday -- early Sunday morning, September 8th, September 8th of 2019, the Sunoco. We know that at 11:42:35, 36 -- that's when Timothy Scarbough comes over and talks to Trae Epps. In my words, I ask him, are you extending an olive branch? He said, I was.

(Thereupon, the visual recording was played but not transcribed herein.)

MR. MEADORS: Before that, we know the red Charger (indiscernible) some minutes prior to that, and you'll see it here. And then, at 11:42:35, 36, Mr. Scarbough's over there, and then, right here, if you look at your screen at 11:41:34, you see Mr. Mike Rogers coming up (indiscernible). So -- and he looks like his cigarette's going up and down. I'll agree with that. This is a mutual combatant case. He's sitting there, talking to him. This is the same individual that everybody on the left side -- Mr. Epps, Mr. Myers, the other folks with him -- said, we're coming to get you.

Now, Ms. Eaglin said, yeah, I showed him that. Wish you'd stayed in the clubs, Mike -- stayed out of the clubs. I showed him that. Stay out of the clubs. Did he? He did for a while, but then he went back, and he killed him.

11:41:37. Let's see. I don't know if Mike Rogers, Killah Mike -- I don't know why he's called "Killah". His testimony -- it might be because he's good with the ladies. I don't know. But all I know right now is that at 11:41:38,

Michael Rogers is a dead man walking. He's fixing to die, whether he knows it or not. I tell you who does know it. The same people that created that Facebook video. We coming to get you. And as soon as he got there and he came over there, they put their plan in action. That video was an invitation to the cemetery. We're coming to get you. And he came over there.

Did he know about that video? Arkell said he did. And he came over there, and he's talking. Mutual combaters. Now Mr. Warr, I think, said you can see him reaching for his gun. I don't know if you can or not. Either way, it's mutual combat here. Look what happens.

Keep going. Stop.

Mr. Trae Epps swings for Michael Rogers. 11:41:42. That, ladies and gentlemen -- it's why I show you that -- does away with self-defense. He brought on the difficulty. He started it. Brings on the defense -- self-defense on the defendant -- excuse me -- the defense of others that they're claiming, that you'll be charged to, that he was defending his brother. His brother lost his self-defense right here, in our opinion, respectfully, when he initiated. Sorry that took so long to get out. Then watch up here.

Keep going a little. Stop.

Trae Epps is firing. Firing back at Michael Rogers. Defense of others is gone. The mutual -- the war has started.

Keep going, please. Stop.

Up in the top left -- your top left, if you will -- you see Michael Rogers falling, his gun coming out. He had a gun. Diontrae Epps had a gun. A willingness to fight from the video to here. They both know they're armed. Testimony, everybody was armed out there. You see his gun go -- you actually, through the testimony I'm going to go through in a little bit of Mr. Corbett and Ms. Snapp, Michael Rogers fired, and you'll see all the projectiles he fired. There're fires between parties. That's mutual combat -- at a convenience store on September 8th of 2019 in Sumter, South Carolina.

Keep going. Now, stop.

All this time, you don't see Joquell Myers. You've had the two shots. People are going out. What's going through his mind? Well, we're going to see what's going through his mind right now, almost telegraphed from the Facebook video.

Keep going. Stop.

That's Michael Lucas leaving. Leaving. Michael Lucas is leaving. He hits Michael Rogers. Didn't mean to, we submit. He just hit him. So what does he do? He backs up.

Keep going. Stop.

And here's Gregory Middleton coming down beside the car. He's alive. He's alive. If he'd know he'd be a dead man walking in a few -- just a few little seconds. Gregory Middleton's alive. You know, Gregory Middleton is alive until

who shows up? I wish y'all could answer me, but you can't. Do you know who's alive till he shows up? He's alive until Joquell Myers shows up. Shots are being fired.

Keep going.

He's going to help Michael Rogers. 42:07 -- 42:08, and look who's coming a second later. Joquell Myers. Here I come. Firing. Firing. Firing. Self-defense is gone. Without fault and bringing on the difficulty, let him go if you find that. He comes charging and shooting. Without fault in bring it on the difficulty, here comes a second wave of fault. That's up to y'all.

Keep going, please.

And after he leaves, after he shoots -- and I'm going back through this -- after he shoots, what does he do? He goes back around, and he starts firing again, and firing again, and firing again. I'll take that attempted murder. That's Michael Lucas. I got to take that. Y'all don't give me the rest of it.

Go back and play it, and I'm going to shut up, please.

(Thereupon, the visual recording was played but not transcribed herein.)

MR. MEADORS: Just from 42. 41:37, please. And before we do that, stop.

You get here as prosecutors, and you're worried about timing and all that. (Indiscernible), that Shirlene

Skipper -- God bless her -- she comes in every trial -- Ms. Skipper, when did the call come in? It came in around 1:00. Well, that shows us that clocks off about an hour and 20 minutes. No dispute on that. This clock is just off, but Shirlene Skipper told us this happened a little after 1, little after the manager called, said, y'all get -- this was a great response time by the police. The police did an outstanding job. But that manager knew right before then, he said, y'all, something's going to happen. Something's happening, and called back, and something happened. You could feel it. Witnesses say -- sorry about that. Witness said, you could feel it. Manager said, you could feel it.

Keep going.

(Thereupon, the visual recording was played but not transcribed herein.)

MR. MEADORS: I can't help it. I'm sorry.

(Pause.)

MR. MEADORS: See that car right there just come out and turn around? People working second shift, people coming to fill up their gas. And here comes, at 11:43:06, Joquell, Diontrae, Sheldon, Jay McBride (phonetic), another individual, and look what happens. Is that malicious? Is that a specific intent to kill, firing in the zone of danger? That's up to y'all.

Folks -- and I'm just going to come back to that one more

time. So what happens? Law enforcement has got this video. We've got two down. You heard from the doctor, Batalis, Middleton was shot from here and from here, and also had a shot through his wrist.

And, yes, ma'am. Yes, sir. I asked Investigator Caulfield. I'm not going to do that to him again, but come back we'll show it again to you in a minute, when Mr. Middleton's out there and he reacts; we submit to the charges. There's no shot around that came -- and actually, it would have had to come from this way. And what does he do? He gets down, and he's going to help Mike Rogers, Killah Mike, an innocent bystander, an innocent person. And what does he do? And I asked Mr. Caulfield to get in that - and we can't see on that car, and I wish -- we can all stand up if you want to. But what does he do? He starts crawling back -- crawling back -- can y'all see? He starts crawling back. Doctor, would this be consistent with the injury that the victim, Gregory Middleton -- yes, sir. From here to here. From here to here. And it was a .38.

Natalie and Willie asked the defendant 26 times, what type of gun did you use? What type of gun did you use? How many times did you shoot? It wasn't until 1,000 and something days later that he came in here yesterday and said, it was a 9 mm. Is that consistent? Yes, it is. Doesn't fit the other way, where they would have said he got shot. It just doesn't

fit. There're no firearm -- it doesn't fit coming in. That's the only way we submit it does fit.

You still have mutual combat. We believe we proved beyond a reasonable doubt. Murder the old-fashioned way, but it ain't the old-fashioned way anymore when groups of combatants take it to commercial establishments in residential areas and start fighting and shooting, and it doesn't matter who they hit. Their intent is to kill and to kill, and that's what this case is about. And I agree with Mr. Young. It shouldn't happen, sir. But that's what this is about. It's up to you.

So they get him in a room, talking to him, September 21st. Initially, he says, I ain't shoot. I don't know what you're talking about. September 26, he comes back. I want to talk to y'all. I want to talk to y'all. And there's no dispute this statement is voluntarily and freely given. Everybody submitted that. You heard him read his rights. It's on tape. There's no issue on that.

So he comes back, and he says, what? Well, at first, he denies he even shot. Denies I even shot. I didn't shoot. And ladies and gentlemen, what I want you to understand, respectfully -- and you may much more than I do. I'm not saying that -- but during the second interview, the defendant is operating in the blind. He doesn't know what the law enforcement had.

It's funny. Testimony came out -- we don't trust the police in Mayesville. Really? When you called them back wanting to find out what they knew, you were trying to play them. You were trying to control the room like you tried to control in here yesterday some, we submit.

And every time, he didn't want to say something. Well, I want to talk to my mother. Mr. Warr asked him about -- well, you weren't under oath then, were you? What happened to good old just telling the truth? Well, no, I wasn't under oath. They didn't place me under oath. He said "I swear to God" nine times plus. I guess that doesn't matter.

But he sat up here yesterday and said, yeah, I lied. I lied, but you got to believe me now. Credibility, believability. Y'all saw him. Y'all listened to him. You saw Mr. Corbett questioning credibility, believability. Yeah, I lied. I lied, but you got to believe me now. Well, no, sir. No, ma'am. You don't. You had a .38. You didn't want to tell anybody. Oh, .38. I care so much about. I bought it. I keep in my glove compartment. Well, after you went to the hospital, what did you do with it? Well, I tossed it in the back. You just tossed it in the back? Yeah, I just tossed it in back. We left the car there. It had a flat tire. We fled the scene. Went back later, my gun was gone.

Makes no sense. No credible. Didn't go to the police. Said he was shot at. Said he was shot at from the Charger

yesterday. In this two-day interview, mostly the second day, not one time did he say that. Looked at the evidence -- well, yeah, they were shooting at me. That's why I had to shoot back at him. No, sir. No, ma'am. Credibility. Believability. That's up to you. Judge is going to charge you on credibility and believability. You decide what the truth is from the witnesses. That's up to y'all.

I will briefly go through some of it. And I'm getting toward the end. I apologize. I ain't shooting at nobody. I don't remember. The only thing I remember -- doesn't remember who drove to the hospital till yesterday. Now, he's blaming somebody. Just -- he's telling the world, Sheldon did it. Sheldon shot him. He's telling on Sheldon. I want that world to know it. He's telling on Sheldon. I don't know who was driving. I don't know who shot -- yesterday, he did.

Bias? He's on trial. I don't remember. Who drove the car to the hospital? I don't remember. I don't remember who drove. It was all, you know -- we was rushing. I ain't no shooter. I'm big, bro. I beat you up. I swear to God, I wasn't shooting. I wasn't shooting. I wasn't shooting at none of them. Swear to God. Swear to God. I ain't care about nothing, those other charges. I'll take those. I'm giving him murder. Give him those other charges, please, the evidence suggests, but give him murder, too.

And he talks about -- and this is where he's in the

blind. He doesn't know about that video from Sunoco's (indiscernible). He knows about the video that Tyrek Archie got of him, which actually was taken there. He said, don't you -- do you see that video? Do you see that video? Well, you'll see me on the side on that video. I never went in front of that store. I was on the side. Y'all maybe see me there. That's when I was shooting at that Charger. No, sir. No, ma'am. And this is where they did a great job at the interview. You did. We do have video. And Mr. Willie, Det. Willie McFadden. Don't give me that. We got you on video. Don't tell me you're not shooting. He's trying to find out what the truth is.

And then, you remember one time he says, well, you know, he was shot in the car. How could I shoot him in the car? I couldn't have hit him. No, sir. He wasn't shot in the car. He doesn't know they have that video. He keeps him on the side of Wendy's, keeps himself over there. Y'all see the difference. You see the difference. And he goes -- this is State's 811, State's 422, and this is from the video.

(Indiscernible), would you please come up here? That's looking back from the -- if you're facing the left corner of Sunoco. That's Joquell shooting. That's where the bodies were right in here. You tell me he didn't have an angle over there? You tell me he didn't have a shot? You tell me he didn't shoot him? I wasn't even in the front, y'all. Y'all

see me on the side. No, sir. No, ma'am. He's trying to distance himself from that angle, from that front.

I ain't worried about other people. I'm 6-4. Y'all come at me, I'm going to punch you in the face. I ain't like that. I ain't the type of person to use no guns. Yes, sir, you are. Do you feel me? You remember asking that, and asking Mr. Jason, do you feel me? I don't feel you. I feel you manipulating and trying to control, like you came out trying to control at 11:42:06, 07, 08, and then you came around trying to control as Michael Lucas left.

If I had a gun, I wouldn't run, y'all. I ain't worried about none of that other stuff. If y'all are going to get me for attempted murder -- but please don't say I killed nobody. But I've got the attempted murder. How many times you shoot? And then, he says, how can I see him if I didn't even -- how can I shoot him if I didn't even see him? He was shooting at Michael Rogers, who had already been hit, and it's that same intent and malice that was from that Facebook to that day in that parking lot, where his emotions were voluntary. They were anger. And he's trying to finish off Michael Rogers just like that. Did try to finish him off with shooting at Christopher Fordham, Michael Rogers -- I don't know. The ending of mutual combat. He was trying to finish him off, and then he shot Greg Middleton, transferred into him. He doesn't get a pass for that.

That's what this case is about. That evilness went toward Michael Rogers, maybe, but he shot Greg Middleton. Don't want to admit it. Doesn't even -- won't even put himself in front of the store. But that's what happened, and he is guilty of that.

And that's that total depraved heart. That's how you can show malice. And it's like the mutual combat. You're out there firing. You don't really care who you hit. That's why the mutual combat law exists. When you go to a commercial establishment, people are working second shift, third shift, going in to get coats, and oh, thank God there were just two people killed. So sorry for those two, but God, there could have been more.

I didn't kill him. He was nowhere around. Altercation happened in front of the store, right? So he's got -- he comes on the side. The red Charger was in front of the store? Exactly. The altercation happened in front of the store? McFadden says yes. So y'all would see all that now if y'all been to the camera. I'm not in front of the store, but on the side, bro.

You came around the side, and you fired, and you fired, and you fired, and you fired down -- and that's interesting. You fired down. At what? Michael Rogers. Now, yesterday, for the first time, you say, well, I was firing down at the car. Down at the car. I was at the corner. I tell you, was

at the corner. Yeah, I shoot. I shoot at the red Charger, but I didn't God dern -- I was in the corner, bro. I ain't -- nobody was around. No car out there, bro. Ain't nobody was around. But I'll tell you right now, I'll take the attempted murder whenever we're all together. But I ain't kill nobody, bro. I promise, I ain't kill nobody. Why were you shooting at the Charger? Man, I -- I thought they were going to try and come back and kill my brother. Really? It's leaving? I thought they were going to try to come and kill my brother?

Who else was in the red Charger? I don't know. Attempted murder -- and crap, man, I'll take that. I promise you. Who was in the red Charger? I don't know. Why'd you shoot at it if you didn't know? I don't know. I don't know who was there, man. The dude, man, I could -- I promise you he wasn't in there. You what? I thought you didn't see him. I promise you, Greg Middleton -- D-Black wasn't in there. Remember Mr. Corbett asked him yesterday. How do you know that? He couldn't answer that.

If y'all let me go down for that attempted murder and all that other stuff -- where'd you run? I ran behind Wendy's. Where'd you run? Behind Wendy's, bro, and I see my brother get shot. Then, after you fired -- that's after you fired the shots? I didn't fire no shots. I'm telling you. When I ran, I didn't fire no shots. I promise y'all. I ain't seen nobody out there. Everybody been out there. Come on, bro, but I

didn't kill that man. I see -- I seen on Facebook. This man be dead in the back seat of the car. Y'all know all that over Facebook now.

I ain't shoot him in the car, or without the car. What kind of guns you have? I don't have -- I don't -- I don't even remember, man. Where's the gun? I don't know. What y'all do with the gun? Nothing. So where -- is that your house? No. What'd you -- where'd you put it? Can I talk to my mama? So many guns out there, and if I had the same gun to shoot him, it really ain't been my gun shot. I'm still going down for it, bro. Yes, sir. Yes, sir. That's the law. Did he have one gun? Did he have two guns? I'm going to get to that in a minute.

Doesn't say he shot Pies. (Indiscernible) in here yesterday. I am going to tell you all what happened, bro. I'll take those other charges. I'll take those first three charges. Damn, y'all can charge me for them. For that murder? No. I was in the car. 42:49, I guess he starts to get -- I was in the corner. Ain't even going to lie you. I was in the corner. Yes, I shot at -- I shot at the red car. This is it. 42:49 to 43:19 on the video -- on the audio. But this is what I'm trying to tell y'all. If y'all look at that camera, you'll see ain't nobody was out there that night, like absolutely nobody. I didn't even see -- I didn't even see D-Black, like, trying to save Killah Mike or none of that. I

promise you. Y'all could look at that.

He still got him -- he's on the side. He doesn't know they have the video in front. I ain't trying to lie. Y'all can see all of that. You know I ain't lying. No, sir. We can see it. And no. You are lying. And anyone that got dirty -- you know how old -- so you shot at the red Charger? Yeah. After you saw Trae was hit? Yes. What I'm trying to tell y'all. You know how you could leave out -- you can leave Wendy's? He was, like, over there. He was, like, at the gas pump -- talking about Middleton. I was over here shooting on this side. I wasn't shooting over there. Yes, sir, you were. You may not have known the video had you, but you were. He distanced himself to that till we get this video.

Nowhere in here does he say the red Charger was shooting at him and that's why he shot until yesterday. The video does not show shots coming out of the red Charger, and in fact, if you go look at State's 13, State's 9, State's 16, you see the red Charger. Intent to kill? Michael Lucas specific -- don't consider a lesser included offense. He says, I'll take the attempted murder. Please, give it to him, the evidence says. Don't stop there.

You heard the testimony. Extreme angles, these are coming in. The Charger's leaving. Mr. Corbett yesterday says, so when he backed up, he had to do -- to put it in gear, and then put it back. He said, well, he's shooting out the

window at me. No, sir. No, ma'am. There's no evidence of that. Watch the red Charger as it goes off -- started going, as I'm entering the -- nearing the finish. He's got shots on the right. He's got shots on the left. Attempted murder. You know he's at least shooting three times at him. You'll have these back in evidence. Look at him coming in at an extreme angle.

How do you show attempted murder and specific attempt? Not only did he said (sic) "I did it, give it to me", the most express way you can do it, you see more than one shot. Shot at the side. Go at an angle. Who's he aiming at? Shots on the other side. It's specific intent on him. If there are other shots coming at him, that's mutual combat. But he admits, I did this.

A nominal .38 family is found inside. We can't tell you what it was, and it was found inside the doorway. And then, you got the back, where I believe there's a shot to the taillight right here in the back as it was leaving. Not a threat. Leaving.

Now ladies and gentlemen -- play that red Charger leaving, and then I'm going to conclude -- please.

(Thereupon, the visual recording was played but not transcribed herein.)

MR. MEADORS: And folks, after that 6, 7, he keeps shooting, 8, 9. His hand doesn't move as that red Charger

moves. Watch out for that argument. He stays firm, shooting as that red Charger's going out. Who's in that line of fire? Michael Rogers and Gregory Middleton. His arm doesn't move as that red Charger's going. He keeps firing. And then, he goes out. No shots coming from the red Charger, and he goes around and attacks from the other side. Shoot, shoot, shoot.

Ladies and gentlemen, one final thing at this point, and I apologize that I've taken so long. I really tried to narrow this down. This is State's 26, I believe. Just look at it a minute. I didn't realize the significance of this to the State until yesterday. Mutual combat.

Ladies and gentlemen, State's 26 shows mutual combat. What you don't see on here are any .38s because that's a revolver. Shell casings wouldn't come out. But you see shell casings from Michael Rogers that fit to his gun. You see shell casings back in here, we submit -- or Mr. Epps, Diontrae Epps. You see other shell casings. You see shell casings over here, but we don't see any .38s because you can't have .38s. He said he shot six times, maybe seven. Well, that doesn't match up with anything. And if one of these, he was shooting, Gregory Middleton's alive until he comes in. He's alive.

I want to ask you, but I can't -- you know, I've seen good movies. I love this job. I mean, well, maybe, that you don't consider that -- I love this job because y'all get to

decide. I want to ask you right now to close your eyes, but if I can't, maybe keep them open. But I want you to listen to something.

(Thereupon, the visual recording was played herein.)

UNIDENTIFIED SPEAKER: (Indiscernible). Okay. I see L.O. (phonetic). This shit about to get real. Bubba (phonetic) over there -- look at Bubba just standing there. The fuck. No, where L.O. at, y'all? Okay. I'm about to go stand by L.O. Girl, (indiscernible). Oh, look at (indiscernible), y'all. Y'all, where did these niggers come from? Oh, shit. Who the fuck is that? He need to go home. (Indiscernible) L.O. better -- oh, baby. I might just -- I just might be recording a little bit, little bit --

UNIDENTIFIED SPEAKER: (Indiscernible).

UNIDENTIFIED SPEAKER: Where, where, where, where?

UNIDENTIFIED SPEAKER: He over there (indiscernible). (Indiscernible) I see him.

UNIDENTIFIED SPEAKER: Oh, my god, y'all. What the fuck? Yo. I got everything. No, y'all got L.O.. Open it up now. (Indiscernible). Where L.O. at?

UNIDENTIFIED SPEAKER: I don't know.

UNIDENTIFIED SPEAKER: Yo, you don't know. (Indiscernible).

MR. MEADORS: The final legal document I'll leave you

with at this point is the presumption of innocence. The presumption of innocence is something we all enjoy, something the defendant enjoys, and it's a right that you are presumed innocent, presumed innocent until proven guilty. If you're proven guilty beyond a reasonable doubt, the presumption stays with you from arrest through trial all the way back to the jury room, and stays with you unless and until you, the jury, start reviewing the evidence and decide, and take off that presumption. It's sort of like a robe or a blanket.

If you review the evidence and start taking it off -- well, this isn't -- this, the State has proved beyond a reasonable doubt. And if you find we've proved him guilty beyond a reasonable doubt, you take off that robe or that blanket. And we respectfully submit we have proved him guilty of murder, attempted murder, possession of a weapon during a violent crime, and unlawful carrying of a pistol. That's up to y'all.

But at this point, I want to say, if you do find him guilty, and if you come back in with a guilty verdict, bring that blanket and come in here and symbolically give it to Ms. Wilson, because the innocent person in this case was Gregory Middleton. Thank you.

THE COURT: Mr. Warr?

MR. WARR: Thank you, Your Honor. If it would please the Court, I would request about a five-minute break.

THE COURT: Sure.

Ladies and gentlemen, we're going to let you stretch your legs a minute. Please don't begin discussing the case.

(Whereupon, the jury exited the courtroom at 11:57 a.m.)

(Recess.)

THE COURT: Okay. Mr. Warr, are we ready for the jury?

MR. WARR: We are, Your Honor.

(Pause.)

(Whereupon, the jury came into open court at approximately 12:11 p.m.)

THE BAILIFF: All of the jury is seated, Your Honor.

THE COURT: Thank you.

Mr. Warr?

MR. WARR: If it please the Court --

THE COURT: Yes, sir.

CLOSING

MR. WARR: Good morning, ladies and gentlemen of the jury. Thank you for being here over the past week. Over the past week, you have heard the story of this case, and as with any story, there are two sides, and it falls to you to decide which side is credible and believable. The State opened this case by telling you that this case is about credibility and believability, and they are exactly right. They told you this case was about credibility and believability, and then they put theories before you that are neither credible nor

believable, nor supported by the evidence in this case.

Think back to the eyewitnesses that you heard from the State. Not the detectives. Not the experts. Not the pathologist. Not the ballistics expert, but the eyewitnesses. The people that were actually there. Every single one of them had a long and messy criminal history. You heard from a convicted liar filing a false police report. You heard from two men who had slews of drug charges. You heard from a convicted forger. Were those witnesses credible? Were they believable? One of the first witnesses you heard from in this case was Timothy Scarbough, the man that got out of the red Charger.

But before we get to his testimony, I want to point out something to you, something very important. I want you to think about the witnesses we didn't hear from. Michael Lucas is still alive. Why didn't he come to testify that it was Joquell Myers that shot him? He's available. The State didn't make any argument that he wasn't available. They just didn't call him. Why? What did he have to hide? He had to hide that he was shooting. He was out there shooting, too, at my client and my client's brother.

What about Christopher Fordham? He's still alive, too. He's right here in Sumter County. But they didn't bring him over. Why? Why didn't you hear from him? I want you to think about that as you deliberate. Why?

Now, let's go back to Mr. Timothy Scarbough, who you did hear from. This is Mr. Timothy Scarbough as he walks over. I'm going to play a video in just a minute, but we -- I want you to think back to his testimony. He testified that he walked over -- he got out of that red Charger, and he walked over to Trae Epps to make peace -- to make peace, as a gesture of peace -- something the State characterizes as the delivering of an olive branch, the universal symbol of peace. Well, ladies and gentlemen, I want you to watch this video, and I want you to ask yourselves, is that story credible and believable?

(Thereupon, the visual recording was played but not transcribed herein.)

MR. WARR: Here he comes. This is in slow motion, ladies and gentlemen. Watch him. He's in the red pants, black shirt. Do we see that? He's moving, and look at his head. It's turned to the side and he's doing this. He's shaking his finger at somebody and talking. And we don't know what he's saying there, but we can tell it certainly isn't a peace offering by his body language. He is telling somebody off.

But the State wants you to believe that's an olive branch. Det. McFadden testified that that looked like a dance move to him. Well, ladies and gentlemen of the jury, is that man in the camera dancing? Is that lady over by the silver car dancing? Nobody's dancing. Why is he dancing? Is that

credible? Is that believable to believe that this was a dance move? Look at his body language. He was going over to start a fight, not offer an olive branch.

Next, we heard and we've seen what happens next. Killah Mike, wearing the black shirt, hat, shoes, smoking a cigarette, you can see his cigarette moving as he's going over. He's saying something. He's walking over to Trae Epps. The State, on one hand, wants you to believe Trae Epps was wanting to start a fight with Killah Mike. They didn't know that Killah Mike was going to be there. Trae Epps didn't go over to Killah Mike when Killah Mike arrived. Killah Mike came over.

Is it credible and believable to believe that Trae Epps began this conflict when Killah Mike came up, hand on his gun. I want you to watch his right hand. His hand's on his gun the whole time. He walks over. Trae Epps punches him. You see the pistol come up. You can see the puff of smoke. If you look very carefully, you can see the puff of smoke from the first shot that hits Trae Epps right here in the stomach. And you will see Trae Epps jump back. He jumps behind the truck and pulls his pistol and returns fire in self-defense.

Let's watch the video in slow motion. Hand on the pistol. Talking trash. Here comes the punch. He jumps back, pulls the pistol. There's the puff of smoke, if you look at his black shirt. We're going to play it again so if you

didn't see it, we're going to play it again. But Trae Epps, all right, before I play it again, I want to point something out. Even if you didn't see the puff of smoke, I submit to you that it's there.

But Trae Epps was shot in the stomach. He jumps behind the truck as soon -- before he pulls his pistol. So how was he shot in the stomach behind -- when he was behind the truck if Killah Mike didn't shoot him when they were face-to-face between those two cars? The truck would have been in the way. If you've ever stood beside a pickup truck, only your chest would be exposed over the truck, not your stomach. So he had to be shot at that moment, regardless if whether you see the puff of smoke. But it's there.

Watch in the center of that red circle. Watch right there. Focus on only that as we hit play. You can see the puff of smoke in that red circle. It's there, and then it dissipates just in a blink of an eye. But it's the puff of the smoke from his gun barrel. And that's the only place that Trae Epps could have been shot. Killah Mike pulls first. He turns the fray deadly. But the State wants you to believe that Trae Epps pulled first and turned the fray deadly. Is that credible? Is that believable? No.

Next, I want you to think back to another eyewitness you heard from. The only eyewitness that has no criminal record. My client, Joquell Myers. He is the only eyewitness that was

actually there at the scene who testified here in this courtroom that has no criminal record. I submit to you that he's both credible and believable. His testimony is supported by the evidence. You can see the evidence confirm his testimony, and we'll walk through that.

But as this was happening, Joquell testified, and he was on that Wendy's side behind the corner of the store over there with L.O. smoking a short. He heard the commotion. He heard the shots. He reached in the console of the car where he was legally carrying that Smith & Wesson 9 mm MP. And he got it out and he drew it out, so he'd have it in case he needed to defend himself.

You heard the sound of that firefight. You heard the sound of all those shots going off. He got it for protection, and he runs towards the Wendy's side. He starts running. Yeah, he runs away. He was going to get out of there, but then he saw his brother go down when he looked back, wounded. Shot through the stomach. A little fact that was never, hardly ever mentioned by the State was that Diontrae Epps is in a wheelchair now because of that bullet that Killah Mike put in him.

He was on the ground bleeding and Joquell --

MR. CORBETT: Your Honor.

MR. WARR: -- ran to his aid --

MR. CORBETT: Objection. There is no evidence in the

record of Epp's medical condition.

THE COURT: The --

MR. WARR: Joquell Myers testified --

THE COURT: Hang on just a minute.

MR. WARR: -- to the fact that his brother's in a wheelchair.

THE COURT: The defendant gave testimony to that effect. Thank you.

MR. CORBETT: Very well.

THE COURT: But ladies and gentlemen, let me just say this. Y'all have heard the same testimony that we've heard. So you should rely on your own recollection of the testimony. Thank you.

MR. WARR: Before I was so rudely interrupted, Joquell Meyers ran to the aid of his brother. He ran to help his brother. He looks up, and he sees the driver of that red Charger, whom he didn't know who it was at the time. He knew whose car it was, that it was Rilo's (phonetic), but he didn't know Rilo -- for 100 percent Rilo was driving. But he saw the gunfire coming out of that car. And he saw that car turning to come to the Wendy's side to finish the job, to kill his brother, to kill him.

So he opened fire on the car down low on the side, not trying to kill anybody, just trying to get the car to move on out. You heard that testimony, but we'll come back to that.

The State has asked you, ladies and gentlemen of the jury, to find Joquell Myers guilty of the crime of murder beyond a reasonable doubt. And in doing so, they have asked you to believe four impossibilities occurred. Four. Now is that credible? Is that believable? To ask you to believe the impossible occurred?

Here we see Gregory Middleton at 11:42:06. We see him. He's standing up. This is the last time in this film right here that we see Gregory Middleton standing up. Look at his position ladies and gentlemen of the jury. Look at where he's positioned. He's out facing toward the gas pumps. His back is to the Wendy's corner of the gas station where we later see Joquell Myers run up and shoot. And then we see Joquell Myers at 11:42:06. He's still running. He's not firing yet. He's running around that pickup truck.

We see that this is where he's coming to, the corner of the -- Wendy's corner of the Sunoco. That red car would be in front of, the red Charger. That's just one picture over the other. You can -- give you any reference. His back is to Joquell Myers. Joquell Myers is running. He's not firing. He's still running. At 11:42:07, we see Gregory Middleton go to the ground. I submit to you that that is when he was shot. He was leaning down like this over Killah Mike and somebody from in front of him or from slightly to the right shot him right here in his chest, and he went down and crawled to the

car.

But the first impossibility they want you to believe, we see at 11:42:08. Gregory Middleton is on the ground. His back is still to Mr. Myers, and he's face down. Mr. Myers fires the first shot. They want you to believe that that bullet is the one that hit Mr. Middleton after he's already on the ground facing away. That's impossible. That's not credible or believable.

The second impossibility that they want you to believe is that the bullets fired by Mr. Myers could hit Gregory Middleton in this position. Look at the red car. We see it is right there. There's the front of it. There's the back of it. There it is in that angle. It's in between Mr. Myers -- at 11:42:07, it's in between Mr. Myers and Gregory Middleton. At 11:42:08, the red card is still there and Mr. Middleton's on the ground behind it. You see the taillights of that red charger at 11:42:08. And Joquell fires the first shot at the red Charger.

Joquell testified he couldn't see D-Black out there and he didn't see him out there that night. That's because he's already on the ground behind the red Charger when Joquell gets to a point where he could have seen him. He wasn't standing up. He's on the ground behind the Charger. The Charger is in between. At 11:42:09, we see Gregory Middleton is turning to crawl up the side of that white car.

We know -- this brings us to our third impossibility. The State wants you to believe that from the position Joquell Myers was standing at, that he could fire a shot that hit Mr. Middleton in the upper right side of his chest, traveling from right to left, slightly front to back, and lodging under his lung, that Joquell Myers could fire that bullet. Well, I want you think back to Mr. Meadors' in-court demonstration. We heard the pathologist's testimony that when Mr. Caufield was laying in that position, that weird position that nobody crawls in, but even in that position, the shooter would have had to have been standing almost directly in front of Mr. Middleton. Not behind him, not to the left side of him, but directly in front.

And then in the other positions that, you know, army crawling, which would be a more logical position, you would have had to have been to the right side of him, not to the left, not to the back. You can't get shot in the upper right side of the chest from behind. It has to come from in front of you. And we've seen the entire time here Mr. Middleton's back is to Mr. Myers to his back. He falls face down.

11:42:09, he turns, begins to crawl. His left side is to Mr. Myers as he crawls down the passenger side of that car. It's impossible from where Joquell Myers was standing for him to fire the fatal shot. You heard the pathologist's testimony. But the State wants you to believe that's

possible. Is that credible? Is that believable?

The fourth impossibility they want you to believe is that Joquell Myers was shooting .38 revolver, not a Smith & Wesson 9 mm, but a .38 revolver. That is impossible ladies and gentlemen of the jury. Watch as Mr. Myers comes out here in this video. He fires, fires, fires, fired at that red Charger. You can see the shadow of the red Charger as it passes over the top. He follows it around shooting at it as it turns, and then he retreats at 11:42:11 behind the truck to go back and check on his brother.

But in this same video, you can see, if you watch real closely right in here, you will see a shell casing eject from that pistol and fly across the screen. It's just a flip motion. A little glint of motion, but it's the shell casing from that Smith & Wesson 9 mm. The same Smith & Wesson 9 mm that fired this grouping from firearm A, a 9 mm wasn't recovered at the scene, but they matched these shell casings together right there where Mr. Myers was standing, where he went back and ran out and shot again.

The State has characterized, and those questions about how many times Mr. Meyers fired, were based on how many times we see him fire in the video. Some of these shots back here that match this pistol, they wouldn't have been caught on video. Mr. Myers doesn't honestly remember exactly how many times he fired that night. But on the video we see six or

seven. It's hard to tell sometimes. But that is where he was standing and those -- no one else was seen standing.

How did those 9 mm casings get there? That's where he was standing. And we see in this video right here, if you watch in that red circle, you will see the shell casing. There it is. Just a blip across the screen, but it's the shell casing ejected from that Smith & Wesson MP 9 mm. Credibility and believability.

The State's theory that Mr. Myers had a .38 special revolver is neither credible or believable. Here's a still image from the video. 11:42:10. Look at that handgun in his hand. It is in the shape of a 38 revolver? Here it is zoomed in and some samples. They want you to believe that he's shooting one of those -- a gun similar to those two at the bottom, marked .38 special revolvers. They can have different length barrels, but that gives you the gist of them.

This gun right here on the end, that is a 9 mm semi-automatic Smith & Wesson MP. Look at that pistol. Look at the gun in Mr. Myers' hand. Yes, it's a little fuzzy because the video isn't great. But you can tell the shape of it, and it's shaped like a semi-automatic pistol. And we see the shell casing eject. It's impossible that he was shooting a .38 revolver. Credibility and believability is what this case is about.

In these pictures at 11:42:11, Joquell Myers, he runs

around -- back around the building. 11:42:13, he runs out. At this time, D-Black is still crawling up the side of that car and his left side is to Joquell. He didn't crawl up it backwards. He crawled up crawling forward, so his left side has to be to the Wendy's corner.

At 11:42:14, we see -- this is in the point in the video where we see the car start to shake. And if you look right there at 11:42:16 as I flip back and forth, you see a white spot appear -- it looks like a white spot appears in the back glass. I submit to you that that's Gregory Middleton getting into that car after crawling up the side. And a lot of you may be wondering, how could Gregory Middleton, if he was shot when I think he was shot, right before while he was leaning over like this and then he went down because he was shot. How could he crawl that far?

Well, any deer hunter in the State of South Carolina can attest to you to the power of adrenaline. A deer can be shot through the heart and run sometimes up to almost 200 yards. Adrenaline is a powerful thing. And that's how he was able to crawl that far after being shot initially. The pathologist testified that men sometimes shot through the heart could run around the block. They would run short distances. It could be a couple of seconds to a couple of minutes of life.

And if Mr. Middleton wasn't shot when I say he was shot and he was shot sometime on the ground, why did it take him

nine seconds to crawl to the back of that car? He wasn't that far. If he wasn't shot when he ducked for cover, why didn't he run like this? Why did he crawl on the ground? Why didn't he stand up and run once he got behind the car? This just gives you another view of that car. Gregory Middleton had to be facing with his left side to the corner as he crawled up the side of that car. Credibility and believability.

The attempted murder of Michael Lucas is the next charge the State is asking you to convict Mr. Myers of. You heard Mr. Myers' testimony the other day how scared he was for his brother's life. How fearful he was for his own life. You heard the cell phone video rat a tat tat. There was bullets whizzing by. Somebody was shooting at him. He saw fire coming out of that red Charger, and he returned fire in self-defense.

You heard his testimony that he shot down low on the side of that red Charger. It would have been on the passenger side. He wasn't trying to kill anyone. He was just trying to make that car move on out so he could get his brother and get him to Tuomey Hospital before he bled out. He wasn't trying to hurt nobody. He just wanted them to get out of there.

And when you shoot at a man and he's driving a car, you don't shoot down low on the side of the car if you're trying to kill him. You shoot at the passenger compartment. You shoot at the windows where the driver's sitting, not at the

door panels. Look at the back glass of these -- at these windows, not broken. No holes in the windshield. No holes in the back glass. No holes in the passenger's window. But look, there's bullets, one, two, three, and then one through the mirror makes four in the passenger side.

Well, Joquell Myers fired three times in that first volley, according to the State. That's what their testimony -- they want you to believe he fired three times, right? Well, there's three bullet holes there. Which bullet killed Mr. Middleton then? Is their theory credible? Is it believable? And they can't have it both ways.

There is a note, there's bullet holes in the driver's side of this car. State wants you to believe these could be fired by Mr. Myers too, but he shot at the passenger side. There was somebody shooting on the driver's side, shooting at that red Charger on the driver's side. Where were all these people shooting? They picked up hundreds of shell casings out there. There was a lot more people shooting than the State wants you to know about.

What about all those people that Timothy Scarbough called the GDs? We see them on the AR, bunch of other guns and they shoot and shoot and shoot. They might have been shooting at that side. Somebody was shooting on that side of that red car. Perhaps one of them people on the Rite-Aid side was firing a .38 revolver.

Look at that windshield, ladies and gentlemen of the jury. There's not one single bullet hole in it. Not one. But we heard Amanda Snapp's testimony about the bullet hole in the back headrest of that car. And the trajectory rods that go through in between the seats and stop over the driver's seat. And she told you that if that bullet had of been fired from outside that car, that the bullet would have come through the windshield based on that trajectory.

Mr. Lucas was firing. Mr. Lucas fired that shot. He was driving and shooting. He was driving and shooting. He was sitting in that driver's seat like this, driving that car, and he was shooting in between the seats, look at that trajectory rod, like this out the rear passenger window. He hit a bump. Bump. Bam. Accidentally shoots the headrest in his own car. How else could that bullet have gotten there? That's my theory on how it could have got there.

And we know it didn't come from the outside because there's no bullet hole in the windshield. Mr. Lucas was firing. The State doesn't want you to believe that. That's why they didn't emphasize these pictures to you. Credibility and believability. Right over the driver's seat. Mr. Myers said the man was shooting at him. That there shot proves it. Credibility and believability.

This is the truck that belongs to Joquell Myers' cousin that we see parked, back in right there at the corner by where

Mr. Myers was standing. It's backed in. That means the driver's side is over toward where Mr. Lucas was. Joquell testified he heard, he saw the bullets being fired from that red Charger. He heard the bullets hit in this truck, and there they are. They hit the truck. Bullet holes in the driver's side of that truck. State didn't want them in.

Credibility and believability. Why were they introduced so late? Credibility and believability. That confirms Mr. Myers' story. He heard the bullets hitting the truck. He fired in self-defense. He did not attempt to murder Michael Lucas.

Next the State wants you to believe that Mr. Myers attempted to murder Christopher Fordham. Mr. Fordham, he must not have really cared about it, because he didn't show up at court. We didn't get to hear his side. What's he hiding? But yet again, the video doesn't lie. It doesn't lie. We can see what happened. Right here at 11:43:04, we see a gray Nissan pull around the building. We see in fact -- wait a minute -- a white spot, a white t-shirt.

Mr. Myers testified he was wearing a white T-shirt with a credit card on the front. We saw that in that last picture. I forgot to mention that. We can go back and look at it. Let's go back, just real quick. This still right there. White T-shirt, credit card on the front.

Credibility, believability. He told you exactly what he

was wearing. 11:43:04 we see the white T-shirt in the back glass. He's leaning over, reaching into the front passenger seat and holding pressure to his brother's (indiscernible). He's scared. The blood is gushing. His brother is moaning, and he's trying to get his brother to the hospital. He's trying to get him to the hospital.

The State wanted to make a joke of that man's relationship with his brother. They said they were half-brothers, and that offended my client. They're full brothers. He cares about his brother. He's trying to save his life. He's trying to get him to the hospital before he dies. Is he worried about stopping and shooting anybody? That's crazy, ladies and gentlemen of the jury, crazy. It's not believable or credible.

You see again at 11:43:06, we can still see Joquell Myers' T-shirt in the back glass. At 11:43:08, look, the driver's arm is pointing out the window. The driver. We know who shot Christopher Fordham. It was the driver, Sheldon Benjamin, his childhood friend. You see the muzzle flash. You see the shot come from the driver, Sheldon Benjamin.

Mr. Myers told you it was Sheldon Benjamin, his childhood friend. Do you know how hard it was for him to sit up there and tell the truth, and say it was my friend that was driving? That was hard for him, but he did. Credibility and believability. His testimony is supported by evidence.

The State would have you believe that Joquell Myers was driving that car. Well, I submit to you there's no evidence that. Look at the man in the front seat of that car. Is his head touching the top of that car? You can see some daylight. He's a little man. He's not a big man. We saw Sheldon Benjamin at the hospital. They identified him at the hospital, smaller man, not a big man, but a smaller man. Sheldon Benjamin was driving that car.

Joquell Myers didn't know Christopher Fordham, didn't have any bad will against him. Said he just knew his nickname was Pies. He wasn't wanting to stop and shoot nobody. He didn't have a reason. He was holding his brother's wound, trying to keep his brother alive for another minute, just long enough to get to Tuomey Hospital just in the nick of time.

The next charge that the State wants you to convict Joquell Myers of is unlawful carrying of a pistol. Well, he didn't commit that crime, and the State can't prove that he did. He was carrying that pistol lawfully, as he did on a regular basis. That 9 mm Smith and Wesson MP was in the console of that car until the fight arose.

Once the fight started, the bullets were flying, he got that gun, which was his right in self-defense, because he hadn't done anything. We'll address that mutual combat mumbo jumbo in a minute. Grasping at straws, that's all that is.

MR. MEADORS: I will object to that. That's the law Your

Honor is charging. It's not mumbo jumbo.

THE COURT: Thank you, sir.

MR. WARR: Anyway, he reached into the console of that car where he was legally carrying that pistol, and he went to his brother's aid when he saw his brother go down, and he defended his brother. At no point during any of this was he unlawfully carrying a firearm. Because he lawfully carried it to the gas station in the center console, in the closed compartment of that car, and he got it out when self-defense arose, the need for protection arose. Just as any good South Carolinian does. They put their pistol in the glovebox of their car in the center console, legally carrying just in case, because it's a dangerous world out there.

Possession of a weapon during a violent crime. The State cannot carry its burden of proving Joquell Myers guilty beyond a reasonable doubt on the murder of Gregory Middleton. They can't do it. On voluntary manslaughter, they can't do it. He didn't shoot him. The evidence shows that. On attempted murder of Michael Lucas. It was self-defense, and they can't disprove self-defense beyond a reasonable doubt. They can't do it.

Attempted murder of Christopher Fordham. Joquell Myers didn't do it. The video clearly shows he didn't do it. He was sitting in the back seat taking care of his brother, just like he testified to. The driver, Sheldon Benjamin, he

attempted to kill Christopher Fordham, not Joquell Myers. Not guilty. So there is no violent crime for him that he's committed. So therefore, he can't be guilty of possessing a weapon during a violent crime which he didn't commit. Not guilty.

He wasn't trying to kill anyone that day. He was just trying to save his brother.

The judge will soon charge you on the law of mutual combat. There are three elements required for mutual combat. Prior ill will, or prior dispute, an antecedal (sic) agreement or mutual intent to settle the dispute through fighting with deadly weapons, and each party knew that the other parties were armed. The State has to prove each of those three elements beyond a reasonable doubt, and they can't do it.

What do they have? Well, they're trying to tell you that the prior ill will and dispute between Mr. Myers and Killah Mike is exhibited by that Facebook video. Well, Mr. Myers doesn't say anything in that Facebook video. He doesn't say anything. He makes some hand motions, arguably a gun, but we don't know what Mr. Myers' intent was in the back of that video where he's making some hand motions. We don't know. He was just laughing along. His brother was making a video. His brother said in the video, "We don't play with guns. We're going to fight." And that's what he did. He punched Killah Mike, a fistfight, not deadly weapons, a fistfight. That's

what he wanted.

But Killah Mike pulled that pistol and turned the fray deadly. He turned the fray deadly. He pulled the first deadly weapon. It's not credible or believable to believe that that Facebook video shows any intent on the part of Mr. Myers. He's just in the background. And there's a concept known -- a lot of people do it -- it's called Facebook front. They put on a front on social media, tough guy front. They're making a video as a joke. It's not really serious. It's just, ha, ha, they were laughing.

We don't know when this video was made, either. I mean, unless you wanted to take the word of the convicted liar that told us she saw it sometime in August. She couldn't tell us when. Oh, and she happened to be sitting out there in the audience the whole time when the judge was talking about, oh, we need time frame to get this video into evidence. You hadn't presented a time frame of when it was made.

And all of a sudden, like spring flowers in the spring, a witness pops up that saw the video, and it was Killah Mike's girlfriend. She saw it. That's mighty coincidental. I don't know how credible or believable that is, but it's coincidental.

But they want you to believe that that Facebook video was serious. They basically said they were coming to kill Killah Mike. And they said, oh, you can't beat up a car. Oh, yeah,

you can. There's a lot of cheating husbands out there that would beg to disagree. Their girlfriend and their wife took a Louisville slugger to it. You can beat up a car. That is perfectly possible. Carrie Underwood made a song about it. It can be done, but the State doesn't want you to believe it can be done.

Credibility, believability. They can't prove prior ill will or prior dispute between Mr. Myers and Killah Mike or Mr. Myers and anybody else out there. They can't do it beyond a reasonable doubt.

And another little theory of mutual combat they didn't mention is when Mr. Gregory Middleton was shot, none of the mutual combatants were firing. Killah Mike wasn't firing. Diontrae Epps wasn't firing. Nobody was firing. And Joquell Myers didn't shoot Gregory Middleton. So who shot Gregory Middleton? Some unidentified third party with a .38 special.

And to prove mutual combat, the State would have to prove beyond a reasonable doubt that there was prior ill will between that third party and Joquell Myers and they were shooting at each other, and Mr. Middleton got hit in the crossfire. There's no evidence of that, none whatsoever. We don't know who the third party with the .38 revolver is, so how can they prove there was prior ill will? They can't. It's impossible.

How can they prove that there was a mutual intent to

settle their differences with deadly weapons, mutual intent and agreement? You've got to have -- infer an agreement. It's not necessarily a written agreement or even a verbal agreement. It can be inferred as the judge will explain to you. They can't prove there was a dispute between Mr. Myers and this unidentified third party that fired the .38. They can't do it. It's not credible or believable to believe that they can. There's no evidence. We don't know who it is. They can't prove it.

And each party knew the other parties were armed. There again, they can't prove Mr. Myers knew this third party was armed. We don't know who it is. We don't know if he was shooting at Joquell or if he was shooting at Killah Mike, or if he was shooting at the car, or where this third party was shooting. But there's no evidence of mutual combat between Joquell and him. And there's no evidence of mutual combat between Trae Epps and Killah Mike.

There's no evidence that when Trae threw that punch that he knew affirmatively that Killah Mike was armed with a deadly weapon and was intent on settling the dispute between them with weapons.

The doctrine of mutual combat developed in South Carolina in 1843. It was used to combat dueling, dueling. But it has been applied to cases not like this one, but in cases similar. But not when we don't know who the mutual combatants are, and

there's no evidence, none whatsoever, of prior ill will, antecedal (sic) agreement or that each party knew the other party was armed.

Joquell Myers had no ill will against Killah Mike. The video that means he had ill will? Lots of people appear in the background of videos on Facebook. It doesn't necessarily mean you agree with what the author is saying, what the person filming it is. That is nothing more -- that Facebook video is nothing more than a character smear by the Court -- I mean, not by the Court, excuse me, by the State. It's neither credible nor believable, their theory on the Facebook profile.

Trae Epps also did not exhibit a mutual intent to engage with deadly weapons because he threw a punch. He threw a punch, yes, he did. But that's not a deadly weapon. You can punch somebody, one punch. That's not the deadly weapon.

Killah Mike turned the fray deadly. He drew. Trae Epps had the right to self-defend. Joquell Myers had the right to self-defense.

The judge will charge you on the law of self-defense. She's going to charge you. There's four elements. Each of the elements must be disproved by the State beyond a reasonable doubt. Disproved by the State, we'll get to that in the minute.

MR. MEADORS: That's not a correct statement of the law.

THE COURT: I'm going to charge the law, ladies and

gentlemen, at the end of the case. And so, respectfully, the law I instruct you is the law that you follow. Thank you.

MR. WARR: They must prove that Joquell Myers had fault in bringing on the controversy, beyond a reasonable doubt. The first element, defendant has to be was at fault in bringing on the difficulty. Joquell Myers wasn't over there when Killah Mike came over. Killah Mike came over. He was looking for a fight, and Trae Epps punched him.

Killah Mike turned the fray deadly. He turned the fray deadly. He brought on the deadly controversy. Joquell Myers didn't. When he came up, his brother was on the ground bleeding, shot, and he sees Michael Lucas shooting at him. He hears the bullets hitting that pickup truck beside him. He sees the Charger turning to come their way to finish his brother off.

Michael Lucas brought on the controversy as far as the controversy between Joquell and him, because he was shooting at him before Joquell fired. He fired first. He fired first. Michael Lucas fired at Joquell first, and Joquell returned fire. But he wasn't trying to kill Michael Lucas. He was shooting down in the side of that car just to make him move on out. But Joquell fired -- didn't bring on that difficulty.

The next element is the defendant must have been in actual, imminent danger of serious bodily harm or death, or actual fear of imminent danger or serious injury -- serious

bodily injury or death. I submit to you that Joquell Myers was in fear of imminent serious bodily injury or death. And he was in fact in danger of sustaining imminent serious bodily injury or death because Michael Lucas shooting at him.

You heard Joquell's testimony. The bullets whizzing by. The bullets hitting the truck. His brother on the ground bleeding who had already been shot. The fear. He's never been so afraid in his life. That fear, he held that fear.

And the next element is when a reasonable prudent man in the same situation holds the same fear. Well, you heard the cellphone video. You heard all the shooting out there. Absolutely, anybody would be crazy not to have been scared for their life out there. Anybody would have been.

The next element is no other way to avoid the danger or it can be characterized as a duty to retreat. Joquell Myers was trying to retreat the whole time. The State wants you to believe that as he was running away, he saw his brother fall, he should have just kept on running. Now is that credible, is that believable? To say that a man should leave his brother behind? Leave him to die alone on the cold pavement?

A coward dies a thousand deaths, but Joquell Myers went back to save his brother. And he was trying to retreat. He was trying to get him to the hospital. Trying to get him into that car. But he couldn't until the firing stopped. So he engaged that red Charger who was firing at him, and firing at

his brother, and he shot at it three times.

The first time, the red Charger -- he runs back checks on his brother. The red Charger is pulling out, still firing, coming their way. Fires all the way till he gets out of the parking lot. He was firing as he was driving away. That's why Joquell ran out and fired again.

The judge is going to tell you about something. Once you're engaged in self-defense, you don't have to stop until the threat is gone. And that threat was not gone until Michael Lucas stopped firing as he was driving and turned out on to Broad Street.

Joquell couldn't retreat and leave his brother behind. He was trying to get his brother to the hospital, but he had to get that man to stop shooting and move on out first, because his brother didn't have much time.

Mr. Myers has no burden to prove anything in this case. Did you hear that? He has no burden to prove anything. That means that all the proof in this case has to come from the State. They have to prove this case to you beyond a reasonable doubt. They have to prove every element of this case to you beyond a reasonable doubt. And when there are reasonable doubts raised by the evidence in this case, which it was my obligation to do, they must dispel those doubts. Not 1 of those doubts, not 2 of those doubts, not 3 of those doubts, not 17 of those doubts, but all of those doubts must

somehow disappear unanimously in your minds.

I need to say something that's very important. It's very important to me. Each and every one of you has the power to say, no. One single doubt remains in my mind. You have the duty and the obligation. You have the duty and the obligation and the responsibility to say, no, the State has not proven this man guilty beyond a reasonable doubt. His life, ladies and gentlemen of the jury, is in your hands. Today we entrust this man's life to you. Thank you.

THE COURT: Reply on behalf of the State?

CLOSING

MR. CORBETT: Good afternoon, ladies and gentlemen. It is my opportunity to reply to some of the things that Mr. Warr has brought before you. But I want you to know --

MR. MEADORS: Your Honor, can we take that off the screen? I don't even know what that is. Who's got the (indiscernible)?

UNIDENTIFIED SPEAKER: I do.

MR. MEADORS: Could you take it off, please?

UNIDENTIFIED SPEAKER: You got to turn it off up there.

MR. MEADORS: For the record, I object. I didn't even notice that until just now.

THE COURT: Okay. Thank you.

MR. CORBETT: The volume at which I speak and the tone of which I speak does not change facts. Shouting doesn't make

something what it's not. I once heard somebody say recently, you may be entitled to your own opinions, but you're not entitled to your own facts. And I believe that the evidence matters greatly. Because what we're doing right now is closing arguments. It's not evidence. And that is an important distinction. Because I can stand up here and tell you what I think, but what you need to think about is what is the evidence in this case.

Mr. Warr literally said to you, you might not see it, but it was there. This is a court of law. And evidence comes from that witness stand, and it comes from these exhibits. It does not come from, you might not see it, but it was there.

So what we have just listened to is the notion that out of all the things that you have watched, the Facebook video, the witness testimony, the surveillance video and the defendant's statement that that defendant did nothing wrong. Absolutely nothing he did was wrong.

And where I find that very curious is from his very own testimony. Do you remember when we were talking about his testimony, both in the direct examination and the cross-examination, of why you said what you said to the police, and then he managed to come back and say, well, people like me from Mayesville don't trust the police.

Well, to start with, I think that's somewhat offensive to people in Mayesville. But on from that, I thought, okay, even

if you don't trust the police, why would you not tell them about your self-defense? Why would you go into a police interview and say, I'll take the attempted murder and never, ever say fire was coming from the red car?

And guys, I want y'all to know that these exhibits are available to you to review.

Defendant's statement at the 23:30 mark, this is from the 26th of September:

"DET. KELLY: Who was in the Charger?

"MR. MYERS: Huh?

"DET. KELLY: Who was inside the red Charger?

"MYERS: I don't know.

"KELLY: You don't know?

"MCFADDEN: Then why shoot at it if you don't know?

"I don't know. I don't know who was in there, man. The dude -- man, I can promise you, he wasn't in there.

"KELLY: He who?

"MYERS: D-Black. He wasn't in there.

"DET. KELLY: Yeah, we know that."

When you were asked, "If you didn't know who was in the car, why did you shoot at it", isn't that the time you would say, "Because whoever was in it was shooting at me"?

That was in September of '19. The first time --

MR. WARR: Your Honor, I'm going to object to the statement. I never mentioned Joquell Myers' statement in my

closing arguments, and he's limited on his rerebuttal.

THE COURT: I understand, but I think it's directly related to the issue of credibility. So I'm going to allow it.

MR. CORBETT: And by the way, I don't mind objections. If they're based in law, I don't consider them rude because what happened was, he said, my client's the only one who has a record; he was telling you the truth. That's why I'm talking about the state.

Okay. Now, do you remember the questions I asked him, hey, when you said this, that wasn't true, was it? Matter of fact, I think I started with, now, you would agree with me that the testimony that you are giving here today is greatly different than what is in your statement. And he agreed with that.

So then we got specific. When you said that, that was a lie, wasn't it? Yes, it was. When you said this, it wasn't true, was it? No, it wasn't.

Now, imagine that you put a video up here, that the witness who is testifying about it had nothing to do with the making of that video, their testimony was to, this is when I saw it, okay, and then you would stand here and say, don't pay any attention to that video because that was a liar on the stand. Her testimony didn't change the content of that video. And we'd sit here and call that person a convicted liar and

ignore the fact that their client admitted lying. Is that the level of absurdity that we have reached?

Talked about his client being the only one without a record, that he was telling the truth. And I want to pose for a moment, and I want to be careful because for just a moment, I'm not going to talk about something directly from the witness stand, but I'm going to talk a little bit about investigations. And here's why -- and in a moment, I believe you'll see why this is important.

MR. WARR: I'm going to object that this is outside the scope of my closing.

THE COURT: Well, I haven't heard where he's going with it yet.

MR. CORBETT: Now, with regard to credibility, okay, the officers will ask people questions. They get information, and that oftentimes leads them to somebody else, which then may even lead them to somebody else. So they can double-check. They can verify. They can find evidence. That's how investigations go. We all know that.

So when you sit down in an interview and you ask somebody, hey, where's the gun, do I really need to go through all of that question-and-answer again that we did yesterday? No less than 25 times, a question was posed to the defendant: Where's the gun? How many shots did you fire? What did you do with it? Where did you get it?

Questions of that form, no less than 25. Because why is that important? Because then the police go and say, hey, did you sell this person that gun? What kind of gun was it? That's the kind of thing they want to know in September of 2019.

But it wasn't just 25. It was 26. Because when he sat on the witness stand and I asked him, where did you get the gun? "Not telling you". "I'm not telling you." Do you solemnly swear or affirm that the testimony you shall give will be the truth, the whole truth, and nothing but the truth? That is the question that you have to ask yourselves.

So we played the video at some length. And if we can go back to that portion. Now, I will tell you, I don't have a red circle.

(Pause.)

MR. CORBETT: And we're being asked to, even if you don't see it, it's there. He showed this video to the detective, and the detective was like, I'm sorry, I don't see it; I don't see it. Evidence works that way, not that if you don't see it, it's still there.

And interestingly enough, Mr. Warr did refer to Michael Rogers as having his hand on his gun. I could not tell from that video if he did or not, but I would not be surprised if the parties believed as much, given the history that we have seen so far. And I fully admit to you, because I believe it's

apparent from the video, that when Mike Rogers goes down, you see that here, you see an object slide out of his hand. And we showed that as placard number 14, State's Number 5. It fired these shots. Yes, we're not discounting that, that Michael Rogers did, in fact, fire.

But we also see shots coming from Mr. Epps. I looked at it again a few moments ago. It was no more than three seconds from the punch till his gun was out. No more than three seconds on that video.

I found that portion of testimony interesting about the gun. And I want to be careful, because when I do my best to recollect testimony, it is your recollection that matters, not mine, but I believe his testimony was something to the fact of, this is Sumter; this ain't Beverly Hills. Well, the reason Sumter has that reputation is because people are carrying guns with them everywhere. At 1 a.m. in the Sunoco parking lot.

Now, I want to talk a little bit about the video because this one concerns me. There's been a great deal of talk about the shot that was fired at 11:42:08.

If I may please direct your attention to the bottom-left pane.

(Pause.)

MR. CORBETT: The defense does not want to talk about 11:42:10 because at this point, Mr. Middleton is now out of

sight behind the white car, and yet two more shots are still fired after 11:42:08. Two more shots. We can't stop at 11:42:08. We have to go to 11:42:10.

Now, if we continue on, the Charger is now out of view, heading toward Broad Street. That is the testimony that we've heard. Chases after and fires what I can -- from what I can see, and I do want to be careful I'm about to say, three additional shots.

He talked about a series of impossibilities, and I actually wrote one of these down because he said 11:42:08, and then he said it's impossible that he has a .38 revolver. He says, that's what it is, but the picture's fuzzy. Was there a witness from the stand who said that, or are we now asking you to guess here in closing arguments?

Now, I found this one curious, too, because again, this is closing argument. Mr. Warr, for the very first time, without the benefit of one shred of testimony -- because facts matter; my opinion doesn't, and I take it very serious the obligation to stand before you and to talk about the evidence.

So for the very first time, in this closing argument, he puts the blue gun, A, firearm A, in his client's hand. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11. 11. His client testified, I believe I shot six or seven times, if you remember that testimony from the witness stand. Okay.

So firearm A is this collection of blue that Mr. Warr

referred to. Because here's what's going on. I won't tell you what gun I had in the interview, but I will ask you what gun killed the individual. I won't tell you where I got the gun from. I won't tell you what I did with the gun because I'm going to wait until it's time for trial. Find out that the individual, Mr. Middleton, was killed with a .38. Now, I've got to have a 9 mm. Now, I know which one to do.

But the problem is sometimes you got to think through that whole story you're going to tell, because if you tell, I shot six or seven, and then in closing argument, we try to put firearm 8 in your hand with 11, all of a sudden the math doesn't work. He was exactly right. This case is about credibility and believability, from beginning to end. From September 9 until the end of this case, it's about believability and credibility.

Ladies and gentlemen, the defendant has been charged with murder. Now, I will admit to you that sometimes, it's a little bit strange to talk about murder from two different concepts. And that is, you as a jury deciding, was that the fatal shot. That is within your province as jurors.

And then the other concept is mutual combat. Okay. Mutual combat.

"One engaged in such combat is equally guilty, regardless of whether he used a deadly weapon or not. And regardless of whether he was on one side or the other

makes no difference, and where all participating in the mutual combat, all are equally responsible for the natural consequences."

What are the natural consequences of lots and lots and lots of gunfire in a crowded parking lot? Somebody dying. That is a natural consequence. It is not the identity of the victim that controls. It is the intent, the state of mind which led to the mutual combat in the first place, and the consequences that followed from that.

Mutual intent and willingness to fight "manifested by the acts and conduct of the parties and the circumstances attending and leading up to the combat". The mutual combat doctrine is triggered when both parties contribute to the resulting fight. It's not required to prove which defendant fired the fatal shot when the evidence was sufficient to establish that each defendant acted with mental culpability required for the commission of depraved indifference murder. They acted in concert to create an explosive condition which resulted inevitably in the victim's death. Murder.

11:42:08, Greg Middleton was alive. Attempted murder, the red Charger. Michael Lucas driving away, firing at that car. Runs behind it. Runs behind it as it's driving out, continuing to fire. And his statement says, I'll take the attempted murder.

But wait a minute. On the day of trial, that's the first

time I'll say, it was shooting at me. Now, "my brother was behind the pickup truck on the ground", according to their testimony, and it seems -- again, me surmising some things here; I want to be careful in how I say it to you -- that hey, I could use the hood of the truck for cover. I could use the corner of the building for cover. If that kind of fire's coming -- no, I'll run headlong. Do you remember what the distance when I asked him?

And that's one thing I want you guys to notice, because in the video, you can see where his feet are -- or excuse me, his body when he runs up. And it may require a pair of reading glasses to do this, but you still see the post, the yellow post in this picture. And Det. Snapp placed him inside this parking place.

So remember, we had a car straddling the blue line, another car, and the red Charger backed in at something of this angle. We're talking just over a parking space in width. Now, I want you to understand that, because when you look at a aerial view, sometimes the scale looks very, very wide. But use these parking places for reference, and that will give you an idea of the distances that we're talking about.

Attempted murder, Michael Lucas in the red Charger, shooting at that car. By the way, talked about there being shots on the driver's side. Guys, that's in evidence.

I'm not going to belabor this longer than necessary, but

there's a photograph of what they call "trajectory rods" coming out of that red car and the driver's door. I want you to notice the extreme angle with which they entered. Okay. So the Charger, there's been testimony that it's heading out toward Broad Street, and the trajectory rods are at an extreme angle to it so that you would be -- logical conclusion would be that you would have to be just to the left and just behind to make that shot into the door of that car.

Now, interestingly enough, now that we have gotten this claim for the first time that shots were coming out of the red car, that he's now doing this while he's driving, negotiating the parking lot. But the back window's still in the car. It wasn't shot out. So how is he putting down all this gunfire and not breaking any glass in the car? How is he doing that from inside?

And by the way, he has to put it in drive, pull forward, hit Mr. Rogers, put it in reverse, back up, put it back in drive, and negotiate that turn and wants y'all to believe that he's shooting a gun while doing all of that. That's attempted murder, ladies and gentlemen.

Now, as we move on, we also need to talk about Chris Fordham and the notion of what we call "accomplice liability", the hand of one is the hand of all. So we see Chris Fordham go out, and he picks up Mike Rogers. And I want to be careful that I don't use the wrong word. Maybe "drag" is a better

word. I want to be careful. I think that's the word that came from the witness stand.

And the silver car stops. And in one of the most cold-hearted things I've ever seen, Chris Fordham gets shot. Just, it's hard to watch, that somebody pulling a shooting victim out of a parking lot is shot.

Now, I want to be careful when I say this to you. My recollection of the testimony is that Mr. Myers said, "I was in the back passenger seat, leaning over, tending to my brother in the front driver's seat." Now, we know -- well, we now know that the individual known as Polo is driving, because it's the first time we've ever heard that, was driving. And then Sheldon Benjamin and Jay McBride were also in the car.

So it got me to thinking, if I'm correct about Myers saying he was in the back passenger seat, please use your collective recollection of that, that means that Benjamin and McBride would have to be coming this way. So why do we stand here and show you videos and say, oh, see that white blob in the back, that's my client, when he's already put himself on the other side of two people?

THE COURT: Can I get y'all to approach for just one moment?

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

MR. CORBETT: So that is the charge concerning Mike before you.

The other charges are somewhat evident from what you see on the video, possession of weapon during the commission of a violent crime and the unlawful carrying of a pistol.

Now, ladies and gentlemen, you were without difficulty in bringing on the problem, and you have a duty to retreat. Do we see any of that in the video in this case? Do we see any of that?

Now, ladies and gentlemen, I want to back up and talk a little bit about talked about carrying that gun and a need for protection. This was after the Facebook video. The audacity that it takes to say, I'm carrying a gun for protection, when I appear on a Facebook Live video with my brother and publicly announce, we're coming for you. We're coming for you. And based on the testimony that we heard, less than a month later, Michael Rogers is dead.

Mr. Warr tells you that that video wasn't serious. The results of it looked deadly serious.

Go to the hospital after all of this, put Diontrae Epps in a wheelchair, and they leave. And they leave. His brother that he cared about. They left.

So I asked, when did you call law enforcement? "I didn't do that." It's so incredibly ironic how people don't put self-defense out there when something happens. Because I

asked that question, when did you call. But lo and behold, the weapons disappear. They're gone.

Ladies and gentlemen, we're nearing the end of a lengthy process for you guys. I know it's been long. But all of us in this courtroom trust the collective wisdom and judgment that you will bring to the facts of this case.

I'm sometimes asked, what's the hardest part of your job. And I think people expect me to say, having to go to prelims, indictment preparation, getting guilty pleas ready, trial preparation, direct exam, cross exam. Whatever it may be, I think that's the answer they're usually asking from me.

And here's the hardest part. Meeting families. Meeting families who have lost loved ones. That's the hardest part of my job, trying to help them make sense of the worst day of their life. And unfortunately, it's all too often parents because it's young people that are dying. That's the hardest part of my job.

And today's an important day for that family. Today is an important day for that family. I don't deny for a moment it's an important day for the defendant, but it's also an important day for that family because they, too, are entitled to justice.

Bear with me one moment, please.

When you came in, you took an oath to well and truly try the facts of the case. Not Jason Corbett's opinion of it, not

John Meadors' opinion, not Lewis Warr's opinion, not Ken Young's opinion. To well and truly trial the facts of the case. Thank you very much.

THE COURT: Okay. Ladies and gentlemen, we've had you in here since 12:15. I still need to give you the instructions on the law, but I want to see if you need to take a break first. It's going to take me probably about 30 minutes to give you the instruction. We do have your lunch here. It'll be ready for you. But I don't want to -- I know we've had you in here for a lengthy period of time.

Do you need a break before we move into the jury instructions?

Okay. Let's take about ten minutes, and then I'll be back to charge you. Please don't begin discussing the case yet.

(Whereupon, the jury exited the courtroom at 1:51 p.m.)

(Recess.)

(Whereupon, the jury came into open court at approximately 2:05 p.m.)

THE DEPUTY CLERK: They are now seated, Your Honor.

THE COURT: Okay. Thank you, ladies and gentlemen. You've now heard all the testimony and the evidence in this case, and it's now my duty to instruct you on the law that applies.

CHARGE OF THE COURT

THE COURT: The indictments in this case charge the defendant with murder, with two counts of attempted murder, and with possession of a weapon during the commission of a violent crime and unlawful carrying of a pistol.

I remind you that the fact that the defendant was arrested, charged, and indicted in this case is not evidence and cannot be considered by you as evidence of guilt, nor does it create any presumption or inference of guilt. This document is simply the formal written instrument which contains the charges made against the defendant. It's the formal document by which this case is brought into court.

The indictments in this case allege several different offenses against the defendant. The charges are attempted murder of Christopher Fordham, attempted murder of Michael Lucas, murder as to Gregory Middleton, possession of a weapon during the commission of a violent crime, and unlawful carrying of a pistol.

Each charge constitutes a separate and distinct offense. You must decide each charge separately on the evidence and the law applicable to it, uninfluenced by your decision as to any other charge. The defendant may be convicted or acquitted on any or all of the offenses charged. You will be asked to write a separate verdict of guilty or not guilty for each charge.

The defendant has pled not guilty to this indictment.

And that plea puts the burden on the State to prove the defendant guilty. A person charged with committing a criminal offense in South Carolina is never required to prove himself innocent. I charge you that it is an important rule of law that the defendant in a criminal trial, no matter what the seriousness of the charge may be, will always be presumed to be innocent of the crime for which the indictments were issued unless guilt has been proven by evidence satisfying you of that guilt beyond a reasonable doubt.

This presumption of innocence does not end when you begin your deliberations, but it accompanies the defendant throughout the trial unless you reach a verdict based on evidence satisfying you -- excuse me, unless you reach a verdict of guilt based on the evidence satisfying you of that guilt beyond a reasonable doubt. The presumption of innocence is not mere legal theory. It's not just a legal phrase. It is a substantial right to which every defendant is entitled unless you, the jury, are satisfied from the evidence of the defendant's guilt beyond a reasonable doubt.

Well, what is a reasonable doubt in the law? It's the kind of doubt for which you can give a reason. It's also described as the kind of doubt that would cause a reasonable person to hesitate to act. Proof beyond a reasonable doubt is proof that leaves you firmly convinced of the defendant's guilt. There are very few things in this world that we know

with absolute certainty, and in criminal cases, the law does not require proof that overcomes every possible doubt.

If, based on your consideration of the evidence, you are firmly convinced that the defendant is guilty of the crime charged, you must find the defendant guilty. If, on the other hand, you think there is a real possibility that the defendant is not guilty, you must give the defendant the benefit of the doubt and find him not guilty.

Well, let me just pause for just a minute. I see one of our jurors taking notes, and that's fine. But I do have to give you a little bit of instruction about note-taking. It's fine for you to take notes. You see that we're all taking notes during the course of the trial. But I want you to -- in your deliberations, you should rely on your own recollection. The problem with note-taking is that sometimes we will rely on the notetaker's memory over your own, and so it is important that you rely on your own independent recollection and don't rely on anyone else's notes over your own memory.

I remind you that during the trial, you and I have certain duties to perform. As the trial judge, it's my responsibility to preside over the trial of the case, and I also have the duty to rule on the admissibility of the evidence offered during the trial. You are to consider only the competent evidence before you. You are to consider only the testimony which has been presented from the witness stand,

the exhibits which have been made a part of the record in this case, and any stipulation of the parties which has been read into the record.

I have the additional duty to charge you the law applicable. As the presiding judge, I am the sole judge of the law of the case, and it's your duty as jurors to accept and apply the law as I now state it to you. If you already have any idea as to what the law is or what the law ought to be and it does not agree with what I now tell you the law is, you must abandon your previous idea because you're sworn to accept the law and apply the law exactly as I state it to you now.

In every case tried in this court before a jury, the jury becomes the sole and exclusive judges of the facts. A trial judge cannot comment on or make any statement to a trial jury about the facts in a case. Since you, the jury, are the sole judges of the facts, you're not to infer from what I've said during the progress of this trial in ruling on the admissibility of the evidence or otherwise or anything that I say now during this course of this instruction to you that I have any opinion about the facts in this case.

The law does not allow me to have an opinion about the facts in the case. This is a matter solely for you, the jury, to determine. As jurors, it's your duty to determine the effect, value, weight, and truth of the evidence presented

during this trial.

Now, there are two types of evidence generally presented during a trial. There is direct evidence, and there is circumstantial evidence. Direct evidence directly proves the existence of a fact and does not require deduction. Circumstantial evidence is proof of a chain of facts and circumstances indicating the existence of a fact.

Crimes may be proven by circumstantial evidence. The law makes no distinction between the weight or value to be given to either direct or circumstantial evidence. However, to the extent the State relies on circumstantial evidence, all of the circumstances must be consistent with each other and when taken together, point conclusively to the guilt of the accused beyond a reasonable doubt.

If these circumstances merely portray the defendant's behavior as suspicious, the proof has failed. The State has the burden of proving the defendant guilty beyond a reasonable doubt. This burden rests with the State, regardless of whether the State relies on direct evidence, circumstantial evidence, or some combination of the two.

Now, necessarily, you must determine the credibility of the witnesses who have testified in this case, and credibility simply means believability. It becomes your duty as jurors to analyze and evaluate the evidence and determine which evidence convinces you it's truth.

In determining the believability of witnesses who have testified in this case, you may believe one witness over several or several witnesses over one. You may believe a part of the testimony of a witness and reject the remaining part of the testimony of the same witness. You may believe the testimony of a witness in its entirety, or you may reject the testimony of a witness in its entirety. You may consider whether any witness has exhibited to you any interest, any bias, prejudice, or other motive in this case. You can also consider the appearance and manner of the witness, what their demeanor is while on the witness stand.

I charge you further that a person who has a past criminal record is competent to testify during a trial. A past record does not affect the ability of that witness to testify. The past record may only be considered by you, if at all, in determining the witnesses' believability. Remember, you are the sole judges of the facts in the case and of the believability of any and all of the witnesses.

Now, the rules of evidence ordinarily do not permit witnesses to testify to opinions or conclusions. An exception to this rule exists for witnesses that we call "expert witnesses". A witness who by education and experience has become expert in some art, science, profession, or calling may state an opinion as to relevant and material matter in which the witness claims to be an expert and may also state the

reasons for the opinion.

In this case, you have heard expert testimony in the fields of pathology and firearm identification. You should consider any expert opinion received in evidence in this case and like any other evidence, give it the way you think it deserves. If you decide that the opinion of an expert witness is not based on sufficient education and experience or if you conclude that the reasons given in support of the opinion are not sound or that the opinion is outweighed by other evidence, you may disregard the opinion entirely.

An expert witness' testimony is to be given no greater weight than that of other witnesses simply because the expert is a witness -- I'm sorry, the witness is an expert. Further, you are not required to accept an expert's opinion, even though it is not contradicted.

A statement alleged to have been made by the defendant has been admitted into evidence in this case. While the Court has determined that the statement is admissible, I instruct you that you make the ultimate decision of whether or not the defendant made the statement.

If the defendant did make the statement, you must determine whether the statement was made by the defendant voluntarily and of his own free will. This means that the statement was not caused by pressure, force, fear, threats, coercion, or intimidation, or by hope or a promise of leniency

or a reward of any kind. In determining whether the statement was voluntary, you should consider both the characteristics of the defendant and the details of the questioning.

Some of the factors that you must consider are the age of the defendant, the defendant's education or lack of education, the defendant's mental ability or capacity, the defendant's IQ or intelligence, the defendant's background and environment, the place and length of detention, the nature of the questioning, and the advice or lack thereof to the defendant of his Constitutional rights, including but not limited to the right to remain silent, that any statement can be used against him in a court of law, the right to have a lawyer present, that if he could not afford a lawyer, a lawyer would be appointed to represent him without any cost, and that he could stop making a statement at any time. You must carefully consider all of the surrounding circumstances before you give any weight to an alleged statement.

The State has the burden of proving beyond a reasonable doubt that the alleged statement was voluntary. If you determine it was, you may give the statement any further consideration that you deem proper. You must decide what weight, if any, should be given to the alleged statement. If you determine the alleged statement was not the free and voluntary statement of the defendant, you should not consider the statement at all.

The defendant is charged with the murder of Gregory Middleton. The State must prove beyond a reasonable doubt that the defendant killed another person with malice aforethought. Malice is hatred, ill will, or hostility toward another person. It is the intentional doing of a wrongful act without just cause or excuse and with an intent to inflict an injury or under circumstances that the law will infer an evil intent.

Malice aforethought does not require that malice exists for any particular time before the act is committed, but malice must exist in the mind of the defendant just before and at the time the act is committed. Therefore, there must be a combination of the previous evil intent and the act.

Malice aforethought may be express or inferred, and these terms "express" and "inferred" do not mean different kinds of malice, but merely the manner in which malice may be shown to exist, that is either by direct evidence or by inference from the facts and circumstances which are proved.

Express malice is shown when a person speaks words which express hatred or ill will for another or when the person prepared beforehand to do the act which was later accomplished. Malice may be inferred from conduct showing a total disregard for human life.

If the defendant, with malice aforethought, attempts to kill another person but by mistake kills a different person,

the defendant still has the intent to kill. The intent to kill is merely transferred from the original person the defendant attempted to kill to the actual person killed. The defendant would be guilty of murder, just as if the attempt had resulted in the death of the person the defendant attempted to kill.

If you find that the State has failed to prove beyond a reasonable doubt that the defendant committed murder, you may consider whether the State has proved beyond a reasonable doubt that the defendant committed the lesser-included offense of voluntary manslaughter. To prove voluntary manslaughter, the State must prove beyond a reasonable doubt that the defendant took the life of another in the sudden heat of passion based on sufficient legal provocation. Both heat of passion and sufficient legal provocation must be present at the time of the killing to constitute voluntary manslaughter.

Sudden heat of passion may for a time affect a person's self-control and temporarily disturb a person's reason. The sudden heat of passion must be the type that would make an ordinary person unable to coolly reflect on his actions and would produce an uncontrollable impulse to do violence.

Sufficient legal provocation must be the type that would make a person of ordinary reason and caution become enraged and to lose control temporarily. The provocation needed for voluntary manslaughter must come from some act of or related

to the victim.

Words alone, however vulgar or insulting, are not enough to be legal provocation. Where death is caused by the use of a deadly weapon, the words must be accompanied by some overt threatening act which could have produced the heat of passion. The exercise of a legal right, no matter how offensive it is to another, is never sufficient legal provocation for voluntary manslaughter.

If the heat of passion had cooled or if there was enough time between the provocation, if any, and the killing for the passion of a reasonable person to cool, the killing would not be voluntary manslaughter. In deciding whether a reasonable person would have had enough time to cool off, you should consider all the circumstances surrounding the killing. You may consider the nature of the provocation, if any, the defendant's mental and physical state, and the circumstances and relationship between the parties.

South Carolina recognizes the doctrine of mutual combat as the basis for a conviction for either murder or voluntary manslaughter. If a person voluntarily enters into a mutual combat with another where deadly weapons are used, knowing that they are being used, and death results to an innocent third-party, then everyone engaged in the mutual combat is equally guilty, regardless of whether they fired the fatal shot. All participants in the mutual combat are responsible

for their fellow combatants' actions resulting in foreseeable injury to an innocent third-party. However, if the innocent third-party was killed before the defendant joined in the mutual combat, then the defendant cannot be held responsible under the doctrine of mutual combat.

The State bears the burden of proving beyond a reasonable doubt that the defendant was engaged in mutual combat with a rival combatant or combatants, that each was armed for the mutual combat with a deadly weapon, that each knew the other was armed. The State must prove beyond a reasonable doubt that there was a mutual intent and willingness to fight with deadly weapons manifested by the acts and conduct of the parties and circumstances leading up to the combat.

The statements prove that the conflict arose from a preexisting dispute between the combatants. However, it is not necessary that there should be a positive agreement between the participating parties to enter the conflict. It is sufficient if they willfully enter into the conflict upon the impulse of the moment. The State bears the burden of proving each of the elements of mutual combat beyond a reasonable doubt.

The defendant is charged with the attempted murder of both Michael Lucas and Christopher Fordham. In order to prove this crime, the State must prove the defendant, with the intent to kill, attempted to kill another person with malice

aforethought. In order to be guilty of this offense, the defendant must possess a specific intent to kill, thus a specific intent to kill is a required element of the offense.

Malice is hatred, ill will, or hostility toward another person. Malice aforethought does not require that malice exists for any particular time before the act is committed, but malice must exist in the mind of the defendant just before and at the time the act is committed. Therefore, there must be a combination of the previous evil intent and the act. Specific intent to kill and malice aforethought may be established by direct evidence, circumstantial evidence, or a combination of the two.

If you find that the State has failed to prove beyond a reasonable doubt that the defendant committed the offense of the attempted murder of Christopher Fordham, you may consider whether the State has proved beyond a reasonable doubt that the defendant committed the lesser-included offense of assault and battery of a high and aggravated nature. You will only consider the offense of assault and battery of a high and aggravated nature as to the victim Christopher Fordham.

A person commits the offense of assault and battery of a high and aggravated nature if the person unlawfully injures another person and great bodily injury to another person results or the act is accomplished by means likely to produce death or great bodily injury. Great bodily injury means

bodily injury which causes a substantial risk of death or which causes serious permanent disfigurement or protracted loss or impairment of the function of a bodily member or organ.

If you find that the State has failed to prove beyond a reasonable doubt that the defendant committed the offense of the attempted murder of Michael Lucas, you may consider whether the State has proved beyond a reasonable doubt that the defendant committed the lesser-included offense of assault and battery in the first degree. You will only consider the offense of assault and battery in the first degree as to the victim Michael Lucas.

A person commits the offense of assault and battery in the first degree if the person unlawfully offers or attempts to injure another person with the present ability to do so and the act is either accomplished by means likely to produce death or great bodily injury -- I'm sorry, not either. The person offers or attempts to enter another person with the present ability to do so and is accomplished by means likely to produce death or great bodily injury. Again, great bodily injury means bodily injury which causes a substantial risk of death or which causes serious permanent disfigurement or protracted loss or impairment of a function of a bodily member or organ.

The defendant is charged with possession of a weapon

during the commission of or attempt to commit a violent crime. The State must prove beyond a reasonable doubt that the defendant was in possession of a firearm or visibly displayed what appeared to be a firearm during the commission of a violent crime. A firearm means any machine gun, automatic rifle, pistol, or any weapon which will, is designed to, or may be readily converted to expel a projectile.

In order to find the defendant guilty of possession of a weapon during the commission of a violent crime, you must first find the defendant guilty of either committing a violent crime or attempting to commit a violent crime. Under our South Carolina Code of Laws, murder, voluntary manslaughter, attempted murder, and assault and battery of a high and aggravated nature are categorized as crimes of violence under South Carolina law. Assault and battery in the first degree is not categorized as a crime of violence. The State must prove beyond a reasonable doubt that the weapon furthered, advanced, or helped in the commission of the crime.

The defendant is charged with unlawful carrying of a pistol. The State must prove beyond a reasonable doubt that the defendant carried a pistol about his person, whether concealed or not. A person is about -- excuse me, a weapon is about the defendant's person if it is readily accessible and convenient for immediate use. The pistol need not be actually touching the person of the defendant.

It is not unlawful to have a handgun if the person is in a vehicle and the handgun is secured in a closed glove compartment, closed console, closed trunk, or in a closed container secured by an integral fastener and transported in the luggage compartment of the vehicle. A person can be acting lawfully, even if he is in unlawful possession of a weapon, if he was entitled to arm himself in self-defense.

So I'm going to talk to you now about self-defense. The defendant has raised the defense of self-defense. Self-defense is a complete defense. And if it is established, you must find the defendant not guilty. The State has the burden of disproving self-defense by proof beyond a reasonable doubt.

If you have a reasonable doubt of the defendant's guilt after considering all the evidence, including the evidence of self-defense, then you must find the defendant not guilty. If, on the other hand, you have no reasonable doubt of the defendant's guilt after considering all the evidence, including the evidence of self-defense, then you must find the defendant guilty.

The following elements are required to establish self-defense. First, the defendant must be without fault in bringing on the difficulty. If the defendant's conduct was the type which was reasonably calculated to and did provoke a deadly assault, the defendant would be at fault in bringing on the difficulty and would not be entitled to an acquittal based

on self-defense.

The second element of self-defense is that the defendant was actually in imminent danger of death or serious bodily injury or that the defendant actually believed he was in imminent danger of death or serious bodily injury. If the defendant was actually in imminent danger, it must be shown that the circumstances would have warranted a person of ordinary firmness and courage to strike the fatal blow to prevent death or serious bodily injury.

If the defendant believed he was in imminent danger of death or serious bodily injury, it must be shown that a reasonably prudent person of ordinary firmness and courage would have had the same belief. In deciding whether the defendant actually was or believed he was in imminent danger of death or serious bodily injury, you should consider all the facts and circumstances surrounding the crime, including the physical condition and characteristics of the defendant and the victim.

The defendant does not have to show that he was actually in danger. It's enough if the defendant believed he was in imminent danger and a reasonably prudent person of ordinary firmness and courage would have had the same belief. The defendant has the right to act on appearances, even though the defendant's beliefs may have ultimately been mistaken. It is for you to decide whether the defendant's fear of immediate

danger of death or serious bodily injury was reasonable and would have been felt by an ordinary person in the same situation.

Evidence of prior difficulties between the defendant and the victim may be considered in deciding whether a threat existed, whether the defendant had a reason to believe a threat existed, and how serious that threat was. The intoxication of the victim may be considered in deciding whether the defendant's fear of death or bodily harm was reasonable.

The final element of self-defense is that the defendant had no other probable way to avoid the danger of death or serious bodily injury than to act as the defendant did in this particular instance. The defendant had no duty to retreat if by doing so, the danger of being killed or suffering serious bodily injury would increase. A person cannot be required to make an exact calculation as to the degree or amount of force which may be needed to avoid death or serious bodily harm. Therefore, in self-defense, the defendant has the right to use the force needed to avoid death or serious bodily harm.

The force used in self-defense does not have to be limited to the degree or amount of force used by the victim. The defendant has a right to use so much force as appeared to be necessary for complete self-protection and which a person of ordinary reason and firmness would have believed to be

needed to prevent death or serious bodily harm. If the defendant is justified in defending himself or others and in firing the first shot, then the defendant is also justified in continuing to shoot until it is apparent that the danger of death or serious bodily injury has completely ended.

Under the law of self-defense, the defendant may take another's life in the defense of others. The right to intervene to protect another person is subject to the same rights and limitations as the right of self-defense. The defendant may take the life of a person who assaults a friend, relative, or bystander if that friend, relative, or bystander would have had the right of self-defense.

To show that the person being defended had the right of self-defense, it must first be shown that the person being defended and the defendant were both without fault in bringing on the difficulty. If the conduct of the person defended or the conduct of the defendant was the type which was reasonably calculated to and did provoke a deadly assault, the person would be at fault in bringing on the difficulty and would not have the right of self-defense. Therefore, the defendant would not have the right to use deadly force in defending that person.

The defense of another person is excusable if the defendant had reasonable grounds to believe and in good faith did believe that the person being defended was in imminent

danger of death or serious bodily harm from the victim. In deciding whether the person defended actually was or that the defendant actually believed the person was in imminent danger of death or serious bodily injury, you should consider all the facts and circumstances surrounding the crime, including the physical condition and characteristics of the parties.

The defendant does not have to show that the person the defendant defended was actually in danger. It's enough if the defendant believed the person was in imminent danger. The defendant has a right to act on appearances, even though the defendant's belief may have been mistaken.

The defendant must show that under the circumstances as they appeared to the defendant, the defendant believed the person defended was in danger and that a reasonably prudent person of ordinary firmness and courage would have had the same belief under the same circumstances. It is for you, the jury, to determine whether the defendant's fear of immediate danger of death or serious bodily injury to the person defended was reasonable and would have been felt by an ordinary person in the same situation.

The defendant does not have to wait until the victim gets the drop on the person defended. The defendant has the right to act under the law of self-preservation to prevent the victim from getting the drop on the person defended.

Words accompanied by hostile acts may, depending on the

circumstances, establish self-defense. Evidence of prior difficulties between the person defended and the victim may be considered in deciding whether a threat existed, whether the defendant had a reason to believe a threat existed, and how serious that threat was. Intoxication of the victim may be considered in deciding whether the defendant's fear of death or bodily harm to the person defended were reasonable.

In order to be entitled to defend another, the person defended must have had no other probable way to avoid the danger of death or serious bodily injury than to act as the defendant did in this particular case. Where the person being defended had no duty to retreat, the defendant likewise would have no duty to retreat.

There is no burden upon the defendant to prove self-defense. The burden is on the State to disprove each of the elements of self-defense beyond a reasonable doubt. If you have a reasonable doubt of the defendant's guilt after considering all of the evidence, including the evidence of self-defense, then you must find the defendant not guilty.

Ladies and gentlemen, we're going to send you back to the jury room with the jury forms -- excuse me, the verdict forms, and I'm going to go over those with you. There are several. They're fairly self-explanatory if you just read through them.

So as to the first charge of murder, you'll see at the top, it's got the caption of the case. Says verdict form. It

says, "As to the charge of murder of Gregory Middleton, we, the jury, unanimously find the defendant", and then you have the choices of guilty or not guilty. Please don't read any significance into which order these appear. One's got to come first, and one's got to come second, and there's no significance to that. If you choose guilty, it tells you to stop your deliberations.

If you choose not guilty, it instructs you to go to question to question 2. Question 2 is, "As to the lesser-included offense of voluntary manslaughter of Gregory Middleton, we, the jury, unanimously find the defendant", and again, you'll choose either guilty or not guilty.

Your next verdict form pertains to the charges related to Michael Lucas. And so at the top, again, it will say, "As to the charge of attempted murder of Michael Lucas, we, the jury, unanimously find the defendant", option 1 says guilty, and if you choose that, you'll stop your deliberations. Option 2 says not guilty, in which case you'll go on to question 2. Question 2 states, "As to the lesser-included offense of assault and battery in the first degree of Michael Lucas, we, the jury, unanimously find the defendant", again, you'll choose guilty or not guilty.

Your third verdict form pertains to the charges with respect to Christopher Fordham. It states on number 1, "As to the charge of attempted murder of Christopher Fordham, we, the

jury, unanimously find the defendant", again, option 1 is guilty. If you find him guilty, you'll stop your deliberations. If you find him not guilty, it prompts you to go to question 2. Question 2 states, "As to the lesser-included offense of assault and battery of a high and aggravated nature of Christopher Fordham, we, the jury, unanimously find the defendant", and again, you will either find guilty or not guilty.

The next verdict form is for possession of a weapon during a violent crime. You simply have the option it prompts you once you've reached a unanimous verdict to include your verdict of guilty or not guilty.

And your final verdict form states, "As to the charge of unlawful carrying of a pistol, we, the jury, unanimously find the defendant", again, either guilty or not guilty.

Your verdict must be unanimous. Once you've reached a unanimous verdict on the verdict form, then your jury foreperson -- that's Mr. Rogers; is that correct -- you will sign on behalf of the jury panel.

In just a moment, I'm going to send you back to the jury room. Your lunch is waiting. Feel free to start eating.

We're going to take a few minutes to gather all of the exhibits and make sure we have them all together. When we bring the exhibits back to you, that's when you can start your deliberations. We'll bring the verdict form back to you at

that time as well.

When you've reached a verdict, you'll knock on the door and let the bailiffs know. We have had instances where the jury didn't tell us they reached a verdict and we sat out here and they sat in there. And eventually, it's like, never the two met. So let us know if you reach a verdict.

If there's anything else that you need or that needs to be brought to my attention, you can write a note and give it to the bailiff, and they'll get it to me.

Any exceptions or additions before I excuse the jury?

MR. MEADORS: Nothing from the State.

MR. WARR: The defense would just renew all objections and motions regarding the charges.

THE COURT: Thank you, sir.

Okay. I'm going to ask our alternate juror, Mr. Burke (phonetic), if you'll remain in the courtroom, and I will let everyone else go back to the jury room. Go right ahead.

MR. BURKE: Okay.

(Jury deliberates at 2:39 p.m.)

THE COURT: Okay. Mr. Burke, I want to thank you very much for being part of this trial and for sitting as the alternate for lo these many days. It's a thankless task, I think, when you're the alternate and you sit through all the testimony and then you don't get to participate in the deliberations.

Ready for the jury.

THE BAILIFF: Can I wake you up?

THE COURT: Got everybody back in? Okay.

(Whereupon, the jury came into open court at approximately 4:12 p.m.)

THE COURT: Okay. Ladies and gentlemen, I understand you've reached a verdict.

THE FOREPERSON: Yes.

THE COURT: If you would, please hand your verdict forms to the bailiff.

Collect those for me.

Okay. I have the jury's verdict form.

JURY VERDICT

THE COURT: "As to the charge of the murder of Gregory Middleton," it states, "we, the jury, unanimously find the defendant not guilty.

"As to the lesser included offense of voluntary manslaughter of Gregory Middleton, we, the jury, unanimously find the defendant not guilty.

"As to the attempted murder of Christopher Fordham, we, the jury, unanimously find the defendant not guilty.

"As to the lesser-included offense of assault and battery of a high and aggravated nature of Christopher Fordham, we, the jury, unanimously find the defendant not guilty.

"As to the charge of the attempted murder of Michael

Lucas, we, the jury, unanimously find the defendant guilty.

"As to the charge of the possession of a firearm during the commission of a violent crime, we, the jury, unanimously find the defendant guilty.

"As to the charge of unlawful carrying of a pistol, we, the jury, unanimously find the defendant guilty."

Ladies and gentlemen, let me ask, is this your verdict?

THE FOREPERSON: Yes, Your Honor.

UNIDENTIFIED SPEAKER: Yes.

THE COURT: Anything further on the part of the State?

MR. CORBETT: Nothing further, Your Honor.

THE COURT: Mr. Warr or Mr. Young, anything further on the part of the defendant?

MR. WARR: We would request that the jury be polled, and we renew our motion for a directed verdict. No. We move for verdict notwithstanding -- a verdict notwithstanding the verdict.

THE COURT: And I'll let you give me your post-trial motions after we've released the jury.

If I could ask if you'll please poll the jury.

THE BAILIFF: May it please the Court, Your Honor.

THE COURT: Yes, sir.

THE BAILIFF: Ladies and gentlemen, y'all stay seated. Stay seated. Stay seated.

Ladies and gentlemen of the jury, all I need is a yes or

THE COURT: Okay. I'm glad to hear from y'all on the sentencing.

MR. YOUNG: The State or the defense, Your Honor?

MR. CORBETT: Start with us again.

THE COURT: Go ahead.

MR. MEADORS: Your Honor, Mr. Corbett will begin.

MR. CORBETT: Your Honor, with regard to sentencing, the Court has obviously seen all of the evidence presented in trial in this case. I think Your Honor sees an incredibly dangerous situation, not only among the parties, but to the citizens of Sumter County who were present at that business that night.

Your Honor, it was an attempted murder towards Michael Lucas, but it was a callous disregard for everyone in that parking lot and in the vicinity. Your Honor, we'd ask for a sentence that would fairly and show justice to that set of circumstances.

THE COURT: Thank you.

MR. MEADORS: Your Honor, I just would like to publicly thank the Sumter Police Department Chief Roark and all his outstanding staff for the job they did on a warzone, collecting, documenting, preparing, and helping us. So thank you, Chief and Sumter Police Department.

I want to thank my boss, (indiscernible) victim advocate Tonya, and Daniel Caufield, our Chief Investigators William

McFadden and Natalie Kelly, and all the family for their patience. That's all we have. Thank you.

THE COURT: Thank you.

Yes, sir.

MR. YOUNG: Please the Court. As was just stated, you certainly heard everything. You've heard the arguments that put each side's position as best they could. And one of the things I want to just remind you because Joquell comes before the Court with a clean record before September of 2019. Was 25, but a clean record up to that point. And you can imagine just what went through his mind, and I want to take you back just a few seconds to what happened that evening.

As you saw on the video, Lucas and his red car comes coming up there, squealing tires. What's the first thing they said when they get out of that? "Anybody got a problem with that?" And then the so-called movement over that. My client and his brother didn't go to these people. They came to them, clearly looking for a fight. He didn't ask for a fight out there that night, but he responded after seeing his brother being shot.

I would hope the Court would realize that he responded as I would hope my brothers would respond if I had gotten shot in the same way, to retaliate against the perception of who started this. That was that way of charging. Clearly, if he had wanted to shoot the man and try to kill him, I know the

jury said otherwise, but he wouldn't have shot -- he would have shot into the windows and not into the body of the car. I think that's been our position all along.

And I'm concerned that the jury got a little confused on some of these issues, mutual combat, et cetera. And by the same token, Joquell didn't ask for this fight. He happened to be at the wrong place at the wrong time. I think he felt like he was coming to the aid of his brother and responded accordingly to what he perceived as the causation and the start of all of this trouble was that red Charger and Mr. Lucas and his buddies.

So they didn't start the fight. Clearly, he was trying to get him out of there. And I think, evidenced by the strikes of the bullets on the car, he wasn't shooting at the driver. He was shooting at the car. And I would ask the Court to take that into consideration and certainly, his clean record up to this point.

It's unfortunate that he found himself in that situation, and I realized that when he was giving his interview with the officers, he said, I'll take the manslaughter or attempted manslaughter -- attempted murder and give me that because he shot at the car. And I think at that particular point in time, he was convinced by the officers that that was something that he should do. The jury has obviously agreed with that.

But I would ask the Court to take into consideration the

emotional trauma that he went through those few seconds of watching his brother die, or coming close to dying, and being shot like that and trying to get him to the hospital. He was simply trying to protect his brother. And in that course, he found himself in the middle of this trial and in this case. I would ask the Court to temper his sentence, to take into consideration those facts and his clean record.

THE COURT: Thank you, sir.

MR. MEADORS: Your Honor, I'd just like to follow-up to that, that we think the Facebook Live video does show the intent prior to this, so we'd respectfully disagree with that. That's all we have.

THE COURT: So now we have Mike Rogers is dead. We've got Gregory Middleton is dead. We've got Diontrae Epps in a wheelchair. We've got Christopher Fordham injured. I understand Jay McBride is now deceased. I don't know what from.

So what strikes me about seeing all the testimony in this case and watching the videos is just a total disregard for your own life and for the lives of others, for your own safety. And I can't, for the life of me, understand why you don't value your own life more.

When I look at what's happened, even since you've been in jail, Mr. Myers, at least over the past three years, you're still alive. You're safe. You haven't gotten shot in the

last three years while you've been in jail.

And I mean, I think it's sad that that's the safest place you could have been the past three years. I don't know how to change it, but it just strikes me as very sad. I look at all these young people who have lost their lives, and I see the video of just wanton shooting without any regard for your own safety, without regard for the safety of others. I don't know how we've gotten to this point.

I am certainly taking into account that you have been found by this jury not guilty of murder and not guilty of the attempted murder of Mr. Fordham. So I'm not sentencing you with respect to those offenses. And I am not holding -- I'm not taking that into consideration in fashioning this sentence.

I do recognize that there are others who were involved in the shooting who I think are equally culpable, some of whom have not yet come to trial, and some may never be punished. Some may have escaped detection from this particular situation. And we may never know. Law enforcement may never know or at least have enough evidence to prosecute those people.

And they may be every bit as culpable as you, but that doesn't take away from your culpability in this. I mean, I think everybody knew what was going to happen at that gas station. Even people who weren't involved in this knew

something bad was about to happen. And it's really just dumb luck that we don't have more people who were injured.

So the attempted murder is a 0 to 30 offense. Possession of a weapon during a violent crime is five years. Unlawful carrying of a pistol is up to one year. I am taking into account that you do not have a prior record.

SENTENCE

THE COURT: As to the offense of the attempted murder of Michael Lucas, the sentence of the Court is 20 years.

UNIDENTIFIED SPEAKER: What the hell.

As to the offense of possession of a weapon during the commission of a violent crime --

UNIDENTIFIED SPEAKER: (Indiscernible) back (indiscernible) --

THE DEFENDANT: I'm ready to go, man. I didn't want to (indiscernible).

UNIDENTIFIED SPEAKER: (Indiscernible). Come on. (Indiscernible) leave your hat on.

THE DEFENDANT: I'm ready to go, man. Ain't going (indiscernible).

UNIDENTIFIED SPEAKER: Quell.

THE DEFENDANT: (Indiscernible) didn't even get shot (indiscernible).

UNIDENTIFIED SPEAKER: Let him go on, man.

UNIDENTIFIED SPEAKER: (Indiscernible).

THE DEFENDANT: Man, I didn't -- man, I didn't get shot (indiscernible).

UNIDENTIFIED SPEAKER: (Indiscernible).

THE DEFENDANT: Come on, man. That man shoot that me all the time. Don't matter shit. Man (indiscernible).

UNIDENTIFIED SPEAKER: Sit down (indiscernible).

UNIDENTIFIED SPEAKER: (Indiscernible).

THE DEFENDANT: Man, I'm ready to go, man.

UNIDENTIFIED SPEAKER: Be quiet. Be quiet.

UNIDENTIFIED SPEAKER: Be quiet and sit down.

UNIDENTIFIED SPEAKER: Quell.

THE COURT: The sentence of the Court as to the offense of possession of a weapon during a violent crime is five years. That's concurrent.

The sentence of the Court as to unlawful carrying of a pistol is one year concurrent.

So the total sentence is 20 years. I am giving him credit for the time that he has previously spent in the detention center.

Anything else that I need to cover on behalf of the State?

MR. CORBETT: Nothing from the State, Your Honor.

THE COURT: Mr. Young.

MR. YOUNG: We would ask ten days to file our motions.

THE COURT: Yes, sir.

MR. YOUNG: Thank you.

MR. MEADORS: Thank you.

MR. WARR: Thank you, Your Honor.

MR. CORBETT: Thank you, Your Honor.

THE COURT: I am glad to hear from Mr. Middleton's mother, if she wants to address the Court as well.

MR. MEADORS: Thank you, Your Honor.

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

MS. WILSON: My name is Lavandia Wilson. I was the mother of Gregory Donta Middleton, as D-Black.

Oh, Lord have mercy on me.

It was a rough three years, but there was a God because from day one, when I ask God to take my hand. And right now, in this day right here, God is still holding my hand. But only thing I could do was just say, thank God that it's over with. But it's hard.

I am so terribly sad right now. But I know my son is all right. He can rest in peace now also.

I'm trying to be good. Hold up the good part of me for my 14-year-old when I go home. And it just seemed like -- I know I got to go on with my life without my son. But I got him in my heart, and I can remember all the good times. But it's the point that the days that it's so hard not to hear his voice, the nights that I can't see him to say, Ma, open the door, those are the days that I have it so hard because I

can't do nothing but just remember things that he was saying, good things.

And he wasn't -- oh, my God. He was my -- but I'm getting this -- I got the strength, and I know I'm strong because I've not been this strong for three years regardless. I'm not no perfect person, but I am a child of God because I do walk with God because if God didn't know at me right now, I wouldn't have even be in front and talking to no one. I would've been out of my mind. Some place nobody would know. But I thank God for all that.

I have something to read, but I'm not going to read all of it. And my pastor had sent this to me before the trial has start because I was in one of my down moods. So he sent it to me. And it had seemed like when he had sent it to me, it was like my son was talking to me, and I had everything just open up. I had feel so relaxed.

So I'm not going to read all of it. I'm going to read half of it. Oh, God. Oh, Jesus, help me. Oh, Lord. Thank you, Jesus. Give me the strength, Father Jesus.

I believe he would say, Mom, please find the strength to get up. Use the love that I had for my brother and sister and pour it on them from me to keep my memories alive. All the dreams of the seeds that I had for my life, pass it on to them. And as they live their lives, just maybe, by the grace of God, they will make one of my dreams come true. Or take

the love you have for me and pour it on into a child who doesn't have a mother, whose mother still is alive but not able to be the best mother at the moment. Just please, Mama, don't lay down and die while you're living in grief.

I know it hurts, Mom, but when you speak of me, speak of my smile, laughter, and healing your heart and make your day speak about the good times and how, even though we would bump heads, that you were my ride or die, and I was yours. Speak about how I dreamed to start my own restaurant. Speak about how I was a sneaker-head, loved my shoes, would step out and be dressed so clean that it would make their hair drizzle.

Lord, talk about how my baby sister was my heart screen. Talk about how I want more and more and more in life, not only for myself, but for you all. Talk about how I want so bad to be a good husband, the world greatest father, the son, the brother, the cousin, the uncle, and friends. Please don't let the anniversary of my death, Mom, outshine the day of my birth and the years of my life.

Yes, Ma, I know it hurt that I'm not physical here anymore, and that you just don't understand. But please don't forget about the God you's told me about, how good He is, and how He's humble, more powerful, and then everything and anyone, and how if I told -- and how if I would pray to Him, that He would help.

So that was just something that I know my son because he

wasn't perfect, but I know I just talked to him about God, and he was a -- he was going to church, but he ain't going to no every day church, every Sunday, but he was there. And when the restaurant, yes, he did open the restaurant.

THE COURT: How old was Gregory?

MS. WILSON: He was thirty. And he opened the restaurant. He was like, Mom. And before all this happened, me and him was discussing about opening another building. We was not been looking at a building. And he was like, Mom, it's time for you to get back. Open this restaurant. I said, yeah, let's do that again. But it never came up.

But like I said, with my faith and with God, when 2022 came in, and I asked God, I said, whatever in your favor, I'm going to humble myself because my goal is to open my restaurant back what my son started, 2016.

And I want to thank everyone. I want to thank Mr. John and the team. That what we calling y'all, the team. And I want to thank you all for everything, for all the help. And I love y'all. And may God bless y'all.

MR. MEADORS: Thank you, ma'am.

MS. WILSON: And just keep me in your prayer because -- but I know, I got some praying, boys, for Heaven is behind me. Yes. Okay.

THE COURT: Thank you, ma'am. I appreciate you being here. It's hard. I can only imagine. I see mamas on both

sides, too many mamas, that have to sit through trials. Just heartbreaking, really, on both sides of that bench. And it's an emotional rollercoaster to have to come in here every day.

But you can be proud that you did that for your son.

MS. WILSON: Yes.

THE COURT: Thank you.

MS. WILSON: And thank you.

MR. MEADORS: Thank you, Your Honor.

MS. WILSON: Thank you.

UNIDENTIFIED SPEAKER: Thank you, Your Honor.

(End of Transcript of Record)

STATE OF SOUTH CAROLINA COUNTY OF SUMTER STATE OF SOUTH CAROLINA, vs. JOQUELL WAYNE MYERS DEFENDANT.	IN THE COURT OF GENERAL SESSIONS FOR THE THIRD JUDICIAL CIRCUIT INDICTMENT: 2020GS4300624, 2022GS431048, 2022GS430920, 2022GS431050 JURY CHARGES

LADIES AND GENTLEMEN YOU HAVE HEARD ALL OF THE TESTIMONY AND EVIDENCE IN THIS CASE, AND IT IS NOW MY DUTY TO INSTRUCT YOU ON THE LAW.

THE INDICTMENTS IN THIS CASE CHARGE THE DEFENDANT WITH MURDER, 2 COUNTS OF ATTEMPTED MURDER, POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME, AND UNLAWFUL CARRYING OF A PISTOL. I REMIND YOU THAT THE FACT THE DEFENDANT WAS ARRESTED, CHARGED AND INDICTED IN THIS CASE, IS NOT EVIDENCE AND CANNOT BE CONSIDERED BY YOU AS EVIDENCE OF GUILT, NOR DOES IT CREATE ANY PRESUMPTION OR INFERENCE OF GUILT. THIS DOCUMENT IS SIMPLY THE FORMAL WRITTEN INSTRUMENT WHICH CONTAINS THE CHARGES MADE AGAINST THE DEFENDANT. IT IS THE FORMAL DOCUMENT BY WHICH THIS CASE IS BROUGHT INTO COURT.

MULTIPLE CHARGES

THE INDICTMENTS IN THIS CASE ALLEGE SEVERAL DIFFERENT OFFENSES AGAINST THE DEFENDANT. THE CHARGES ARE:

INDICTMENT NO. 1: ATTEMPTED MURDER OF CHRISTOPHER FORDHAM

INDICTMENT NO. 2: ATTEMPTED MURDER OF MICHAEL LUCAS

INDICTMENT NO. 3: MURDER/POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

INDICTMENT NO. 4: UNLAWFUL CARRYING OF A PISTOL

EACH CHARGE CONSTITUTES A SEPARATE AND DISTINCT OFFENSE. YOU MUST DECIDE EACH CHARGE SEPARATELY ON THE EVIDENCE AND THE LAW APPLICABLE TO IT UNINFLUENCED BY YOUR DECISION AS TO ANY OTHER INDICTMENT. THE DEFENDANT MAY BE CONVICTED OR ACQUITTED ON ANY OR ALL OF THE OFFENSES CHARGED. YOU WILL BE ASKED TO WRITE A SEPARATE VERDICT OF GUILTY OR NOT GUILTY FOR EACH CHARGE.

PRESUMPTION OF INNOCENCE

THE DEFENDANT HAS PLED NOT GUILTY TO THIS INDICTMENT, AND THAT PLEA PUTS THE BURDEN ON THE STATE TO PROVE THE DEFENDANT GUILTY. A PERSON CHARGED WITH COMMITTING A CRIMINAL OFFENSE IN SOUTH CAROLINA IS NEVER REQUIRED TO

PROVE HIMSELF INNOCENT.

I CHARGE YOU THAT IT IS AN IMPORTANT RULE OF LAW THAT THE DEFENDANT IN A CRIMINAL TRIAL, NO MATTER WHAT THE SERIOUSNESS OF THE CHARGE MAY BE, WILL ALWAYS BE PRESUMED TO BE INNOCENT OF THE CRIME FOR WHICH THE INDICTMENTS WERE ISSUED UNLESS GUILT HAS BEEN PROVEN BY EVIDENCE SATISFYING YOU OF THAT GUILT BEYOND A REASONABLE DOUBT. THIS PRESUMPTION OF INNOCENCE DOES NOT END WHEN YOU BEGIN YOUR DELIBERATIONS, BUT IT ACCOMPANIES THE DEFENDANT THROUGHOUT THE TRIAL UNLESS YOU REACH A VERDICT OF GUILT BASED ON EVIDENCE SATISFYING YOU OF THAT GUILT BEYOND A REASONABLE DOUBT.

THE PRESUMPTION OF INNOCENCE IS NOT MERE LEGAL THEORY. IT IS NOT JUST A LEGAL PHRASE. IT IS A SUBSTANTIAL RIGHT TO WHICH EVERY DEFENDANT IS ENTITLED UNLESS YOU, THE JURY, ARE SATISFIED FROM THE EVIDENCE OF THE DEFENDANT'S GUILT BEYOND A REASONABLE DOUBT.

REASONABLE DOUBT

WHAT IS A REASONABLE DOUBT IN THE LAW? IT'S THE KIND OF DOUBT FOR WHICH YOU CAN GIVE A REASON, IT'S ALSO DESCRIBED AS THE KIND OF DOUBT THAT WOULD CAUSE A REASONABLE

PERSON TO HESITATE TO ACT.

PROOF BEYOND A REASONABLE DOUBT IS PROOF THAT LEAVES YOU FIRMLY CONVINCED OF THE DEFENDANT'S GUILT. THERE ARE VERY FEW THINGS IN THIS WORLD THAT WE KNOW WITH ABSOLUTE CERTAINTY, AND IN CRIMINAL CASES THE LAW DOES NOT REQUIRE PROOF THAT OVERCOMES EVERY POSSIBLE DOUBT. IF, BASED ON YOUR CONSIDERATION OF THE EVIDENCE, YOU ARE FIRMLY CONVINCED THAT THE DEFENDANT IS GUILTY OF THE CRIME CHARGED, YOU MUST FIND THE DEFENDANT GUILTY. IF ON THE OTHER HAND, YOU THINK THERE IS A REAL POSSIBILITY THAT THE DEFENDANT IS NOT GUILTY, YOU MUST GIVE THE DEFENDANT THE BENEFIT OF THE DOUBT AND FIND HIM NOT GUILTY.[1]

DUTIES OF JURY AND TRIAL JUDGE

I REMIND YOU THAT, DURING THIS TRIAL, YOU AND I HAVE CERTAIN DUTIES TO PERFORM. AS THE TRIAL JUDGE, IT IS MY RESPONSIBILITY TO PRESIDE OVER THE TRIAL OF THIS CASE, AND I ALSO HAVE THE DUTY TO RULE ON THE ADMISSIBILITY OF THE EVIDENCE OFFERED DURING THIS TRIAL. YOU ARE TO CONSIDER

---

[1] State v. McHoney, 344 S.C. 85, 544 S.E.2d 30 (2001); State v. Needs, 333 S.C. 134, 508 S.E.2d 857 (1998).

ONLY THE COMPETENT EVIDENCE BEFORE YOU. YOU ARE TO CONSIDER ONLY THE TESTIMONY WHICH HAS BEEN PRESENTED FROM THIS WITNESS STAND, THE EXHIBITS WHICH HAVE BEEN MADE A PART OF THE RECORD IN THIS CASE, AND ANY STIPULATION OF THE PARTIES WHICH HAS BEEN READ INTO THE RECORD.

I HAVE THE ADDITIONAL DUTY TO CHARGE YOU THE LAW APPLICABLE TO THIS CASE. AS THE PRESIDING JUDGE, I AM THE SOLE JUDGE OF THE LAW OF THIS CASE, AND IT IS YOUR DUTY AS JURORS TO ACCEPT AND APPLY THE LAW AS I NOW STATE IT TO YOU. IF YOU ALREADY HAVE ANY IDEA AS TO WHAT THE LAW IS OR WHAT THE LAW OUGHT TO BE AND IT DOES NOT AGREE WITH WHAT I NOW TELL YOU THE LAW IS, YOU MUST ABANDON YOUR PREVIOUS IDEA BECAUSE YOU ARE SWORN TO ACCEPT THE LAW AND APPLY THE LAW EXACTLY AS I STATE IT TO YOU.

IN EVERY CASE TRIED IN THIS COURT BEFORE A JURY, THE JURY BECOMES THE SOLE AND EXCLUSIVE JUDGES OF THE FACTS IN A CASE. A TRIAL JUDGE CANNOT COMMENT ON, OR MAKE ANY STATEMENT TO A TRIAL JURY ABOUT THE FACTS IN A CASE. SINCE YOU, THE JURY, ARE THE SOLE JUDGE OF THE FACTS IN THIS CASE, YOU ARE NOT TO INFER FROM WHAT I HAVE SAID DURING THE PROGRESS OF THIS TRIAL IN RULING UPON THE ADMISSIBILITY OF

EVIDENCE, OR OTHERWISE, OR ANYTHING THAT I SAY NOW DURING THE COURSE OF THIS INSTRUCTION TO YOU, THAT I HAVE ANY OPINION ABOUT THE FACTS IN THIS CASE. THE LAW DOES NOT ALLOW ME TO HAVE AN OPINION ABOUT THE FACTS IN THIS CASE. THIS IS A MATTER SOLELY FOR YOU, THE JURY, TO DETERMINE. AS JURORS, IT IS YOUR DUTY TO DETERMINE THE EFFECT, VALUE, WEIGHT, AND TRUTH OF THE EVIDENCE PRESENTED DURING THIS TRIAL.

DIRECT AND CIRCUMSTANTIAL EVIDENCE

THERE ARE TWO TYPES OF EVIDENCE WHICH ARE GENERALLY PRESENTED DURING A TRIAL—DIRECT EVIDENCE AND CIRCUMSTANTIAL EVIDENCE. DIRECT EVIDENCE DIRECTLY PROVES THE EXISTENCE OF A FACT AND DOES NOT REQUIRE DEDUCTION. CIRCUMSTANTIAL EVIDENCE IS PROOF OF A CHAIN OF FACTS AND CIRCUMSTANCES INDICATING THE EXISTENCE OF A FACT.

CRIMES MAY BE PROVEN BY CIRCUMSTANTIAL EVIDENCE. THE LAW MAKES NO DISTINCTION BETWEEN THE WEIGHT OR VALUE TO BE GIVEN TO EITHER DIRECT OR CIRCUMSTANTIAL EVIDENCE, HOWEVER, TO THE EXTENT THE STATE RELIES ON CIRCUMSTANTIAL

EVIDENCE, ALL OF THE CIRCUMSTANCES MUST BE CONSISTENT WITH EACH OTHER, AND WHEN TAKEN TOGETHER, POINT CONCLUSIVELY TO THE GUILT OF THE ACCUSED BEYOND A REASONABLE DOUBT. IF THESE CIRCUMSTANCES MERELY PORTRAY THE DEFENDANT'S BEHAVIOR AS SUSPICIOUS, THE PROOF HAS FAILED.

THE STATE HAS THE BURDEN OF PROVING THE DEFENDANT GUILTY BEYOND A REASONABLE DOUBT. THIS BURDEN RESTS WITH THE STATE REGARDLESS OF WHETHER THE STATE RELIES ON DIRECT EVIDENCE, CIRCUMSTANTIAL EVIDENCE, OR SOME COMBINATION OF THE TWO.

CREDIBILITY OF WITNESSES

NECESSARILY, YOU MUST DETERMINE THE CREDIBILITY OF WITNESSES WHO HAVE TESTIFIED IN THIS CASE. CREDIBILITY SIMPLY MEANS BELIEVABILITY. IT BECOMES YOUR DUTY AS JURORS TO ANALYZE AND TO EVALUATE THE EVIDENCE AND DETERMINE WHICH EVIDENCE CONVINCES YOU OF ITS TRUTH. IN DETERMINING THE BELIEVABILITY OF WITNESSES WHO HAVE TESTIFIED IN THIS CASE, YOU MAY BELIEVE ONE WITNESS OVER

SEVERAL WITNESSES OR SEVERAL WITNESSES OVER ONE WITNESS. YOU MAY BELIEVE A PART OF THE TESTIMONY OF A WITNESS AND REJECT THE REMAINING PART OF THE TESTIMONY OF THAT SAME WITNESS. YOU MAY BELIEVE THE TESTIMONY OF A WITNESS IN ITS ENTIRETY OR REJECT THE TESTIMONY OF A WITNESS IN ITS ENTIRETY. YOU MAY CONSIDER WHETHER ANY WITNESS HAS EXHIBITED TO YOU ANY INTEREST, BIAS, PREJUDICE, OR OTHER MOTIVE IN THIS CASE. YOU MAY ALSO CONSIDER THE APPEARANCE AND MANNER OF THE WITNESS WHILE ON THE WITNESS STAND.

PRIOR RECORD OF WITNESS

A PERSON WHO HAS A PAST CRIMINAL RECORD IS COMPETENT TO TESTIFY DURING A TRIAL. A PAST RECORD DOES NOT AFFECT THE ABILITY OF THAT WITNESS TO TESTIFY. THE PAST RECORD MAY ONLY BE CONSIDERED BY YOU, IF AT ALL, IN DETERMINING THE WITNESS' BELIEVABILITY.

REMEMBER, YOU ARE THE SOLE JUDGES OF THE FACTS IN THE CASE AND OF THE BELIEVABILITY OF ANY AND ALL OF THE WITNESSES.

√ **EXPERT WITNESSES**

THE RULES OF EVIDENCE ORDINARILY DO NOT PERMIT WITNESSES TO TESTIFY TO OPINIONS OR CONCLUSIONS. AN EXCEPTION TO THIS RULE EXISTS FOR WITNESSES WE CALL "EXPERT WITNESSES". A WITNESS WHO, BY EDUCATION AND EXPERIENCE, HAS BECOME EXPERT IN SOME ART, SCIENCE, PROFESSION, OR CALLING MAY STATE AN OPINION AS TO RELEVANT AND MATERIAL MATTER, IN WHICH THE WITNESS CLAIMS TO BE AN EXPERT, AND MAY ALSO STATE THE REASONS FOR THE OPINION.

IN THIS CASE YOU HAVE HEARD EXPERT TESTIMONY IN THE FIELDS OF PATHOLOGY AND FIREARM IDENTIFICATION. YOU SHOULD CONSIDER ANY EXPERT OPINION RECEIVED IN EVIDENCE IN THIS CASE AND, LIKE ANY OTHER EVIDENCE, GIVE IT THE WEIGHT YOU THINK IT DESERVES. IF YOU DECIDE THAT THE OPINION OF AN EXPERT WITNESS IS NOT BASED ON SUFFICIENT EDUCATION AND EXPERIENCE, OR IF YOU CONCLUDE THAT THE REASONS GIVEN IN SUPPORT OF THE OPINION ARE NOT SOUND, OR THAT THE OPINION IS OUTWEIGHED BY OTHER EVIDENCE, YOU MAY DISREGARD THE OPINION ENTIRELY.

AN EXPERT WITNESS' TESTIMONY IS TO BE GIVEN NO GREATER WEIGHT THAN THAT OF OTHER WITNESSES SIMPLY BECAUSE THE

WITNESS IS AN EXPERT. FURTHER, YOU ARE NOT REQUIRED TO ACCEPT AN EXPERT'S OPINION, EVEN THOUGH IT IS NOT CONTRADICTED.

Statement

MURDER

THE DEFENDANT IS CHARGED WITH THE MURDER OF GREGORY MIDDLETON. THE STATE MUST PROVE BEYOND A REASONABLE DOUBT THAT THE DEFENDANT KILLED ANOTHER PERSON WITH MALICE AFORETHOUGHT.

MALICE IS HATRED, ILL-WILL, OR HOSTILITY TOWARDS ANOTHER PERSON. IT IS THE INTENTIONAL DOING OF A WRONGFUL ACT WITHOUT JUST CAUSE OR EXCUSE AND WITH AN INTENT TO INFLICT AN INJURY OR UNDER CIRCUMSTANCES THAT THE LAW WILL INFER AN EVIL INTENT.

MALICE AFORETHOUGHT DOES NOT REQUIRE THAT MALICE EXISTS FOR ANY PARTICULAR TIME BEFORE THE ACT IS COMMITTED, BUT MALICE MUST EXIST IN THE MIND OF THE DEFENDANT JUST BEFORE AND AT THE TIME OF THE ACT IS COMMITTED. THEREFORE, THERE MUST BE A COMBINATION OF THE PREVIOUS EVIL INTENT AND THE ACT.

MALICE AFORETHOUGHT MAY BE EXPRESS OR INFERRED. THESE TERMS, "EXPRESS" AND "INFERRED" DO NOT MEAN DIFFERENT KINDS OF MALICE BUT MERELY THE MANNER IN WHICH MALICE MAY BE SHOWN TO EXIST. THAT IS EITHER BY DIRECT EVIDENCE OR BY INFERENCE FROM THE FACTS AND CIRCUMSTANCES WHICH ARE PROVED. EXPRESS MALICE IS SHOWN WHEN A PERSON SPEAKS WORDS WHICH EXPRESS HATRED OR ILL WILL FOR ANOTHER OR WHEN THE PERSON PREPARED BEFOREHAND TO DO THE ACT WHICH WAS LATER ACCOMPLISHED;

MALICE MAY BE INFERRED FROM CONDUCT SHOWING A TOTAL DISREGARD FOR HUMAN LIFE.

TRANSFERRED INTENT

IF THE DEFENDANT, WITH MALICE AFORETHOUGHT, ATTEMPTS TO KILL ANOTHER PERSON, BUT BY MISTAKE, KILLS A DIFFERENT PERSON, THE DEFENDANT STILL HAS THE INTENT TO KILL. THE INTENT TO KILL IS MERELY TRANSFERRED FROM THE ORIGINAL PERSON THE DEFENDANT ATTEMPTED TO KILL TO THE ACTUAL PERSON KILLED. THE DEFENDANT WOULD BE GUILTY OF MURDER JUST AS IF THE ATTEMPT HAD RESULTED IN THE DEATH OF THE PERSON THE DEFENDANT ATTEMPTED TO KILL.

VOLUNTARY MANSLAUGHTER

IF YOU FIND THAT THE STATE HAS FAILED TO PROVE BEYOND A REASONABLE DOUBT THAT THE DEFENDANT COMMITTED MURDER, YOU MAY CONSIDER WHETHER THE STATE HAS PROVED BEYOND A REASONABLE DOUBT THAT THE DEFENDANT COMMITTED VOLUNTARY MANSLAUGHTER.

TO PROVE VOLUNTARY MANSLAUGHTER, THE STATE MUST PROVE BEYOND A REASONABLE DOUBT THAT THE DEFENDANT TOOK THE LIFE OF ANOTHER IN THE SUDDEN HEAT OF PASSION BASED ON SUFFICIENT LEGAL PROVOCATION. BOTH HEAT OF PASSION AND SUFFICIENT LEGAL PROVOCATION MUST BE PRESENT AT THE TIME OF THE KILLING TO CONSTITUTE VOLUNTARY MANSLAUGHTER.

SUDDEN HEAT OF PASSION MAY, FOR A TIME, AFFECT A PERSON'S SELF-CONTROL AND TEMPORARILY DISTURB A PERSON'S REASON. THE SUDDEN HEAT OF PASSION MUST BE THE TYPE THAT WOULD MAKE AN ORDINARY PERSON UNABLE TO COOLY REFLECT ON HIS ACTIONS AND WOULD PRODUCE AN UNCONTROLLABLE IMPULSE TO DO VIOLENCE.

SUFFICIENT LEGAL PROVOCATION MUST BE THE TYPE THAT WOULD MAKE A PERSON OF ORDINARY REASON AND CAUTION BECOME ENRAGED AND TO LOSE CONTROL TEMPORARILY. THE PROVOCATION NEEDED FOR VOLUNTARY MANSLAUGHTER MUST COME FROM SOME ACT OF, OR RELATED TO, THE VICTIM.[49]

WORDS ALONE, HOWEVER VULGAR OR INSULTING, ARE NOT ENOUGH TO BE LEGAL PROVOCATION. WHERE DEATH IS CAUSED BY THE USE OF A DEADLY WEAPON, THE WORDS MUST BE ACCOMPANIED BY SOME OVERT, THREATENING ACT WHICH COULD HAVE PRODUCED THE HEAT OF PASSION.

THE EXERCISE OF A LEGAL RIGHT, NO MATTER HOW OFFENSIVE IT IS TO ANOTHER, IS NEVER SUFFICIENT LEGAL PROVOCATION FOR VOLUNTARY MANSLAUGHTER.

IF THE HEAT OF PASSION HAD COOLED, OR IF THERE WAS ENOUGH TIME BETWEEN THE PROVOCATION, IF ANY, AND THE KILLING FOR THE PASSION OF A REASONABLE PERSON TO COOL, THE KILLING WOULD NOT BE VOLUNTARY MANSLAUGHTER. IN DECIDING WHETHER A REASONABLE PERSON WOULD HAVE HAD ENOUGH TIME TO COOL OFF, YOU SHOULD CONSIDER ALL THE CIRCUMSTANCES

---

[49] State v. Locklair, 341 S.C. 352, 535 S.E.2d 420 (2000).

SURROUNDING THE KILLING. YOU MAY CONSIDER THE NATURE OF THE PROVOCATION, IF ANY; THE DEFENDANT'S MENTAL AND PHYSICAL STATE; AND THE CIRCUMSTANCES AND RELATIONSHIPS BETWEEN THE PARTIES.

V **MUTUAL COMBAT**

SOUTH CAROLINA RECOGNIZES THE DOCTRINE OF MUTUAL COMBAT AS THE BASIS FOR A CONVICTION FOR EITHER MURDER OR VOLUNTARY MANSLAUGHTER. IF A PERSON VOLUNTARILY ENTERS INTO A MUTUAL COMBAT WITH ANOTHER WHERE DEADLY WEAPONS ARE USED, KNOWING THAT THEY ARE BEING USED, AND DEATH RESULTS TO AN INNOCENT THIRD PARTY, THEN EVERYONE ENGAGED IN THE MUTUAL COMBAT IS EQUALLY GUILTY, REGARDLESS OF WHETHER THEY FIRED THE FATAL SHOT. ALL PARTICIPANTS IN THE MUTUAL COMBAT ARE RESPONSIBLE FOR THEIR FELLOW COMBATANTS ACTIONS RESULTING IN FORESEEABLE INJURY TO AN INNOCENT THIRD PARTY. HOWEVER, IF THE INNOCENT THIRD PARTY WAS KILLED BEFORE THE DEFENDANT JOINED IN THE MUTUAL COMBAT, THEN THE DEFENDANT CANNOT BE HELD RESPONSIBLE UNDER THE DOCTRINE OF MUTUAL COMBAT.

THE STATE BEARS THE BURDEN OF PROVING BEYOND A REASONABLE DOUBT THAT THE DEFENDANT WAS ENGANGED IN MUTUAL COMBAT WITH A RIVAL COMBATANT OR COMBATANTS, THAT EACH WAS ARMED FOR THE MUTUAL COMBAT WITH A DEADLY WEAPON, AND THAT EACH KNEW THE OTHER WAS ARMED. THE STATE MUST PROVE BEYOND A REASONABLE DOUBT THAT THERE WAS A MUTUAL INTENT AND WILLINGNESS TO FIGHT WITH DEADLY WEAPONS MANIFESTED BY THE ACTS AND CONDUCT OF THE PARTIES AND THE CIRCUMSTANCES LEADING UP TO THE COMBAT. THE STATE MUST PROVE THAT THE CONFLICT AROSE FROM A PRE-EXISTING DISPUTE BETWEEN THE COMBATANTS. HOWEVER, IT IS NOT NECESSARY THAT THERE SHOULD BE A POSITIVE AGREEMENT BETWEEN THE PARTICIPATING PARTIES TO ENTER THE CONFLICT. IT IS SUFFICIENT IF THEY WILLFULLY ENTER INTO THE CONFLICT UPON THE IMPULSE OF THE MOMENT. THE STATE BEARS THE BURDEN OF PROVING EACH OF THE ELEMENTS OF MUTUAL COMBAT BEYOND A REASONABLE DOUBT.

ATTEMPTED MURDER - § 16-3-29

THE DEFENDANT IS CHARGED WITH THE ATTEMPTED MURDER OF BOTH MICHAEL LUCAS AND CHRISTOPHER FORDHAM. IN ORDER TO

PROVE THIS CRIME, THE STATE MUST PROVE THE DEFENDANT, WITH THE INTENT TO KILL, ATTEMPTED TO KILL ANOTHER PERSON WITH MALICE AFORETHOUGHT.

IN ORDER TO BE GUILTY OF THIS OFFENSE, THE DEFENDANT MUST POSSESS A SPECIFIC INTENT TO KILL. THUS, A SPECIFIC INTENT TO KILL IS A REQUIRED ELEMENT OF THE OFFENSE.

MALICE IS HATRED, ILL-WILL, OR HOSTILITY TOWARDS ANOTHER PERSON.

MALICE AFORETHOUGHT DOES NOT REQUIRE THAT MALICE EXISTS FOR ANY PARTICULAR TIME BEFORE THE ACT IS COMMITTED, BUT MALICE MUST EXIST IN THE MIND OF THE DEFENDANT JUST BEFORE AND AT THE TIME THE ACT IS COMMITTED. THEREFORE, THERE MUST BE A COMBINATION OF THE PREVIOUS EVIL INTENT AND THE ACT.

SPECIFIC INTENT TO KILL AND MALICE AFORETHOUGHT MAY BE ESTABLISHED BY DIRECT EVIDENCE, CIRCUMSTANTIAL EVIDENCE, OR A COMBINATION OF THE TWO.

ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED NATURE - § 16-3-600(B)

IF YOU FIND THAT THE STATE HAS FAILED TO PROVE BEYOND A REASONABLE DOUBT THAT THE DEFENDANT COMMITTED THE OFFENSE OF THE ATTEMPTED MURDER OF CHRISTOPHER FORDHAM (ONLY), YOU MAY CONSIDER WHETHER THE STATE HAS PROVED BEYOND A REASONABLE DOUBT THAT THE DEFENDANT COMMITTED THE LESSER INCLUDED OFFENSE OF ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED NATURE. YOU WILL ONLY CONSIDER THIS OFFENSE AS TO THE VICTIM CHRISTOPHER FORDHAM.

A PERSON COMMITS THE OFFENSE OF ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED NATURE IF THE PERSON UNLAWFULLY INJURES ANOTHER PERSON, AND:

(A) GREAT BODILY INJURY TO ANOTHER PERSON RESULTS; OR

(B) THE ACT IS ACCOMPLISHED BY MEANS LIKELY TO PRODUCE DEATH OR GREAT BODILY INJURY.

GREAT BODILY INJURY MEANS BODILY INJURY WHICH CAUSES A SUBSTANTIAL RISK OF DEATH OR WHICH CAUSES SERIOUS, PERMANENT DISFIGUREMENT OR PROTRACTED LOSS OR IMPAIRMENT OF THE FUNCTION OF A BODILY MEMBER OR ORGAN.

ASSAULT AND BATTERY – FIRST DEGREE - § 16-3-600(c)

IF YOU FIND THAT THE STATE HAS FAILED TO PROVE BEYOND A REASONABLE DOUBT THAT THE DEFENDANT COMMITTED THE OFFENSE OF THE ATTEMPTED MURDER OF MICHAEL LUCAS (ONLY), YOU MAY CONSIDER WHETHER THE STATE HAS PROVED BEYOND A REASONABLE DOUBT THAT THE DEFENDANT COMMITTED THE LESSER INCLUDED OFFENSE OF ASSAULT AND BATTERY IN THE FIRST DEGREE. YOU WILL ONLY CONSIDER THIS OFFENSE AS TO THE VICTIM MICHAEL LUCAS.

A PERSON COMMITS THE OFFENSE OF ASSAULT AND BATTERY IN THE FIRST DEGREE IF THE PERSON UNLAWFULLY:

OFFERS OR ATTEMPTS TO INJURE ANOTHER PERSON WITH THE PRESENT ABILITY TO DO SO, AND THE ACT EITHER:

IS ACCOMPLISHED BY MEANS LIKELY TO PRODUCE DEATH OR GREAT BODILY INJURY;

GREAT BODILY INJURY MEANS BODILY INJURY WHICH CAUSES A SUBSTANTIAL RISK OF DEATH OR WHICH CAUSES SERIOUS, PERMANENT DISFIGUREMENT OR PROTRACTED LOSS OR IMPAIRMENT OF THE FUNCTION OF A BODILY MEMBER OR ORGAN.

POSSESSION OF WEAPON DURING THE COMMISSION OF, OR ATTEMPT TO COMMIT, A VIOLENT CRIME - § 16-23-490

THE DEFENDANT IS CHARGED WITH POSSESSION OF A WEAPON DURING THE COMMISSION OF, OR ATTEMPT TO COMMIT, A VIOLENT

CRIME. THE STATE MUST PROVE BEYOND A REASONABLE DOUBT THAT THE DEFENDANT WAS IN POSSESSION OF A FIREARM ARM OR VISIBLY DISPLAYED WHAT APPEARED TO BE A FIREARM VISIBLY DURING THE COMMISSION OF A VIOLENT CRIME.

A FIREARM MEANS ANY MACHINE GUN, AUTOMATIC RIFLE, REVOLVER, PISTOL, OR ANY WEAPON WHICH WILL, IS DESIGNED TO, OR MAY BE READILY CONVERTED TO EXPEL A PROJECTILE.

IN ORDER TO FIND THE DEFENDANT GUILTY OF POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME, YOU MUST FIRST FIND THE DEFENDANT GUILTY OF EITHER COMMITTING A VIOLENT CRIME OR ATTEMPTING THE COMMIT A VIOLENT CRIME.

MURDER, VOLUNTARY MANSLAUGHTER, ATTEMPTED MURDER, AND ABHAN ARE CATEGORIZED AS CRIMES OF VIOLENCE UNDER SOUTH CAROLINA LAW.

Violent crimes are listed in S.C. Code Ann. § 16-1-6.

THE STATE MUST PROVE BEYOND A REASONABLE DOUBT THAT THE WEAPON FURTHERED, ADVANCED, OR HELPED IN THE COMMISSION OF THE CRIME.

UNLAWFUL CARRYING OF PISTOL - § 16-23-20

THE DEFENDANT IS CHARGED WITH UNLAWFUL CARRYING OF A PISTOL. THE STATE MUST PROVE BEYOND A REASONABLE DOUBT THAT THE DEFENDANT CARRIED A PISTOL ABOUT HIS PERSON, WHETHER CONCEALED OR NOT.

A WEAPON IS ABOUT THE DEFENDANT'S PERSON IF IT IS READILY ACCESSIBLE AND CONVENIENT FOR IMMEDIATE USE. THE PISTOL NEED NOT BE ACTUALLY TOUCHING THE PERSON OF THE DEFENDANT.

16-23-20(9)(a)

IT IS NOT UNLAWFUL TO HAVE A HANDGUN IF THE PERSON IS IN A VEHICLE AND THE HANDGUN IS SECURED IN A CLOSED GLOVE COMPARTMENT, CLOSED CONSOLE, CLOSED TRUNK, OR IN A CLOSED CONTAINER SECURED BY AN INTEGRAL FASTENER AND TRANSPORTED IN THE LUGGAGE COMPARTMENT OF THE VEHICLE;

A PERSON CAN BE ACTING LAWFULLY, EVEN IF HE IS IN UNLAWFUL POSSESSION OF A WEAPON, IF HE WAS ENTITLED TO ARM HIMSELF IN SELF DEFENSE.

SELF DEFENSE

THE DEFENDANT HAS RAISED THE DEFENSE OF SELF-DEFENSE. SELF-DEFENSE IS A COMPLETE DEFENSE AND, IF IT IS ESTABLISHED, YOU MUST FIND THE DEFENDANT NOT GUILTY. THE STATE HAS THE

BURDEN OF DISPROVING SELF-DEFENSE BY PROOF BEYOND A REASONABLE DOUBT.[83] IF YOU HAVE A REASONABLE DOUBT OF THE DEFENDANT'S GUILT AFTER CONSIDERING ALL THE EVIDENCE, INCLUDING THE EVIDENCE OF SELF-DEFENSE, THEN YOU MUST FIND THE DEFENDANT NOT GUILTY. ON THE OTHER HAND, IF YOU HAVE NO REASONABLE DOUBT OF THE DEFENDANT'S GUILT AFTER CONSIDERING ALL THE EVIDENCE, INCLUDING THE EVIDENCE OF SELF-DEFENSE, THEN YOU MUST FIND THE DEFENDANT GUILTY.

THE FOLLOWING ELEMENTS ARE REQUIRED TO ESTABLISH SELF-DEFENSE.

(1) WITHOUT FAULT

FIRST, THE DEFENDANT MUST BE WITHOUT FAULT IN BRINGING ON THE DIFFICULTY. IF THE DEFENDANT'S CONDUCT WAS THE TYPE WHICH WAS REASONABLY CALCULATED TO, AND DID, PROVOKE A DEADLY ASSAULT, THE DEFENDANT WOULD BE AT FAULT IN BRINGING ON THE DIFFICULTY AND WOULD NOT BE ENTITLED TO AN ACQUITTAL BASED ON SELF-DEFENSE.

(2) IMMINENT DANGER

---

[83] State v. Addison, 343 S.C. 290, 540 S.E.2d 449 (2000).

THE SECOND ELEMENT OF SELF-DEFENSE IS THAT THE DEFENDANT WAS ACTUALLY IN IMMINENT DANGER OF DEATH OR SERIOUS BODILY INJURY OR THAT THE DEFENDANT ACTUALLY BELIEVED HE WAS IN IMMINENT DANGER OF DEATH OR SERIOUS BODILY INJURY.

IF THE DEFENDANT WAS ACTUALLY IN IMMINENT DANGER, IT MUST BE SHOWN THAT THE CIRCUMSTANCES WOULD HAVE WARRANTED A PERSON OF ORDINARY FIRMNESS AND COURAGE TO STRIKE THE FATAL BLOW TO PREVENT DEATH OR SERIOUS BODILY INJURY. IF THE DEFENDANT BELIEVED HE WAS IN IMMINENT DANGER OF DEATH OR SERIOUS BODILY INJURY, IT MUST BE SHOWN THAT A REASONABLY PRUDENT PERSON OF ORDINARY FIRMNESS AND COURAGE WOULD HAVE HAD THE SAME BELIEF.

IN DECIDING WHETHER THE DEFENDANT ACTUALLY WAS, OR BELIEVED HE WAS, IN IMMINENT DANGER OF DEATH OR SERIOUS BODILY INJURY, YOU SHOULD CONSIDER ALL THE FACTS AND CIRCUMSTANCES SURROUNDING THE CRIME, INCLUDING THE PHYSICAL CONDITION AND CHARACTERISTICS OF THE DEFENDANT AND THE VICTIM.

RIGHT TO ACT ON APPEARANCES

THE DEFENDANT DOES NOT HAVE TO SHOW THAT HE (SHE) WAS ACTUALLY IN DANGER. IT IS ENOUGH IF THE DEFENDANT BELIEVED HE (SHE) WAS IN IMMINENT DANGER AND A REASONABLY PRUDENT PERSON OF ORDINARY FIRMNESS AND COURAGE WOULD HAVE HAD THE SAME BELIEF. THE DEFENDANT HAS THE RIGHT TO ACT ON APPEARANCES EVEN THOUGH THE DEFENDANT'S BELIEFS MAY HAVE BEEN MISTAKEN.[86] IT IS FOR YOU TO DECIDE WHETHER THE DEFENDANT'S FEAR OF IMMEDIATE DANGER OF DEATH OR SERIOUS BODILY INJURY WAS REASONABLE AND WOULD HAVE BEEN FELT BY AN ORDINARY PERSON IN THE SAME SITUATION.

PRIOR DIFFICULTIES

EVIDENCE OF PRIOR DIFFICULTIES BETWEEN THE DEFENDANT AND THE VICTIM MAY BE CONSIDERED IN DECIDING WHETHER A THREAT EXISTED, WHETHER THE DEFENDANT HAD A REASON TO BELIEVE A THREAT EXISTED, AND HOW SERIOUS THAT THREAT WAS.

INTOXICATION

---

[86] Gilchrist v. State, 364 S.C. 173, 612 S.E.2d 702 (2005); State v. Jackson, 227 S.C. 271, 87 S.E.2d 681 (1995).

THE INTOXICATION OF THE VICTIM MAY BE CONSIDERED IN DECIDING WHETHER THE DEFENDANT'S FEAR OF DEATH OR BODILY HARM WAS REASONABLE.

(3) NO OTHER WAY TO AVOID DANGER

THE FINAL ELEMENT OF SELF-DEFENSE IS THAT THE DEFENDANT HAD NO OTHER PROBABLE WAY TO AVOID THE DANGER OF DEATH OR SERIOUS BODILY INJURY THAN TO ACT AS THE DEFENDANT DID IN THIS PARTICULAR INSTANCE.

INCREASED RISK OF HARM

THE DEFENDANT HAD NO DUTY TO RETREAT IF, BY DOING SO, THE DANGER OF BEING KILLED OR SUFFERING SERIOUS BODILY INJURY WOULD INCREASE.

DEGREE OF FORCE

A PERSON CANNOT BE REQUIRED TO MAKE AN EXACT CALCULATION AS TO THE DEGREE OR AMOUNT OF FORCE WHICH MAY BE NEEDED TO AVOID DEATH OR SERIOUS BODILY HARM. THEREFORE, IN SELF-DEFENSE, THE DEFENDANT HAS THE RIGHT TO USE THE FORCE NEEDED TO AVOID DEATH OR SERIOUS BODILY

HARM. THE FORCE USED IN SELF-DEFENSE DOES NOT HAVE TO BE LIMITED TO THE DEGREE OR AMOUNT OF FORCE USED BY THE VICTIM. THE DEFENDANT HAS THE RIGHT TO USE SO MUCH FORCE AS APPEARED TO BE NECESSARY FOR COMPLETE SELF-PROTECTION, AND WHICH A PERSON OF ORDINARY REASON AND FIRMNESS WOULD HAVE BELIEVED TO BE NEEDED TO PREVENT DEATH OR SERIOUS BODILY HARM.

CONTINUING UNTIL THREAT OF HARM IS ENDED

IF THE DEFENDANT IS JUSTIFIED IN DEFENDING HIMSELF (HERSELF) OR OTHERS AND IN FIRING THE FIRST SHOT, THEN THE DEFENDANT IS ALSO JUSTIFIED IN CONTINUING TO SHOOT UNTIL IT IS APPARENT THAT THE DANGER OF DEATH OR SERIOUS BODILY INJURY HAS COMPLETELY ENDED.

DEFENSE OF OTHERS

UNDER THE LAW OF SELF-DEFENSE, THE DEFENDANT MAY TAKE ANOTHER'S LIFE IN THE DEFENSE OF OTHERS. THE RIGHT TO INTERVENE TO PROTECT ANOTHER PERSON IS SUBJECT TO THE SAME RIGHTS AND LIMITATIONS AS THE RIGHT OF SELF-DEFENSE.

THE DEFENDANT MAY TAKE THE LIFE OF PERSON WHO ASSAULTS A FRIEND, RELATIVE, OR BYSTANDER IF THAT FRIEND, RELATIVE, OR BYSTANDER WOULD HAVE HAD THE RIGHT OF SELF-DEFENSE.

TO SHOW THAT THE PERSON BEING DEFENDED HAD THE RIGHT OF SELF-DEFENSE, IT MUST FIRST BE SHOWN THAT THE PERSON BEGIN DEFENDED AND THE DEFENDANT WERE BOTH WITHOUT FAULT IN BRINGING ON THE DIFFICULTY. IF THE CONDUCT OF THE PERSON DEFENDED OR THE DEFENDANT WAS THE TYPE WHICH WAS REASONABLY CALCULATED TO, AND DID, PROVOKE A DEADLY ASSAULT, THE PERSON WOULD BE AT FAULT IN BRINGING ON THE DIFFICULTY AND WOULD NOT HAVE THE RIGHT OF SELF-DEFENSE. THEREFORE, THE DEFENDANT WOULD NOT HAVE THE RIGHT TO USE DEADLY FORCE IN DEFENDING THAT PERSON.

THE DEFENSE OF ANOTHER PERSON IS EXCUSABLE IF THE DEFENDANT HAD REASONABLE GROUNDS TO BELIEVE, AND IN GOOD FAITH DID BELIEVE, THAT THE PERSON BEING DEFENDED WAS IN IMMINENT DANGER OF DEATH OR SERIOUS BODILY HARM FROM THE VICTIM.

IN DECIDING WHETHER THE PERSON DEFENDED ACTUALLY WAS, OR THAT THE DEFENDANT ACTUALLY BELIEVED THE PERSON WAS,

IN IMMINENT DANGER OF DEATH OR SERIOUS BODILY INJURY, YOU SHOULD CONSIDER ALL THE FACTS AND CIRCUMSTANCES SURROUNDING THE CRIME, INCLUDING THE PHYSICAL CONDITION AND CHARACTERISTICS OF THE PARTIES.

RIGHT TO ACT ON APPEARANCES

THE DEFENDANT DOES NOT HAVE TO SHOW THAT THE PERSON THE DEFENDANT DEFENDED WAS ACTUALLY IN DANGER. IT IS ENOUGH IF THE DEFENDANT BELIEVED THE PERSON WAS IN IMMINENT DANGER. THE DEFENDANT HAS THE RIGHT TO ACT ON APPEARANCES EVEN THOUGH THE DEFENDANT'S BELIEFS MAY HAVE BEEN MISTAKEN. THE DEFENDANT MUST SHOW THAT, UNDER THE CIRCUMSTANCES AS THEY APPEARED TO THE DEFENDANT, THE DEFENDANT BELIEVED THE PERSON DEFENDED WAS IN DANGER AND THAT A REASONABLY PRUDENT PERSON OF ORDINARY FIRMNESS AND COURAGE WOULD HAVE HAD THE SAME BELIEF UNDER THE SAME CIRCUMSTANCES.[88] IT IS FOR YOU, THE JURY, TO DECIDE WHETHER THE DEFENDANT'S FEAR OF IMMEDIATE DANGER OF DEATH OR SERIOUS BODILY INJURY TO THE PERSON DEFENDED

---

[88] State v. Jackson, 277 S.C. 271, 87 S.E.2d 681 (1995).

WAS REASONABLE AND WOULD HAVE BEEN FELT BY AN ORDINARY PERSON IN THE SAME SITUATION. THE DEFENDANT DOES NOT HAVE TO WAIT UNTIL THE VICTIM GETS THE DROP ON THE PERSON DEFENDED; THE DEFENDANT HAS THE RIGHT TO ACT UNDER THE LAW OF SELF-PRESERVATION TO PREVENT THE VICTIM FROM GETTING THE DROP ON THE PERSON DEFENDED.

WORDS ACCOMPANIED BY HOSTILE ACTS

WORDS ACCOMPANIED BY HOSTILE ACTS MAY, DEPENDING ON THE CIRCUMSTANCES, ESTABLISH SELF-DEFENSE.[89]

PRIOR DIFFICULTIES

EVIDENCE OF PRIOR DIFFICULTIES BETWEEN THE PERSON DEFENDED AND THE VICTIM MAY BE CONSIDERED IN DECIDING WHETHER A THREAT EXISTED, WHETHER THE DEFENDANT HAD A REASON TO BELIEVE A THREAT EXISTED, AND HOW SERIOUS THAT THREAT WAS.

INTOXICATION

---

[89] State v. Fuller, 297 S.C. 440, 377 S.E.2d 328 (1989).

THE INTOXICATION OF THE VICTIM MAY BE CONSIDERED IN DECIDING WHETHER THE DEFENDANT'S FEAR OF DEATH OR BODILY HARM TO THE PERSON DEFENDED WERE REASONABLE.

DUTY TO RETREAT

IN ORDER TO BE ENTITLED TO DEFEND ANOTHER, THE PERSON DEFENDED MUST HAVE HAD NO OTHER PROBABLE WAY TO AVOID THE DANGER OF DEATH OR SERIOUS BODILY INJURY THAN TO ACT AS THE DEFENDANT DID IN THIS PARTICULAR INSTANCE.

WHERE THE PERSON BEING DEFENDED HAD NO DUTY TO RETREAT, THE DEFENDANT LIKEWISE WOULD HAVE NO DUTY TO RETREAT.

THERE IS NO BURDEN UPON THE DEFENDANT TO PROVE SELF DEFENSE. THE BURDEN IS ON THE STATE TO DISPROVE EACH OF THE ELEMENTS OF SELF DEFENSE BEYOND A REASONABLE DOUBT. IF YOU HAVE A REASONABLE DOUBT OF THE DEFENDANT'S GUILT AFTER CONSIDERING ALL OF THE EVIDENCE, INCLUDING THE EVIDENCE OF SELF DEFENSE, THEN YOU MUST FIND THE DEFENDANT NOT GUILTY.

EXPLAIN VERDICT FORMS

VERDICT MUST BE UNANIMOUS.

WITNESSES

Willie J. McFadden — Sumter Police Dept.

ARREST WARRANT NUMBER

2019A4320100749 2019A4320100744

ACTION OF GRAND JURY

~~TRUE BILL~~

Eric Hutchinson

Foreperson of Grand Jury

Date: 7-30-20

VERDICT

776

Foreperson of Petit Jury

Date:

DOCKET NO. 2020-GS-43-0624

The State of South Carolina

County of SUMTER

COURT OF GENERAL SESSIONS

July TERM 2020

THE STATE

vs.

JOQUELL WAYNE MYERS

Indictment for

Murder / Possession of a Fiream during the Commission of a Violent Crime

Ernest A Finney III

ERNEST A. FINNEY, III, SOLICITOR

STATE OF SOUTH CAROLINA)
)
COUNTY OF SUMTER)

INDICTMENT FOR

Murder / Possession of a Firearm during the Commission of a Violent Crime

At a Court of General Sessions, convened on July 30, 2020 the Grand Jurors of SUMTER County present upon their oath:

COUNT ONE-MURDER

That Joquell Wayne Myers did in Sumter County, on or about September 8, 2019, willfully, feloniously, and intentionally kill the victim, Gregory Middleton, with malice aforethought, either express or implied, by means of shooting victim with a firearm, and the victim did die as a proximate result thereof on or about in Sumter County, in violation of Section 16-03-0010, S. C. Code of Laws, 1976, as amended.

COUNT TWO-POSSESSION OF A FIREARM DURING A VIOLENT CRIME

That Joquell Wayne Myers did in Sumter County, on or about September 8, 2019, possess a firearm, or visibly display what appeared to be a firearm, or visibly displayed a knife, during the commission or attempted commission of a violent crime, in violation of Section 16-23-0490, S. C. Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

Solicitor

Ernest A. Finney III

WITNESSES

Willie J. McFadden Sumter Police Dept.

Tod Sims Sumter Police Department

ARREST WARRANT NUMBER

2019A4320100742

ACTION OF GRAND JURY TRUE BILL

Cassie Shadoan
Foreperson of Grand Jury
Date: 8-4-22

VERDICT

778

Foreperson of Petit Jury
Date:

DOCKET NO. 2022-GS-43-0920

The State of South Carolina

County of SUMTER

COURT OF GENERAL SESSIONS

August **TERM** **2022**

THE STATE

vs.

JOQUELL WAYNE MYERS

Indictment for

Attempted Murder

Ernest A. Finney III

ERNEST A. FINNEY, III, SOLICITOR

STATE OF SOUTH CAROLINA)
)
COUNTY OF SUMTER)

INDICTMENT FOR

Attempted Murder

At a Court of General Sessions, convened on August 4, 2022 the Grand Jurors of SUMTER County present upon their oath:

COUNT ONE

That Joquell Wayne Myers did in Sumter on or about September 8, 2019, violate Section 16-3-29 of the Code of Laws of South Carolina (1976), as amended, in that the said Joquell Wayne Myers did with intent to kill, attempt to kill another person, Michael Lucas, with malice aforethought, either express or implied, by fired shots at the victim.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

Solicitor

Ernest A. Finney III

WITNESSES

Jeffery B. Hansen Sumter Police Dept.

Tod Sims Sumter Police Department

ARREST WARRANT NUMBER

2019A4320100790

ACTION OF GRAND JURY TRUE BILL

Cassie Hadden
Foreperson of Grand Jury
Date: 9-8-22

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2022-GS-43-1048

The State of South Carolina

County of SUMTER

COURT OF GENERAL SESSIONS

September **TERM** **202**

THE STATE

vs.

JOQUELL WANYE MYERS

Indictment for

Attempted Murder

Ernest A. Finney III

ERNEST A. FINNEY, III, SOLICITOR

780

STATE OF SOUTH CAROLINA)
)
COUNTY OF SUMTER)

INDICTMENT FOR

Attempted Murder

At a Court of General Sessions, convened on September 8, 2022 the Grand Jurors of SUMTER County present upon their oath:

COUNT ONE – ATTEMPTED MURDER

That Joquell Wanye Myers did in Sumter on or about 2019-09-08, violate Section 16-3-29 of the Code of Laws of South Carolina (1976), as amended, in that the said Joquell Wanye Myers did with intent to kill, attempt to kill another person, Christopher Fordham, with malice aforethought, either express or implied, by shooting the victim in in his leg with a firearm.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

Solicitor

Ernest A. Finney III

WITNESSES

Willie J. McFadden Sumter Police Dept.

Tod Sims - Sumter Police Department

ARREST WARRANT NUMBER

2019A4320100743

ACTION OF GRAND JURY TRUE BILL

Cassie Shadoan
Foreperson of Grand Jury
Date: 9-8-22

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2022-GS-43-1050

The State of South Carolina

County of SUMTER

COURT OF GENERAL SESSIONS

September **TERM** **2022**

THE STATE

vs.

JOQUELL WAYNE MYERS

Indictment for

Weapons / Unlawful carrying of pistol

Ernest A. Finney III

ERNEST A. FINNEY, III, SOLICITOR

STATE OF SOUTH CAROLINA)
)
COUNTY OF SUMTER)

INDICTMENT FOR

Weapons / Unlawful carrying of pistol

At a Court of General Sessions, convened on September 8, 2022 the Grand Jurors of SUMTER County present upon their oath:

COUNT ONE-UNLAWFUL CARRYING OF A FIREARM

That Joquell Wayne Myers did in Sumter County on or about September 8, 2019, carry about the person a pistol, such carrying not being authorized by law, in violation of Section 16-23-0020, S. C. Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

Solicitor

Ernest A. Finney III

ARREST WARRANT

2019A4320100742

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

Sumter Municipal

THE STATE 19124404

against

Joquell Wanye Myers

Address: 103 Mccutcheon St

Mayesville, SC 29104-8888

Phone: (803)464-0209 SSN: [redacted]

Sex: M Race: B Height: 6 5 Weight: 285

DL State: SC DL #: [redacted]

DOB: [redacted]/1996 Agency ORI #: SC0430100

Prosecuting Agency: Sumter Police Department

Prosecuting Officer: Willie J Mcfadden - S00217

Offense: Assault / Attempted Murder

Offense Code: 3410

Code/Ordinance Sec: 16-03-0029

This warrant is CERTIFIED FOR SERVICE in the ☐ County/ ☐ Municipality of _____. The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

Copy of this arrest warrant was delivered to defendant Joquell W. Myers on 9/25/2019

Willie McFadden #1894

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions
215 N. Harvin St.
Sumter, SC 29150

784

STATE OF SOUTH CAROLINA)
☐ County/ ☒ Municipality of)
Sumter Municipal)

AFFIDAVIT

ORIGINAL

Form Approved by S.C. Attorney General April 21, 2003 SCCA 518

Personally appeared before me the affiant Willie J Mcfadden who being duly sworn deposes and says that defendant Joquell Wanye Myers did within this county and state on or about 9/ 8/2019 violate the criminal laws of the State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of Sumter Municipal) in the following particulars:

RECORDED
2019 SEP 26 P 12:30
JAMES C. CAMPBELL
CLERK OF COURT
SUMTER COUNTY, S.C.

DESCRIPTION OF OFFENSE: Assault / Attempted Murder

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That on Sept. 8, 2019, while at the Hop-In Gas Station located at 1083 Broad Street, in the City of Sumter, State of South Carolina, Defendant Joquell Myers did attempt to kill the Victim at the above location. Defendant did have a handgun and fired several shots at the Victim as the Victim was attempting to flee the area. Defendant is seen on video surveillance and has been identified by the Victim as committing the above stated offense. Law Enforcement will attest to the same.

Signature of Affiant Willie McFadden

STATE OF SOUTH CAROLINA)
☐ County/ ☒ Municipality of)
Sumter Municipal)

Affiant's Address P.O. Box 1119
Sumter, SC 29151-

Affiant's Telephone (803)436-2790

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that on or about 9/ 8/2019 defendant Joquell Wanye Myers did violate the criminal laws of the State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of Sumter Municipal) as set forth below:

DESCRIPTION OF OFFENSE: Assault / Attempted Murder

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me on 9/19/2019

(L.S.)

Signature of Issuing Judge

Bryan Keith Griffin (Sumter)

Judge Code: 8283

Judge's Address 190 East Canal Street
Sumter, SC 29150-

Judge's Telephone (803)436-2280

Issuing Court: ☐ Magistrate ☒ Municipal ☐ Circuit

ORIGINAL ORIGINAL ORIGINAL ORIGINAL ORIGINAL ORIGINAL ORIGINAL

ARREST WARRANT

2019A4320100743

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

Sumter Municipal

THE STATE 19124404

against

Joquell Wanye Myers

Address: 103 Mccutcheon St

Mayesville, SC 29104-8888

Phone: (803)464-0209 SSN: [redacted]

Sex: M Race: B Height: 6 5 Weight: 285

DL State: SC DL #: [redacted]

DOB: [redacted]1996 Agency ORI #: SC0430100

Prosecuting Agency: Sumter Police Department

Prosecuting Officer: Willie J Mcfadden - S00217

Offense: Weapons / Unlawful carrying of pistol

Offense Code: 0044

Code/Ordinance Sec: 16-23-0020

This warrant is CERTIFIED FOR SERVICE in the ☐ County/ ☐ Municipality of _____. The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

Copy of this arrest warrant was delivered to defendant Joquell W. Myers on 9/25/2019

Willie McFadden #1874

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions
215 N. Harvin St.
Sumter, SC 29150

785

ORIGINAL ORIGINAL ORIGINAL ORIGINAL

STATE OF SOUTH CAROLINA)
☐ County/ ☒ Municipality of)
Sumter Municipal)

AFFIDAVIT

ORIGINAL

Form Approved by S.C. Attorney General April 21, 2003 SCCA 518

Personally appeared before me the affiant Willie J Mcfadden who being duly sworn deposes and says that defendant Joquell Wanye Myers did within this county and state on or about 9/8/2019 violate the criminal laws of the State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of Sumter Municipal) in the following particulars:

RECORDED
2019 SEP 26 P 12:30
JAMES C. CAMPBELL
CLERK OF COURT
SUMTER COUNTY, S.C.

DESCRIPTION OF OFFENSE: Weapons / Unlawful carrying of pistol

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That on Sept. 8, 2019, while at the Hop-In Gas Station located at 1083 Broad Street, in the City of Sumter, State of South Carolina, Defendant Joquell Myers did commit the crime of unlawful carrying of a pistol. Defendant is seen on video surveillance and by a witness as having a handgun at the above location. Law Enforcement will attest to the same.

Signature of Affiant Willie McFadden

STATE OF SOUTH CAROLINA)
☐ County/ ☒ Municipality of)
Sumter Municipal)

Affiant's Address P.O. Box 1119
Sumter, SC 29151-
Affiant's Telephone (803)436-2790

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that on or about 9/8/2019 defendant Joquell Wanye Myers did violate the criminal laws of the State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of Sumter Municipal) as set forth below:

DESCRIPTION OF OFFENSE: Weapons / Unlawful carrying of pistol

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me on 9/19/2019

(L.S.)

Signature of Issuing Judge

Bryan Keith Griffin (Sumter)

Judge Code: 8283

Judge's Address 190 East Canal Street
Sumter, SC 29150-
Judge's Telephone (803)436-2280

Issuing Court: ☐ Magistrate ☒ Municipal ☐ Circuit

ORIGINAL ORIGINAL ORIGINAL ORIGINAL

ARREST WARRANT

2019A4320100744

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

Sumter Municipal

THE STATE 19124404

against

Joquell Wanye Myers

Address: 103 Mccutcheon St

Mayesville, SC 29104-8888

Phone: (803)464-0209 SSN: [redacted]

Sex: M Race: B Height: 6 5 Weight: 285

DL State: SC DL #: [redacted]

DOB: [redacted]/1996 Agency ORI #: SC0430100

Prosecuting Agency: Sumter Police Department

Prosecuting Officer: Willie J Mcfadden - S00217

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

Offense Code: 0549

Code/Ordinance Sec: 16-23-0490

This warrant is CERTIFIED FOR SERVICE in the ☐ County/ ☐ Municipality of _____. The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant JoQuell W. Myers on 9/25/2019

Willie McFadden #1874

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions
215 N. Harvin St.
Sumter, SC 29150

984

AFFIDAVIT

ORIGINAL

Form Approved by S.C. Attorney General April 21, 2003 SCCA 518

STATE OF SOUTH CAROLINA)
☐ County/ ☒ Municipality of)
Sumter Municipal)

Personally appeared before me the affiant Willie J Mcfadden who being duly sworn deposes and says that defendant Joquell Wanye Myers did within this county and state on or about 9/ 8/2019 violate the criminal laws of the State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of Sumter Municipal) in the following particulars:

RECORDED
2019 SEP 24 P 12:30
JAMES O. CAMPBELL
CLERK OF COURT
SUMTER COUNTY, S.C.

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

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That on Sept. 8, 2019, while at the Hop-In Gas Station located at 1083 Broad Street, in the City of Sumter, State of South Carolina, Defendant Joquell Myers did have a handgun on his person during the violent crime of Attempted Murder at the above location. Defendant fired several shots at the Victim, as the Victim was attempting to flee the area. Defendant is seen on video surveillance and has been identified by the Victim as committing the above stated offense. Law Enforcement will attest to the same.

Signature of Affiant Willie McFadden

STATE OF SOUTH CAROLINA)
☐ County/ ☒ Municipality of)
Sumter Municipal)

Affiant's Address P.O. Box 1119
Sumter, SC 29151-
Affiant's Telephone (803)436-2790

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that on or about 9/ 8/2019 defendant Joquell Wanye Myers did violate the criminal laws of the State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of Sumter Municipal) as set forth below:

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

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Sworn to and subscribed before me on 9/19/2019

(L.S.)

Signature of Issuing Judge

Bryan Keith Griffin (Sumter)

Judge Code: 8283

Judge's Address 190 East Canal Street
Sumter, SC 29150-
Judge's Telephone (803)436-2280

Issuing Court: ☐ Magistrate ☒ Municipal ☐ Circuit

ORIGINAL ORIGINAL ORIGINAL ORIGINAL ORIGINAL ORIGINAL ORIGINAL

ARREST WARRANT

2019A4320100749

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

Sumter Municipal

THE STATE 19124404

against

Joquell Wanye Myers

Address: 103 Mccutcheon St

Mayesville, SC 29104-8888

Phone: (803)464-0209 SSN: [redacted]

Sex: M Race: B Height: 6 5 Weight: 285

DL State: SC DL #: [redacted]

DOB: [redacted]1996 Agency ORI #: SC0430100

Prosecuting Agency: Sumter Police Department

Prosecuting Officer: Willie J Mcfadden - S00217

Offense: Murder / Murder

Offense Code: 0116

Code/Ordinance Sec: 16-03-0010

This warrant is CERTIFIED FOR SERVICE in the ☐ County/ ☐ Municipality of _____. The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant JoQuell W. Myers on 9/25/2019

Willie McFadden #1874

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions
215 N. Harvin St.
Sumter, SC 29150

787

ORIGINAL ORIGINAL ORIGINAL ORIGINAL

STATE OF SOUTH CAROLINA)
☐ County/ ☒ Municipality of)
Sumter Municipal)

AFFIDAVIT

ORIGINAL

Form Approved by S.C. Attorney General April 21, 2003 SCCA 518

Personally appeared before me the affiant Willie J Mcfadden who being duly sworn deposes and says that defendant Joquell Wanye Myers did within this county and state on or about 9/ 8/2019 violate the criminal laws of the State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of Sumter Municipal) in the following particulars:

RECORDED
2019 SEP 26 P 12:30
JAMES P. CAMPBELL
CLERK OF COURT
SUMTER CO. S.C.

DESCRIPTION OF OFFENSE: Murder / Murder

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That on Sept. 8, 2019, while at the Hop-In Gas Station located at 1083 Broad Street, in the City of Sumter, State of South Carolina, Joquell Myers did with malice aforethought shoot Gregory Middleton (Victim) while Middleton was attempting to assist another gunshot victim (Michael Rogers). Defendant was seen on video surveillance footage firing several shots towards Middleton when one of the bullets entered Middleton's chest area. Autopsy results show the bullet that entered Middleton's chest hit the heart causing his death to be ruled a homicide. Law Enforcement will attest to same.

Signature of Affiant Willie McFadden

STATE OF SOUTH CAROLINA)
☐ County/ ☒ Municipality of)
Sumter Municipal)

Affiant's Address P.O. Box 1119
Sumter, SC 29151-
Affiant's Telephone (803)436-2790

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that on or about 9/ 8/2019 defendant Joquell Wanye Myers did violate the criminal laws of the State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of Sumter Municipal) as set forth below:

DESCRIPTION OF OFFENSE: Murder / Murder

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Sworn to and subscribed before me on 9/25/2019

(L.S.)

Signature of Issuing Judge

Bryan Keith Griffin (Sumter)

Judge Code: 8283

Judge's Address 190 East Canal Street
Sumter, SC 29150-
Judge's Telephone (803)436-2280

Issuing Court: ☐ Magistrate ☒ Municipal ☐ Circuit

ORIGINAL ORIGINAL ORIGINAL ORIGINAL

ARREST WARRANT

2019A4320100790

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

Sumter Municipal

THE STATE 19124404

against

Joquell Wanye Myers

Address: 103 Mccutcheon St

Mayesville, SC 29104-8888

Phone: (803)464-0209 SSN: [redacted]

Sex: M Race: B Height: 6 5 Weight: 285

DL State: SC DL #: [redacted]

DOB: [redacted]1996 Agency ORI #: SC0430100

Prosecuting Agency: Sumter Police Department

Prosecuting Officer: Jeffery B Hansen - S00271

Offense: Assault / Attempted Murder

Offense Code: 3410

Code/Ordinance Sec: 16-03-0029

This warrant is CERTIFIED FOR SERVICE in the ☐ County/ ☐ Municipality of _____. The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant Joquell Myers on 10/17/2019

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions
215 N. Harvin St.
Sumter, SC 29150

ORIGINAL ORIGINAL ORIGINAL ORIGINAL

STATE OF SOUTH CAROLINA)
☐ County/ ☒ Municipality of)
Sumter Municipal)

AFFIDAVIT

ORIGINAL

Form Approved by S.C. Attorney General April 21, 2003 SCCA 518

Personally appeared before me the affiant Jeffery B Hansen who being duly sworn deposes and says that defendant Joquell Wanye Myers did within this county and state on or about 9/8/2019 violate the criminal laws of the State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of Sumter Municipal) in the following particulars:

RECORDED
2019 OCT 18 P 3:24
JAMES C. CAMPBELL
CLERK OF COURT
SUMTER COUNTY, S.C.

DESCRIPTION OF OFFENSE: Assault / Attempted Murder

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That on September 8th, 2019 at the Hop In located at 1083 Broad St, in the City of Sumter, State of South Carolina, Joquell Wayne Myers, along with co-defendants, did commit the crime of Attempted Murder in that they did fire a handgun from the vehicle they were in at Christopher Fordham, striking him in his left leg. Law enforcement obtained surveillance video which shows the defendant having been in the vehicle with co-defendants. The victim was treated for his injuries at Prisma Health Tuomey hospital. Law enforcement will attest to the same.

Signature of Affiant

STATE OF SOUTH CAROLINA)
☐ County/ ☒ Municipality of)
Sumter Municipal)

Affiant's Address P.O. Box 1119
Sumter, SC 29151-

Affiant's Telephone (803)436-2790

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that on or about 9/8/2019 defendant Joquell Wanye Myers did violate the criminal laws of the State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of Sumter Municipal) as set forth below:

DESCRIPTION OF OFFENSE: Assault / Attempted Murder

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Sworn to and subscribed before me on 10/9/2019

(L.S.)

Signature of Issuing Judge

William Mattison Gamble(Sumter)

Judge Code: 8366

Judge's Address 190 East Canal Street
Sumter, SC 29150-

Judge's Telephone (803)436-2280

Issuing Court: ☐ Magistrate ☒ Municipal ☐ Circuit

ORIGINAL ORIGINAL ORIGINAL ORIGINAL