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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Horry County

Honorable H. Steven DeBerry, IV, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

DRISCOLL RIGGINS, JR.

APPELLANT

APPELLATE CASE NO. 2023-000868

RECORD ON APPEAL

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1 STATE OF SOUTH CAROLINA **TRANSCRIPT OF RECORD**
2 COUNTY OF HORRY CASE NO.: 2021-GS-26-03375
3 **CERTIFIED ORIGINAL** 2021-GS-26-03376
 2021-GS-26-03377

4 -----

5 May 15-19, 2023

6 **BEFORE:** The Honorable Steven DeBerry

7 -----

8 STATE OF SOUTH CAROLINA,

9 Plaintiff,

10 vs.

11 DRISCOLL RIGGINS, JR.,

12 Defendant.

13 -----

14
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18 Dylan Bagnal, Esq.
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22
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24 Registered Professional Reporter,
 State of South Carolina Official Court Reporter

25

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JURY SELECTION

1

2

P-R-O-C-E-E-D-I-N-G-S

3

THE COURT: Thank you. Please be seated.

4

Can the attorneys approach for just a minute?

5

(Whereupon, a bench conference was had.)

6

THE COURT: Ladies and gentlemen, thank you

7

for your time and patience. At this time, we'll

8

select the jury in the State's case they are going

9

to call for trial. The process should take 30, 40

10

minutes. What I anticipate is after the jury is

11

selected, we'll dismiss you and begin this trial

12

tomorrow morning, all right.

13

You should expect to be here another 30, 40

14

minutes or so, and if you do get selected to serve,

15

we'll see you again tomorrow morning. All right.

16

Mr. DeBusk.

17

MR. DeBUSK: The State calls

18

2021-GS-26-03375, indictment for murder. The

19

defendant is Discoll Riggins, Junior.

20

Also, Indictment 2021-GS-26-03376. That is

21

the same defendant, Driscoll Riggins, for

22

possession of a weapon during the commission of a

23

violent crime.

24

And, finally, we call Indictment

25

2021-GS-26-03377, subject to a ruling and a motion

MOTIONS

1 first?

2 MR. BOUCHETTE: May it please the Court? I'm
3 Jarrett Bouchette. I represent Stephanie Cano.
4 She was subpoenaed by the state to be a witness.
5 For the record, I know that the Court was expecting
6 to hear from me in person this afternoon. I think
7 it had been indicated to the Court that I was going
8 to be here, but I have not heard from the State or
9 anyone else, but I wanted to be here so there was
10 no aspersion cast on myself or my client.

11 This is a 2021 case, so it has a good bit of
12 age on it. I was appointed a week from Friday late
13 afternoon. I was notified that the State was
14 intending to get Ms. Cano here for this term of
15 court. She advised them -- apparently for an
16 extended period of time -- that she had a number of
17 different hardships going on.

18 In trying to figure out what was going on,
19 what was happening, we filed an emergency motion.
20 We had hoped that maybe we could get a judge to
21 hear it by the end of last week. We were unable to
22 get that scheduling done. Judge Culbertson was
23 down in Waltherboro pretty much all that week, and
24 they weren't able to get someone here locally to
25 handle it.

MOTIONS

1 So we've brought this today asking the Court
2 to quash that subpoena based, one, the hardship on
3 the witness. And then, two, we contend a change of
4 circumstances as it relates to materiality. I know
5 we've had an order that indicates materiality, but
6 best as I can tell, there was no hearing which
7 provided evidence to substantiate that finding, or
8 an affidavit of the State.

9 Upon looking back at the statute, I think one
10 is required by the issuing jurisdiction. In other
11 words, the issuing jurisdiction has an order that
12 then goes to the out-of-state jurisdiction. That
13 jurisdiction did have a hearing of some kind. The
14 hearing -- the order from that hearing is not quite
15 clear, but I think it is safe to say they relied
16 upon this jurisdiction's finding of materiality.

17 Now, couple of things. One, I'll address
18 that -- well, secondly Ms. Cano has prepared an
19 affidavit, a copy which was included with our
20 motion. I apologize for some of the informality of
21 it. We were having to scramble to get our
22 documents and all together.

23 But, essentially, it says that she doesn't
24 know anything about the case, was intoxicated at
25 various points. She provided that information in

MOTIONS

1 more detail to the defense, but suffice it to say,
2 she has represented that she doesn't have anything
3 of value to add to this court.

4 This is an affidavit done in April. I
5 understand the State believes there is some
6 evidence tending to show that the statements, or
7 whatever it was that was given to law enforcement
8 back in 2021, is critical and is truthful.

9 Now, let me -- the only point I would ask the
10 Court to inquire into, as it relates to
11 materiality, would be to inquire to the State how
12 many times between 2021 and in the preparation for
13 this case did they actually sit down and have
14 communication with Ms. Cano to clarify what, if
15 anything, she would be able to clarify, what
16 misunderstandings, the underlying issues, those
17 sorts of what would be her testimony.

18 As far as I can tell, it looks like she
19 started getting calls around December of last year,
20 first of this year when maybe this matter was clear
21 it would start coming up for trial. At that point,
22 she made clear, hey, I don't know anything. I'm
23 not a good witness. I was drunk. I think she says
24 it was the -- she didn't want to say so because --
25 she didn't want her boss to know that she was

MOTIONS

1 drinking at work, something to that effect.

2 So in deference to the State, they did not
3 have this affidavit when they got the order from
4 this jurisdiction that made the materiality finding
5 that they went to Texas.

6 So, again, this is -- I think it probably
7 should have been known to the State, in terms of
8 what her position was, but I'm giving the benefit
9 of the doubt that it wasn't. So now they have been
10 furnished with that. They know what her position
11 is. She's adverse, to say the least.

12 But that leads us into the next problem, that
13 if she's not material, or at least adverse,
14 hostile, marginally material, at best, they are
15 seeking to compel her attendance from Texas.

16 She has her daughter -- her daughter has a
17 very unique condition called Prader-Willi,
18 P-R-A-D-E-R, dash, W-I-L-L-I, Syndrome. I have
19 here a letter. Again, it's kind of a rushed nature
20 on how we had to respond to this deal that I
21 haven't had a chance to show to the Solicitor,
22 partly because I didn't know I was coming here
23 today. But I would like to provide that to the
24 Court. It does indicate the substantial hardship
25 that would be on the witness due to the

MOTIONS

1 extraordinary care that this infant child -- I
2 believe she's under the age of one -- would
3 require.

4 Your Honor, we don't dispute the procedurals
5 that have happened, but, nonetheless, now that we
6 are in the term of court and still seeking to have
7 her come in, to the extent they were not aware of
8 what she was exactly going to say, we think that
9 under the circumstances, marginal, if not outright
10 adverse materiality, and with her circumstances, we
11 ask the Court to quash the subpoena, or at a
12 minimum compel the State to put forth what they
13 intend to show that substantiates a finding for
14 materiality.

15 I have this letter if the Court would like to
16 review it just to --

17 THE COURT: Yeah. Let me see it -- let them
18 see it first.

19 MR. BOUCHETTE: I gave a copy to the State.

20 THE COURT: Thank you.

21 (A brief pause in the proceedings.)

22 MR. BOUCHETTE: I can represent to the Court
23 that the condition as outlined by the physician is
24 fairly clear. The child, you know -- I can
25 represent to the Court that Ms. Cano called me,

MOTIONS

1 once I figured out what was going on, and she was
2 exceptionally distraught. She was exceptionally
3 concerned in what I viewed to be a genuine concern
4 about the ability to provide care and possible
5 medical care for her daughter.

6 Obviously, the first question the State would
7 ask is she can come and bring the child with her.
8 Well, I think what we will see is under the
9 condition, she has a reduced immunity, that
10 traveling in mass transit, in planes, et cetera, is
11 not ideal. It is, at least, a legitimate concern
12 on her part. I think that would probably
13 require -- if the State is going to stick with the
14 fact that she needs to be here -- some additional
15 accommodation for additional medical costs.

16 As I understand it, she's the sole caregiver
17 of this child. So I'll be happy to answer any
18 further questions. Due to the time frame, I'm
19 somewhat limited, but we have been able to
20 establish what I've presented thus far.

21 THE COURT: All right. We'll make this
22 letter a Court's exhibit.

23 MR. BOUCHETTE: Absolutely.

24 THE COURT: Ms. Caldwell, do you have any
25 position?

MOTIONS

1 MS. CALDWELL: It is my position that
2 Ms. Cano should be excused and the subpoena should
3 be quashed. She reached out to my office, not at
4 my request or attempt, on April 4, 2023 at
5 approximately 9:59 a.m. She informed she just
6 wanted help. She sounded distressed. She stated
7 that she's been dealing with the Solicitor's
8 Office, not necessarily Mr. Bagnal or Mr. DeBusk,
9 but their office, as well as the detective at North
10 Myrtle Beach since December.

11 She said she cannot be of help. She went as
12 far to say that she didn't feel like it would be a
13 fair trial if she were called.

14 THE COURT: What says the State?

15 MR. DeBUSK: Your Honor, in this case,
16 Ms. Cano did an interview with North Myrtle Beach
17 Police Department when the incident occurred.
18 During that interview, she told them that the
19 defendant, Mr. Riggins, offered her \$100 to tell
20 him when a certain individual left the bar. She
21 then got a description from him, went in the bar,
22 took a photo, which she provided to the North
23 Myrtle Beach Police and we have copies of. That
24 photo shows the victim.

25 She then went back to the defendant -- and

MOTIONS

1 all of this is on video, because the entire bar is
2 covered with video. You see her talking to the
3 defendant in the kitchen, sitting at the bar,
4 sticking out her phone and taking a picture of the
5 victim, taking that picture back to the defendant
6 and showing it to him.

7 Here I have the picture provided by Ms. Cano,
8 and a video still of her showing that same picture
9 to the defendant.

10 Of course, the fact that the defendant would
11 have offered her \$100 to tell her when the victim
12 left the bar would be material in this case.

13 She told that the next day when she was not
14 under the influence of alcohol. She's on video
15 telling that story, and she's clearly not under the
16 influence of alcohol. That is why this case is
17 materially.

18 As far as the hardship, the State has no
19 objection to a visual testimony alternative to
20 accommodate her. We're not here to make or
21 endanger her daughter's health, but this is a
22 material witness for a murder case involving the
23 death of an individual.

24 Clearly, even if she came here and tried to
25 admit to obstructing the North Myrtle Beach

MOTIONS

1 investigation by lying, she's still on video taking
2 the picture of the victim and showing it to the
3 defendant.

4 MR. BOUCHETTE: Very briefly, Your Honor.
5 The video would only be relevant if corroborated by
6 the testimony of Ms. Cano. What I'll point out to
7 you is that they said she went in the next day, but
8 in her affidavit, Paragraph 4, "At the time I wrote
9 the statement, I had been drinking alcohol. I had
10 been drinking during my shift at work that evening,
11 and the next morning when I wrote the statement."

12 So she's saying, again -- she worked at --
13 this is a bar/nightclub during this event. So she
14 was a bartender. She's saying that, no, she did
15 not, at least to the extent she did do it, that was
16 not truthful because she was under the influence.
17 It was at the urging of her manager.

18 She made it clear that I understand what the
19 video says, and she doesn't deny that she made the
20 statement that she went in to do it, but this is
21 what she's clarifying.

22 MS. CALDWELL: Sorry. I didn't mean to
23 interrupt. I watched the videos personally.
24 Obviously, it is more relevant to my case than
25 Ms. Cano's, but I will say that, first, she was

MOTIONS

1 driven to the interview by her boss. She had to be
2 driven back, which she was on body cam and stuff,
3 by -- I believe it was Detective Lynam.

4 She also in the footage clocked out of work
5 around like 11:00ish. She then proceeded to wander
6 about the bar just kind of hanging out, texting,
7 having a good time. I'm not sure what still shots
8 you were provided, but I can say that I watched her
9 very closely looking for such an incident, and from
10 what I could tell, she was wandering, sitting here,
11 text, sit there, text. She knew a lot of people,
12 obviously, she worked there.

13 Furthermore, the video sound doesn't work, so
14 there is no definitive proof that he offered to pay
15 her, and he did not, to be clear. He never paid
16 her.

17 MR. BOUCHETTE: And that is consistent with
18 the paragraph, "My manger at Captain Archie's made
19 me write a statement. I thought I would be fired,
20 so I complied."

21 So that is matching up with the same
22 statement. Just from a practical matter, unless
23 the State will say this is the critical witness in
24 the case, which I think would pose some other
25 problems, if they come in, they will have to spend

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1 the first day, essentially, calling this witness
2 that just came from Texas a liar and impeaching and
3 treating her hostile, I guess. I can't possibly
4 see the benefit of that unless this witness is the
5 sole or primary fact witness in this case.

6 MR. DeBUSK: It is clearly material, Your
7 Honor. I have the video showing her in the bar
8 taking a picture of the victim and taking it back
9 to the bar -- to the defendant and showing it to
10 him.

11 I have video of her interview the next day,
12 and she's clearly not under the influence the next
13 day. The video speaks for itself. It is clearly
14 material, Your Honor. Her testimony would
15 alleviate the problem with travel.

16 In this case, it is very difficult to argue
17 that unless she lied to the North Myrtle Beach
18 Police, that she came in the next day. And her
19 witness -- her manager, I discussed it with him,
20 and he said in no way did he force her to give a
21 statement. He just gave her a ride over there
22 because he felt she had relevant information, and
23 he was not in the room when she talked to police.
24 If she was under the influence she could have told
25 the police when she went in there or said my

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1 manager made me come here. I don't want to lie to
2 you. But she didn't. She told the story, and the
3 story was that the defendant offered her \$100 to
4 tell him when the victim left, and she had a
5 picture to prove it.

6 THE COURT: Anything further?

7 MR. BOUCHETTE: The only thing I point out is
8 as to the falsity, according to the statements, the
9 issue is her level of intoxication and the
10 persuasion, whatever we want to call it, of a boss
11 that was clearly driving her there. I want to make
12 sure it is undisputed that that is how she ended up
13 in the police station.

14 Like I said, Judge, we'll have a trial within
15 a trial with regard to this witness.

16 THE COURT: I certainly understand all of
17 your points, and you make good points, but I think
18 they are all questions of fact, you know, for the
19 fact finder, the jury, in this case.

20 Certainly, the credibility of any statements
21 she's given and of any affidavit, which is another
22 statement she's given, should be weighed by the
23 jury. Certainly, giving the extenuating
24 circumstances of her child and the fact that she's
25 in Texas, and the fact that the State is

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1 consenting, we'll be amenable to a visual type of
2 testimony, if that's available and favorable to the
3 witness.

4 I understand her hardship, but I don't think
5 that the Court or anyone else is in the position to
6 tell the State how to try their case. And,
7 certainly, I believe that this evidence is
8 material. Whether it helps the State or defense is
9 for the jury.

10 MR. BOUCHETTE: With the Court's ruling, the
11 availability of a visual hearing is contingent upon
12 the consent of the defense. Can I inquire with the
13 defense as to whether or not they will consent to a
14 visual hearing?

15 MS. CALDWELL: My hesitation remains the same
16 as it did when this was brought into chambers to
17 Judge Culbertson by Mr. DeBusk in January. I
18 stated that in her statement, in her video
19 statement, she was nervous, fidgeting, texting,
20 calling her mom, asked not to provide her real
21 government name, asked not to be mentioned in the
22 news, asked not to be in the police report. She
23 didn't want to be involved.

24 My only hesitation is, is she going to
25 participate? She doesn't even seem -- then to find

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1 out that she's been recanting her statement as
2 well, it doesn't seem like she will or wants to
3 participate, but I also do not want this young
4 woman arrested and brought here, so.

5 MR. BOUCHETTE: If I may make a suggestion.
6 I'm not sure how long the parties anticipate the
7 case to last, but if the Court will be amenable to
8 trying to coordinate a video testimony, and in the
9 event that was then to become tenable or objections
10 to it, that kind of thing, the Court could compel
11 her to appear in person at the latter part of the
12 week. Call her early, see if we could get it done
13 on video.

14 THE COURT: This case was already called for
15 trial and we've already selected a jury. I
16 don't -- I'm not amenable to having any delay as
17 far as the situation. So I'll tell you, you know,
18 she can either appear here, or she can appear
19 virtually when the State calls her. If there is a
20 problem with that, at that point in time we'll have
21 to take it up. Certainly, you know, I would think
22 the State would work with you in trying to call
23 her. Even if it is out of order, or whatever the
24 case may be, certainly we can try to help you in
25 that regard.

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1 You know, it is my understanding -- I'm the
2 trial judge this week, and certainly the State has
3 called this case for trial, and we've selected a
4 jury. Any -- I have jurisdiction over these
5 matters at this time, so that is my ruling, okay.

6 MR. BOUCHETTE: So, procedurally, I'll convey
7 the Court's ruling. If I understand you correctly,
8 the State and myself are to try to work together,
9 as best we can, to ensure an appearance by Ms.
10 Cano, whatever means is minimally burdensome to
11 her; is that correct?

12 THE COURT: Yes, sir. And, you know, if you
13 take the balance of the day and figure it out, or
14 whatever the case may be, I trust you all can try
15 to come to the best conclusion as far as that is
16 concerned.

17 MR. DeBUSK: On behalf of the communication,
18 they can certainly help us out with the virtual
19 system.

20 THE COURT: If you will try to make sure
21 that's going to work properly.

22 MR. DeBUSK: Yes, sir.

23 THE COURT: That should help out the witness.
24 And what she says when she testifies is up to her.

25 MR. BOUCHETTE: I understand. Thank you,

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1 Judge.

2 MR. DeBUSK: We could use the judicial
3 virtual courtroom. They can log in from Texas.

4 THE COURT: Certainly.

5 MR. DeBUSK: We have the matter of the
6 potential severance, just for the record.

7 THE COURT: I'm not going to sever the case
8 in order to avoid the issues that might come up.

9 Being the charge of possession of a weapon by
10 a convicted felon, I think the proper way to handle
11 that is to go through the trial without mentioning
12 a felony, and then at the conclusion of the murder
13 and possession of a weapon during a violent crime,
14 then we will go back to the jury and allow more
15 testimony, as necessary, to prove whether or not he
16 is a convicted felon, then ask the jury again to
17 decide whether or not he would be guilty of that
18 pursuant to the statute under which he is indicted.

19 MR. GUYTON: Essentially, bifurcated trial?

20 THE COURT: I think that is the way we should
21 do that. Is there any other suggestions?

22 MR. DeBUSK: No, sir.

23 MS. CALDWELL: That was my lunch research,
24 and my motion was, in fact, to bifurcate the
25 charges, because ultimately possession of a weapon

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1 during a violent crime is going to prove the exact
2 same elements for the facts finder to determine,
3 aside from his record. So that allows them to then
4 understand the facts and make their decision on the
5 other two charges. And then, like you say, we can
6 readdress the matter after.

7 THE COURT: I mean, my concern is that there
8 is a scenario upon which a jury can find that he
9 didn't commit a violent crime, but he would still
10 be in possession of a firearm. So I think there is
11 some separate elements that have to be considered
12 by the jury. So we're not going to -- that is
13 going to be off-limits until we get to that portion
14 of the trial. If the State wishes to proceed with
15 that charge at that time, we'll take more
16 testimony.

17 MR. DeBUSK: To be clear, the initial trial
18 will include the possession of a weapon during the
19 commission of a violent crime?

20 THE COURT: Sure.

21 MR. DeBUSK: It is just the person previously
22 convicted of a violent crime that we bifurcate?

23 THE COURT: That's right.

24 MR. DeBUSK: Yes, sir, I understand.

25 THE COURT: All right. How about the State,

26

CHRISTOPHER BELLAMY-JACKSON v. DENNO-DIRECT EXAMINATION

are we going to have that hearing today?

MR. DeBUSK: State is prepared if you want to.

(Court's Exhibits 1-3 marked.)

MS. CALDWELL: I think we should have it just in case, for the Jackson v. Denno. Maybe the State uses it, maybe I use it. But if we don't use it, that is better than needing it later and having to stop the trial and take up a matter of law.

THE COURT: All right. I'll be happy to hear from you. If you want to call a witness.

MR. DeBUSK: Court's indulgence.

State called Detective Chris Bellamy.

(CHRISTOPHER BELLAMY, having been duly sworn, testified as follows:)

THE WITNESS: Christopher Bellamy,
B-E-L-L-A-M-Y.

DIRECT EXAMINATION

BY MR. DeBUSK:

Q Who is your employer?

A City of North Myrtle Beach.

Q How long have you been with the City of North Myrtle Beach?

A Almost 14 years.

Q What were your duties in May of 2021?

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1 THE COURT: Anything else?

2 MR. DeBUSK: Your Honor, for tomorrow, we do
3 have a Neil v. Biggers with one witness that will
4 be probably in the middle of the day, that we can
5 do right after lunch before the jury gets back.

6 THE COURT: All right. That sounds good.

7 We intend to start with opening, charge -- I
8 mean statements to the jury at 9:30; is that fine?

9 MR. DeBUSK: Yes, Your Honor.

10 MS. CALDWELL: Your Honor, our IT guy will
11 come and make a copy of the interview. He said he
12 can do it while we're finishing up. He doesn't
13 think it will e-mail properly, so he's going to put
14 it on a flash drive and give it to you.

15 THE COURT: Okay. Thank you.

16 **(WHEREUPON, THE PROCEEDINGS FOR MAY 15, 2023**
17 **CONCLUDED.**

18 **THE FOLLOWING WAS HAD ON MAY 16, 2023 OUT OF**
19 **THE PRESENCE OF THE JURY.)**

20 (State's Exhibits 2-38 marked.)

21 THE COURT: Thank you. You can be seated.

22 Is the State ready to proceed?

23 MR. BAGNAL: Yes, Your Honor.

24 THE COURT: Defense?

25 MS. CALDWELL: Yes, Your Honor. We have a

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1 new motion we would like to make.

2 THE COURT: A motion? I'll hear from you.

3 MS. CALDWELL: Thank you, Your Honor. Based
4 on some of the information that we have discussed
5 yesterday, and some of the things we learned, we
6 decided to file a stand-your-ground hearing. It
7 was clocked this morning. I believe the copy was
8 set on Your Honor's bench. Here is a copy for the
9 State.

10 By procedure, there is no time limit when
11 that can be done, according to the statute. We
12 also believe that it would be prejudicial to our
13 client's rights to not allow him this opportunity.

14 THE COURT: All right. What do you say about
15 the proposition that -- what does the State say?

16 MR. DeBUSK: Your Honor, we have a jury
17 waiting, and it should have been filed pretrial
18 after the jury was selected. We are ready to
19 proceed with the evidence in this case, and we have
20 the witnesses lined up. We call it a prejudicial
21 delay, Your Honor, for a motion that should have
22 been filed pretrial, not after the case has been
23 called.

24 THE COURT: Well, Ms. Caldwell, what do you
25 say about it being pretrial motion? We already

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1 have a jury selected.

2 MS. CALDWELL: You are right, Your Honor, we
3 have a jury selected and we heard motions, and I
4 understand that it is a pretrial motion. However,
5 the trial itself hasn't started. We haven't done
6 openings. They haven't picked a foreperson and,
7 ultimately, a stand-your-ground hearing is a mini
8 trial. I will only put Mr. Riggins on. The State
9 still can have all of the people and the evidence
10 that they have prepared.

11 THE COURT: What if we were to have the trial
12 at the conclusion of the evidence? I would
13 consider stand-your-ground arguments and motion,
14 and then if it is denied, we send it to the jury.

15 MS. CALDWELL: That seems fair and
16 appropriate, Your Honor.

17 THE COURT: Mr. DeBusk, what is your
18 position?

19 MR. DeBUSK: No objection to that, Your
20 Honor.

21 THE COURT: All right. We'll proceed in that
22 fashion.

23 MS. CALDWELL: Thank you, sir.

24 THE COURT: Is there anything further?

25 MR. DeBUSK: Nothing from the State, Your

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1 Honor.

2 THE COURT: All right. We'll bring in the
3 jury then, please.

4 (The jury enters at 9:40 a.m., and the
5 following is heard in the presence of the jury.)

6 THE COURT: Good morning, ladies and
7 gentlemen. Thank you for being back here on time.
8 We're ready to begin the trial.

9 At this time, I would ask the clerk of court,
10 if she will swear you in, so if you will, please,
11 stand.

12 (Whereupon, the jury was sworn.)

13 THE CLERK: Thank you. You may be seated.

14 THE COURT: All right. Ladies and gentlemen,
15 as you know, we're about to begin the jury trial of
16 the case of the State of South Carolina versus
17 Driscoll Riggins, Junior.

18 Now, I need to tell you that the fact that
19 the defendant was charged, arrested, and indicted
20 in this case is not evidence in this case. It
21 can't be considered by you as evidence of guilt in
22 this case, nor does it create any presumption of
23 inference of guilt. It is simply the document that
24 is the formal, written instrument which contains
25 the charges made against the defendant, and the

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1 formal document which this case is brought into
2 this court.

3 So before we begin this trial, I'll tell you
4 that this trial might be different from what you
5 would expect. Many people don't have the chance to
6 attend actual court trials as this, as you are
7 doing now, and may think from watching television
8 or reading books that trials are filled with high
9 drama, intense circumstances, and riveting action.
10 While sometimes all of those things might be true,
11 this trial is not for entertainment. It is a
12 fundamental part of our democracy. It is a search
13 for what happened in an effort to make sure that
14 justice is done between the parties and before the
15 Court.

16 Doing so is often slow, deliberate,
17 repetitive. It might be the opposite of what you
18 might have thought. So this courtroom is a place
19 of honor, dedicated to the protection and
20 preservation of citizens' rights. It is the
21 greatest system of justice that has ever been
22 created.

23 The attorneys appearing before you are
24 advocates for the parties they represent, but,
25 first and foremost, they are officers of this

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1 court. They are sworn to uphold the integrity and
2 the fairness of the judicial system and help you in
3 the search for what happened. You should expect
4 them to be professional, competent, and ethical in
5 the representation of their client's interest.

6 Remember, you also have taken an oath to do
7 the same, and we expect you, as the jury, to be
8 professional, reasonable, and ethical as well. So
9 thank you for accepting this important
10 responsibility.

11 What I will now say is intended to serve as
12 an introduction to the trial of this case. These
13 remarks are not a charge on the law in this case.
14 I'll instruct you on the law that is applicable to
15 this case at the end of this trial before you
16 retire to consider your verdict. So this is merely
17 an explanation of the procedure that we will follow
18 and the trial of this case as you might better
19 understand what is happening as we go along.

20 So your purposes as jurors is to find and to
21 determine what the facts are in this case. You are
22 the sole judges of the facts. If at any time I, as
23 the trial judge, make any comment regarding the
24 facts of the case, you must disregard that. You
25 are to determine the facts of the case from the

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1 testimony you hear and the other evidence that is
2 introduced in this courtroom during this trial. It
3 is up to you to determine the inference as to what
4 you feel may properly be drawn from that evidence
5 and testimony.

6 It's especially important that you perform
7 your duty to determine the facts diligently and
8 conscientiously because, ordinarily, if the jury
9 makes an error as to what the facts are, then that
10 can't be fixed.

11 On the other hand, and with equal emphasis,
12 the same law that makes you the judge of the facts,
13 makes me the judge of the law. The law as given by
14 the Court is the only law you can consider. You
15 must accept it and follow it, even if you might
16 disagree with it. I can't tell you what the facts
17 of the case are, and you can't disagree with me
18 about what the law is or should be.

19 Your job is to take the law as I give it to
20 you and apply it to the facts as you find them from
21 the testimony and the witnesses and any other
22 evidence that is introduced during this trial.
23 After doing that, you will render a verdict, a
24 verdict under the solemn oath that you just took as
25 jurors.

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1 You must decide this case based solely on the
2 evidence presented here in this courtroom. This
3 means that during the trial, again, you must not
4 conduct any independent research about this case,
5 watch any news articles that might be published
6 about this case, check any Internet sites about
7 this case. I'm not sure if there is anything out
8 there or not, or if there will be, but it is
9 improper for you to consider anything that regards
10 this case that is not presented during this trial
11 from this witness stand and the other exhibits that
12 might be introduced throughout this trial.

13 It is important that you keep an open mind
14 and not decide any issue in this case until all of
15 the evidence has been presented, the parties have
16 made their closing arguments, and I've instructed
17 you on the law in this case.

18 It is your solemn responsibility to determine
19 the guilt or innocence of this defendant, and your
20 verdict must be based solely on the evidence as it
21 is presented to you in this trial and on the law as
22 I give it to you during and at the close of the
23 trial.

24 In just a moment, the Solicitor will make
25 what is called an "opening statement," which the

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1 Solicitor will explain to you the issues in this
2 case, or at least what the Solicitor thinks the
3 issues are in this case.

4 The attorney for the defendant may also make
5 an opening statement, although he or she is not
6 required to do so.

7 What the attorneys tell you during their
8 opening statements is not evidence in this case.
9 It is only their contention as to what the issues
10 and the evidence will be.

11 The evidence in this case will be presented
12 to you by the testimony of sworn witnesses from
13 this witness stand and/or by the exhibits that
14 might be introduced during the trial of this case.

15 From time to time, you might hear one of the
16 lawyers say, Your Honor, we might need to take up a
17 matter of law outside the presence of the jury.
18 The reason for that is because I'm the judge of the
19 law, and you are the judge of the facts, and
20 sometimes if I have to make a ruling on the law, I
21 may have to make some comments on the facts, and
22 that would be wholly improper for the jury to hear
23 any comments that the trial judge might have in the
24 facts of the case. Because, again, it is your sole
25 responsibility as a jury to determine what the

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1 facts of this case are. It is your job and you
2 shouldn't be influenced by anything that the judge
3 says, whatsoever, regarding the facts of the case.
4 So, please, bear with us if that takes place.

5 In determining what the facts are in this
6 case, you must decide whether or not the testimony
7 of the witnesses is believable. It will be my
8 responsibility to rule as a matter of law as to
9 whether certain testimony is admissible or not.
10 But once testimony is admitted, whether or not you
11 believe it, is solely for you to determine.

12 In deciding whether to believe a witness, you
13 have the right to consider the interest of any
14 witness, the bias of any witness, the prejudice of
15 any witness, the opportunity for that witness to
16 have seen the matters and things about what that
17 witness has testified, and the way that the witness
18 acts on the witness stand.

19 You have a right to consider anything that is
20 in this record that will help you evaluate the
21 testimony of the witnesses. That means that it is
22 your duty to pay close attention to these
23 witnesses, observe the witnesses, listen to the
24 witnesses, pay close attention to the attorneys and
25 to the Court. So, please, don't let your thoughts

OPENING STATEMENT BY MR. BAGNAL

1 wander. Give strict attention to the testimony in
2 this case so that at the end of all the testimony,
3 and after the arguments of counsel and the charge
4 on the law by the Court, you will then be in a
5 position to determine what the facts are and apply
6 the law to those facts, and thus render a verdict.

7 So at this time, in order to preserve
8 everyone's rights, I'll ask if the State has any
9 objection to the opening charge from the Court?

10 MR. DeBUSK: None from the State.

11 THE COURT: Any from the defense?

12 MS. CALDWELL: None, Your Honor.

13 THE COURT: All right.

14 Mr. Solicitor, you are recognized.

15 MR. BAGNAL: Thank you, Your Honor.

16 May it please the Court?

17 THE COURT: Yes, sir.

18 MR. BAGNAL: Thank you for being here. Good
19 morning. I'm Dylan Bagnal, and I represent the
20 State of South Carolina, along with my co-counsel,
21 George DeBusk. I want to thank you a little bit
22 for sacrificing your week to be here with us today.
23 It is very important that you are, and I'm glad
24 you've done it.

25 It is a great honor, but also a great duty to

OPENING STATEMENT BY MR. BAGNAL

1 be a member of the jury, because whether you
2 figured it out by now, you 12, along with your two
3 alternates, alone determine whether the actions of
4 your fellow citizens within this county, either you
5 condone them, or you reject them. There is no two
6 or three men sitting in a back bar, smoky bar, that
7 decide whether the defendant is guilty or not. It
8 is not the State of South Carolina. It is not me,
9 personally. It is you. So you have the power to
10 protect your community.

11 Crimes have been alleged to have been
12 committed, and you are here to determine whether or
13 not they have been. I'm going to give you a brief
14 overview of those facts at this time, and it goes a
15 little something like this: On or about May 21,
16 2021, Durance McCray and Jada Pyatt come to Captain
17 Archie's, a local bar in North Myrtle Beach,
18 situated on the water in a peninsula fashion so the
19 water surrounds the bar. It is a beachfront bar.

20 They came there that night to watch the
21 basketball games. The time is about 10:00 or so,
22 somewhere in there. It's at night. They come into
23 watch the basketball games. They see an
24 acquaintance of theirs, Joey Sinclair, who is also
25 at the bar. The trio has a few drinks, and

OPENING STATEMENT BY MR. BAGNAL

1 everything seems fine. Normal Friday night.

2 Play-off basketball is on the TV, and everything

3 seems to be going well.

4 Unfortunately, it is not, because there is a

5 man in the back who has gotten word that Durance

6 McCray has just entered the bar. They are not

7 friendly with each other. He's the dishwasher that

8 is employed at Captain Archie's. Numerous times

9 this man, the defendant in this case, Mr. Driscoll

10 Riggins, leaves his station at the back of Captain

11 Archie's, which is where the kitchen is, and he

12 comes around the side of the building and peeks

13 around the corner to where Durance McCray and Jada

14 Pyatt and Joey Sinclair are seated. He does that

15 to make sure he knows where Durance is. He is

16 spying on him. He's plotting. He's plotting what

17 he is going to do next.

18 Fast forward to about 11:40 that night.

19 Durance McCray and Jada had finished the basketball

20 game on television. They pay their tab, and Jada

21 leaves the building first. Along the path, slash,

22 street -- it's the only entrance and exit. There

23 is one way in and one way out.

24 So they walk outside of the bar and coming

25 along this street or entrance, and/or exit, to the

OPENING STATEMENT BY MR. BAGNAL

1 dumpsters that are about -- I'm not geographically
2 inclined, but approximately 60 to a hundred yards
3 from the restaurant.

4 Joey Sinclair has also left the bar, but he
5 parked kind of in the front of the bar. I'll show
6 that to you later. But he's driving out kind of
7 where Durance and Jada have walked. He comes up on
8 the dumpsters. There is an odd scene at the
9 dumpster. There is a drunk that has fallen off his
10 Moped and is in a quite inebriated state, to say
11 the least. It is probably pretty comical. I'm
12 sure there was a couple of jokes. Doesn't matter.

13 But what does matter is the man who has just
14 clocked out of his work at Captain Archie's, the
15 dishwasher, the defendant in this case, Driscoll
16 Riggins. He just clocked out, and he's about to
17 clock into something much different, something very
18 different.

19 He sees or gets word that Durance McCray left
20 this bar. He clocks out and now exits the back.
21 He sees Durance and Jada walking down the street
22 and follows them.

23 Picture the scene: Open parking lot, fairly
24 open. There are a few cars, but it is a bright
25 parking lot. There are plenty of lights, for the

OPENING STATEMENT BY MR. BAGNAL

1 most part, but it gets dark where the dumpsters
2 are. Like I said earlier, it's maybe a hundred
3 yards from the bar. There are no lights over
4 there, so it is kind of dark. He makes his way
5 from the back of the bar where the dishwasher is
6 through the parking lot. He approaches, and he
7 gets closer and closer.

8 Now, he's in this -- he's outside of the
9 range of the lights. He's within the darkness.
10 There is no light for him to announce his approach.
11 He gets within range, and he pulls a pistol, aims
12 it, and fires ten rounds of 9-millimeter Ruger,
13 eight of which sink home into the victim in this
14 case, Durance McCray. One in the wrist, one in the
15 face, two in the chest, and four in the back.

16 Amazingly enough, Durance McCray had the
17 power to crawl inside of Joey Sinclair's vehicle,
18 the acquaintances they were just eating with at the
19 bar watching the basketball games. They speed off
20 to Seacoast Hospital. Unfortunately enough,
21 Durance McCray died that night. He succumbed to
22 his wounds. Another life lost in a senseless
23 shooting. No opportunity to protect himself. As
24 you will hear, he didn't have any gun to protect
25 himself. The life was ripped out of him. Ripped

OPENING STATEMENT BY MR. BAGNAL

1 out of him with the bullets that that man there
2 fired from his gun.

3 Riggins fled in the night, and days later he
4 was apprehended by U.S. Marshals in Marion, South
5 Carolina.

6 What this story is -- this is not necessarily
7 a good guy versus bad guy story. This is not even
8 necessarily a good guy versus a good guy that
9 somehow got into a heated argument that boiled over
10 into some kind of shooting. This is something akin
11 to a bad guy versus a bad guy story. These two
12 men, the victim, Durance McCray, and the defendant,
13 Driscoll Riggins, Junior, weren't friendly. It is
14 no secret. They both lived their lives outside of
15 the bounds of the law. They knew each other, and
16 they didn't care much for each other. I'm sure
17 that they probably wished ill upon each other.

18 What this story is, in all actuality, is a
19 story of law and the need for it. Law is
20 essentially what separates us from the animal
21 kingdom. It gives us guidelines of how to conduct
22 ourselves as to what is right and what is wrong.

23 Rewind almost 4,000 years where an ancient
24 Mesopotamian along the Euphrates and Tigris River
25 in the kingdom of Amorites. What is interesting

OPENING STATEMENT BY MR. BAGNAL

1 about Amorites Kingdom is it is the most famous
2 beginning of when the law is created and written
3 down. See, the king of Amorites ruled over a vast
4 population, different languages, different
5 religions and cultures. He had to find a way to
6 set down some sort of code of conduct so that all
7 of these vastly different people could follow that
8 and there would be an understanding how to conduct
9 oneself in a population so vast and so different.

10 We, as citizens in the U.S., we take for
11 granted that our law has been well-established, and
12 it's been here since long before we came on scene.
13 It is written down so that you and I can both look
14 at it at any time we want to. That way, we can't
15 claim ignorance of the law. We know it. It is
16 available for our use. It's available for our
17 reading and, thus, our knowledge.

18 Conducting oneself outside of the bounds of
19 the law, no matter how it is done, it's criminal.
20 So if I conduct myself outside of the bounds of the
21 law, I'm conducting myself criminally, no matter
22 what I do it upon or who I do it to.

23 Say, for instance, I steal from a thief. It
24 matters not that the person I stole from is a
25 thief. It just matters that I'm now a thief

OPENING STATEMENT BY MR. BAGNAL

1 myself. So take that, and then take this. It
2 matters not that someone murders a bad person. It
3 doesn't matter that the person who was murdered
4 wasn't necessarily the most upstanding citizen in
5 society. He still was murdered.

6 Said another way: You can't just murder
7 someone because they needed a good killing. This
8 is not the Wild West or the 1700s. That is
9 vigilante justice, and the rule of law is the only
10 thing that matters in America.

11 One of those well-founded laws is the law
12 against murder. Murder is defined as the willful
13 intentional and felonious killing of another with
14 malice aforethought. Willful, intentional,
15 felonious, being a felony, killing of another with
16 malice aforethought. Malice aforethought in simple
17 terms is ill-will.

18 Possession of a weapon during the commission
19 of a violent crime is defined about how it sounds.
20 It is simply defined as a possession of a firearm,
21 or visibly displaying what appears to be a firearm,
22 or visibly display a knife during the commission of
23 a violent crime. Pretty simple.

24 Many of those stood with you earlier and were
25 excused for various reasons. But you 12, and you

OPENING STATEMENT BY MR. BAGNAL

1 two alternates, were chosen to be found fit for
2 this duty. I want to impress upon you the
3 seriousness of the task that you are now
4 undertaking. Make no mistake, you are the jurors
5 and the alternates in a murder trial. This is
6 serious business, and this business is serious.

7 But having said all of that, I find that
8 trials are much like movies. Mr. DeBusk and I
9 represent the State of South Carolina, and it is
10 our job to seek justice to the victims in Horry
11 County. It is our job and burden of proof to prove
12 to you beyond a reasonable doubt that Driscoll
13 Riggins, Junior, did, in fact, murder Durance
14 McCray, and did so while in the possession of a
15 weapon during a violent crime.

16 To do that, we'll call witnesses, and they'll
17 testify under oath and under the penalty of perjury
18 right there in that box as to the facts as they can
19 recall them. These are the actors in the movie.

20 The judge is here to preside over this trial
21 and is the arbiter of the law. He will control the
22 trial and how -- and give you the law that you will
23 apply to the facts of this case.

24 You are, in a way, the audience members of
25 the movie. You are critics. You are here to

OPENING STATEMENT BY MR. BAGNAL

1 determine whether the facts and the testimony
2 presented to you from the stand can be applied to
3 the law, to leave you firmly convinced that the
4 defendant in this case did, in fact, murder Durance
5 McCray and did do so while in the possession of a
6 weapon during that murder.

7 Being a member of the jury is simple but not
8 easy. Yours is a part of active listener; one who
9 determines whether or not the actions of the
10 defendant, Driscoll Riggins, amounts to murder.

11 You will hear from Billy Riggs, the manager
12 of Captain Archie's. You will see the footage of
13 the victims at the bar. You will see the defendant
14 leaving his work station to spy on Durance McCray.
15 You will see video footage of the defendant,
16 Driscoll Riggins, walking to the parking lot,
17 approaching the victim, Durance McCray, and then
18 you will see the aftermath.

19 You will hear from the victim's girlfriend,
20 Jada Pyatt. I spoke earlier about her. You will
21 hear that she was right next to Durance McCray that
22 night and how she ID'd the shooter.

23 You will hear from North Myrtle Beach Police
24 Department and their detectives that worked the
25 scene. You will hear how they processed the car

OPENING STATEMENT BY MR. BAGNAL

1 and collected all of the bullets and casings from
2 those cars.

3 You will hear from Daniel Spencer, the U.S.
4 Marshal who tracked Driscoll Riggins in Marion,
5 South Carolina. And you will hear how he pulled a
6 gun when apprehending the defendant -- pulled a gun
7 from the defendant's pocket.

8 This gun was later sent to SLED. It made its
9 way to SLED to a firearms and ammunition analyst,
10 Paul Greer. He will tell you how every single
11 casing by those dumpsters, where Durance McCray was
12 gunned down, matched being shot out of that gun
13 that was pulled from Driscoll Riggins' pocket when
14 he was arrested in Marion, South Carolina.

15 You are going to hear from a forensic
16 pathologist from USC who performed the autopsy on
17 Durance McCray, and you'll hear about the damage
18 that each one of the gunshot wounds would have done
19 to Durance McCray, the victim in this case. The
20 face, the wrist, chest, the four in the back.

21 I submit to you that before this week is
22 done, you're going to be firmly convinced that
23 Driscoll Riggins, Junior, did, in fact, murder
24 Durance McCray. I believe that you are going to be
25 firmly convinced that he did it with a gun, thus in

OPENING STATEMENT BY MS. CALDWELL

1 possession of a weapon during a violent crime.

2 My iteration of the law as I've given you is
3 not to be taken as gospel. Like the judge said
4 earlier, he is the arbiter of the law. There is a
5 good reason why he is the arbiter of the law. I
6 give it to you as a road map, just as a
7 generalization, so you can fit the facts of this
8 case into what the law is.

9 Trial is a process. It's slow, but a good
10 one, and the truth will always come out. Don't
11 miss it. Pay attention to the witnesses, what they
12 say, how credible they are. Remember how testimony
13 from that stand makes truth. Truth is then applied
14 to the law as the judge gives it to you. When you
15 deliberate and apply the truth to that law, and if
16 it leaves you firmly convinced that the defendant
17 did murder Durance McCray, and he did so with the
18 possession of a firearm, you are to render a guilty
19 verdict.

20 Thank you for your time, and thank you for
21 your attention.

22 THE COURT: Ms. Caldwell.

23 MS. CALDWELL: Thank you, Your Honor.

24 May it please the Court?

25 THE COURT: Yes, ma'am.

OPENING STATEMENT BY MS. CALDWELL

1 MS. CALDWELL: There is a song that says
2 there are three sides to every story: Yours, mine,
3 and the receipts.

4 You just heard the State tell a little of
5 their side, and I'll take a few minutes and tell
6 you about Driscoll's side. Then, your job, as the
7 jury, is to listen to all of the testimony and all
8 of the evidence put in. Look at that, the
9 receipts, and determine what you think happened
10 here. I believe after you look at all of that, all
11 of those receipts will be in this court for
12 Driscoll Riggins.

13 "Your face will be on a T-shirt next." Those
14 are the last words of Durance McCray that he said
15 to Driscoll Riggins before reaching for his
16 waistband and instructing someone, either his
17 friend or girlfriend, to get "the chopper."
18 Driscoll managed to draw a gun first. He shot, and
19 he continued to shoot, because he believed if he
20 did not, Mr. McCray would have killed him that
21 night.

22 Driscoll then ran through the parking lot and
23 returned home with his girlfriend in Marion County
24 where he had been living.

25 There is a lot of back story and tension

OPENING STATEMENT BY MS. CALDWELL

1 here. These are two groups of people who were once
2 friends. They were childhood friends, grew up in
3 the same area. However, as they became adults,
4 they grew up, grew apart, as people do, make new
5 friends, and hostility can develop for any number
6 of reasons, whether either one of them directly did
7 anything.

8 What is relevant now is that in the years
9 leading up to May 21, 2021, Durance McCray taunted,
10 threatened, harassed, and generally made Driscoll
11 Riggins' life difficult.

12 In March of 2020, young men were killed in a
13 nightclub. These two young men were the
14 god-brothers, practically family to them. He loved
15 them like they were family. And while Mr. McCray
16 did not pull that trigger -- we don't really know
17 if he was there -- he celebrated their deaths. He
18 even sent a video that you'll get to see that says
19 he would have them killed the same way.

20 After that incident, Driscoll's Godmother's
21 home, the mother of these young men, was shot up.
22 Driscoll's own mother's home was shot up. Driscoll
23 himself was shot in the leg.

24 Ultimately, in January of 2021, Driscoll came
25 to learn that McCray had put a hit or "bag" out on

OPENING STATEMENT BY MS. CALDWELL

1 his head, meaning they wanted him dead. Due to all
2 of these facts and actions, Driscoll armed himself
3 for protection because attempts were made on his
4 life and his family's life, and they didn't appear
5 to be stopping any time soon.

6 Driscoll even contacted Horry County
7 detectives in efforts to get help. He did not file
8 a report, but he did reach out.

9 On May 21, 2021, Driscoll clocked into
10 Captain Archie's at 3:05 p.m. He only had been
11 working there for about a week. He hadn't told
12 anyone he was working there. No one really knew.

13 Around 10:40 p.m., Mr. McCray, his
14 girlfriend, Ms. Pyatt, came in and joined friends.
15 They sat at the bar, at the end of the tiki bar,
16 directly across from the kitchen. The window is
17 big enough you could see inside the kitchen where
18 Driscoll was working. It was a clear shot. They
19 taunted him. They made hand signals, and basically
20 just stared at him the entire time.

21 At 11:42 p.m., after working over eight
22 hours, Driscoll clocked out, left the building, out
23 the back door, began to exit Captain Archie's.
24 There is only one entrance and exit pathway. He
25 was going to walk to his grandmother's, who lives a

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WILLIAM "BILLY" RIGGS - DIRECT EXAMINATION

1 little bit down the road, and go home.

2 He walked straight down the parking lot. He
3 is entirely visible the entire time. He passed a
4 SUV, and this is when Mr. McCray noticed him and
5 started exchanging words. Driscoll continued to
6 walk until he was directly in front of Durance
7 McCray.

8 There were ten whole seconds between the time
9 that Driscoll Riggs walked up to Durance McCray
10 and shots were fired. If you were standing in
11 front of someone, ten seconds is more than enough
12 time to notice them, acknowledge them, exchange
13 words with them, exchange threats with them.

14 This was not an ambush. This is not a cold
15 blooded murder. Driscoll's actions were in
16 response to Mr. McCray's actions, threats, and
17 words. "Your face will be on a T-shirt next."
18 Thank you.

19 THE COURT: State, call your first witness.

20 MR. BAGNAL: We call Billy Riggs.

21 (WILLIAM "BILLY" RIGGS, having been duly
22 sworn, testified as follows:)

23 THE WITNESS: William Paul Riggs, Junior.
24 R-I-G-G-S.

25 **DIRECT EXAMINATION**

WILLIAM "BILLY" RIGGS - DIRECT EXAMINATION

1 **BY MR. BAGNAL:**

2 **Q** Good morning, Mr. Riggs.

3 **A** Good morning.

4 **Q** Could you tell me who your employer is?

5 **A** Captain Archie's in North Myrtle Beach.

6 **Q** What is your duties there?

7 **A** I'm the general manager.

8 **Q** How about in May of 2021?

9 **A** General manager of Captain Archie's.

10 **Q** More specifically, May 21, 2021?

11 **A** Same job, Captain Archie's, general manager.

12 **Q** You are familiar with the area surrounding
13 Captain Archie's?

14 **A** Yes, sir, I am.

15 **MR. BAGNAL:** Your Honor, may I approach the
16 witness?

17 **THE COURT:** Sure.

18 **Q (BY MR. BAGNAL)** Mr. Riggs, I'm showing you
19 State's 3 that was marked for pretrial purposes.
20 Do you recognize this location?

21 **A** I do.

22 **Q** Can you tell me what that is?

23 **A** That is Captain Archie's as it was at the
24 time of this incident.

25 **Q** Okay.

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WILLIAM "BILLY" RIGGS - DIRECT EXAMINATION

1 MR. BAGNAL: Your Honor, at this time the
2 State moves into evidence what was marked as
3 planning-trial evidence State's Exhibit 3.

4 THE COURT: Any objection?

5 MS. CALDWELL: He's already basically showed
6 the jury, so no objection.

7 THE COURT: State's 3 is in evidence.

8 (State's Exhibit 3 admitted.)

9 Q (BY MR. BAGNAL) Mr. Riggs, can you tell me a
10 little bit about where the band plays?

11 A At that time, the band was playing right
12 there, under the outside -- it is an outside
13 enclosed -- semi-enclosed area. The stage was
14 there in that direction.

15 Q Can you tell me a little bit about where -- I
16 guess you would call it the kitchen?

17 A The kitchen is on this end of this building.
18 It takes up about that much of it.

19 Q If you were to be standing in the kitchen --

20 MR. BAGNAL: Thank you, Mr. DeBusk.

21 THE COURT: The witness is welcome to step
22 down, if he needs to.

23 MR. BAGNAL: Your Honor, I ask that the
24 witness step down and point out to the jury.

25 THE COURT: Sure. No problem.

WILLIAM "BILLY" RIGGS - DIRECT EXAMINATION

1 MR. BAGNAL: Thank you.

2 Q (BY MR. BAGNAL) Would you step down for us,
3 Mr. Riggs?

4 A Yes, sir.

5 Q So let's get back to where the kitchen is.

6 A The kitchen is on this end of this building.

7 Q If you were to be standing in the kitchen,
8 could you see anyone at the outdoor bar?

9 A If the doors were open and you were standing
10 in the right spot, maybe.

11 Q What kind of establishment would you say
12 Captain Archie's is in the summertime?

13 A I mean, it's a year-round business. It's a
14 bar, slash, restaurant. It's a neighborhood place.
15 We have a big local customer base, if you will.

16 Q Friendly bar?

17 A Very much so.

18 Q And where in the kitchen station is the
19 dishwasher?

20 A If you walk in the kitchen door, which is on
21 this side on the waterway side of the building, the
22 door into the kitchen is on that side. The dish
23 pit, as we call it, is on the back side of the
24 building behind the wall. So it's -- the kitchen
25 is more or less L-shaped. Dry storage and dish pit

WILLIAM "BILLY" RIGGS - DIRECT EXAMINATION

1 back here. There is a wall that runs over, and
2 then -- so the dish pit is back here, kind of in a
3 corner.

4 Q All right. So if you were standing at the
5 dish pit, would you be able to see anyone in this
6 open bar?

7 A No. No.

8 Q About how far away is the open bar in this
9 dish pit?

10 A This building is a hundred feet long. This
11 one is about 25 feet from there to there. Then,
12 this portion of the building was probably another
13 10 feet past that. So 35 feet from this building
14 to there (indicates).

15 Q Are there any doors located near the dish
16 pit?

17 A There is a back door that goes out back from
18 the dish pit that goes out onto this area.

19 Q Getting back to the scene overall, is this a
20 parking lot here?

21 A That is a parking lot, yes, sir.

22 Q Is that a motorcycle parking lot or for cars?

23 A This area here is designated for motorcycles.
24 The rest of it is open to cars, for the marina, for
25 the restaurant customers, you know.

WILLIAM "BILLY" RIGGS - DIRECT EXAMINATION

1 I think at that point there was a children's
2 excursion boat trip business out there, Pirates
3 Voyage.

4 Q Is this area here -- what is that?

5 A These are dumpsters. Those are old fuel
6 tanks.

7 Q All right, sir. Was the defendant, Driscoll
8 Riggins, in your employ at some point in May of
9 2021?

10 A Yes, he was.

11 Q Was he in your employ on May 21, 2021?

12 A He was.

13 Q And what was his job?

14 A He was a dishwasher.

15 Q What does that entail?

16 A As the name implies, washes dishes.

17 Q And where was his work station?

18 A In this portion of the building.

19 Q The dish pit?

20 A In the dish pit.

21 THE WITNESS: She's over there.

22 MR. BAGNAL: There you are.

23 MS. CALDWELL: I wanted to see what you were
24 pointing at.

25 Q (BY MR. BAGNAL) I'll show you what is marked

WILLIAM "BILLY" RIGGS - DIRECT EXAMINATION

1 as pretrial identification purposes as State's 4.

2 Do you recognize what this is?

3 **A** This is the dish pit area of the kitchen from
4 one of our surveillance cameras.

5 **Q** Anyone familiar in that picture, or can you
6 tell?

7 **A** I believe that is Mr. Riggins right there.

8 MR. BAGNAL: Your Honor, I would offer into
9 evidence what's been marked as pretrial
10 identification as State's 4.

11 THE COURT: Any objection?

12 MS. CALDWELL: No, Your Honor.

13 THE COURT: State's 4 is in evidence.

14 (State's Exhibit 4 admitted.)

15 **Q** (BY MR. BAGNAL) So in a dishwasher's duties,
16 would he have any reason to visit any other part of
17 the bar while working?

18 **A** Delivering and cleaning dishes to server
19 stations and things.

20 **Q** Where were the service stations located?

21 **A** Just outside of the kitchen. The one that he
22 would have been delivering glasses or silverware to
23 is just outside the walls of the kitchen on the
24 back side of the dining room. That is this room
25 (indicates).

WILLIAM "BILLY" RIGGS - DIRECT EXAMINATION

1 **Q** How would one get there? Would one walk
2 through the building or come outside of the
3 building?

4 **A** Ninety-nine percent of the time, just walk
5 outside of these doors from the kitchen into the
6 dining room, around the bar, and over to the
7 server's station.

8 **Q** So a dishwasher would walk inside the
9 building to deliver the clean dishes to the serving
10 stations?

11 **A** Yes. Yes.

12 **Q** Does Captain Archie's use a time clock?

13 **A** It's on a point-of-sale system. Employees
14 that clock in report to the closest point-of-sale,
15 punch in their number, and clock in using that
16 system.

17 **Q** Did they use it on May 21, 2021?

18 **A** Yes, sir.

19 **Q** Where are the time clocks or systems located
20 at?

21 **A** At that time, there were about eight
22 different stations at that point.

23 **Q** Eight different stations located where?

24 **A** One directly outside of the kitchen, one at
25 the server's station I was talking about, one that

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WILLIAM "BILLY" RIGGS - DIRECT EXAMINATION

1 is capable of clocking in behind the bar, two more
2 outside at the outside bar, along with two more
3 behind the outside bar.

4 Q Okay. And are there security cameras over
5 most of those positions?

6 A Every one.

7 Q Okay. I'm showing you now what is a time
8 sheet here. Do you recognize that?

9 A That's a report that we run showing the time
10 that the employee clocked in and clocked out. That
11 is through our POS system.

12 Q And every employee that clocks in and out,
13 can they get something like this, or can you
14 collect something like this?

15 A Their report would look different. It would
16 be on like a cash register type. So if they ran
17 their own time, it would be on a piece of paper, a
18 long, continuous for an unspecified amount of time.

19 From my office, and just the manager's code,
20 you can access a report like that, and that is what
21 that report would look like.

22 Q And what is the date listed there?

23 A 5/21/21.

24 Q What time is listed as the clock out?

25 A 11:42 p.m.

WILLIAM "BILLY" RIGGS - DIRECT EXAMINATION

1 MR. BAGNAL: Your Honor, I would like to
2 offer what is marked for pretrial identification
3 purposes as State's 5 into evidence.

4 MS. CALDWELL: No objection.

5 THE COURT: State's 5 is in evidence.

6 (State's Exhibit 5 admitted.)

7 MR. BAGNAL: Your Honor, may I publish to the
8 jury?

9 THE COURT: Sure.

10 (State's Exhibit 5 published to the jury.)

11 Q (BY MR. BAGNAL) Mr. Riggs, I'll show you
12 State's Exhibit 6. Do you recognize where that is?

13 A That's the POS system directly outside of the
14 kitchen in the dining room of Captain Archie's.

15 Q Where is that located about on this map?

16 A In this area (indicates). Well, maybe closer
17 to there (indicates). It is kind of hard to tell
18 just looking at this map.

19 Q Will you point out to me where the dishwasher
20 pit is?

21 A This area back here.

22 Q Can you make your way from the dishwasher pit
23 to the POS system from just inside?

24 A You would walk out of the dish pit, down the
25 expo side of the cooking line, through one of the

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WILLIAM "BILLY" RIGGS - DIRECT EXAMINATION

1 doors, and it is immediately outside of the doors
2 of the kitchen.

3 The wall you see there is one -- this is the
4 kitchen wall here (indicates) going into the
5 kitchen.

6 **Q** Do you recognize anyone in the photo?

7 **A** Mr. Riggins.

8 MR. BAGNAL: Your Honor, at this time I would
9 offer what is marked for pretrial identification
10 purposes as State's Exhibit 6 into evidence.

11 MS. CALDWELL: No objection.

12 THE COURT: State's 6 is in evidence.

13 (State's Exhibit 6 admitted.)

14 MR. BAGNAL: May I publish to the jury?

15 THE COURT: Yes, sir.

16 (State's 6 published to the jury.)

17 **Q (BY MR. BAGNAL)** Is the clock-out system the
18 same time as the video system? What I mean is are
19 they synced up?

20 **A** Ideally they would be. Sometimes there is
21 glitches in the system to where they are not. They
22 may be off as much as an hour, according to -- if
23 the system preset itself after a time change.

24 **Q** I'm showing you what is in evidence as
25 State's 5 as the timecard for Driscoll Riggins.

WILLIAM "BILLY" RIGGS - DIRECT EXAMINATION

1 Would you look at the time?

2 **A** 11:42 p.m.

3 **Q** I'll show you what is marked into evidence as
4 State's 6. That is Mr. Riggins at the POS system.

5 Do those times -- are they synced?

6 **A** Yes, sir, they are.

7 **Q** And what time?

8 **A** 11:42 and 48 seconds on 5/21.

9 **Q** Thank you, sir.

10 **A** Yes, sir.

11 **Q** On a night like Friday night, May 21, 2021,
12 about what time would Captain Archie's close?

13 **A** We never really tried to call last call or
14 anything else. We close naturally to where people
15 feel comfortable and don't feel like they are being
16 run out.

17 Our bands play from 6:30 to 10:30 on
18 weekends, so the crowd naturally kind of leaves
19 after an hour or so, hour-and-a-half. We don't
20 want to rush anybody out. As the crowd leaves,
21 then we'll make the determination when to close or
22 things like that. So there is really no set time,
23 but most of the time by midnight.

24 **Q** All right. After May 21, 2021, do you know
25 if Mr. Riggins was scheduled to work again?

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WILLIAM "BILLY" RIGGS - DIRECT EXAMINATION

1 **A** He was scheduled the next day.

2 **Q** Did he show up?

3 **A** He did not.

4 **Q** Did Captain Archie's have a video
5 surveillance systems other than at the POS systems?

6 **A** There are 32 cameras.

7 **Q** Do they provide video throughout the entire
8 complex?

9 **A** The intent is to catch someone coming down
10 the parking lot, coming down the driveway from this
11 end of the parking lot to where you can follow the
12 vehicle or the person all the way around the
13 building, and all the way in the building in
14 coolers, freezers, everywhere, but bathrooms.

15 **Q** Is this -- it appears to me, but is this a
16 one-way-in-one-way-out situation?

17 **A** It's two-way here (indicates), but we are --
18 we're a peninsula, if you will. So if you come off
19 the Little River Road, down in this area, you come
20 down a long driveway. It is a thousand feet from
21 here to there. When you make this turn, two-way
22 here. Cars are supposed to come in and go this
23 way, come in and go around and turn around and then
24 come back out.

25 **Q** Is there more parking over here?

WILLIAM "BILLY" RIGGS - DIRECT EXAMINATION

1 **A** Cars park along -- off of the driveway and
2 along the gravel area, kind of like these folks up
3 here (indicates).

4 **Q** Are you responsible for the systems, the
5 video cameras, at Captain Archie's?

6 **A** I'm pretty much responsible for everything at
7 Captain Archie's.

8 **Q** Is there a central recording system where it
9 is all downloaded?

10 **A** Yes. It's in my office.

11 **Q** Do any of them show the parking lot, front
12 parking lot?

13 **A** Yes.

14 **Q** Are there any at the rear portion where
15 you've told me the kitchen is?

16 **A** There's a pole about right there, and there
17 are two cameras on that pole. One with this view,
18 one with this view looking this way (indicates).
19 There is another camera on an upright four-by-four
20 between the food freezer and the walk-in kitchen
21 cooler about there looking straight that way
22 (indicates).

23 **Q** Do any of them show the kitchen -- not the
24 dishwasher pit, but the kitchen itself?

25 **A** There is one on the wall on this end of the

WILLIAM "BILLY" RIGGS - DIRECT EXAMINATION

1 kitchen looking back this way.

2 (A brief pause in the proceedings.)

3 THE COURT: Mr. Riggs, you can take a seat if
4 you would like.

5 THE WITNESS: Thank you.

6 MR. BAGNAL: Excuse me, Your Honor. Bear
7 with me. Court's indulgence.

8 THE COURT: Sure.

9 (A brief pause in the proceedings.)

10 **Q (BY MR. BAGNAL)** Mr. Riggs, I'll show you what
11 is marked for pretrial identification purposes as
12 State's 7. These involve the videos taken from
13 that night, May 21 of 2021. I'll play these now.

14 MS. CALDWELL: Your Honor, may we approach
15 before they play them?

16 THE COURT: Yes, ma'am.

17 (A bench conference was had.)

18 THE COURT: We'll take a five-minute break.
19 There is a matter of law we have to take up outside
20 of your presence. Please don't discuss this case.

21 (The jury exits at 10:38 a.m., and the
22 following is heard out of the presence of the jury.)

23 THE COURT: Let me ask the State for
24 identification purposes, what items of evidence are
25 we discussing?

WILLIAM "BILLY" RIGGS - DIRECT EXAMINATION

1 MR. BAGNAL: Your Honor, these are videos
2 from inside and outside of Captain Archie's. Some
3 of them involve pole cameras from the parking lot
4 that are out this way. Some of them involve
5 cameras located inside the building that show
6 different people inside of that building, as well
7 as some that are located on this outside bar area.

8 THE COURT: All right. And what are the
9 actual exhibit numbers?

10 MR. BAGNAL: The Exhibit number to the disk
11 here is State's Exhibit 7.

12 THE COURT: Are all of the videos on that
13 disk?

14 MR. BAGNAL: A large majority, yes, Your
15 Honor.

16 THE COURT: All right. And, Ms. Caldwell, do
17 you have any objection at this point in time to
18 these videos being entered into evidence, or what
19 is your position?

20 MS. CALDWELL: My only objection is that I
21 would request at this time, until we know if
22 Ms. Cano is going to appear and testify, that the
23 specific video that they have regarding being asked
24 to pay money, that not be played.

25 I have absolutely no objection to anything

WILLIAM "BILLY" RIGGS - DIRECT EXAMINATION

1 else. It is just that I don't think that video
2 should be played because it goes directly to the
3 investigation, directly to her testimony, and I
4 want to make a motion to suppress it if she doesn't
5 appear virtually or otherwise.

6 THE COURT: Is there audio of that
7 transaction?

8 MS. CALDWELL: They say there is, but my
9 version didn't have audio, so I don't know.

10 MR. DeBUSK: There is no audio of the part
11 about the hundred dollars. There are videos of
12 Ms. Cano going to the bar, taking a picture of the
13 victim, showing that picture of the defendant, but
14 there is no audio that mentions a hundred dollars.

15 THE COURT: Okay. So there is no foundation
16 objections, otherwise?

17 MS. CALDWELL: No. I have no problem with it
18 being entered. I just don't think that those
19 videos should be played right now for that specific
20 part. Anything else, I'm happy to let them play.

21 THE COURT: All right. What is the State's
22 position?

23 MR. BAGNAL: Your Honor, it is an analogist
24 situation. Durance McCray is not here to testify,
25 and he's on camera as well. These are cameras that

WILLIAM "BILLY" RIGGS - DIRECT EXAMINATION

1 are placed inside these buildings for surveillance
2 purposes. They captured numerous people that
3 night: Bar-goers, waitresses, along with the
4 contentious Stephanie Cano, who we believe will be
5 here -- or not here, but teleconference to testify
6 tomorrow. But these are for surveillance, and we
7 think they are admissible.

8 MS. CALDWELL: Your Honor, videos can be
9 entered. They don't have to be entered necessarily
10 through Mr. Riggs. She can identify herself in
11 those videos. I'm not saying they are not
12 admissible. I'm saying we wait until she testifies
13 to admit those and publish them to the jury, is my
14 only request.

15 THE COURT: All right. Well, I understand
16 that. So based on there being no objection to the
17 admissibility of the videos, I find that State's
18 Exhibit No. 7 is in evidence without objection.

19 I do understand the objection though of the
20 timing and publishing of these videos, but I'll
21 overrule, respectively, that objection. I think
22 that once they are in evidence, the future
23 testimony of a person as contained within the
24 exhibit really has no bearing, and that is my
25 ruling.

70

WILLIAM "BILLY" RIGGS - DIRECT EXAMINATION

1 Do we need to take a short break?

2 MR. DeBUSK: Yes, Your Honor. That will give
3 us a chance to set up the TV and everything.

4 THE COURT: While I have everyone's attention
5 here in the audience, this courtroom is a public
6 place and everybody is welcome. I haven't seen
7 anybody do anything wrong, but I want to remind
8 everybody, if you haven't already been told, that
9 just -- you cannot react to any evidence or any
10 testimony. If you don't think that you can abide
11 by that, please, just remove yourself from the
12 courtroom. I'll appreciate it greatly if we didn't
13 have to deal with that. Because what I'm sitting
14 here for is to ensure a fair trial for both sides,
15 and I don't want this jury to be influenced by
16 anything that is not coming from this testimony and
17 this witness stand. So thank you very much for
18 that.

19 Take a ten-minute recess.

20 (A recess was taken.)

21 THE COURT: Thank you. Be seated.

22 Do you see Ms. Caldwell?

23 (A brief pause in the proceedings.)

24 THE COURT: Are we ready to proceed?

25 MR. BAGNAL: Yes, Your Honor.

WILLIAM "BILLY" RIGGS - DIRECT EXAMINATION

1 THE COURT: Make sure your jury can see. I'm
2 not sure if your poster is in the way.

3 If we can have the jury, please.

4 (The jury enters at 10:58 a.m., and the
5 following is heard in the presence of the jury.)

6 THE COURT: All right. State ready to
7 proceed?

8 MR. BAGNAL: Yes, Your Honor.

9 THE COURT: All right. Go ahead.

10 MR. BAGNAL: State offers into evidence
11 what's been marked for pretrial identification
12 purposes as State's 7.

13 THE COURT: State's 7 is in evidence.

14 (State's Exhibit 7 admitted.)

15 MR. BAGNAL: May I ask the witness to come
16 down?

17 THE COURT: Sure.

18 MR. BAGNAL: Thank you, Your Honor.

19 **DIRECT EXAMINATION**

20 **BY MR. BAGNAL:**

21 **Q** Mr. Riggs, how many camera angles do you have
22 at Captain Archie's?

23 **A** 32.

24 **Q** Tell me, what is this a camera angle of?

25 **A** This is the front parking lot, Intracoastal

WILLIAM "BILLY" RIGGS - DIRECT EXAMINATION

1 Waterway on your right, cherry Grove Marina on your
2 left, the swing bridge directly in front, the
3 driveway coming down from Little River.

4 Q Will you show us on here about where that
5 camera is located for this view?

6 A It is located on a pole right here at this
7 parking spot, kind of in the grass right there.

8 MR. BAGNAL: Can you all see that?

9 A Right in that area.

10 Q (BY MR. BAGNAL) Okay.

11 MS. CALDWELL: Dylan, can you identify the
12 videos by their title so I know which one we're
13 looking at or their location title with chapter?

14 MR. BAGNAL: Absolutely.

15 MS. CALDWELL: Thank you.

16 Q (BY MR. BAGNAL) What is the title of this
17 video here?

18 A South Pole Cam P-lot, parking lot.

19 Q Can we get the next one, please.

20 Would you please identify this particular
21 video camera?

22 A South parking lot, intending to be temporary,
23 but it is still there.

24 Q What does this one show?

25 A The same parking lot, different angle.

WILLIAM "BILLY" RIGGS - DIRECT EXAMINATION

1 **Q** And on this -- what is marked as State's 3,
2 can you point out for the jury exactly where this
3 camera is that gives us this angle here?

4 **A** Right behind this red vehicle here on the
5 pole between these two coolers.

6 **Q** Can you tell me where the dumpsters are in
7 this video here?

8 **A** They are right there (indicates).

9 **Q** Okay.

10 MR. BAGNAL: Can we get the next one? Thank
11 you, ma'am.

12 **Q** **(BY MR. BAGNAL)** Will you tell us what camera
13 this is entitled?

14 **A** The "cooking area."

15 **Q** What does this show?

16 **A** This is the cooking line, friers and
17 steamers, flattops, more friers here.

18 THE COURT: Stop. She can't see.

19 **A** What we call expo food where the food comes
20 across the line to the window and then out to the
21 restaurant.

22 **Q** **(BY MR. BAGNAL)** Can you point out to us on
23 State's 3, behind you, where this camera is
24 located?

25 **A** Approximately, in this area and looking back

WILLIAM "BILLY" RIGGS - DIRECT EXAMINATION

1 that way.

2 Q Can we see the dishwasher pit from here?

3 A You can get a glimpse of it. This is where
4 the end of the dishwasher -- the dirty dishes come
5 in and are put on this rack, that's the dishwasher
6 here, on the other side of this half wall, on that
7 side.

8 MR. BAGNAL: Can we get the next one, ma'am?
9 Thank you.

10 Q (BY MR. BAGNAL) What is this entitled as?

11 A "South pole cam" -- I think it is supposed to
12 say "cooler," but I guess my man either ran out of
13 room or doesn't know how to spell cooler.

14 Q Can you point to us on Exhibit 3 whereabouts
15 this is located on this map and what direction it
16 points?

17 A It's on the same pole as the first camera.
18 It's just looking in this direction.

19 Q And tell me, is this the dishwasher pit here?

20 A This is the back door going into the kitchen.
21 The dish pit would be in this room when you walk
22 in, and the dish pit would be about under right
23 there.

24 MR. BAGNAL: Can we get the next one, Camera
25 11, please?

WILLIAM "BILLY" RIGGS - DIRECT EXAMINATION

1 **Q** **(BY MR. BAGNAL)** Mr. Riggs, will you please
2 tell us what this video is entitled?

3 **A** "Back sidewalk north."

4 **Q** We were previously talking about the
5 dishwasher pit. Is that the door?

6 **A** That is the same door that I pointed to on
7 the back side of the building. This is the dry
8 storage area of the kitchen. The dish pit is just
9 inside and to the left inside of that door.

10 **Q** Okay. And just for clarity's sake, would you
11 point out on here where that is?

12 **A** That door is about in this area on the back
13 side of this building (indicates).

14 **Q** Okay. All right.

15 MR. BAGNAL: Can we please get Camera 15?

16 **Q** **(BY MR. BAGNAL)** What is that entitled,
17 Mr. Riggs?

18 **A** "Friendships." That is what we call these
19 tables where we intend -- if two people come in,
20 six more come behind them, they get to sit together
21 and you become friends. That is our stage and
22 outside bar.

23 **Q** Will you point out on State's 3 about where
24 this is and what angle we're looking at?

25 **A** That is in this area right there. The stage

WILLIAM "BILLY" RIGGS - DIRECT EXAMINATION

1 is right there, and that video, the friendship
2 tables, are in this corner of that structure.
3 Those tables that you see on the deck are these
4 tables here.

5 MR. BAGNAL: Can we get the next one, please,
6 Camera 1?

7 MR. DeBUSK: We did 1 already.

8 MR. BAGNAL: Okay. Camera 17.

9 Q (BY MR. BAGNAL) Will you give us the title of
10 this video?

11 A "South parking lot temporary."

12 Q Would you point out to us on the map here
13 where this is?

14 A It's on the upright four-by-four between the
15 walk-in cooler for the kitchen and the outside
16 kitchen freezer here where this red car is. It
17 looks that way.

18 Q Okay.

19 MR. BAGNAL: Can we get Camera Angle 28,
20 please?

21 Can we get camera 26?

22 And Camera 27, please.

23 Q (BY MR. BAGNAL) Okay. So will you give us
24 the title of this camera?

25 A "Dishwasher."

WILLIAM "BILLY" RIGGS - CROSS EXAMINATION

1 Q What does this show?

2 A The dish pit of the kitchen.

3 Q And I know we've gone over it many times, but
4 can you point out to me again whereabouts this
5 camera is and which way it is looking?

6 A The camera is just over the door of the
7 walk-in cooler right here in this corner and
8 looking in that direction (indicates).

9 Q Are there more camera angles than the one
10 you've seen here today?

11 A Yes.

12 Q And after May 21 of 2021, did Driscoll
13 Riggs ever return to work?

14 A He did not.

15 Q Thank you, Mr. Riggs.

16 MR. BAGNAL: Answer any questions that
17 defense counsel may have.

18 CROSS EXAMINATION

19 BY MS. CALDWELL:

20 Q How are you today, Mr. Riggs?

21 A Just wonderful.

22 Q Was Driscoll scheduled to work on May 21st?

23 A As far as I know he was.

24 Q So you don't know anything about him being
25 called into work?

WILLIAM "BILLY" RIGGS - CROSS EXAMINATION

1 **A** Ma'am, I have about a hundred employees, so
2 I'm not sure.

3 **Q** That's fine. Out of curiosity, did you do
4 any news about this?

5 **A** I've been on the news several times, yes.

6 **Q** Maybe within the last 24 hours?

7 **A** Yesterday.

8 **Q** What did you say there?

9 MR. BAGNAL: Objection; relevance.

10 MS. CALDWELL: It is relevant because we were
11 informed by Mr. Riggs --

12 THE COURT: Ladies and gentlemen, I
13 apologize. We have to ask you to step out for a
14 moment. We'll take up a matter of law and have you
15 right back in. Please don't discuss the case.

16 (The jury exits at 11:11 a.m., and the
17 following is heard out of the presence of the jury.)

18 THE COURT: All right. So the jury is out of
19 the room. We'll need to hear what this testimony
20 is going to be in order to make a ruling on the
21 admissibility. Ms. Caldwell, if you will, ask your
22 question again, and Mr. Riggs you can answer it.

23 **PROFFER**

24 **BY MS. CALDWELL:**

25 **Q** Did you do a news release yesterday?

WILLIAM "BILLY" RIGGS - CROSS EXAMINATION

1 **A** I was interviewed by WMBF on my way to the
2 courthouse yesterday, yes, ma'am.

3 **Q** Did you say anything about whether he was
4 scheduled to work?

5 **A** Not that I recall, because I don't know if he
6 was scheduled or not. I know he was there.

7 **Q** Are you aware that the clips were put
8 together to make it seem like you said he wasn't
9 supposed to be there?

10 **A** That is not the way at all it should have
11 been.

12 MS. CALDWELL: Okay. Moving on.

13 THE COURT: Is there an objection?

14 MR. BAGNAL: Your Honor, we're here about
15 May 21st of 2021, not here about what may or may
16 not have been said from yesterday. I don't see how
17 it is relevant in any way. The State's contention
18 is that we object to this testimony coming in.

19 THE COURT: Ms. Caldwell.

20 MS. CALDWELL: The only reason I asked -- and
21 I believed it was relevant, which he has now
22 answered my question, so I'm happy to move on and
23 not be admitted, but I was asking because he just
24 told this Court he didn't remember; whereas, there
25 is a news clip that made it seem like he did, and

WILLIAM "BILLY" RIGGS - CROSS EXAMINATION

1 that he stated that Mr. Riggins wasn't supposed to
2 be there. That is why I was asking. That was the
3 relevance, but it is on the record, so I'm happy to
4 move on since he clarified his answers.

5 THE COURT: All right. So you are not
6 proposing to put this in front of the jury then?

7 MS. CALDWELL: No. Just wanted an answer.

8 THE COURT: All right. If we don't have any
9 more questions about that, move forward.

10 MS. CALDWELL: Yes, sir.

11 MR. BAGNAL: Thank you.

12 THE COURT: Are we ready for the jury?

13 MS. CALDWELL: Yes, sir.

14 THE COURT: Can we have the jury, please?

15 (The jury enters at 11:15 a.m., and the
16 following is heard in the presence of the jury.)

17 THE COURT: Ms. Caldwell.

18 MS. CALDWELL: Thank you.

19 **CROSS EXAMINATION (CONT.)**

20 **Q (BY MS. CALDWELL)** Do you know how long
21 Mr. Riggins was working for Captain Archie's?

22 **A** That day or before.

23 **Q** How long had he been working there?

24 **A** I don't think it was long, but I don't
25 remember. We have a lot of people that come and

WILLIAM "BILLY" RIGGS - CROSS EXAMINATION

1 go.

2 Q That is understood. You and Mr. Bagnal
3 talked about the tasks of a dishwasher. You said
4 that he would wash the dishes and wash mats, and he
5 would return them clean to various locations in the
6 bar?

7 A The bar mats, I guess, is what you are
8 talking about, the small mats where drinks are
9 placed on the bar. They are returned to the ice
10 room, which is just outside the boundaries of the
11 kitchen behind another wall, but on the shelf. So
12 it is very close to the kitchen, not into the
13 dining room itself yet.

14 Q Yes, sir. But dishes, like stacks of cups,
15 could be returned to the upper dining room or other
16 locations?

17 A What we call the "lower dining room," which
18 is the area that surrounds the bar. It is two
19 steps down from what I call the "upper dining
20 room," yes, ma'am.

21 Q I was calling it by the video label, I
22 apologize. That is why I called it the "upper
23 dining room."

24 From that upper dining room area, it is kind
25 of like a square, and there are two swinging doors

WILLIAM "BILLY" RIGGS - CROSS EXAMINATION

1 back here, right?

2 A Yes.

3 Q And they have windows in them, right?

4 A They do.

5 Q From that square of the upper dining room,
6 there is a little corridor with the restrooms?

7 A Yes.

8 Q Or there was?

9 A They are still there.

10 Q And then the little step down and the ramp
11 into the outdoor bar, right?

12 A No. There is no ramp there.

13 Q It looked like a ramp on the camera.

14 A No. The upper dining room where the
15 bathrooms are and the outside bar are on the same
16 levels. There is a door threshold there that you
17 kind of have to step over.

18 Q But not a physical door? Like there is
19 nothing that says you can't see the inside from the
20 outside?

21 A There are doors on the kitchen, and there are
22 double doors between the upper dining room, where
23 the bathrooms are, going out onto the deck for
24 the -- what was the only outside bar at that time.

25 Q And in May of 2021, specifically on the

WILLIAM "BILLY" RIGGS - REDIRECT EXAMINATION

1 21st, do you know if those doors were open?

2 A I'm sure they probably were open.

3 Q Probably great weather?

4 A I'm sure.

5 Q And if those doors are open, can you see into
6 the upper dining room from different locations?

7 A If those doors are open and you are standing
8 outside of the kitchen, you can see all the way
9 from the kitchen to the back parking lot if no one
10 is in your way.

11 Q All right. So it's possible that someone
12 seated at the bar could see up to the kitchen?

13 A Up to the doors, yes.

14 Q Okay.

15 MS. CALDWELL: No further questions.

16 THE COURT: All right. Anything further?
17 Redirect?

18 MR. BAGNAL: Briefly.

19 **REDIRECT EXAMINATION**

20 **BY MR. BAGNAL:**

21 Q Mr. Riggs, will you tell me where -- it might
22 be best if you step down so everyone can see.

23 MR. BAGNAL: If you would allow that --

24 THE COURT: Sure.

25 Q **(BY MR. BAGNAL)** Can you tell me where the ice

WILLIAM "BILLY" RIGGS - REDIRECT EXAMINATION

1 cream is?

2 **A** If this is the area of the kitchen, and this
3 is the inside bar, and this is the lower dining
4 room, the ice room is right here between those two
5 areas (indicates).

6 **Q** Would you tell me where this lower dining
7 room is?

8 **A** I think we have a terminology difference, if
9 you will. This is the upper dining room. I call
10 it "upper" because it is raised, two small steps.
11 The bathrooms are right here off of the other
12 dining room, down the corridor she was talking
13 about. So the main bar or the lower dining room --
14 lower dining room is like in the middle section of
15 this building, and then behind that is the ice room
16 where we have ice machines, and then the kitchen.

17 **Q** Tell me where the kitchen doors are.

18 **A** The swinging doors going out are about in
19 this area. I want to say the hoods of the kitchen
20 are 27 feet, so the kitchen itself is probably
21 30 feet, 35 feet from this corner to that. So that
22 level there is a solid wall with two swinging doors
23 separated about 4 or 5 feet between them.

24 **Q** Where is the dish washing pit located at with
25 respect to the kitchen doors?

WILLIAM "BILLY" RIGGS - REDIRECT EXAMINATION

1 **A** Right here, and the kitchen doors up here.

2 **Q** As a dishwasher at Captain Archie's, do you
3 have any business by the kitchen doors?

4 **A** His duties take him in and out of those doors
5 every now and then, but not a lot.

6 **Q** Would his duties take him out here and to
7 this open door for any reason?

8 **A** Most of the time not, no, sir.

9 **Q** Okay.

10 MR. BAGNAL: Thank you.

11 THE COURT: Anything further?

12 MS. CALDWELL: No, Your Honor. I'll ask that
13 Mr. Riggs be excused from my subpoena as well.

14 THE COURT: Any objection to releasing him
15 from the State subpoena?

16 MR. DeBUSK: We would obtain him for possible
17 rebuttal.

18 THE COURT: So, Mr. Riggs, you are free to
19 go, but be available if they need you.

20 THE WITNESS: Thank you.

21 THE COURT: Call your next witness.

22 MR. BAGNAL: At this time, the State calls
23 Joey Sinclair to the stand.

24 (JOEY SINCLAIR, having been duly sworn,
25 testified as follows:)

JOEY SINCLAIR - DIRECT EXAMINATION

1 THE WITNESS: Joey Sinclair, S-I-N-C-L-A-I-R.

2

3

DIRECT EXAMINATION

4 BY MR. BAGNAL:

5 Q Good morning, Mr. Sinclair. Where do you
6 live?

7 A Where?

8 Q Yeah.

9 A [REDACTED] Feather Lakes Drive.

10 THE COURT: If you could pull that microphone
11 to you.

12 A [REDACTED] Feather Lakes Drive.

13 Q (BY MR. BAGNAL) Is that in Horry County?

14 A Yes, sir.

15 Q Where at?

16 A Off of Burgess -- in Burgess on 707.

17 Q All right. Where did you live in May of
18 2021?

19 A I lived behind the disco shack in those
20 little apartments.

21 Q North Myrtle Beach?

22 A Yes.

23 Q What is your occupation, Mr. Sinclair?

24 A Delivery driver for a Garden City Realty
25 Company.

JOEY SINCLAIR - DIRECT EXAMINATION

1 THE COURT: Excuse me. That microphone, will
2 that bend down to where you are? It is important
3 that everyone can hear you.

4 Q (BY MR. BAGNAL) Mr. Sinclair, do you have a
5 criminal record?

6 A Yes, of course.

7 Q Could you tell me what is on that?

8 A Conspiracy, drugs.

9 Q Did you know the victim in this case, Durance
10 McCray?

11 A Yes.

12 Q And did you see Durance McCray the night of
13 May 21, 2021?

14 A Yes.

15 Q Where did you see him?

16 A At Captain Archie's.

17 Q Whereabouts at Captain Archie's?

18 A At the bar.

19 Q Open bar?

20 A The back bar where the band plays.

21 Q What were you all doing there?

22 A Well, I was already there. He came there. I
23 think his girlfriend saw my Snap where I was at the
24 last place, which was at Locals and Boardwalk
25 Billy's. She called me when I was there and asked

JOEY SINCLAIR - DIRECT EXAMINATION

1 where I was at, I said Captain Archie's, and they
2 came there.

3 Q Snap, is that Snapchat?

4 A Yes.

5 Q What were you all doing at Captain Archie's?

6 A Watching the basketball game, playoffs.

7 Q Do you remember the game that was on that
8 night?

9 A I can't remember. Maybe Golden State. I
10 know it was overtime, is the only reason we stayed
11 there that late.

12 Q Fair enough. How long were you there?

13 A I was there approximately an hour or two
14 hours before.

15 Q When did you leave?

16 A We all left when it closed.

17 Q Where was your car parked?

18 A I normally park in the back, normally.

19 Q Mr. Sinclair, I'm showing you what is entered
20 into evidence as State's Exhibit 3. Would you tell
21 me where the motorcycles usually park?

22 A Is this where the bridge is?

23 Q This is Captain Archie's here.

24 A Oh, okay. Right there (indicates).

25 THE COURT: Be sure the jury can see.

JOEY SINCLAIR - DIRECT EXAMINATION

1 **Q** **(BY MR. BAGNAL)** Would you step down for me,
2 please?

3 **A** Yeah.

4 **Q** Could you show the jury where you parked that
5 night?

6 **A** Around here, by the stairs.

7 **Q** Thank you, sir.

8 What kind of car were you driving?

9 **A** BMW.

10 **Q** What color was that BMW?

11 **A** Black.

12 **Q** What year?

13 **A** 2008.

14 **Q** Were you the owner of that vehicle?

15 **A** Yes, sir.

16 **Q** If I showed you a photo of that vehicle,
17 would you recognize it?

18 **A** Yeah, of course.

19 **Q** I'm showing you what is marked for pretrial
20 identification purposes as State's Exhibit 8.

21 **A** Yeah, that's it.

22 **Q** That is your vehicle?

23 **A** Yes.

24 MR. BAGNAL: Your Honor, at this time I'll
25 enter into evidence what's been marked for pretrial

JOEY SINCLAIR - DIRECT EXAMINATION

1 identification purposes as State's 8.

2 THE COURT: Any objection?

3 MS. CALDWELL: No objection.

4 THE COURT: Exhibit 8 is in evidence.

5 (State's Exhibit 8 admitted.)

6 Q (BY MR. BAGNAL) Do you know where Durance
7 McCray was parked that night?

8 A No.

9 Q What did you do after you, Durance, and Jada
10 left the bar?

11 A I went to my car. They were walking to their
12 car. I parked in the back, so I came around the
13 building.

14 MR. BAGNAL: Your Honor, I would like to have
15 the witness step down, if you would allow it.

16 THE COURT: That's fine.

17 Q (BY MR. BAGNAL) Mr. Sinclair, will you step
18 down and show the jury for us -- let's start where
19 you were parked.

20 A I was parked right here.

21 Q What did you do after you left the bar?

22 A I walked to my car, and I drove right around
23 here (indicates).

24 Q Did you stop at any point?

25 A Yes.

JOEY SINCLAIR - DIRECT EXAMINATION

1 Q Why did you stop?

2 A Because I noticed they were checking the guy
3 that hit the dumpster right around here.

4 Q Is the dumpster there (indicates)?

5 A Maybe. Yeah. Wherever the dumpster....

6 Q All right. And did you get out of the car?

7 A No. For a second I started to get out of the
8 car.

9 Q You didn't get out?

10 A I started to get out of the car. I put the
11 car in park.

12 Q Okay. But you didn't get out of the car at
13 any time?

14 A No, sir.

15 Q If I showed you a copy of your report that
16 you gave North Myrtle Beach detectives, would that
17 help refresh your recollection?

18 A Yes.

19 MS. CALDWELL: I was never provided a copy of
20 the statement written by him.

21 THE COURT: You need to give it to the
22 defense.

23 MS. CALDWELL: I'll read it quickly. I know
24 he did a video statement that I watched, but I
25 didn't know that he gave a statement.

JOEY SINCLAIR - DIRECT EXAMINATION

1 This is a transcript. Your Honor, I have to
2 object to them using their own transcript to
3 refresh his memory.

4 THE COURT: Overruled. Have you had an
5 opportunity to take a look at it?

6 THE WITNESS: Yeah, I looked at it.

7 THE COURT: Go ahead.

8 **Q (BY MR. BAGNAL)** After refreshing your memory
9 with the transcript, do you remember if you got out
10 of the car?

11 **A** Probably for a second, not long.

12 **Q** What happened after you got back in the car?

13 **A** Well, I remember I heard a gunshot. I jumped
14 back in the car, and Durance ran towards the car.
15 But the reason I didn't pull off is I thought he
16 was going to go jump in the passenger's back seat,
17 but he ran in front of the car, and when he ran in
18 front of the car, the guy was chasing him, and he
19 jumped on the passenger's side.

20 **Q** How many gunshots did you hear?

21 **A** After I heard the first one, I probably heard
22 four or five.

23 **Q** Were you scared that night?

24 **A** Yeah.

25 **Q** Did you think maybe they could be shooting at

JOEY SINCLAIR - DIRECT EXAMINATION

1 you?

2 **A** I didn't know where the shots were coming
3 from at the time.

4 **Q** So you didn't see anybody?

5 **A** No, sir.

6 **Q** All right. What did Durance do when the
7 shooting started?

8 **A** I didn't see when it started. I know he was
9 running towards the car and ran in front of the
10 car, and when he jumped in the passenger's seat,
11 when I put it in -- the gearshift won't drive
12 because it stalled, so when I put it in drive, that
13 is when I took off.

14 **Q** Did Durance say anything to you when he got
15 in the car?

16 **A** Yes. He said go, Go. Go.

17 **Q** Let's back up. Before you heard any gunshots
18 fired or anything, you told us that you pulled over
19 towards the dumpsters?

20 **A** No, I didn't pull over towards the dumpsters.
21 It was adjacent to the dumpster. If I'm right
22 here, and the dumpster is here, I didn't pull over
23 to the dumpster, I stayed parallel maybe.

24 **Q** In this general area (indicates)?

25 **A** Yeah.

JOEY SINCLAIR - DIRECT EXAMINATION

1 Q Let me ask you: Did you hear any commotion?

2 A No. Only thing I remember is him and his

3 girlfriend checking on the guy that hit the

4 dumpster.

5 Q That was the drunk guy?

6 A Yes.

7 Q You didn't hear any screaming?

8 A No.

9 Q Nobody said anything about a T-shirt?

10 A No. No. Remember, I'm over here. It looks

11 like it is that close, but it is not that close.

12 If you are not looking at it from a map, the

13 dumpster is from here to there, where your officer

14 is sitting at back there.

15 Q Do you think if someone was screaming, you

16 would have heard it from here to there?

17 A Yeah.

18 Q Did you hear any screaming?

19 A I didn't hear no screaming.

20 Q Fair enough.

21 After Durance jumped in the car with you,

22 where did you go?

23 A I went straight up to Seacoast, out past the

24 bridge, the drawbridge, straight through the light

25 by the crossroads, came from the back, and pulled

JOEY SINCLAIR - DIRECT EXAMINATION

1 up to the hospital.

2 Q Do you remember how far a drive that was?

3 A It wasn't that far.

4 Q An estimation in minutes?

5 A Maybe five minutes, six minutes.

6 Q What did you do after Durance went in the
7 hospital?

8 A I stayed there and waited for the officers to
9 arrive.

10 Q Did you speak with them?

11 A Yes.

12 Q What happened to your car?

13 A They towed it.

14 Q When did you get your car?

15 A Maybe -- I can't remember. Maybe a month or
16 so. It wasn't that long.

17 Q All right. If you can be seated for me.
18 Thank you.

19 MR. BAGNAL: Moment of the Court's
20 indulgence, Your Honor?

21 THE COURT: Sure.

22 (A brief pause in the proceedings.)

23 Q (BY MR. BAGNAL) One more thing, Mr. Sinclair.
24 Did you carry any guns that night?

25 A No.

JOEY SINCLAIR - DIRECT EXAMINATION

1 Q Are you sure?

2 A Yeah, I'm sure. I'm 110 percent sure.

3 Q Why is that?

4 A I'm a convicted felon and on federal
5 probation at that time.

6 Q What would they do to you if they caught you
7 with a firearm and on federal probation?

8 A They would lock me up for a very long time.

9 Q So it is serious business?

10 A Serious business.

11 Q Fair enough.

12 MR. BAGNAL: Thank you. Answer any questions
13 that defense counsel may have.

14 MS. CALDWELL: Your Honor, we have a matter
15 of law to take up.

16 THE COURT: All right. Ladies and gentlemen,
17 we have to take up a matter of law outside of your
18 presence. Don't discuss this case. Thank you for
19 your patience.

20 (The jury exits at 11:35 a.m., and the
21 following is heard out of the presence of the jury.)

22 MR. DeBUSK: Before we take up a matter of
23 law, Mr. Ropp was telling me that they couldn't
24 hear the witness, so I ask the witness to speak
25 close to the microphone. Thank you.

JOEY SINCLAIR - DIRECT EXAMINATION

1 THE COURT: All right.

2 Ms. Caldwell.

3 MS. CALDWELL: Your Honor, I would require an
4 inquiry whether the State is going to provide NCICs
5 of all of their witnesses because they are required
6 to.

7 THE COURT: I'm sure they will.

8 MR. BAGNAL: Here you are.

9 THE COURT: That's it?

10 MS. CALDWELL: Just need a moment to review
11 it.

12 (A brief pause in the proceedings.)

13 THE COURT: Are you ready?

14 MS. CALDWELL: Yes, sir.

15 THE COURT: If you will bring the jury, but
16 whenever they are ready. If they are using the
17 restroom or anything, that is fine.

18 And, Mr. Sinclair, make sure you speak into
19 the microphone.

20 (The jury enters at 11:39 a.m., and the
21 following is heard in the presence of the jury.)

22 THE BAILIFF: The jury is still having
23 trouble hearing the witness.

24 THE COURT: All right. And I asked him to
25 speak into the microphone.

JOEY SINCLAIR - CROSS EXAMINATION

1 THE WITNESS: Test. Test. Test.

2 THE COURT: That is good. We can hear that.

3 Ms. Caldwell.

4 MS. CALDWELL: Thank you. May it please the
5 Court?

6 THE COURT: Yes, ma'am.

7 **CROSS EXAMINATION**

8 **BY MS. CALDWELL:**

9 **Q** Mr. Sinclair, you said you were at Captain
10 Archie's on May 21?

11 **A** Yes.

12 **Q** You hung out with a couple of friends that
13 night?

14 **A** Just -- huh-huh. I was there by myself, and
15 Durance and his girlfriend came in.

16 **Q** Did you see any other people you knew?

17 **A** Yes.

18 **Q** Did you know someone else that was working at
19 the bar?

20 **A** Yes.

21 **Q** Did you know T.M. (phonetic) Bellamy?

22 **A** Yes.

23 **Q** Did you talk with Mr. Bellamy?

24 **A** Yes.

25 **Q** You stated you didn't think you got out of

JOEY SINCLAIR - CROSS EXAMINATION

1 the car?

2 **A** Yeah. Maybe for a brief second.

3 **Q** I know it was a long time ago, so you may not
4 remember, but if I show you a video from the
5 parking lot, would you be able to tell me if that
6 is you and your car?

7 **A** Yeah. Yeah. Yeah. For sure.

8 **Q** I might have to duck down and pause a couple
9 of times, so bear with me.

10 THE COURT: Can you see it?

11 MS. CALDWELL: This is already admitted as
12 State's 7. It is the video of Captain Archie's.
13 I'm specifically at this moment looking at -- I
14 believe I'm going to look at -- I'll use Chapter 7.

15 **Q** (BY MS. CALDWELL) Joey, can you see right
16 here?

17 **A** I see it.

18 **Q** You sure?

19 **A** Yes.

20 **Q** Does that appear to be your friend, Durance?

21 **A** I don't see him.

22 **Q** Right there?

23 **A** I don't see anybody.

24 **Q** Do you want to walk around?

25 **A** Yeah.

JOEY SINCLAIR - CROSS EXAMINATION

1 **Q** Sorry. I don't want to make anything
2 difficult. I'm sure we can get you a chair if you
3 need it.

4 Does that look like your friend?

5 **A** I can't really tell.

6 **Q** That's fine. If you want to stay here, I'll
7 move it up a little bit. This computer is a little
8 different than mine.

9 Is this you coming around?

10 **A** Yeah.

11 **Q** And right here you went around a speed bump?

12 **A** Yeah.

13 **Q** That's your car?

14 **A** Yes.

15 **Q** So then you are coming up here. Do you see
16 any friends?

17 **A** If I'm not mistaken -- because they are to my
18 left at the time.

19 **Q** So it looks like --

20 **A** The dumpster should be over here.

21 **Q** It is.

22 **A** Okay. But I don't remember him being on my
23 right, is what I'm saying. When they left the
24 restaurant, they walked towards the left side.

25 **Q** That's fine. But you are see you are coming

JOEY SINCLAIR - CROSS EXAMINATION

1 down the parking lot?

2 **A** That's me.

3 **Q** Your brake lights are on because you see
4 people of some sort, and you just don't want to hit
5 them?

6 **A** Right.

7 **Q** All right.

8 **A** Yes.

9 I don't think that is him because at this
10 point they are over here (indicates).

11 **Q** Okay. I know it is hard to see, but do you
12 see you got out of the car here?

13 **A** No, I don't see I got out of the car there.

14 **Q** You didn't see the car door open and your
15 head come out?

16 **A** Do you see me get out?

17 **Q** Yes?

18 **A** Is that my door there?

19 **Q** Well, this is the sign, and it's behind it.

20 **A** So I'm behind the sign.

21 **Q** That's your head.

22 **A** You assume that is my head.

23 **Q** That's fair. I assume that to be your head.

24 **A** Let's keep it clear.

25 **Q** Okay. But let's play it again.

JOEY SINCLAIR - CROSS EXAMINATION

1 **A** Okay.

2 **Q** So it's closed.

3 **A** You know it is closed? For sure, you know
4 for a 110 percent?

5 **Q** It looks like it's closed because your foot
6 is still on the brake.

7 **A** If my brake lights are on, that means I'm
8 still in the car.

9 **Q** That is what I said. So you are still in the
10 car?

11 **A** Right. But you can't see if I open the door
12 because the big sign there is in the way. I'm
13 behind the sign.

14 **Q** I didn't ask a question. Hold on.

15 THE COURT: Mr. Sinclair, speak up for us.
16 You are doing good, but....

17 **Q** **(BY MS. CALDWELL)** You are doing great. I'm
18 trying to make sure that you and the jury can see
19 everything.

20 Brake lights are on, so we assume that you
21 are physically in the car with the foot on the
22 brake?

23 **A** Right.

24 **Q** So someone walks in front of your car?

25 **A** Correct.

JOEY SINCLAIR - CROSS EXAMINATION

1 **Q** That very much looks like a person gets out
2 of your car.

3 **A** Or a person walking in front of my car, maybe
4 it is. But I'm saying you can't really know that
5 that is me with that sign right there.

6 **Q** Let's do it this way. Will you concede that
7 your brake lights are not on?

8 **A** Oh, yeah. Yeah. Yeah. Yeah. All right.

9 **Q** Brake lights not on?

10 **A** No.

11 **Q** Somebody is right there beside the driver's
12 side of your car -- somebody?

13 **A** Yeah -- possibly. Possibly. Okay.

14 **Q** That's all I'm asking.

15 Then, will you agree that at this moment your
16 brake lights are on?

17 **A** Yes. And also agree that there are people
18 running right here.

19 **Q** I didn't ask that. Please answer the
20 question I asked.

21 But, presumably, you were in the car?

22 **A** Presumably I'm in the car with the brake
23 lights on. People are running, so I'm in the car
24 at the time of the shooting.

25 **Q** Exactly.

JOEY SINCLAIR - CROSS EXAMINATION

1 **A** Okay.

2 **Q** Did you agree that your lights flashed on and
3 off?

4 **A** Yes. Yes.

5 **Q** But you said your car stalled out, so it
6 might have been that?

7 **A** Yes.

8 **Q** Do you agree that looks like someone -- not
9 necessarily you, but someone moved in this area?

10 **A** Yes -- actually, go back for a second.

11 **Q** Yes, sir.

12 **A** Back a little bit. Back. Back. Back.
13 Back. Back. All right. There you go. Now play
14 it. I'll tell you exactly what's happening.

15 **Q** I'm not asking you to.

16 **A** But I was there, and you wasn't, so I'll tell
17 you what happened.

18 Here.

19 **Q** I didn't ask a question.

20 THE COURT: All right. Do you have any more
21 questions?

22 MS. CALDWELL: I was going to ask him to sit
23 down, and I had a couple more questions about what
24 happened at the hospital.

25 THE COURT: All right. Take a seat. Thank

JOEY SINCLAIR - CROSS EXAMINATION

1 you.

2 MR. DeBUSK: You can leave it there.

3 MS. CALDWELL: All right.

4 Q (BY MS. CALDWELL) Couple more questions. You
5 went to the hospital?

6 A Yes.

7 Q You went straight there?

8 A Yes.

9 Q Took you about three minutes or so?

10 A Maybe, yeah. Possibly -- three to seven
11 minutes.

12 Q Took you three minutes and 27 seconds,
13 because the Captain Archie's cameras are timed as
14 are the Seacoast cameras.

15 A Yes.

16 Q Did you get Mr. McCray's phone out of your
17 car?

18 A No -- oh, yeah. I gave it to the girlfriend,
19 because she was calling, and I answered the phone
20 to tell her where we were at.

21 Q So you didn't leave that in the car?

22 A No. I gave it to her.

23 Q That's fine. At the time you took the car --
24 the phone out of the car, the police had not told
25 you that that was part of the crime scene?

JOEY SINCLAIR - REDIRECT EXAMINATION

1 **A** No. No. This is approximately right after.

2 **Q** Final question. Did they ever do GSR testing
3 on you?

4 **A** What's that?

5 **Q** Swab your fingers to see if you --

6 **A** Oh, no, ma'am. No, ma'am.

7 MS. CALDWELL: Thank you. Nothing further.

8 THE COURT: All right. Redirect?

9 MR. BAGNAL: Briefly, Your Honor.

10 **REDIRECT EXAMINATION**

11 **BY MR. BAGNAL:**

12 **Q** Would it have been a good idea for you to
13 have a gun that night?

14 **A** Would it have?

15 **Q** Yeah.

16 **A** No, not at all.

17 **Q** What would be the consequences of law
18 enforcement finding a gun on you?

19 **A** I would be back to the feds.

20 **Q** You mean --

21 **A** Federal prison. I've never had a violent
22 charge in my life. All of my crimes are drug
23 related.

24 **Q** All right. I understand.

25 Mr. Sinclair, did you ever hear anything? I

JOEY SINCLAIR - REDIRECT EXAMINATION

1 may have asked you this, but did you hear anything
2 while you were down by the dumpsters?

3 **A** Hear what?

4 **Q** Screaming about a T-shirt or --

5 **A** No.

6 **Q** Mr. Sinclair, I'll ask you one more time --
7 and I'll give you an opportunity to explain your
8 point of view on this, all right?

9 **A** I appreciate it.

10 **Q** These are the dumpsters on the exact same
11 footage we were looking at previously.

12 **A** Okay.

13 (Published to the jury.)

14 **Q** **(BY MR. BAGNAL)** Is that you right there? I
15 know it is awful grainy.

16 **A** I can't see. Yes. All right.

17 **Q** Is that you hopping outside of the car for a
18 few seconds?

19 **A** Yes.

20 **Q** Tell me what happens right here.

21 **A** There is a guy by the dumpster and they are
22 looking at him.

23 **Q** About where at?

24 **A** Like I said, from here to the officer in the
25 back. They were checking on him. Durance and his

JOEY SINCLAIR - REDIRECT EXAMINATION

1 girlfriend were checking on the guy because he was
2 actually -- we were at the bar and was conversating
3 with us, and so they were checking to make sure he
4 was all right on the way out to their car, but we
5 didn't know who he was.

6 **Q** Is that you speeding off right there?

7 **A** Yes.

8 THE COURT: The jury can't hear you. You
9 have to speak up.

10 THE WITNESS: You can't hear me?

11 JUROR: Not with the back turned.

12 MS. CALDWELL: You can turn, because you are
13 quiet.

14 THE COURT: If you could, explain that again.

15 **Q** **(BY MR. BAGNAL)** Whose vehicle is that?

16 **A** My vehicle.

17 **Q** I know it is awfully grainy, but give us a
18 rundown on what is going on.

19 **A** They are checking on the guy that fell into
20 the dumpster or hit the dumpster, the drunk guy.
21 Just checking on him to make sure he is all right.
22 At this time, we are about to leave, and right here
23 that is when the gunshots went off.

24 **Q** That is when the gunshots went off?

25 **A** Right about this point. You see people

JOEY SINCLAIR - REDIRECT EXAMINATION

1 scattering right here.

2 Q Yeah.

3 A So go back. Go back. Go back.

4 (Published to the jury.)

5 A See how it flips. There is a certain point
6 where Durance is running towards the front of the
7 car and runs into the passenger's side. I don't
8 see it. It doesn't show that part.

9 Q (BY MR. BAGNAL) So during the glitch, that is
10 where he's running around to the front?

11 A Yeah. Yeah.

12 Q At that point -- it is a glitch on the
13 camera. It wasn't cut out.

14 Tell me this. At that point, was he actively
15 being shot?

16 A Yes.

17 Q And after this, you speed off to Seacoast?

18 A Yes, sir.

19 MR. BAGNAL: Can we see 14?

20 (A brief pause in the proceedings.)

21 Q (BY MR. BAGNAL) So this is another video
22 angle here.

23 A Okay.

24 Q Now, at this time do you hear any screaming
25 or anything?

JOEY SINCLAIR - REDIRECT EXAMINATION

1 **A** No.

2 **Q** Everything is fine?

3 **A** Yes.

4 **Q** Comical scene, drunk guy on Moped?

5 **A** See, now that is when he came around the car.

6 **Q** Yeah, I see it. Fair enough.

7 MR. BAGNAL: If we can go to Channel 14.

8 **Q** **(BY MR. BAGNAL)** Did you hear anybody say, I'm
9 going to put you on a T-shirt?

10 **A** No.

11 **Q** How about, Get the choppa?

12 **A** No.

13 **Q** Didn't hear that?

14 **A** No.

15 **Q** Fair enough.

16 I'm showing you what is marked and entered
17 into evidence as State's 7. This is Channel 14
18 labeled "tiki southwest."

19 **A** Okay.

20 **Q** Do you see yourself?

21 **A** Yes.

22 **Q** Will you point yourself out?

23 **A** Right here (indicates).

24 **Q** Okay. Who is this fellow here sitting behind
25 and beside you?

JOEY SINCLAIR - REDIRECT EXAMINATION

1 **A** That was Durance.

2 **Q** And as you all left the bar, where did you go
3 on this map here?

4 **A** Right there (indicates), is right here
5 (indicates). So I walked to the parking lot right
6 here (indicates).

7 **Q** All right. And then did you all kind of meet
8 by the dumpster?

9 **A** We were leaving. I guess he might have
10 parked somewhere. I don't know where he parked,
11 but maybe more south of the building, and I was
12 more here. I left, and my car was right here. So
13 that is when I got around here, and they were still
14 walking.

15 **Q** All right.

16 MR. BAGNAL: Mr. Sinclair, I do appreciate
17 it. Thank you.

18 THE COURT: Mr. Sinclair, thank you for being
19 here.

20 Is there any objection to him being released
21 from the subpoena?

22 MS. CALDWELL: No, sir.

23 MR. DeBUSK: None from the State.

24 THE COURT: Thank you. You are free to go.
25 Can the attorneys approach for a moment?

ABIGAIL BROWN - DIRECT EXAMINATION

1 (ABIGAIL BROWN, having been duly sworn,
2 testified as follows:)

3 THE WITNESS: Abigail Brown, B-R-O-W-N.

4 **DIRECT EXAMINATION**

5 **BY MR. DeBUSK:**

6 **Q** Good afternoon, Ms. Brown. Where do you
7 live?

8 **A** Murrells Inlet.

9 **Q** And your occupation?

10 **A** Bartender and a singer.

11 **Q** You play in a band?

12 **A** Yes.

13 **Q** Or sing in a band?

14 **A** Yes.

15 **Q** And your band plays at local venues?

16 **A** Yes, sir.

17 **Q** Was your band at Captain Archie's in Little
18 River on May 21, 2021?

19 **A** Yes, sir.

20 **Q** And tell me about Captain Archie's. What
21 kind of place is it?

22 **A** Outdoor, very biker friendly.

23 **Q** Pretty laid back?

24 **A** Yes.

25 **Q** Sort of a beach bar?

ABIGAIL BROWN - DIRECT EXAMINATION

1 **A** Yes.

2 **Q** And where does the band set up at Captain
3 Archie's?

4 **A** There used to be a different stage that was
5 facing the water, on the back of the water, back of
6 the building.

7 **Q** If you could, step down and show on this map
8 of Captain Archie's where that back bar is.

9 **A** In this area here.

10 **Q** Land-end or water-end?

11 **A** I'm sorry, right here (indicates).

12 **Q** What kind of music do you play?

13 **A** Name of the band is Diversity, because we do
14 a little bit of everything.

15 **Q** And do you recall about that night
16 specifically?

17 **A** Yes, sir.

18 **Q** Why do you recall that night?

19 **A** I don't hear gunshots very often at a band
20 gig.

21 **Q** Is it fair to say that Captain Archie's is
22 not that kind of place?

23 **A** No, sir, it is not.

24 **Q** Do you recall the victim of the shooting at
25 Captain Archie's that day?

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ABIGAIL BROWN - DIRECT EXAMINATION

1 **A** I do.

2 **Q** Where did you see him?

3 **A** He was walking around the bar inside, and I
4 noticed that he and the girl he was with were
5 wearing matching outfits. I thought they were
6 cute.

7 **Q** Did you notice what their demeanor was, how
8 they were acting?

9 **A** Very calm, walking around having a good
10 night.

11 **Q** Did you see any disagreements or friction
12 between the defendant and any anyone else in the
13 bar?

14 **A** No, sir.

15 **Q** Did you notice they left around the time the
16 band stopped playing?

17 **A** We were in the middle of loading out. They
18 had matchings Crocs as well, and that is the last
19 time I saw them.

20 **Q** And when you say "loading out," you mean
21 taking the band equipment down?

22 **A** Taking it down, yes, sir.

23 **Q** Did you see the shooting?

24 **A** No, sir.

25 **Q** Did you hear it?

ABIGAIL BROWN - CROSS EXAMINATION

1 **A** Yes, sir.

2 **Q** Did you count shots?

3 **A** More than one, and everybody started running.

4 **Q** Thank you.

5 MR. DeBUSK: Answer any questions defense
6 counsel may have.

7 **CROSS EXAMINATION**

8 **BY MS. CALDWELL:**

9 **Q** Do you play at Captain Archie's a lot?

10 **A** Yes, ma'am.

11 **Q** Do you remember if you said that -- part of
12 the reason you noticed Mr. McCray and the
13 girlfriend was because they weren't regulars?

14 **A** No. I just noticed they were wearing
15 matching outfits.

16 MS. CALDWELL: Nothing further.

17 MR. DeBUSK: Nothing further. We ask that
18 she be excused from her subpoena.

19 THE COURT: Any objection?

20 MS. CALDWELL: No objection.

21 THE COURT: Ms. Brown, thank you for being
22 here.

23 MR. BAGNAL: The State calls Casey Henry.

24 (CASEY HENRY, having been duly sworn,
25 testified as follows:)

CASEY HENRY - DIRECT EXAMINATION

THE WITNESS: Casey Henry, H-E-N-R-Y.

DIRECT EXAMINATION

BY MR. BAGNAL:

Q Thank you for coming out this afternoon,
Officer Henry. Who is your employer?

A North Myrtle Beach Police Department.

Q Were you employed with North Myrtle Beach
Police Department in May of 2021?

A Yes, sir.

Q Were you employed with the North Myrtle
Police Department on May 21, 2021?

A Yes, sir.

Q What were your duties at that time?

A Patrol.

Q What does that consist of?

A Answering calls, making sure myself and
others are safe, running traffic.

Q And did you respond to Captain Archie's on
May 21, 2021?

A Yes, sir.

Q What time did you arrive, or thereabouts?

A 11:48 p.m.

Q Were you the first officer on the scene?

A No, sir.

CASEY HENRY - DIRECT EXAMINATION

1 Q Second officer on the scene?

2 A No, sir.

3 Q You were one of the first officers on the
4 scene?

5 A There was approximately five or six prior to
6 my arrival.

7 Q What did you do at Captain Archie's?

8 A Upon my arrival, I stepped out of the car and
9 noticed shell casings. I started marking them with
10 what I had, and that's what I did.

11 Q How did you go about marking them? What did
12 you do specifically?

13 A I had a notepad, so I took blanks sheets of
14 paper and set them out beside them so it was
15 visible to see. It was dark, so.

16 Q When did you leave Captain Archie's?

17 A Probably five, six minutes after I was on
18 scene.

19 Q Why did you leave?

20 A Dispatch informed us that we had a gunshot
21 victim at Seacoast Hospital.

22 Q Where did you go?

23 A From the scene, I went to Seacoast.

24 Q Did you say you were a patrol officer?

25 A Yes, sir.

CASEY HENRY - DIRECT EXAMINATION

1 **Q** Are you familiar with the area surrounding
2 North Myrtle Beach and Little River?

3 **A** Yes, sir.

4 **Q** If I was to show you a map of Horry County,
5 would you recognize it?

6 **A** Yes, sir.

7 **Q** What is that?

8 **A** That is Horry County.

9 MR. BAGNAL: At this time we offer what is
10 marked as pretrial State's Exhibit 2 into evidence.

11 THE COURT: Any objection?

12 MS. CALDWELL: No objection.

13 THE COURT: State's 2 is in evidence.

14 (State's Exhibit 2 admitted.)

15 **Q** **(BY MR. BAGNAL)** If I were to show you a
16 picture more specifically of North Myrtle Beach
17 itself, would you be able to recognize it?

18 **A** Yes, sir.

19 **Q** What is this?

20 **A** That is North Myrtle Beach.

21 **Q** Are there two specific points marked on that?

22 **A** Yes, sir.

23 **Q** What are they?

24 **A** Captain Archie's and Seacoast Hospital.

25 **Q** Are they relatively close to each other?

CASEY HENRY - DIRECT EXAMINATION

1 **A** Yes, sir.

2 MR. BAGNAL: Your Honor, the State would
3 offer what was marked for pretrial identification
4 purposes as State's 11 into evidence.

5 THE COURT: Any objection?

6 MS. CALDWELL: No objection. Can I just look
7 at it, though? I just wanted to see.

8 THE COURT: In evidence, State's 11.

9 (State's Exhibit 11 admitted.)

10 **Q** **(BY MR. BAGNAL)** You left Captain Archie's?

11 **A** Yes, sir.

12 **Q** You went straight to Seacoast?

13 **A** Yes, sir.

14 **Q** How long did it take to get there?

15 **A** Less than 10 minutes.

16 MR. BAGNAL: At this time I would like to
17 Publish State's 11.

18 THE COURT: Okay.

19 (State's Exhibit 11 published to the jury.)

20 **Q** **(BY MR. BAGNAL)** Is it safe to say that
21 Captain Archie's and Seacoast Hospital are fairly
22 close together?

23 **A** Yes, sir.

24 **Q** What did you find when you arrived at the
25 hospital?

CASEY HENRY - DIRECT EXAMINATION

1 **A** Upon my arrival at the hospital, I was
2 informed that they were working on a victim, and I
3 was also informed there was a vehicle which brought
4 the victim that was still outside of the hospital.

5 **Q** What kind?

6 **A** Black BMW.

7 **Q** Who was with the vehicle?

8 **A** I did not get their names, but there was a
9 black male and female outside of the vehicle.

10 **Q** Could you describe the black male?

11 **A** Tall, not really heavysset, but bulky.

12 **Q** Did you determine the name and the injuries
13 of the person that went into Seacoast Hospital for
14 treatment?

15 **A** Yes, sir.

16 **Q** And his name?

17 **A** Durance McCray.

18 **Q** Do you know what happened to him that night?

19 **A** Yes, sir.

20 **Q** And was he later deceased?

21 **A** Yes, sir.

22 MR. BAGNAL: Nothing further at this time.

23 Answer any questions defense may have.

24 **CROSS EXAMINATION**

25

CASEY HENRY - CROSS EXAMINATION

1 **BY MS. CALDWELL:**

2 **Q** Officer Henry, while you were at Seacoast,
3 did you help with any of the other case-related
4 activities?

5 **A** Yes, ma'am.

6 **Q** Did you assist with evidence collection?

7 **A** Yes, ma'am.

8 **Q** And did you pack up all of the evidence and
9 put it in the appropriate bags?

10 **A** Yes, ma'am.

11 **Q** And I believe you did all of that on camera,
12 right? I remember watching it.

13 **A** Yes, ma'am.

14 **Q** Did you help take photographs of Mr. McCray?

15 **A** Yes, ma'am.

16 **Q** Did you make the property and evidence sheets
17 for all of --

18 **A** Yes, ma'am.

19 **Q** And did you relay that Mr. McCray was,
20 unfortunately, deceased to the officers at Captain
21 Archie's?

22 **A** Yes, ma'am.

23 **Q** Did you relay any other information to them?

24 **A** I did.

25 **Q** What was that?

CASEY HENRY - REDIRECT EXAMINATION

1 **A** The sergeant that was on scene at Captain
2 Archie's, I let him know that I needed more
3 assistance due to the vehicle also being at the
4 hospital.

5 **Q** Was the vehicle towed?

6 **A** The vehicle was towed, yes, ma'am.

7 **Q** And did you talk with any of the nurses or
8 anything?

9 **A** I spoke to a couple of them.

10 **Q** Did they tell you anything specific?

11 **A** No, ma'am.

12 **Q** All right.

13 MS. CALDWELL: No further questions.

14 THE COURT: Anything further? Redirect?

15 MR. BAGNAL: One question.

16 **REDIRECT EXAMINATION**

17 **BY MR. BAGNAL:**

18 **Q** Is Captain Archie's located within the bounds
19 of Horry County?

20 **A** Yes, sir.

21 MR. BAGNAL: Nothing further at this time. I
22 ask that this witness be released from her
23 subpoena.

24 THE COURT: Any objection?

25 MS. CALDWELL: No, sir.

MATTHEW PASQUERELL - DIRECT EXAMINATION

1 THE COURT: Okay. Ms. Henry, thank you for
2 being here. You are free to go.

3 MR. BAGNAL: At this time we call Matthew
4 Pasquerell.

5 (MATTHEW PASQUERELL, having been duly sworn,
6 testified as follows:)

7 THE WITNESS: Matthew Pasquerell, P-A-S-Q-U-
8 E-R-E-L-L.

9 **DIRECT EXAMINATION**

10 **BY MR. BAGNAL:**

11 **Q** Thank you for being here, Officer Pasquerell.
12 Who is your employer?

13 **A** City of North Myrtle Beach.

14 **Q** How long have you been employed with the City
15 of North Myrtle Beach?

16 **A** I've been with the City for 16 years.

17 **Q** Were you employed with them the night of
18 May 21, 2021?

19 **A** I was.

20 **Q** Were you dispatched to Captain Archie's?

21 **A** Yes, I was.

22 **Q** Were you the first officer on scene?

23 **A** Yes.

24 **Q** And what was the nature of this call?

25 **A** So it was put over the air as a shots fired

MATTHEW PASQUERELL - DIRECT EXAMINATION

1 call at that location, so I responded and was the
2 first officer on the location.

3 Q And what did you observe when you arrived?

4 A So when I arrived, I met up with the general
5 manager, Billy Riggs. He pointed out some shell
6 casings on the ground and stated that someone fired
7 off some rounds in the roadway before you get to
8 the parking lot.

9 Q And what did you do?

10 A At that point, I secured the scene the best I
11 could. I had a couple potential witnesses there,
12 and spoke to one witness who actually showed me
13 where other shell casings were. I asked him to
14 keep his hands in his pocket so he wouldn't touch
15 it. He was referred over to a detective. There
16 was a homeless individual next to the dumpster, got
17 his information, and sent him to a detective, and
18 then we locked down the crime scene.

19 Q Do you know if the fellow with the Moped, do
20 you know if he was pretty well inebriated?

21 A From what I recall, yes, he was pretty well
22 inebriated. He said he heard shots, but didn't
23 hear anything else happen.

24 Q And was the crime scene protected until
25 detectives arrived?

MATTHEW PASQUERELL - DIRECT EXAMINATION

1 **A** For the most part. There was a time where we
2 actually -- because of where the crime scene was,
3 it was the only means for egress for everyone, the
4 patrons of the restaurant or bar to leave. So what
5 we did is we -- officers marked the shell casings
6 and the evidence there, and then we kind of mapped
7 out the best way for vehicles to travel to get
8 around all of the shell casings.

9 MR. BAGNAL: At this time I would like the
10 witness to step down and show us where that is on
11 this map.

12 THE COURT: Okay.

13 **Q** **(BY MR. BAGNAL)** Officer Pasquerell, will you
14 tell us where these shell casings were located and
15 how you cornered off the entrance?

16 **A** This is the entryway here. It goes down to
17 Captain Archie's parking lot. Crime scene -- can I
18 touch this?

19 **Q** Sure.

20 **A** Pretty much from these dumpsters, this area
21 (indicates). It is the only means of egress and
22 entry to Captain Archie's. The people wanted to
23 leave and started getting impatient, so we marked
24 the shell casings and marked out the best route to
25 get them out so they could go home.

MATTHEW PASQUERELL - DIRECT EXAMINATION

1 **Q** Did anyone ever touch a casing by accident?

2 **A** Other than the initial individual I came
3 across -- I have his name in my notes. I had him
4 put the shell casing where he picked it up, put his
5 hands in his pockets. Other than that, not to my
6 knowledge.

7 **Q** Do you remember who that was?

8 **A** Can I look at my notes?

9 THE COURT: Sure.

10 **A** Mr. Nicholas Dillard.

11 **Q** **(BY MR. BAGNAL)** What did you tell him to do
12 with the shell casing that he just touched?

13 **A** I told him to put it down. I think he kept
14 -- I think he had been drinking. I think he kept
15 wanting to try to -- not on purpose, but trying to
16 grab at stuff. So I said put your hands in your
17 pocket and don't touch anything. Then when the
18 detective arrived, I sent him over there to be
19 interviewed.

20 **Q** Fair enough. Was there any further
21 interruption after the interruption with
22 Mr. Dillard at the scene?

23 **A** Other than we were told by dispatch that
24 there was a victim at Seacoast. Officer Henry, we
25 had her go up to the hospital and get that part of

MATTHEW PASQUERELL - CROSS EXAMINATION

1 the incident, take care of that part of the
2 incident.

3 Q Did anyone stay with the scene after it was
4 processed?

5 A Yeah. So once it was processed, detectives
6 asked us to secure the scene to do further crime
7 scene stuff in the first thing in the morning,
8 daylight. So we had an officer who stood by there
9 until her shift got off, and then she was relieved
10 by the daytime shift person, and they stayed there
11 until the crime scene stuff was complete.

12 Q Just out of the curiosity, Captain Archie's,
13 is that within the bounds of Horry County?

14 A It is. North Myrtle Beach.

15 MR. BAGNAL: I have no further questions.
16 Please answer any that defense may have. Thank
17 you.

18 THE COURT: Cross examination?

19 CROSS EXAMINATION

20 BY MS. CALDWELL:

21 Q When you arrived, it was about 11:55,
22 midnight?

23 A Yeah, or 11:43, something like that, in the
24 ballpark.

25 Q Closer to midnight?

MATTHEW PASQUERELL - CROSS EXAMINATION

1 **A** Uh-huh.

2 **Q** And so did it look like the bar was shutting
3 down?

4 **A** I don't recall. I mean, normally, they close
5 around midnight, but there was a lot of patrons
6 there for that time of night. Because I remember
7 when all of the vehicles were leaving, I remember
8 thinking, There is a lot of cars here for being
9 this late.

10 **Q** Yes, sir. And you were the first officer on
11 scene?

12 **A** I was.

13 **Q** Before you arrived, no one was securing the
14 scene?

15 **A** I was the very first law enforcement there.
16 I don't remember a lot of cars leaving at that
17 time. Most of the cars left after we secured the
18 crime scene and everyone said they wanted to leave.

19 **Q** Did you get a chance to see Captain Archie's
20 footage?

21 **A** I did not make it there, no.

22 **Q** That's fine. But it is safe to say that some
23 people might have left before you guys could secure
24 the crime scene?

25 **A** Yeah.

MATTHEW PASQUERELL - CROSS EXAMINATION

1 **Q** And then you had the task of creating the
2 crime scene log, correct?

3 **A** Correct.

4 **Q** There were a couple of differences I noticed
5 on your handwritten one versus the typed up one.

6 **A** I would have to see it.

7 **Q** Oh, I was just going to ask one of them --
8 you already answered for me.

9 MS. CALDWELL: May I approach the witness?

10 THE COURT: Sure.

11 MS. CALDWELL: Actually, I better show the
12 State first.

13 (A brief pause in the proceedings.)

14 **Q** **(BY MS. CALDWELL)** All right. This is a copy
15 of the handwritten one and a copy of the typed up
16 one that we were provided.

17 **A** Uh-huh.

18 **Q** You said that the first officer listed on
19 that -- on your handwritten one, you mentioned it
20 was Colleen Piefert (phonetic), but her name was
21 previously Enos?

22 **A** Okay. On the list itself?

23 **Q** On your handwritten one.

24 **A** Oh, sorry. (Witness examines document.)

25 Yes. The reason behind that is when I started -- I

MATTHEW PASQUERELL - CROSS EXAMINATION

1 didn't start the crime scene log as soon as I got
2 on scene, so I was like, all right, let's do the
3 crime scene log. Who do I have? I started writing
4 names of people there, because it was when everyone
5 wanted to leave. We have to do this crime scene
6 log, so we mark anyone on scene. When people
7 wanted to leave, and then afterwards, car by car by
8 car, I'm marking everyone down.

9 **Q** Yes, sir. And I noticed there was some
10 differences -- on your handwritten one, you listed
11 some folks as witnesses or like they gave a
12 statement, like from Mr. Dillard. He gave a
13 voluntary statement.

14 On the typed-up sheet, it then said persons
15 exiting or something of that nature. Why was it
16 changed, can you explain that, if you know?

17 **A** If you will give me a minute.

18 **Q** Absolutely.

19 **A** (Witness examines document.)

20 (A brief pause in the proceedings.)

21 **A** That, I don't have an answer for. Because
22 he's in my notes as the first person I talked to.
23 He was referred to Detective Lynam. When I was
24 typing this up it might be just be an error on my
25 part.

MATTHEW PASQUERELL - CROSS EXAMINATION

1 **Q** **(BY MS. CALDWELL)** That's fine. You talked to
2 a lot of people that night, I certainly understand.

3 Mr. Sellers, is that same thing, you don't --
4 Brandon Sellers?

5 **A** Which one is he? (Witness examines
6 document.) I'm looking for Sellers.

7 **Q** Sorry. I handed you my copy, so I'll --

8 **A** Oh, witness gave on-scene interview
9 statement. So, at the time, he may have been
10 passing through when I spoke with him, but I may
11 not have known that he was a witness at the time.
12 Did I write him as a witness on here? Like I said,
13 I'm speculating.

14 **Q** That is totally understandable.

15 **A** Where is Sellers on here? (Witness examines
16 document.) He's not listed on my handwritten copy.

17 **Q** I know you were doing your best to catch
18 everyone that was leaving.

19 **A** Correct.

20 **Q** And you were always trying to mark anyone
21 that was an employee that worked there?

22 **A** Yes. Yes, I believe so.

23 **Q** So would it be safe to say that if someone
24 exited after you arrived, they would be on one of
25 those lists?

MATTHEW PASQUERELL - CROSS EXAMINATION

1 **A** If they would exit after I arrived.

2 **Q** And after you started this list?

3 **A** If they were to leave after this list was
4 started, I would have gone -- every time a vehicle
5 pulled up -- because I, actually -- when they
6 pulled up, I would walk them through and direct
7 them to get through the maze of evidence. So I
8 would write down the person I spoke with in the
9 vehicle.

10 **Q** And I believe you stopped the walkers as
11 well?

12 **A** Correct.

13 **Q** Was anyone on the scene that you took gunshot
14 residue from or anything?

15 **A** I did not.

16 **Q** Thank you, sir. I appreciate you.

17 One more question. The gun shell casing or
18 casings that Mr. Dillard picked up, do you know if
19 they ended up being marked as potentially not in
20 the same place?

21 **A** I don't know how they marked them. All I
22 know is when we wanted to get everyone out, I was
23 like we need to mark these shell casings. I'm
24 going off of memory, and I would have to see my
25 camera footage, but I believe I told several people

MATTHEW PASQUERELL - CROSS EXAMINATION

1 this one had been touched, if I remember correctly.

2 This one had been touched. And I believe I told
3 one of the investigators.

4 Q So you let someone know, but you don't know
5 if it was later marked as being potentially moved
6 or touched?

7 A Yeah, I don't know how they ended up marking
8 that.

9 Q That's fine.

10 MS. CALDWELL: No further questions.

11 THE COURT: Anything further from the State?

12 MR. BAGNAL: None from the State.

13 THE COURT: Mr. Pasquarell -- is there any
14 objection to him being released?

15 MR. BAGNAL: None from the State.

16 MS. CALDWELL: None.

17 THE COURT: Thank you. You are free to go.

18 MR. DeBUSK: May we approach, briefly?

19 THE COURT: Sure.

20 (A brief bench conference is had.)

21 MR. DeBUSK: State call Detective Franklin.

22 (ANDREW FRANKLIN, having been duly sworn,
23 testified as follows:)

24 THE WITNESS: Andrew Franklin,

25 F-R-A-N-K-L-I-N.

ANDREW FRANKLIN - DIRECT EXAMINATION

DIRECT EXAMINATION

1

2

BY MR. DeBUSK:

3

Q Who is your employer?

4

A City of North Myrtle Beach.

5

Q How long have you been with the City of North

6

Myrtle Beach?

7

A Twelve years.

8

Q How long have you been a detective?

9

A Half of that, six years.

10

Q And in May of 2021, what was your position?

11

A Detective.

12

Q As a detective, what kind of things do you

13

do?

14

A Investigate crimes from shoplifting up to

15

murder investigating, to interviewing witnesses,

16

suspects, processing them, charging them.

17

Q As part of your duties, do you process crime

18

scenes?

19

A I do.

20

Q Did you participate in the death of Durance

21

McCray in May of 2021?

22

A I did.

23

Q What was your role?

24

A I received a phone call from Detective

25

Bellamy, and he asked for assistance. Once we got

ANDREW FRANKLIN - DIRECT EXAMINATION

1 on scene, we divvied up roles, and I started
2 looking for video footage.

3 Q And Detective Bellamy was the lead?

4 A Yes.

5 Q And is he here (indicates)?

6 A Yes, he is.

7 Q Did you go to Captain Archie's at that time?

8 A Yes.

9 Q And what county is that in?

10 A Horry County.

11 Q Did you determine if Captain Archie's had
12 video surveillance?

13 A I did.

14 Q Were you able to view that video
15 surveillance?

16 A I was.

17 Q Where did you view it?

18 A In the office of Mr. Riggs.

19 Q Mr. Riggs helped you get the information?

20 A Yes.

21 Q And those videos were ultimately collected?

22 A They were.

23 Q Those are the videos in evidence as State's
24 7, the Captain Archie's videos?

25 A Yes.

ANDREW FRANKLIN - DIRECT EXAMINATION

1 **Q** When you watched the video recordings, were
2 you able to generate a person of interest?

3 **A** Yes.

4 **Q** Who was that?

5 **A** Mr. Driscoll Riggins.

6 **Q** What was his role at Captain Archie's?

7 **A** He was the dishwasher at that time.

8 **Q** How did you generate him as a suspect?

9 **A** While reviewing the video, I zoomed in, and
10 as I started zooming out, I observed a male walk up
11 to the area where the shooting was occurring. I
12 backtracked him to the kitchen, and then I asked
13 the manager who he was.

14 **Q** Let me get the video here.

15 MR. DeBUSK: If I could ask the witness to
16 step down?

17 THE COURT: All right.

18 **Q** **(BY MR. DeBUSK)** Did you view this video in
19 the back kitchen entrance of Captain Archie's?

20 **A** Yes, sir, I did.

21 **Q** When you viewed the videos, did you notice
22 that they somehow have a tendency to skip?

23 **A** Yes.

24 **Q** And when people say the video glitched, is
25 that portions that were not recorded?

ANDREW FRANKLIN - DIRECT EXAMINATION

1 **A** Yes, or look like they were in one spot and
2 quickly moved to another.

3 THE COURT: If you would, keep your voice up
4 so the jury can hear you.

5 MR. DeBUSK: Yes, sir. Thank you.

6 **Q** **(BY MR. DeBUSK)** Is this one of those
7 glitches?

8 **A** Yes.

9 (Published to the jury.)

10 **Q** **(BY MR. DeBUSK)** Again, glitches where they
11 stand still for a moment?

12 **A** Yes.

13 **Q** Who is that individual?

14 **A** Mr. Riggins.

15 **Q** Is this Mr. Riggins again?

16 **A** Yes.

17 **Q** And is this him heading back out as you
18 described?

19 **A** Yes, sir.

20 **Q** Were you able to identify the victim on the
21 video?

22 **A** That is Mr. McCray walking through the
23 entrance.

24 **Q** In the white T-shirt?

25 **A** Yes.

ANDREW FRANKLIN - DIRECT EXAMINATION

1 **Q** This individual down at the screen on the
2 bottom, who is that?

3 **A** Mr. Riggins.

4 **Q** Is that Mr. Riggins here?

5 **A** Yes, sir.

6 **Q** Where did the shooting occur?

7 **A** Right over here next to Mr. Sinclair's car.

8 **Q** Is that Mr. Riggins' head coming up here?

9 **A** Yes.

10 **Q** Is that another glitch?

11 **A** Yes.

12 **Q** Thank you.

13 Now, we see where the scene of the shooting
14 was. Did you participate in processing that scene?

15 **A** Yes.

16 **Q** Who worked with you?

17 **A** Detective Bellamy and Detective McGartland
18 (phonetic).

19 **Q** What did you do initially?

20 **A** For the processing?

21 **Q** The three of you as a team, what did you do
22 initially?

23 **A** Detective McGartland grabbed a can of orange
24 spray can to mark on the ground the spots where the
25 evidence was collected from and numerically matched

ANDREW FRANKLIN - DIRECT EXAMINATION

1 with the black placards that we placed, and I
2 physically collected the items off of the ground.

3 Q How did you mark the locations of the items
4 of interest?

5 A Initially, with yellow placards that were
6 numbered. Later on, during the collection, we
7 marked it with orange spray paint with that number.

8 Q So the placards numbers and the orange spray
9 paint numbers corresponded to each other?

10 A Correct.

11 Q What did you find at the scene to mark?

12 A Multiple shell casings, a slipper, and a \$10
13 bill.

14 Q How many shell casings?

15 A I believe nine.

16 Q Do you have your notes with you?

17 A I do.

18 Q Can you check and verify that?

19 A Ten.

20 Q So you found ten casings?

21 A Yes.

22 Q I'll show you what is marked as State's 17
23 and 18 and ask if you recognize these?

24 A Yes, I do.

25 Q What are they?

ANDREW FRANKLIN - DIRECT EXAMINATION

1 **A** They are photographs of the locations of the
2 shell casings, the slipper, and the \$10 bill marked
3 by our numbered placards.

4 **Q** I'll show what is marked as State's 19
5 through 23 inclusive and ask if you recognize
6 these?

7 **A** Yes, I do.

8 **Q** What are those?

9 **A** Those are zoomed-in photos of the shell
10 casings next to the numbered placards.

11 **Q** Now, each place you found a shell casing, you
12 put down placards and also spray painted a number?

13 **A** What we collected, yes.

14 **Q** And they corresponded.

15 When you, of course, removed the placards,
16 the numbers remained, right?

17 **A** Yes.

18 **Q** When you processed the scene, was it dark?

19 **A** Yes, it was.

20 **Q** Did you go back in the daylight to get the
21 pictures of the scene?

22 **A** Yes.

23 **Q** Did you use a particular tool?

24 **A** We used a drone to get an aerial view.

25 **Q** I'll show you State's Exhibits 24 and 26. Do

ANDREW FRANKLIN - DIRECT EXAMINATION

1 you recognize these?

2 **A** Yes, I do.

3 **Q** What is that?

4 **A** That is the aerial view of the spray painted
5 numbers where the placards were in the daytime.

6 **Q** I'll show you State's 25 and ask if you
7 recognize that?

8 **A** Yes, I do. This is a daytime photograph of
9 the scene.

10 **Q** Is there a vehicle in that?

11 **A** Yes, there is.

12 **Q** Let me show you State's 16 and ask if you
13 recognize that?

14 **A** Yes, I do.

15 **Q** What is that?

16 **A** A red Moped that was parked at the dumpster.

17 **Q** That was at the scene when you processed it?

18 **A** Yes.

19 MR. DeBUSK: At this time the State moves the
20 following exhibits into evidence: State's 16, 25,
21 24, 26, 19 through 23 inclusive, 17 and 18?

22 THE COURT: Any objection?

23 MS. CALDWELL: No, sir.

24 MR. DeBUSK: Can I publish them to the jury?

25 THE COURT: Yes, sir.

ANDREW FRANKLIN - DIRECT EXAMINATION

1 (State's Exhibits 16-26 admitted.)

2 Q (BY MR. DeBUSK) What is this?

3 A Overall photo of the evidence, and in the
4 background is the building of Captain Archie's.

5 Here is the dumpster. They are numerically
6 numbered. It is hard to see in this particular
7 photo, but the numbered placards and the evidence.

8 Q Is this a sign?

9 A A sign.

10 Q Is that visible on the video as well?

11 A It should be, yes, sir.

12 Q What is this?

13 A A different angle, but shows the numbered
14 evidence where the evidence was located.

15 Q Did you take close-up photographs of each of
16 the casings collected?

17 A I did not. Detective Bellamy did.

18 Q But you recognize the photos?

19 A Yes, I recognize the photos.

20 Q Let's go through these, if you don't mind.
21 These pictures are showing the placard and the
22 casing; is that correct?

23 A Yes, sir.

24 Q It is hard to see that one. It is between
25 the placard and the paper. Here is four and five,

ANDREW FRANKLIN - DIRECT EXAMINATION

1 placard six and seven, eight and nine, ten and 11.

2 Those were the ten casings you collected, correct?

3 A Yes, sir.

4 Q This is the Moped you said parked by the
5 dumpsters?

6 A Yes, sir.

7 Q And, again, during the day?

8 A Yes, sir.

9 Q State's 24, it is hard for the jury to see,
10 but if you could, point to them, the orange
11 numbers, that Detective McGartland painted next to
12 the placards. Are those visible?

13 A Yes. We collected the placards because we
14 had to let traffic come in and out, but they are in
15 the locations where the placards were.

16 Q Can you point to them?

17 A Here. Here. Here. Here. Here. Here.
18 Here (indicates).

19 Q There is ten of them?

20 A Yes -- well, should be 11.

21 Q Ten are casings that correspond with the
22 photos we went through?

23 A Yes. Yes.

24 Q Here is the same thing, but a different
25 angle?

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ANDREW FRANKLIN - DIRECT EXAMINATION

1 **A** Yes. The aerial view from the drone.

2 **Q** Does this shows a fair and accurate
3 representation where you found those casings when
4 you arrived at the scene?

5 **A** Yes, sir.

6 **Q** So you found ten casings?

7 **A** Yes, sir.

8 **Q** What did you do with them?

9 **A** Put them into envelopes, packaged them, and
10 sealed them with evidence tape, and ultimately
11 dropped them into evidence.

12 **Q** We may at this time have to -- State's 12, do
13 you recognize the packaging in there? We can open
14 it if you need to.

15 **A** I can see my initials on the evidence tape
16 and my signature from when I originally collected
17 it.

18 MR. DeBUSK: For the record, I'm opening the
19 SLED packaging in the presence of the Court to
20 identify.

21 THE COURT: Is the package themselves an
22 exhibit?

23 MR. DeBUSK: It is. It is Exhibit 12.

24 MS. CALDWELL: No objection to being
25 admitted.

ANDREW FRANKLIN - DIRECT EXAMINATION

1 THE COURT: He hadn't offered it for
2 introduction yet, but we'll get to it.

3 MR. DeBUSK: We'll have to authenticate it,
4 Your Honor.

5 Q (BY MR. DeBUSK) I have ten items. This is
6 12A. Do you recognize this and how?

7 A Yes, I do recognize it. It is the envelope
8 that I placed, the shell casing, Placard No. 4.

9 Q And your placard number is where on that
10 envelope?

11 A In the upper, left corner.

12 Q Could you hold it up so the jury can see?

13 A Up here in the corner.

14 Q That is your placard number?

15 A Yes.

16 Q And when you packaged that, did you seal it?

17 A Yes. I sealed it with this blue tamper
18 evidence tape where you can tell if it was tampered
19 with.

20 Q Let's go through all of them. This is 12(b)?

21 A Yes. It is the envelope I placed the shell
22 casings that was marked as Placard 7.

23 Q And is that placard number on it?

24 A It is.

25 Q 12(c)?

ANDREW FRANKLIN - DIRECT EXAMINATION

1 **A** This is the shell casing that I packaged in
2 the envelope that corresponds with Placard No. 5.

3 **Q** Subitem 12(d)?

4 **A** This is the shell casing I packaged that
5 corresponds with Placard No. 1?

6 **Q** Subitem 12(e) as in "Elvis"?

7 **A** This is the shell casing that I packaged that
8 corresponds with Placard 6?

9 **Q** Subitem 2(f) as in "Frank"?

10 **A** This is the shell casing I packaged that
11 corresponds with Placard No. 10?

12 **Q** 12(g) as in "George"?

13 **A** This is the shell casing that I packaged that
14 corresponds with Placard No. 8.

15 **Q** Subitem "H" as in "Harold"?

16 **A** This is the shell casing that I packaged that
17 corresponds with Placard No. 9?

18 **Q** Subitem 12(i) as in "Ireland"?

19 **A** Shell casing I packaged that corresponds with
20 Placard 2.

21 **Q** And 12(j) as in "Jerusalem"?

22 **A** The shell casing that I packaged that
23 corresponds with Placard 11.

24 **Q** As with the first one, did you seal them with
25 evidence tape when you put them in the envelope?

ANDREW FRANKLIN - DIRECT EXAMINATION

1 **A** Yes.

2 **Q** And you signed that seal?

3 **A** Yes. I initialed it on the front and on the
4 back.

5 **Q** So a person -- you can tell if it was
6 tampered with?

7 **A** Yes.

8 MR. DeBUSK: At this time we offer -- well,
9 maybe we'll wait and offer the whole item when we
10 finish with the chain.

11 **Q** **(BY MR. DeBUSK)** You collected the casings and
12 put them in envelopes and sealed them with tape,
13 and then what did you do?

14 **A** I put a sticker on them, marked the date,
15 time, my name, and then I completed an evidence
16 form and submitted them to our evidence technician.

17 **Q** Is that the sticker there where it says
18 "evidence"?

19 **A** Yes.

20 **Q** And what did you do with them after you put
21 the sticker on them?

22 **A** I completed an evidence sheet and submitted
23 it into evidence.

24 **Q** Where is the evidence?

25 **A** It is in our police department in secured

ANDREW FRANKLIN - DIRECT EXAMINATION

1 lockers.

2 Q Who is the person in charge of the evidence?

3 A Evidence custodian, Chris Sengle.

4 Q Chris Sengle?

5 A Yes.

6 Q And from when you collected them off the
7 ground to when you put them in those packages to
8 where you put them in evidence, did you alter or
9 change them in any way?

10 A No.

11 Q Were you able to identify from the video the
12 approximate location of the black BMW?

13 A Yes.

14 Q State's Exhibit 26 -- well, step back down
15 here, if you would.

16 Again, it is difficult for the jury to see
17 the orange numbers, but where relative to this sign
18 (indicates) was the black BMW during the shooting?

19 A Approximately, in this area (indicates.)?

20 Q Thank you. You can be seated.

21 Were all of the casings of the same type?

22 A Yes.

23 Q What were they?

24 A 9-millimeter Ruger.

25 Q Did you find any spent projectiles at the

ANDREW FRANKLIN - DIRECT EXAMINATION

1 scene?

2 **A** Not that I recall.

3 **Q** For the jury's edification, can you explain
4 the difference between a casing, projectile, and a
5 cartridge?

6 **A** Yes. So a bullet that hasn't been fired, you
7 see it would have a silver looking tip and a gold
8 brass colored back, okay.

9 When you fire a bullet, the projectile is
10 that silver piece that comes out of the barrel of
11 the gun. The casing is what held the gun powder
12 and contained the bullet or projectile itself.

13 In this case, it was ejected out, and that is
14 what was left on the ground, which is -- the casing
15 is what held the bullet and the gunpowder.

16 **Q** Now, after you processed the scene, collected
17 the casings, and viewed the videos, did you do
18 anything else at Captain Archie's that night?

19 **A** At that night, I do not believe so.

20 **Q** Were you or any other officers able to locate
21 the vehicle that resembled the black car in the
22 video?

23 **A** Yes. It was located at Seacoast Hospital.

24 **Q** What happened to that vehicle from Seacoast?

25 **A** It was towed back to our police department

ANDREW FRANKLIN - DIRECT EXAMINATION

1 for processing.

2 Q Did you determine to whom that black BMW
3 belonged to?

4 A Joey Sinclair.

5 Q Was that car processed?

6 A Yes.

7 Q Did you participate in that?

8 A I did.

9 Q What evidence did you collect from the car?

10 A Multiple projectiles, bullets that were shot
11 out of the cartridge, a couple projectiles from the
12 frame that were damaged, and multiple latent
13 prints.

14 Q I'll show you two items in evidence, 8 and
15 10, and ask if you recognize this vehicle?

16 A Yes, I do.

17 Q What is that?

18 A That is the black BMW belonging to
19 Mr. Sinclair.

20 Q That's the one you processed?

21 A Yes.

22 Q Tell me about the projectiles you collected
23 from the car.

24 A There was one in the passenger's seat and one
25 in the driver's seat that were spent projectiles,

ANDREW FRANKLIN - DIRECT EXAMINATION

1 meaning they didn't have a cartridge anymore.

2 There is one that is called the A-frame of
3 the car. If you think of your windshield, that
4 first post before the door, we call that the
5 "A-frame," so a bullet wedged into the A-frame, and
6 then fragments elsewhere.

7 **Q** Let me show you State's Exhibits 27 and 28
8 and ask if you recognize these?

9 **A** Yes, I do.

10 **Q** What are those?

11 **A** Number 27 is a bullet that is lodged into the
12 A-frame of the door of the BMW, and 28 is a spent
13 projectile that is in the seat.

14 **Q** Were those along with the other spent
15 projectiles collected?

16 **A** Yes, they were.

17 **Q** What did you do with them?

18 **A** Packaged them and locked them into evidence.

19 **Q** I'll show you from this package three more
20 subitems: 12(k), 12(l) and 12(m). Do you
21 recognize these?

22 **A** Yes, I do.

23 MR. DeBUSK: I'll offer State's 27 and 28 in
24 evidence.

25 THE COURT: Any objection?

ANDREW FRANKLIN - DIRECT EXAMINATION

1 MS. CALDWELL: No.

2 THE COURT: State's 27 and 28 in evidence.

3 (State's Exhibits 27-28 admitted.)

4 Q (BY MR. DeBUSK) So these items 12(k) and (l)
5 and (m), what are they?

6 A 12(k) was the bullet collected from the
7 driver's seat.

8 Q How do you know that?

9 A I marked it on the envelope. I packaged it.

10 Q Could you show the jury?

11 A Right up here in the corner.

12 Q Same spot as with the placard and the
13 casings?

14 A Yes, sir.

15 Q And the next item?

16 A The next item, 12(l), I believe this is going
17 to be the bullet we collected out of -- I
18 apologize. Apparently I put the tape over, but I
19 believe it was the passenger's seat bullet. Right
20 here. But, unfortunately, I put the tape right on
21 it (indicates).

22 12(m) is the fragment that we pulled from the
23 door frame.

24 Q 12(m) corresponds with State's 27?

25 A Yes.

ANDREW FRANKLIN - DIRECT EXAMINATION

1 Q And which was 28?

2 A I don't know if that is the driver's seat or
3 passenger's seat. There is one for both.

4 Q One spent bullet in each seat?

5 A Yeah.

6 Q Once again, I see evidence tape on there.
7 Did you put that on there?

8 A I did.

9 Q Did you initial it?

10 A I did.

11 Q That makes it tamper indicative?

12 A Yes.

13 Q And then you labeled it?

14 A Yes.

15 Q What did you do with it after you packaged
16 it, sealed it, and labeled it?

17 A I wrote out an evidence sheet and submitted
18 it to evidence in our security.

19 Q Same evidence as the --

20 A Yes.

21 Q Was an autopsy done on Durance McCray?

22 A Yes.

23 Q And were projectiles and fragments collected
24 at the autopsy?

25 A Yes.

ANDREW FRANKLIN - DIRECT EXAMINATION

1 Q Were you the person they were given to?

2 A From the autopsy?

3 Q Yes.

4 A No. They were originally given to Detective
5 Bellamy.

6 Q Did you receive them from Detective Bellamy?

7 A I did.

8 Q When you received them from Detective
9 Bellamy, how were they packaged?

10 A In envelopes labeled and marked from the
11 autopsy itself.

12 Q I'll give these subitem numbers. This is
13 12(n), 12(o), 2(p), 12(q), 12(r), 12(s), 12(t),
14 12(u). When you received these items, were they
15 packaged in envelopes?

16 A They were.

17 Q But when you received them, they were in the
18 envelopes?

19 A Yes.

20 Q While in your custody and control, did you
21 take them out of the envelopes?

22 A No.

23 Q Did you change or alter them in any way?

24 A No.

25 Q Who did you receive them from?

ANDREW FRANKLIN - DIRECT EXAMINATION

1 **A** Detective Bellamy.

2 **Q** What did you do with them?

3 **A** Dropped them in evidence.

4 **Q** So they were in the same condition, sealed,
5 when you dropped them in evidence as when you
6 received them?

7 **A** Yes.

8 MR. DeBUSK: All of these subitems I'll put
9 back inside Exhibit 12.

10 **Q** **(BY MR. DeBUSK)** The three spent projectiles
11 from the car, while they were in your custody and
12 control, did you alter or change them in any way?

13 **A** No.

14 **Q** Other than packaging them?

15 **A** No.

16 **Q** So when they were in evidence, they were
17 substantially in the same condition when you found
18 them in the car?

19 **A** Yes.

20 **Q** When you processed the car, did you search
21 it?

22 **A** Yeah. We went through the car looking for
23 items.

24 **Q** Did you find any weapons?

25 **A** No, not that I recall.

ANDREW FRANKLIN - DIRECT EXAMINATION

1 Q Did you find any guns?

2 A No.

3 Q Did you find any casings?

4 A No, I don't recall any casings.

5 Q Just three projectiles?

6 A Yes.

7 Q And based on what you saw of the projectiles
8 and where they were, were you able to tell whether
9 the projectiles came from inside the car going out,
10 or from outside the car going in?

11 A Outside going in.

12 Q How could you tell?

13 A The one shell casing --

14 Q You mean projectile?

15 A Yes, excuse me. The bullet that was lodged
16 in the A-frame never penetrated to the cab. It was
17 stopped by the metal, so we retrieved it from the
18 vehicle from the outside.

19 Q And, again, any weapons found in the car at
20 all?

21 A No.

22 Q What happened to the car after it was
23 processed?

24 A After it was processed, we released it back
25 to Mr. Sinclair.

ANDREW FRANKLIN - CROSS EXAMINATION

1 MR. DeBUSK: That is all at this time, but
2 subject to recall.

3 MS. CALDWELL: Sorry. I have a lot of your
4 notes. You took excellent detailed notes. Just
5 trying to get them in order.

6 **CROSS EXAMINATION**

7 **BY MS. CALDWELL:**

8 **Q** So you responded to Captain Archie's?

9 **A** Yes, ma'am.

10 **Q** And you started processing the scene or
11 talking to other detectives deciding what needed to
12 be done?

13 **A** Yes.

14 **Q** Because you split up tasks?

15 **A** Yes.

16 **Q** And you went with Mr. Riggs and watched the
17 footage of the shooting?

18 **A** Yes.

19 **Q** And then you backtracked and that is how you
20 identified Mr. Riggins as being the potential
21 suspect?

22 **A** Yes.

23 **Q** And you asked Mr. Riggs for Driscoll's phone
24 number that he used for work?

25 **A** Yes.

ANDREW FRANKLIN - CROSS EXAMINATION

1 Q And you completed a search warrant for that?

2 A For Verizon, yes, ma'am.

3 Q For just the phone number for Verizon for --
4 I believe it was just for May 20 and 21st?

5 A Correct.

6 Q The return says there was 34 files?

7 A Electronic files.

8 Q Do you know if those were turned over to the
9 Solicitor's Office?

10 A Everything should have, because the way it
11 works, our records division handles all of that.

12 Q While at the scene and reviewing footage with
13 Mr. Riggs, you said that you learned and noticed
14 that T.M. Bellamy works there, and you relayed that
15 to your other colleagues?

16 A Yes.

17 Q Why was that relevant?

18 A Mr. Bellamy has a history with our
19 department.

20 Q Fair enough.

21 You were involved in a lot of the evidence
22 collection, and you were involved in the
23 photographs, like the casings that Mr. DeBusk just
24 talked with you about.

25 MS. CALDWELL: May I approach the witness?

ANDREW FRANKLIN - CROSS EXAMINATION

1 THE COURT: Sure.

2 Q (BY MS. CALDWELL) This is State's 24. This
3 is my own notes in black and white, and I basically
4 copied what Detective McGartland put on here to
5 make it a little easier for me to pinpoint things.

6 Casing 1 is by the garbage can?

7 A Yes.

8 Q Were you informed that any casings were
9 touched?

10 A Yes, I believe officer Pasquerell had words
11 with an individual that happened to walk up from
12 the bar.

13 Q That garbage can there, the drunken Moped man
14 was on the other side, right?

15 A I don't know. That was well before I got to
16 the scene.

17 Q I believe State's 25 shows it is right on the
18 other side, right here?

19 A The Moped?

20 Q Where the man would have been.

21 A I would have to assume. Like I said, I came
22 a good bit after this occurred.

23 Q Fair enough. But the Moped is beside the
24 garbage can?

25 A Yes.

ANDREW FRANKLIN - CROSS EXAMINATION

1 **Q** Did anyone ask, that you are aware of, or did
2 you ask about whether Mr. Moped Man touched any of
3 those casings, specifically that one right beside
4 the garbage where he was napping or falling?

5 **A** I did not.

6 **Q** I know you are certified to review
7 fingerprints and you reviewed the ones you guys
8 collected from the BMW, right?

9 **A** Yes.

10 **Q** And did you look for fingerprints on any of
11 the casings?

12 **A** No, I did not.

13 **Q** Is that something you normally do?

14 **A** Typically, with shell casings and
15 fingerprints, they are a little difficult and
16 sometimes it exceeds what we have available to
17 actually process.

18 Typically, with these types of cases, we send
19 it off and let someone with proper laboratory
20 equipment handle it.

21 **Q** Now, you did some more evidence stuff with
22 the items that Mr. -- that Detective Bellamy
23 collected at the autopsy; is that correct?

24 **A** What do you mean "did with"?

25 **Q** You received the items that Mr. Bellamy

ANDREW FRANKLIN - CROSS EXAMINATION

1 received from the autopsy?

2 **A** Yes, ma'am.

3 **Q** And you took them to your evidence custodian,
4 Chris Sengle?

5 **A** Yes, ma'am.

6 MS. CALDWELL: May I approach?

7 THE COURT: Yes, ma'am.

8 **Q** **(BY MS. CALDWELL)** This is the evidence and
9 property sheet you turned in. Does that look
10 familiar?

11 **A** Yes, ma'am, it does.

12 **Q** Does that look fair and accurate like what
13 you turned in and signed?

14 **A** Yes, ma'am.

15 **Q** The items listed there, they are not
16 numbered, are they?

17 **A** No, ma'am, they are not numbered.

18 **Q** They are not lettered, are they?

19 **A** Like as exhibit lettered?

20 **Q** As in A, B, C, D, E, F, G?

21 **A** No.

22 **Q** Did you -- since you were involved in the
23 packaging, did you put the letters on these items?

24 **A** No, I did not. I strictly took them from
25 Detective Bellamy and turned them into evidence.

ANDREW FRANKLIN - CROSS EXAMINATION

1 **Q** Did you -- you collected three projectiles or
2 three items from the BMW?

3 **A** Yes.

4 **Q** Put them in sealed bags, all of that stuff
5 that was established?

6 **A** Yes.

7 **Q** Did you number or letter those?

8 **A** I did not number or letter them. I wrote
9 "driver's seat," "passenger's seat," "A-frame."

10 **Q** What is this document?

11 **A** Looks like a SLED Laboratory Forensic Service
12 Request.

13 **Q** Are those common for detectives to submit?

14 **A** Yes. We do have access to the SLED pre-log
15 application.

16 **Q** Okay. And on that sheet it has -- very
17 organized. I love the chart. It has what it is
18 and it assigns not only a SLED number, but the
19 agent number; is that correct?

20 **A** Yes. Each one of us lists the agency and
21 your particular log-on.

22 **Q** And I know you didn't complete that sheet or
23 take it up to SLED or anything, but how does SLED
24 get the numbers that they have on there?

25 **A** Which numbers are you referring to? The

ANDREW FRANKLIN - CROSS EXAMINATION

1 agency item number?

2 Q Yes.

3 A The agency item number concurs with the
4 evidence sheet up here.

5 Q But then they are numbered?

6 A That's because if there are multiple items on
7 here -- in the actual system, it will not let you
8 put the same number twice. So you have to put one,
9 two, three, four, and so on, in order -- because it
10 is all one evidence sheet here.

11 Q Okay. Well, then how does a person who
12 doesn't work in North Myrtle Beach and don't have
13 access to your system, how do I find out which is
14 which, because there doesn't seem to be an order?

15 A So if I understand what you are asking, you
16 want to know how they know which bullet fragment is
17 which?

18 Q Yes. For example, you turned in the evidence
19 and property sheet for the autopsy. I received,
20 obviously, the SLED receipt. There is the firearms
21 expert report. How did -- or how typically would
22 they know which agency number correlates to, say,
23 where it was retrieved from the body from the
24 evidence sheet?

25 A That would be labeled on the evidence itself,

ANDREW FRANKLIN - CROSS EXAMINATION

1 on the actual envelopes that the coroner or whoever
2 the medical examiner was that retrieved it. I just
3 put on here what the broad -- what it was, because
4 it was packaged and handed off.

5 Q So you all don't take time to note it down in
6 any report, normally?

7 A This is the first one I have ever received
8 from USC.

9 Q Fair enough.

10 Based on that sheet, did you take gunshot
11 residue tests from anyone?

12 A No, ma'am.

13 Q Did you turn in a gunshot residue test from
14 Mr. McCray?

15 A I honestly don't recall.

16 Q Can you check the evidence sheet?

17 A No, not on this evidence sheet.

18 Q So Captain Archie's to Seacoast is not a far
19 distance, right?

20 A No, ma'am, it is not.

21 Q I timed it myself the other day and hit a red
22 light, but it took about four minutes and 20
23 seconds; is that about right?

24 A Approximately.

25 Q It is a pretty straightforward path. There

ANDREW FRANKLIN - CROSS EXAMINATION

1 is some turns, but not a bunch?

2 **A** No, not particularly.

3 **Q** Does North Myrtle Beach have milestone
4 cameras?

5 **A** Milestone cameras?

6 **Q** City cameras, the footage on the streets?

7 **A** We do, but they were just recently installed.

8 **Q** Recently?

9 **A** Like within the last year-and-a-half, if
10 that.

11 **Q** That would have been June of 2021?

12 **A** A lot shorter. We are just still in the
13 process of installing them.

14 **Q** Do you know if there are any cameras, say,
15 for instance, on that bridge?

16 **A** I do not know.

17 **Q** Do you know if any other camera footage was
18 retrieved other than the Captain Archie's and
19 Seacoast footage?

20 **A** Not to my knowledge.

21 **Q** Was the water -- I know the pathway out was
22 by the water, and it is very beautiful, but did
23 they search the waterway?

24 **A** The actual water?

25 **Q** Yeah.

ANDREW FRANKLIN - CROSS EXAMINATION

1 **A** No, we did not.

2 **Q** When Mr. Riggins was arrested and
3 interviewed, there were two phones on him. I
4 believe you completed the search warrant?

5 **A** No, ma'am. The only search warrant I did was
6 for historical records.

7 **Q** Okay. My apologies.

8 When you verified the latent fingerprints
9 none of those belonged to Driscoll Riggins, did
10 they?

11 **A** No, ma'am, they did not.

12 (A brief pause in the proceedings.)

13 **Q** **(BY MS. CALDWELL)** Detective Franklin, someone
14 interview Joey Sinclair, right?

15 **A** Yeah, someone did.

16 **Q** And I'm sure he told them what pathway he
17 took to the hospital?

18 **A** I can't testify to that.

19 **Q** Do you know if anyone searched the pathway
20 from Captain Archie's to the hospital for firearms
21 or --

22 **A** Not to my knowledge.

23 **Q** Did they search -- and it is kind of a long
24 entryway and there are boats and lots of things
25 happening. Did they search that upper parking lot

ANDREW FRANKLIN - REDIRECT EXAMINATION

1 area?

2 **A** Where it goes around the corner? I believe
3 we walked it the next morning. I don't recall
4 recovering anything.

5 MS. CALDWELL: No further questions.

6 **REDIRECT EXAMINATION**

7 **BY MR. DeBUSK:**

8 **Q** To be clear, Detective Franklin, each one of
9 these items, when they were collected, they were
10 labeled with their location?

11 **A** The ones that I collected, yes.

12 **Q** And ones from MUSC, someone wrote where they
13 were collected?

14 **A** Yes. They have their own QR code as well.

15 **Q** It says, for instance, "jacket fragment from
16 top of" --

17 **A** Yes.

18 **Q** So the evidence item itself carries a
19 description of where it was from; is that correct?

20 **A** Yes, sir.

21 **Q** As far as the casings you collected, you had
22 photographs showing where each number was collected
23 so you knew which casing was which?

24 **A** Yes, sir.

25 **Q** So no mystery about that?

ANDREW FRANKLIN - REDIRECT EXAMINATION

1 **A** No, sir.

2 **Q** Does SLED even process gunshot residue
3 anymore?

4 **A** They typically do not. I think it was about
5 a year or so now that they will not do it if the
6 offender was known to have been in possession of a
7 handgun, or if it is a police officer, they will
8 not.

9 **Q** So there were no city cameras in May of 2021?

10 **A** Not to my knowledge. I know that is a new
11 thing being worked on.

12 **Q** Do you have any reason to bring divers out
13 there to search that water?

14 **A** Not to my knowledge, no.

15 MR. DeBUSK: Nothing else.

16 THE COURT: You are free to go at this time,
17 but you are still under subpoena for recall. Thank
18 you.

19 THE WITNESS: Yes, sir.

20 MR. DeBUSK: May we approach?

21 THE BAILIFF: We have a couple of jurors that
22 need a short break.

23 THE COURT: I'll tell you what we'll do.
24 Being we have to adjourn at 4 o'clock, I know that
25 there is at least a good hour, maybe even longer,

ANDREW FRANKLIN - REDIRECT EXAMINATION

1 of matters of law that we have to take up outside
2 of your presence anyway. We'll take this
3 opportunity to go ahead and do that, because the
4 next witness is lengthy. Instead of breaking just
5 in the center of a witness or out of order, we'll
6 go ahead and let you go for the day, and that way
7 we can have the matters of law resolved by the time
8 you are here in the morning and it can be a
9 seamless process. I think that is the most
10 efficient use of your time.

11 So, certainly, we'll return at 9:15 in the
12 morning and ready to go at 9:30. Again,
13 understand, please don't do any independent
14 research, look anything up, ask anybody anything.
15 It is important that you understand and decide what
16 the facts are in this case based on the evidence
17 and the testimony that is presented during this
18 trial in this courtroom.

19 Once this trial is over, you can talk to
20 anyone you want to or nobody at all. If you have
21 any trouble with that, let me know and we'll handle
22 it for you, okay. But I trust you will have a good
23 evening and see you back in the morning. Thank
24 you.

25 (The jury exits at 3:04 p.m., and the

MOTIONS

1 following is heard out of the presence of the jury.)

2 THE COURT: All right. Is there anything we
3 need to place on the record before we adjourn
4 today?

5 MR. DeBUSK: Your Honor, we have been working
6 on the arrangements with Texas and testing the
7 system for Ms. Cano to testify tomorrow. We'll
8 have it ready by then.

9 THE COURT: Anything else?

10 MR. DeBUSK: No.

11 THE COURT: Defense?

12 MS. CALDWELL: I would ask, if it's possible,
13 and I understand if they don't want to, if they
14 could give me the NCICs of witnesses before, so I
15 don't have to hold up the Court and read it. They
16 can give it tomorrow morning before, and I'll
17 review it so I don't have to hold up the jury.

18 THE COURT: Certainly that is not an issue,
19 is it?

20 MR. DeBUSK: I think Ms. Cano and Jada Pyatt
21 are the only civilian witnesses we have left, Your
22 Honor.

23 THE COURT: But you don't have any issue to
24 give her the NCIC prior to them taking the stand?

25 MR. DeBUSK: We don't mind -- the NCIC rules,

MOTIONS

1 we have to retrieve them and dispose of them.

2 THE COURT: I understand. I'm not asking you
3 to do anything illegal, I just want to make sure --

4 MR. DeBUSK: I have Ms. Pyatt's here, and I
5 will have one for Ms. Cano.

6 MS. CALDWELL: Does that mean you would like
7 these back?

8 For the record, I'm handing you back
9 Mr. Sinclair's and Mr. Smelser's.

10 MR. DeBUSK: Here is Ms. Pyatt's.

11 THE COURT: I'll ask if the Solicitor's
12 Office -- can you provide me with a way to see this
13 evidence so I can make a ruling without having
14 to --

15 MR. DeBUSK: Here in the courtroom or in
16 chambers?

17 THE COURT: Either way. I mean, in chambers
18 would be good, but either way.

19 MR. DeBUSK: What is it that we need?

20 THE COURT: I haven't been able to see these
21 videos, and, you know, being that we're having a
22 stand-your-ground hearing with this trial, I didn't
23 want to get to a point in time where I have time
24 this afternoon, you know -- and I'm not sure if you
25 even played the pertinent videos yet.

MOTIONS

1 MR. DeBUSK: We played part of them. The
2 problem is the copies I have are in evidence. I
3 would have to ask the madam court reporter.

4 MS. CALDWELL: I'm always more than happy to
5 provide my personal copies that were given to me by
6 the State that I have not altered.

7 THE COURT: Are those disks?

8 MS. CALDWELL: The flash drive. So you could
9 take it at your leisure.

10 THE COURT: What is your position,
11 Mr. DeBusk?

12 MR. DeBUSK: No objection, Your Honor.

13 MS. CALDWELL: I'll take my sticky notes off.
14 This flash drive was provided to me in 2022. It
15 contains all of the Captain Archie's videos and
16 folder labeled "Captain Archie's videos."

17 It also has disks, and it also has the DVDs 1
18 through 15 of the officer's body cam. Those have
19 not been introduced, but they are clearly labeled
20 so you won't accidentally stumble upon them if you
21 don't want to. It was provided to me by the State
22 and it has not been altered.

23 MR. DeBUSK: One of those disks, 1 through
24 15, contains the interview that you were watching
25 yesterday.

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1 MS. CALDWELL: I provided that to him
2 already, but it is also on here.

3 THE COURT: Okay. I just don't want to look
4 at anything I'm not supposed to.

5 MR. DeBUSK: No. No, Your Honor. It is all
6 in evidence, and the body cams and things, you
7 know....

8 THE COURT: All right. Well, if that is
9 acceptable, I'll take that and go to chambers and
10 watch the videos.

11 MS. CALDWELL: George, did you want to look
12 at this?

13 MR. DeBUSK: No. If it is the one I sent
14 you, I have no problem.

15 MS. CALDWELL: All right. I just wanted to
16 offer.

17 THE COURT: All right. Is there anything
18 else that we need to -- what time did you want to
19 have the ID hearing?

20 MR. DeBUSK: 9:30? I'm not sure that our
21 witness -- Court's indulgence. Let me see when
22 she's due to be here.

23 9:30, the witness will be here for the ID
24 hearing, Neil v. Biggers hearing. So if you want
25 to do it before we bring the jury in, or we can

MOTIONS

1 take a break mid-morning and do it.

2 THE COURT: I assume the jury is already
3 gone?

4 So the officer will need to testify though as
5 well, is that right?

6 MR. DeBUSK: Yes. I'll be here. I'll have
7 Detective Franklin here. He's the one that showed
8 the line-up.

9 THE COURT: Let's start at 9:15 and,
10 hopefully, if you can call the officer first. If
11 that doesn't work out, we'll do it as soon as we
12 can, but that way we won't have the jury waiting.

13 MR. DeBUSK: I'll try to get the witness here
14 earlier, too, Your Honor.

15 THE COURT: Okay. Anything further?

16 MR. DeBUSK: Nothing. Thank you.

17 MS. CALDWELL: Nothing.

18 **(WHEREUPON, THE PROCEEDINGS FOR MAY 16, 2023**
19 **CONCLUDED.**

20 **THE FOLLOWING WAS HAD ON MAY 17, 2023 OUT OF**
21 **THE PRESENCE OF THE JURY.)**

22 (State's Exhibits 40-43 marked.)

23 THE COURT: Be seated.

24 MS. CALDWELL: If you want to save time, we
25 can start the Neil v. Biggers hearing.

JADA PYATT - DIRECT EXAMINATION - NEIL v. BIGGERS

1 THE COURT: We can wait on the defendant.

2 MR. DeBUSK: We have the witnesses ready for
3 the Neil v. Biggers hearing.

4 THE COURT: All right. At this point, we'll
5 wait on the defendant.

6 MR. DeBUSK: Oh, yes, sir. Sorry.

7 (Defendant enters courtroom.)

8 THE COURT: All right.

9 MR. DeBUSK: For the purposes of the Neil
10 versus Biggers hearing, State calls Jada Pyatt.

11 (JADA PYATT, having been duly sworn,
12 testified as follows:)

13 THE WITNESS: Jada Pyatt, J-A-D-A, P-Y-A-T-T.

14 **DIRECT EXAMINATION**

15 **BY MR. DeBUSK:**

16 **Q** Ms. Pyatt, what is your occupation?

17 **A** I work in the medical field.

18 **Q** And you live here in Horry County?

19 **A** Yes.

20 **Q** Did you know Durance McCray?

21 **A** Yes.

22 **Q** At the time of his death, were the two of you
23 dating?

24 **A** Yes.

25 **Q** I'll ask you one little thing before we

JADA PYATT - DIRECT EXAMINATION - NEIL v. BIGGERS

1 start. Have you been convicted of a felony before?

2 A Yes.

3 Q Was it in state or federal court?

4 A Federal court.

5 Q What was the charge?

6 A Conspiracy to sell drugs.

7 Q Have you served your sentence?

8 A Yes.

9 Q And let's go directly to the night of May 21,
10 2021. Were you with Durance McCray when he was
11 shot?

12 A Yes.

13 Q Did you see the individual who shot him?

14 A Yes.

15 Q How far were you from the individual that
16 shot Mr. McCray?

17 A About where you are standing.

18 Q Did you get a good look at him?

19 A Yes.

20 Q Was there enough light for you to see his
21 features?

22 A Yes.

23 Q Was your attention drawn directly to him?

24 A Yes.

25 Q Was that because he was shooting?

1 **A** Yes.

2 **Q** Now, tell me, did you go back to the North
3 Myrtle Beach Police Department for an interview the
4 next day?

5 **A** Yes.

6 **Q** Was that with Detective Bellamy, or do you
7 remember what detective?

8 **A** If I see him. Him? Yeah.

9 **Q** And after that interview, were you shown a
10 photo lineup?

11 **A** Yes.

12 **Q** Was it a different detective that showed you
13 the lineup?

14 **A** No.

15 **Q** Do you recall a Detective Andrew Franklin?

16 **A** No.

17 **Q** But you did see a lineup?

18 **A** Yes.

19 **Q** When you saw that lineup, did you see the
20 person that shot Durance McCray in that lineup?

21 **A** Yes.

22 **Q** Were you able to recognize him right away?

23 **A** Yes.

24 **Q** Were you given a form to indicate which photo
25 it was?

JADA PYATT - CROSS EXAMINATION - NEIL v. BIGGERS

1 **A** Uh-huh.

2 **Q** And did you circle the number of the photo
3 and initial it?

4 **A** Yes.

5 **Q** I'll show you what is State's Exhibit 30 and
6 29. Do you recognize those? What is that?

7 **A** The -- I chose the photo, and I signed the
8 paper.

9 **Q** Was that the individual that you picked out
10 as the person that shot Durance McCray?

11 **A** Yes.

12 MR. DeBUSK: Please answer any questions that
13 the defense may have.

14 MS. CALDWELL: I'm going to look at State's
15 29 and 30.

16 MR. DeBUSK: Right there.

17 MS. CALDWELL: Yes.

18 **CROSS EXAMINATION**

19 **BY MS. CALDWELL:**

20 **Q** On the night of, did you make any statements
21 to any officers that you remember?

22 **A** The night of?

23 **Q** Yes, ma'am.

24 **A** No.

25 **Q** When you were interviewing with Detective

ANDREW FRANKLIN-DIRECT EXAMINATION-NEIL v. BIGGERS

1 Bellamy the first time, before the lineup was
2 shown, how did you describe the suspect?

3 **A** That he was tall, brown skin. He had dreads
4 about this long on his head. He had facial hair.

5 **Q** Okay, and you did -- did they show you any
6 photos of him before this?

7 **A** No.

8 **Q** How did you -- when you filled out your
9 second -- I believe you wrote two statements for
10 Detective Bellamy at the same time, so I think you
11 wrote one and added more information, if I'm
12 correct?

13 **A** Yes.

14 **Q** How did you guesstimate his height and
15 weight?

16 **A** Cause I seen him.

17 MS. CALDWELL: No further questions.

18 THE COURT: Anything further?

19 MR. DeBUSK: No, Your Honor. She's under
20 subpoena. If she would return to the sequestration
21 room, and if we could get Andrew Franklin.

22 THE COURT: Thank you. You can step down.
23 You are still under subpoena, so whatever
24 Mr. DeBusk asks you to do, make sure you do.

25 MR. DeBUSK: Stay in that room, and we'll

ANDREW FRANKLIN-DIRECT EXAMINATION-NEIL v. BIGGERS

1 call you again in a little while.

2 (ANDREW FRANKLIN, having been duly sworn,
3 testified as follows:)

4 THE WITNESS: Andrew Franklin.

5 **DIRECT EXAMINATION**

6 **BY MR. DeBUSK:**

7 **Q** You testified yesterday?

8 **A** Yes, sir.

9 **Q** So you testified in the investigation of the
10 shooting of Durance McCray?

11 **A** Yes.

12 **Q** Did there come a time when a witness named
13 Jada Pyatt came for an interview?

14 **A** Yes, there was.

15 **Q** Who did the interview?

16 **A** Detective Bellamy.

17 **Q** Did there come a time when a photo lineup was
18 prepared?

19 **A** Yes.

20 **Q** And who requested that?

21 **A** I requested it.

22 **Q** From what source?

23 **A** Through SLED.

24 **Q** When you request a photo lineup, what do you
25 do?

ANDREW FRANKLIN-DIRECT EXAMINATION-NEIL v. BIGGERS

1 **A** You fill out the information for the person
2 that we want in the photo lineup, and if we have a
3 recent photo, booking photo, driver's license
4 photo, we attach it and e-mail it to them.

5 **Q** And what do they do?

6 **A** They go through and create a six-pack, is
7 what we call it. It's six different photos of
8 individuals that look similar to one another.

9 **Q** I'll show what is marked as State's 30 and
10 ask if you recognize that?

11 **A** Yes, I do.

12 **Q** What is that?

13 **A** The photo lineup I received from SLED.

14 **Q** Does that contain a picture of the defendant?

15 **A** Yes, it does.

16 **Q** Did there come a time when you showed that
17 lineup to Ms. Pyatt?

18 **A** There was.

19 **Q** Why did you show it to Ms. Pyatt instead of
20 Detective Bellamy?

21 **A** I was the one that requested it, and it also
22 gives us a chance to, you know, provide a different
23 person so there is no bias.

24 **Q** I got you.

25 What is the procedure when you show the

1 lineup?

2 **A** We have a procedure that -- we have a
3 particular form that we read to everyone that
4 presents for a photo lineup.

5 **Q** Let me show you State's 29 and ask if you
6 recognize that?

7 **A** Yes.

8 **Q** What is that?

9 **A** The department form that we read to each
10 person that presents for a photo lineup.

11 **Q** What do you do when you present the photo
12 lineup?

13 **A** I put it inside a photo, keep it away from
14 the witness while I read this. Once I finish
15 reading this to them, I say do you understand,
16 slide them the folder, and I ask them whenever you
17 are ready, open the folder, and tell me if you
18 recognize anyone.

19 **Q** Can you tell the important instructions you
20 read?

21 **A** Yes. "I'm going to show you a group of
22 photographs. The group of photographs may or may
23 not contain a picture of the person who committed a
24 crime now being investigated. Keep in mind that
25 the hairstyles, beards, and mustaches may be

1 changed easily. Also, photographs may not always
2 depict the true complexion of a person.

3 "When you have looked at all of the photos,
4 tell me if you recognize any individuals in the
5 lineup. Do not discuss this lineup with other
6 witnesses."

7 Q And then you gave her the lineup?

8 A Yes.

9 Q And was she able to pick someone out?

10 A Yes.

11 Q Did she pick him out fairly quickly?

12 A Yes.

13 Q Did she circle the number she picked out?

14 A Yes.

15 Q Who was that?

16 A Mr. Riggins.

17 Q And did she also write on the form which
18 picture she picked?

19 A Yes, she did.

20 Q When you showed her the photo lineup, was it
21 videotaped?

22 A Yes, it was.

23 Q I'll show you State's 44 and ask if you
24 recognize that.

25 A That is the video of me presenting the photo

ANDREW FRANKLIN - CROSS EXAMINATION - NEIL v. BIGGERS
1 lineup.

2 MR. DeBUSK: Your Honor, at this time, for
3 the purposes of this hearing, we offer State's 44
4 into evidence and publish it to the Court.

5 THE COURT: Any objection?

6 MS. CALDWELL: No objection.

7 THE COURT: 44 is in evidence.

8 (State's Exhibit 44 admitted for Neil v.
9 Biggers hearing.)

10 MR. DeBUSK: We also move State's 29 and 30
11 for purposes of this hearing.

12 THE COURT: Any objection to 29 and 30?

13 MS. CALDWELL: No, Your Honor.

14 THE COURT: They are in evidence for purposes
15 of this hearing.

16 (State's Exhibits 29-30 admitted for Neil v.
17 Biggers hearing.)

18 THE COURT: Anything else?

19 MR. DeBUSK: Sorry. Nothing further for this
20 witness.

21 THE COURT: All right. Ms. Caldwell.

22 **CROSS EXAMINATION**

23 **BY MS. CALDWELL:**

24 **Q** Detective Franklin, when you -- you said that
25 you e-mailed the picture to the appropriate parties

ANDREW FRANKLIN - CROSS EXAMINATION - NEIL v. BIGGERS

1 at SLED?

2 **A** Yes, ma'am.

3 **Q** And you did that at about 4:14 p.m.?

4 **A** I honestly don't know what time I sent it
5 off.

6 **Q** This isn't --

7 THE COURT: Do you need this?

8 MS. CALDWELL: No, sir.

9 May I approach the witness?

10 THE COURT: Sure.

11 **Q** (BY MS. CALDWELL) This is just the front
12 page?

13 **A** Yes, ma'am. That looks correct.

14 **Q** And in your investigative notes, you stated
15 that you also called to speak with the analyst?

16 **A** Yes, ma'am.

17 **Q** Is that common?

18 **A** Only if you need it on a rush basis, meaning
19 if you need it very quickly; otherwise, it can take
20 up to a week to get it returned.

21 **Q** Okay. That makes sense.

22 And you received a response about 40 minutes
23 later?

24 **A** Yes, ma'am.

25 **Q** And 4:00 p.m., I believe from Detective

THE COURT AND ATTORNEYS

1 Bellamy's interview, Ms. Pyatt came around
2 4:00 p.m. and that was over 12 hours after the
3 incident?

4 **A** Approximately, yes, ma'am.

5 **Q** Do you know if the North Myrtle Beach
6 Police -- like the safety report or HR
7 department -- posted any photos of the suspect
8 online or anything about it online?

9 **A** Not to my knowledge.

10 **Q** Were you made aware that there were photos of
11 Mr. Riggins circulating on Facebook?

12 **A** Not to my knowledge, no.

13 MS. CALDWELL: No further questions.

14 THE COURT: Anything further?

15 MR. DeBUSK: No, Your Honor.

16 THE COURT: All right. Detective Franklin,
17 you can step down. I think you are still under
18 subpoena.

19 I'll hear from you, Mr. DeBusk.

20 MR. DeBUSK: That is our showing. We have
21 the lineup, and the lineup faces are very similar.
22 It was shown to the defendant in a controlled
23 environment -- witness in a controlled environment.
24 She looked at it and picked one out. She was very
25 close to the defendant, the suspect. Her attention

THE COURT AND ATTORNEYS

1 was drawn to him because he had a gun and was
2 shooting. She got a good look and was able to
3 identified him from the lineup almost immediately.

4 There is nothing suggestive about this lineup
5 or the lineup procedure. We feel it should be
6 admissible under Neil v. Biggers.

7 THE COURT: Ms. Caldwell.

8 MS. CALDWELL: Thank you, Your Honor. I do
9 believe that the procedure was done appropriately.
10 It sounds like Detective Franklin followed common
11 procedure.

12 I will note for the Court that Mr. Riggins'
13 Facebook -- or most recent mug shot was circulating
14 on Facebook at that time. Social media, different
15 media, we don't know how or why, but that started
16 happening right after the incident. It is on the
17 phone that I'm still trying to break into, if I can
18 show that to you. But I would say that we can't
19 definitively say that she didn't receive a photo
20 for that lineup, but it doesn't sound like it was
21 from the police.

22 THE COURT: All right. Well, I find from the
23 testimony that we took here in court, sworn
24 testimony from the two witnesses, that the witness
25 did see the shooting take place, Ms. Pyatt.

THE COURT AND ATTORNEYS

1 Certainly, she had a good opportunity to view the
2 suspect at the time it took place, and she was just
3 feet away, maybe 6 feet or so, as her testimony
4 said.

5 Certainly, it was a shooting situation. It
6 was an individual that she knew, that she was with,
7 that was the victim. So, certainly, I find that
8 her degree of attention was heightened.

9 Certainly, she didn't have any trouble
10 identifying what is now known as the defendant from
11 the lineup. I don't find that the line-ups were
12 suggested at all, and the time that took place
13 between the actual shooting and the photo lineup
14 identification was very small. It was one day
15 later.

16 Given all of these things, I don't find that
17 the lineup was unduly suggestive. I don't find it
18 was suggestive at all, and I find that the
19 identification is admissible.

20 All right. So we'll go from there. Are we
21 ready for the jury?

22 MR. DeBUSK: Yes, Your Honor. May we move
23 the television real quick?

24 THE COURT: Yes. All right. If we're ready,
25 we'll have the jury. Thank you.

DR. VIRGINIA RICHARDS - DIRECT EXAMINATION

1 (The jury enters at 9:47 a.m., and the
2 following is heard in the presence of the jury.)

3 THE COURT: Good morning, ladies and
4 gentlemen. Thank you for being back on time.

5 At this time, State ready to call your next
6 witness?

7 MR. BAGNAL: Yes, Your Honor. State calls
8 Dr. Virginia Richards.

9 (DR. VIRGINIA RICHARDS, having been duly
10 sworn, testified as follows:)

11 THE WITNESS: Virginia Richards,
12 R-I-C-H-A-R-D-S.

13 DIRECT EXAMINATION

14 BY MR. BAGNAL:

15 Q Thank you for being here with us, Dr.
16 Richards.

17 Are you a duly licensed physician and
18 surgeon?

19 A Yes.

20 Q In which states are you?

21 A New York and South Carolina.

22 Q And how long have you been licensed to
23 practice your profession?

24 A Since 2008.

25 Q And are you presently engaged in the practice

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DR. VIRGINIA RICHARDS - DIRECT EXAMINATION

1 of your profession?

2 **A** Yes.

3 **Q** And where did you receive your medical
4 training?

5 **A** Medical University of South Carolina.

6 **Q** Undergraduate?

7 **A** Undergraduate college was William & Mary.

8 **Q** And, approximately -- tell me this. Does
9 your work include the performance of autopsies?

10 **A** Yes.

11 **Q** And, approximately, how many autopsies have
12 you performed?

13 **A** Over 2,000.

14 **Q** Do you specialize in any particular branch or
15 field of medicine?

16 **A** Yes. I'm a forensic pathologist.

17 **Q** Would you tell us what forensic pathology
18 involves?

19 **A** Pathologist is the doctor who diagnosis
20 injuries, and a forensic pathologist has
21 specialized training to -- I'm sorry. A
22 pathologist diagnoses diseases, and a forensic
23 pathologist has specialized training to see
24 injuries as they are separate from disease as it
25 might pertain to legal matters.

DR. VIRGINIA RICHARDS - DIRECT EXAMINATION

1 MS. CALDWELL: Your Honor, we concede she is
2 an expert in forensic pathology, and we also
3 concede her credentials.

4 MR. BAGNAL: At this time I would like to
5 qualify Dr. Richards in the field of forensic
6 pathology.

7 THE COURT: All right. Ladies and gentlemen,
8 she is found as an expert in the field of forensic
9 pathology, and that means that she can give opinion
10 testimony, okay.

11 MR. BAGNAL: Thank you, Your Honor.

12 Q (BY MR. BAGNAL) Did you have the occasion to
13 perform an autopsy on one Durance McCray?

14 A Yes.

15 Q And where was this done?

16 A At the Medical University of South Carolina.

17 Q And can you tell me the condition of
18 Mr. McCray when you performed your autopsy?

19 A He was deceased.

20 Q And did you observe any evidence of injury on
21 the exterior of his body?

22 A Yes.

23 MR. BAGNAL: Your Honor, I would like the
24 witness to step down to more appropriately explain
25 those injuries.

DR. VIRGINIA RICHARDS - DIRECT EXAMINATION

1 **Q** **(BY MR. BAGNAL)** About how many gunshot wounds
2 did you observe?

3 **A** Approximately, eight.

4 **Q** And where were those located using me as a
5 model?

6 **A** So the gunshot wounds involved his head,
7 chest, his back, and his left wrist. I don't know
8 the order in which the gunshot wounds were fired.
9 I just am stating them as he appeared at the
10 autopsy.

11 So one to the right side of his head, about
12 here. That injured his mandible, zygomatic bone,
13 maxilla, had broken a couple of teeth, and the bulk
14 of the bullet was found in his mouth sending two
15 fragments up to the scalp tissues.

16 **Q** The injuries from those gunshot wounds, is
17 that fatal?

18 **A** Not necessarily.

19 **Q** Would that cause pain?

20 **A** Sure.

21 **Q** All right.

22 **A** And I'm referring to his body in my
23 observations of his body as though it is his sides,
24 his right side, not as I'm observing him. When I'm
25 looking at the patient's right side, that is

DR. VIRGINIA RICHARDS - DIRECT EXAMINATION

1 actually on my left.

2 So on the patient's right, he was shot in the
3 right side of his chest, entered a rib, injured his
4 liver and his heart, and I believe that was it. It
5 exited on the left side of his chest.

6 Q So that was a through-and-through --

7 A Yes.

8 Q And what are the injuries of that gunshot
9 wound?

10 A So any time you injure the liver, there is
11 significant bleeding. Also, like I said, the heart
12 was torn. So there is going to be an impairment in
13 the function of the heart, as well as a significant
14 amount of blood.

15 Q Is that internal bleeding?

16 A Yes.

17 Q And if a bullet rips through the heart, is
18 that necessarily fatal in and of itself?

19 A It is generally fatal.

20 Q Did he also have a second gunshot wound to
21 the chest?

22 A Yes. So the other one was more on the left
23 side, so your right, but his left up about here.
24 That one injured his left lung and his heart,
25 exiting his front of the chest here.

DR. VIRGINIA RICHARDS - DIRECT EXAMINATION

1 **Q** Dr. Richards, what are the implications of a
2 gunshot wound to the lung?

3 **A** Well, there can be the collapse of the lung,
4 difficulty breathing.

5 **Q** Why would it be difficult to breathe if a
6 lung was punctured?

7 **A** Your lungs are in a negative environment. It
8 is like a vacuum. In order to inhale, you have to
9 have that vacuum sealed, and once you perforate the
10 chest cavity, there is no longer a seal to that.
11 So it's kind of like -- you are not able to get
12 that good suction as you are inhaling the air.

13 **Q** All right. Let's move -- you want to do the
14 wrist?

15 **A** Yes. There was one to the left wrist, and it
16 didn't injure anything significantly. The bullet
17 was found near there.

18 **Q** Would that gunshot have caused pain?

19 **A** Pain, yes.

20 **Q** But not fatal?

21 **A** Correct.

22 Then there were four injuries to his back,
23 one of which went straight through to the front of
24 him and exited, and the other three went forward
25 into him. The bullets lodged within his pelvic and

DR. VIRGINIA RICHARDS - DIRECT EXAMINATION

1 lower abdominal tissue.

2 Q So the bullets that lodged in the pelvic and
3 lower abdominal issues, can you describe the
4 implications of those injuries?

5 A Well, there are vessels in the support
6 network of your intestines. So there is a pretty
7 big vessel there as well as and a large vessel in
8 the abdominal aorta. One of the bullets went
9 through that, which would cause bleeding, and then
10 the kidneys were injured as well.

11 Q I'll ask -- you can take your seat. Thank
12 you, ma'am.

13 Dr. Richards, did you have the occasion to
14 pull those projectiles from Durance McCray's body?

15 A Yes.

16 Q I'm showing you now what is marked for
17 pretrial identification purposes as State's 40, 41,
18 42, and 43. Do you recognize any of these?

19 A Yes.

20 Q And this one?

21 A Yes.

22 Q And this one?

23 A Yes.

24 Q And, lastly, this one?

25 A Yes.

DR. VIRGINIA RICHARDS - DIRECT EXAMINATION

1 **Q** Can you tell me what those are?

2 **A** So these are projectiles, whether it is an
3 intact bullet or just the fragment of a core or
4 jacket, that has come off along the bullet path
5 that I see while I'm doing my autopsy, while I'm
6 getting a sense of what the injuries are.

7 So when I remove them from the body, I wash
8 them and we photograph them and submit them as
9 evidence.

10 **Q** When you say you remove them from the body,
11 are you referring to Durance McCray's body?

12 **A** Yes.

13 MR. BAGNAL: Your Honor, at this time I would
14 like to offer into evidence what is marked for
15 pretrial identification purposes as State's 40, 41,
16 42, and 43, Your Honor.

17 MS. CALDWELL: No objection.

18 THE COURT: Okay. They are in evidence.

19 (State's Exhibits 40-43 admitted.)

20 **Q** **(BY MR. BAGNAL)** After you collected the
21 projectiles, what did you do?

22 **A** Rinsed them and handed them over to be
23 photographed.

24 **Q** Based upon the autopsy you conducted on
25 Durance McCray, what conclusions did you reach

DR. VIRGINIA RICHARDS - DIRECT EXAMINATION
1 about the gunshot wounds and the implications of
2 the injuries?

3 **A** I reached the conclusion that he died from
4 his injuries.

5 MR. BAGNAL: Court's indulgence.

6 (A brief pause in the proceedings.)

7 MR. BAGNAL: At this time I would like to ask
8 the witness to step down once more.

9 THE COURT: Okay.

10 **Q (BY MR. BAGNAL)** Dr. Richards, you previously
11 showed where the location of the bullets were. Can
12 you give us the trajectory in a more detail
13 version, I guess?

14 **A** Okay. Let me consult my records.

15 **Q** So the one to the head would be from the
16 patient's right, slightly downward. So that is
17 about as much as I can say, from right to left, and
18 slightly downward.

19 The one to the right side of the chest was
20 right to left on him and that one -- excuse me.

21 THE COURT: Sure.

22 (A brief pause in the proceedings.)

23 **A** Okay. So right to left, slightly back to
24 front, meaning it came out on the front skin of his
25 chest where it was located a little more to the

DR. VIRGINIA RICHARDS - DIRECT EXAMINATION

1 back of his right chest, if that makes sense. You
2 know, we are three dimensional, not flat.

3 Q (BY MR. BAGNAL) Would you show the jury from
4 this point of view?

5 A Sure. Sure. So unlike going straight in, it
6 was here. So, as such, it went a little bit from
7 back to front, a slight deviation, but the path was
8 mostly right to left, if that makes sense.

9 The other one was up here going left to right
10 across him. However, let me tell you -- that one
11 also was slightly coming forward, because it is
12 coming out of his skin a little bit ahead of. If
13 it was just left to right, it would exit equally
14 deep into his body, but instead it is coming
15 slightly forward and exiting on the front of his
16 chest, but mostly left to right.

17 Q And the ones in the back?

18 A Those were pretty much straight back to
19 front, from his back to front. There was one that
20 slightly deviated.

21 (A brief pause in the proceedings.)

22 A Oh, yeah, this one here. The top most of
23 this one, it went back to front, but slightly from
24 his left to right. So when it came out, instead of
25 going straight out of the front, it was a little

DR. VIRGINIA RICHARDS - CROSS EXAMINATION

1 more towards midline, if that makes any sense.

2 Q (BY MR. BAGNAL) Thank you, Dr. Richards.

3 One more question about the wrist. Could you
4 determine any particular trajectory with the bullet
5 that hit the wrist?

6 A I really couldn't.

7 Q Why would that be, just out of curiosity?

8 A You know, we have no idea how the arm was
9 positioned at the time it was shot. It entered the
10 anterior aspect of the arm, that is all I know.
11 The bullet was found, you know, deeper into the
12 arm.

13 Q When you say the anterior aspect, would that
14 indicate that the arm was positioned like this
15 (indicates) when the bullet was fired and entered
16 or positioned --

17 A That is your anterior aspect there, yes.

18 Q Thank you.

19 MR. BAGNAL: Moment of the Court's
20 indulgence, Your Honor -- no further questions from
21 the State. Please answer any that defense may
22 have. Thank you.

23 CROSS EXAMINATION

24 BY MS. CALDWELL:

25 Q Good morning, Dr. Richards.

DR. VIRGINIA RICHARDS - CROSS EXAMINATION

1 **A** Good morning.

2 **Q** So I wanted to clarify. You said that you
3 cannot determine the order of the shots?

4 **A** That's correct.

5 **Q** And you also can't determine, from your work,
6 the way in which the shots happened, in the sense
7 you can't tell if someone was in movement or not?

8 **A** That's correct.

9 **Q** However, if someone is shot on both their
10 right side and their left side, you would have to
11 assume that they were moving at some point?

12 MR. BAGNAL: Objection; speculation. Outside
13 the scope of Dr. Richards expert-ability.

14 MS. CALDWELL: Your Honor, she is admitted as
15 an expert, which means she can give opinion
16 testimony. She can tell me she doesn't have an
17 opinion, but I believe it is within her ability to
18 say that a shot on both sides of the body could
19 mean movement.

20 THE COURT: All right. I'll allow it, but
21 we'll stay away from speculation.

22 MR. BAGNAL: Thank you, Your Honor.

23 **A** So when a body has injuries on more than one
24 side, it could mean that the decedent was moving.
25 It could mean that whoever was firing the gun was

DR. VIRGINIA RICHARDS - CROSS EXAMINATION

1 moving relative to the decent. A combination of
2 both of those, or there could have been another
3 person firing another gun.

4 Q (BY MS. CALDWELL) Yes, ma'am. Thank you.

5 When you removed the fragments, and in the
6 photographs that were taken, you labeled them
7 individually where they came from, correct?

8 A Yes.

9 Q Perfect. And when you did that, did you
10 number those in any order?

11 A Number the bullets?

12 Q Yes. Like, for example, did you say bullet
13 one came from the head wound, not because you think
14 that is the order that it happened, but just --

15 A I don't number them, but they are labeled.
16 The bullet I removed from the head is on the label.
17 It says something to that effect, "a bullet from
18 the head."

19 Q Okay. Thank you.

20 Your autopsy was conducted about five days
21 after?

22 A Yes. You are right, five days after.

23 MS. CALDWELL: Court's indulgence, Your
24 Honor.

25 (A brief pause in the proceedings.)

DR. VIRGINIA RICHARDS - REDIRECT EXAMINATION

1 **Q** **(BY MS. CALDWELL)** One last question. When
2 you collected evidence from Mr. McCray, you
3 collected the bullets and the clothing, et cetera?

4 **A** Sorry?

5 **Q** Sorry. You collected evidence from
6 Mr. McCray. You collected the bullets and the
7 clothing and turned that back over to Detective
8 Bellamy?

9 **A** Yes.

10 **Q** Did you do gunshot residue or swab for that?

11 **A** No.

12 MS. CALDWELL: Thank you. Nothing further.

13 THE COURT: Anything further, redirect?

14 MR. BAGNAL: Briefly, Your Honor.

15 **REDIRECT EXAMINATION**

16 **BY MR. BAGNAL:**

17 **Q** Dr. Richards, let's get down to brass tacks.
18 Based upon a reasonable degree of medical
19 certainty, what is the cause of death of Durance
20 McCray?

21 **A** Gunshot wounds of the body.

22 **Q** How many?

23 **A** Eight.

24 MR. BAGNAL: Thank you. No further
25 questions, Your Honor.

JADA PYATT - DIRECT EXAMINATION

1 THE COURT: All right. Dr. Richards, thank
2 you for being here.

3 Any objection that she be released from the
4 subpoena?

5 MS. CALDWELL: None.

6 MR. BAGNAL: None.

7 THE COURT: You are free to go. Thank you.
8 Call your next witness.

9 MR. DeBUSK: Yes, Your Honor. State calls
10 Jada Pyatt.

11 (JADA PYATT, having been duly sworn,
12 testified as follows:)

13 THE WITNESS: Jada Pyatt, P-Y-A-T-T.

14 DIRECT EXAMINATION

15 BY MR. DeBUSK:

16 Q What is your occupation, Ms. Pyatt?

17 A I work in the medical field as a PSR.

18 Q Are you --

19 THE COURT: Ms. Pyatt, you have to speak up
20 because all of the jury members have to hear you.

21 THE WITNESS: Okay.

22 Q (BY MR. DeBUSK) Are you a little nervous?

23 A Yes.

24 Q You live here in Horry County?

25 A Yes.

JADA PYATT - DIRECT EXAMINATION

1 **Q** I'll get this out of the way. Have you been
2 convicted of a felony before?

3 **A** Yes.

4 **Q** What was that?

5 **A** Conspiracy with intent to sell drugs.

6 **Q** Is that a federal or state court?

7 **A** Federal court.

8 **Q** Did you serve a sentence?

9 **A** Yes.

10 **Q** In fact, when this incident happened, May 21,
11 2021, were you on probation?

12 **A** Yes.

13 **Q** Did you know Durance McCray?

14 **A** Yes.

15 **Q** How did you know him?

16 **A** We went to school together back in high
17 school.

18 **Q** Back in May of 2021, was there a relationship
19 between the two of you?

20 **A** Yes.

21 **Q** What was that?

22 **A** He was my boyfriend.

23 **Q** So you were dating?

24 **A** Yes.

25 **Q** How long -- as of the day he was shot, how

JADA PYATT - DIRECT EXAMINATION

1 long had you been dating?

2 **A** Not long, because I had just come home. So
3 maybe about five, six months.

4 **Q** Were the two of you together on the evening
5 of May 21, 2021?

6 **A** Yes.

7 **Q** What were you doing?

8 **A** We went out to watch the basketball game.

9 **Q** Where did you go?

10 **A** Archie's.

11 **Q** Is that Captain Archie's?

12 **A** Captain Archie's.

13 **Q** Is that in Little River?

14 **A** Yes.

15 **Q** Why did you go to Captain Archie's?

16 **A** A friend of his was out there already, Joey.

17 **Q** Joey Sinclair?

18 **A** Yes.

19 **Q** And how did you become aware that he was at
20 Captain Archie's?

21 **A** He posted on his social media.

22 **Q** Okay. Now, about how long were you at
23 Captain Archie's?

24 **A** Not even an hour.

25 **Q** And while you were there, what were you all

JADA PYATT - DIRECT EXAMINATION

1 doing?

2 **A** We were sitting at the bar watching the game.

3 **Q** Did you visit with Joey Sinclair?

4 **A** Yes.

5 **Q** Did you and Durance have a discussion?

6 **A** Yes, small talk.

7 **Q** Now, did Durance McCray have a weapon on him
8 that night?

9 **A** No.

10 **Q** How do you know?

11 **A** Because he didn't. I mean, why would he?

12 **Q** What would the consequence be if he had been
13 caught with a weapon?

14 **A** I would be violated on probation.

15 **Q** So it would have gotten you in a lot of
16 trouble if --

17 **A** Yes.

18 **Q** Do you recall where in Captain Archie's you
19 were sitting?

20 **A** Yes.

21 **Q** Where was it?

22 **A** In the back, like a patio, like an outside
23 bar.

24 **Q** Was there a band stage there?

25 **A** Yes.

JADA PYATT - DIRECT EXAMINATION

1 **Q** Was the band playing for some time while you
2 were there?

3 **A** When we got there, I don't recall. I think
4 it was over with.

5 **Q** How were things among you and Durance and
6 Joey, was it friendly? Any conflict or anything?

7 **A** No, there was no conflict. It was friendly.

8 **Q** Having a good time?

9 **A** Yeah.

10 **Q** When the game ended, what happened?

11 **A** We left. We were talking about going to
12 another bar, but we were tired. We were just going
13 to leave.

14 **Q** Where had you parked when you came in?

15 **A** Way on like the other side of the parking
16 lot. I would say the -- Captain Archie's is right
17 here. We parked back here (indicates).

18 **Q** I'll show you what is marked as State's 3 and
19 ask if you recognize this?

20 **A** Uh-huh.

21 **Q** Would you be able to show the jury where you
22 were parked, approximately, on this map?

23 **A** Yes.

24 MR. DeBUSK: May she step down?

25 THE COURT: Sure. You can step down and show

JADA PYATT - DIRECT EXAMINATION

1 them.

2 **Q** **(BY MR. DeBUSK)** Demonstrate for the jury,
3 approximately, where you were parked.

4 **A** We were parked in here (indicates).

5 **Q** Now, did you happen to see where Joey
6 Sinclair had parked?

7 **A** No.

8 **Q** Did he go out in the same area you did or he
9 went somewhere else?

10 **A** When we left out of the bar, he went like the
11 other direction from where we were going.

12 **Q** You were going back towards your car?

13 **A** Yes.

14 **Q** Thank you.

15 Now, when you walked out to the car, did the
16 two of you walk together side-by-side or
17 separately?

18 **A** When we first came out, he stopped and was
19 talking to Joey, and I kept walking, but he
20 eventually caught up to me.

21 **Q** But when you walked out of the parking lot,
22 he was behind you?

23 **A** Yes.

24 **Q** While you were on the way to the car, did
25 anything distract you?

JADA PYATT - DIRECT EXAMINATION

1 **A** Yes.

2 **Q** What was that?

3 **A** It was a man crashed into the dumpster on his
4 Moped.

5 **Q** What was he doing?

6 **A** Just laying there.

7 **Q** And what brought your attention to him?

8 **A** Well, there were other people out there as
9 well, and everyone was gathering around the
10 dumpster where he was crashed at. He wasn't
11 moving, so.

12 **Q** People were seeing if he was okay?

13 **A** Yes.

14 **Q** Was there a car or some other vehicle near
15 him?

16 **A** No.

17 **Q** Was there a Moped in the area?

18 **A** A Moped in the area?

19 **Q** A Moped.

20 **A** Like the one that crashed in the dumpster.

21 **Q** State 16, do you recognize that?

22 **A** Not standing up like that. It was laying.

23 **Q** It was laying down on the ground?

24 **A** Yes.

25 **Q** That is why you say it was crashed into the

210

JADA PYATT - DIRECT EXAMINATION

1 dumpster?

2 **A** Yes.

3 **Q** Was that individual laying next to the --

4 **A** Yes.

5 **Q** And the Moped was not standing up at the
6 time?

7 **A** No.

8 **Q** And he wasn't moving?

9 **A** No.

10 **Q** Was he speaking?

11 **A** No.

12 **Q** Who stopped to look at him, that you know of?

13 **A** We all did. I mean, I did. Durance did.

14 **Q** Were there other people you didn't know there
15 as well?

16 **A** Right. Yes.

17 **Q** At any point, did Joey Sinclair show up?

18 **A** Yes.

19 **Q** How did he get there?

20 **A** He pulled up in his car.

21 MR. DeBUSK: For the record, I'm publishing
22 parts of State's Exhibit 7.

23 THE COURT: Okay. It is already in evidence?

24 MR. DeBUSK: It is already in evidence.

25 (A brief pause in the proceedings.)

JADA PYATT - DIRECT EXAMINATION

1 **Q** **(BY MR. DeBUSK)** Ms. Pyatt, can you step down
2 again and see if you can identify yourself walking
3 on the video.

4 (State's Exhibit 7 published to the jury.)

5 **Q** **(BY MR. DeBUSK)** Do you recognize parts of the
6 Captain Archie's parking lot?

7 **A** Yes.

8 (Published to the jury.)

9 **A** There.

10 **Q** **(BY MR. DeBUSK)** Is that you?

11 **A** Yes.

12 **Q** Wait a moment.

13 (Published to the jury.)

14 **Q** **(BY MR. DeBUSK)** At this point you are walking
15 towards the car?

16 **A** Yes.

17 **Q** Do you recognize this individual?

18 **A** Durance.

19 **Q** So he was some way behind you because he was
20 talking to Joey?

21 **A** Yes.

22 **Q** Thank you. You may sit down.

23 Now, you were standing there and looking at
24 the man on his Moped, did anything happen at that
25 point?

JADA PYATT - DIRECT EXAMINATION

1 **A** Yes.

2 **Q** What happened?

3 **A** We hear -- I hear a guy walk up saying that,
4 Yeah, this is for my niggers. And I remember
5 hearing Durance say, I didn't do it, and I started
6 hearing shooting.

7 **Q** Before the shooting, did Durance say anything
8 about, "You are going to be on a T-shirt"?

9 **A** No.

10 **Q** Did he have any exchange at all with the
11 person that walked up?

12 **A** No.

13 **Q** Did Joey say anything to the person that
14 walked up?

15 **A** No.

16 **Q** Did Joey say anything about being on a
17 T-shirt?

18 **A** No.

19 **Q** Did either Durance or Joey say anything
20 about, "Get the choppa. Get the choppa"?

21 **A** No.

22 **Q** Now, this individual walks up. Did you see
23 what direction he came?

24 **A** Yeah. From the Captain Archie's direction,
25 the bar.

JADA PYATT - DIRECT EXAMINATION

1 **Q** I guess it is a silly question, but was your
2 attention drawn to him?

3 **A** When I heard him talking, yes.

4 **Q** And then when he was shooting?

5 **A** Yes.

6 **Q** Did you get a good look at him?

7 **A** Yes.

8 **Q** How far were you from him?

9 **A** Where you are standing.

10 **Q** Were you able to see his features?

11 **A** Yes.

12 **Q** Did you see what kind of hair he had?

13 **A** Yes.

14 **Q** What was it?

15 **A** Shorts dreads about that length (indicates).

16 **Q** And did he have facial hair?

17 **A** Yes.

18 **Q** Was he tall, short?

19 **A** He was tall.

20 **Q** Was he a black male or white male?

21 **A** He was black, brown skinned.

22 **Q** What happened when the shooting started?

23 **A** When the shooting started, I ran.

24 **Q** Do you recall, perhaps, which direction he
25 ran?

JADA PYATT - DIRECT EXAMINATION

1 **A** Back towards Captain Archie's.

2 **Q** Was the person that said "this is for," that
3 was the person that started shooting?

4 **A** Yes.

5 **Q** Do you recall how many shots?

6 **A** Yes.

7 **Q** How many?

8 **A** Seven or eight.

9 **Q** This is a traumatic thing to think about?

10 **A** Yeah.

11 **Q** I know it is difficult. I have a few more
12 questions for you.

13 After the shooting stopped, what did you do?

14 **A** I ran back looking for Durance.

15 **Q** Do you know where Durance was at that point?

16 **A** In the car with Joey.

17 **Q** You said he got in the car with Joey?

18 **A** Yeah.

19 **Q** Do you know what they did?

20 **A** Took him to the hospital.

21 **Q** What did you do?

22 **A** I got in the car and went to the hospital.

23 **Q** When you and Durance went to Captain
24 Archie's, were you in your car?

25 **A** His car.

JADA PYATT - DIRECT EXAMINATION

1 Q But you had the keys?

2 A Yes.

3 Q What happened when you got to the hospital?

4 A They won't let nobody in, so we just sat
5 there in front of the hospital, in front of the
6 doors.

7 Q How did you know to go to the hospital?

8 A Joey. I was calling Durance's phone, and
9 then Joey called me on Snapchat, and he told me to
10 come to Seacoast.

11 Q That wasn't a regular phone call, but a
12 Snapchat call?

13 A Yeah, Snapchat.

14 Q Was Joey at the hospital when you got there?

15 A Yes.

16 Q Did you see Durance?

17 A No.

18 Q Did the police eventually come to the
19 hospital?

20 A Yes.

21 Q Did you speak to them while you were there?

22 A No.

23 Q Did you at least let them know who you were?

24 A Oh, yeah.

25 Q Now, did you go to the police station the

JADA PYATT - DIRECT EXAMINATION

1 next day for a full interview?

2 A Yes.

3 Q Did you talk to detectives?

4 A Yes.

5 Q Tell them what you saw and who you saw?

6 A Yes.

7 Q At the end of the interview, did they show
8 you a photo lineup?

9 A Yes.

10 Q I'll show you State's 30 and ask if you
11 recognize that?

12 A Yes.

13 Q What is that?

14 A (Indicates.)

15 Q I mean, what is it a photo of?

16 A The picture of him.

17 Q Six pictures?

18 A Yes, six pictures.

19 Q And one of them is the picture of the
20 shooter?

21 A Yes.

22 Q And you picked that picture out?

23 A Yes.

24 Q Did you pick it out right away?

25 A Yes.

JADA PYATT - DIRECT EXAMINATION

1 Q Were you certain?

2 A Yes.

3 Q When you picked it out, did you circle the
4 number and put your initials?

5 A Uh-huh.

6 MR. DeBUSK: Your Honor, the State would
7 offer State's 30.

8 MS. CALDWELL: No objection.

9 (State's Exhibit 30 admitted.)

10 Q (BY MR. DeBUSK) I'll show you State's 29. Do
11 you recognize that?

12 A Yes.

13 Q Is that the form you filled out?

14 A Yes.

15 Q And it indicates you picked out Picture
16 No. 3?

17 A Yes.

18 Q Were you certain that was the person you saw
19 shoot Durance McCray?

20 A Yes.

21 Q I know it's been two years, but do you see
22 that person in the courtroom today?

23 A Yes.

24 Q Who is it?

25 A (Indicates.)

JADA PYATT - CROSS EXAMINATION

1 **Q** You are indicating the defendant sitting at
2 the table over here?

3 **A** Yes.

4 MS. CALDWELL: For the record, I would like
5 her to describe him more, because he just pointed
6 at the defense table, that could be all three of
7 us.

8 **A** The one in the middle.

9 THE COURT: Let the record reflect she
10 identified the defendant.

11 MR. DeBUSK: Answer any questions that the
12 defense may have.

13 **CROSS EXAMINATION**

14 **BY MS. CALDWELL:**

15 **Q** Ms. Pyatt, you and Mr. McCray went to Captain
16 Archie's that night?

17 **A** Yes.

18 **Q** You arrived around 10:40 p.m.?

19 **A** I'm not certain, but I know it was late.

20 THE COURT: Ms. Pyatt, if you can speak into
21 the microphone.

22 THE WITNESS: Sorry.

23 **Q** **(BY MS. CALDWELL)** Sometime between 10:30,
24 11:00, somewhere in that range?

25 **A** Yes.

JADA PYATT - CROSS EXAMINATION

1 **Q** You said that you guys came in Mr. McCray's
2 car?

3 **A** Yes.

4 **Q** What color is it?

5 **A** White.

6 **Q** And what kind of car was it?

7 **A** A Mercedes.

8 **Q** And you showed Mr. DeBusk that you kind of
9 parked down here, I think a little over here
10 (indicates)?

11 **A** No. Come back up some. Come back up. Yeah.

12 **Q** Sorry. I know the scale of the map is a
13 little different. So you parked up here.

14 There was not exactly parking spots, but like
15 grass and gravel and things that you could park
16 there?

17 **A** Yes.

18 **Q** So I know on the video you pointed out
19 that -- where you were walking, and you were
20 walking a little in front of Mr. McCray.

21 Now, I have some still shots for you to look
22 at, but we can also play the video. I'll show you
23 these first.

24 MS. CALDWELL: May I approach?

25 THE COURT: Sure.

JADA PYATT - CROSS EXAMINATION

1 **Q** **(BY MS. CALDWELL)** I'll show you what is
2 premarked as Defense Exhibits 1, 2, and 3. Be
3 careful, I just printed them this morning so I have
4 black on my fingers. I don't want them to get on
5 yours.

6 So these are three different photos of after
7 -- during and after the shooting. I know it is
8 kind of hard to see, because I couldn't quite zoom
9 in on these photos. That is why we'll pull it up
10 on the TV, too. I'll have you step down, but for
11 the first photo, can you tell me the timestamp?

12 **A** 11:44.

13 **Q** So that was a little bit after the shooting?

14 **A** Yes.

15 **Q** And then is that Mr. Sinclair's car?

16 **A** Yes.

17 **Q** And then, I believe, and you can correct me
18 if I'm wrong, but this up here appears to be you
19 beginning to walk back in the direction looking for
20 Mr. McCray; is that right?

21 **A** Yes.

22 **Q** This next photo is a little bit later. Can
23 you tell me the timestamp?

24 **A** 11:45:54 p.m.

25 **Q** In this photo, it is hard to see, but can you

JADA PYATT - CROSS EXAMINATION

1 show me -- were you walking around looking for
2 Mr. McCray, as you stated?

3 **A** No. When I went back after the shooting, I
4 didn't see his body on the ground, so I knew that
5 he was in the car.

6 **Q** Yes, ma'am. This right here, can you tell me
7 the timestamp on this one?

8 **A** 11:47 p.m.

9 **Q** And is that -- does that look like that is
10 about where you parked and you backing out?

11 **A** Yes.

12 MS. CALDWELL: May I move to admit
13 Defendant's Exhibits 1, 2, and 3.

14 MR. DeBUSK: No objection.

15 THE COURT: Defendant's 1 through 3.

16 (Defendant's Exhibits 1-3 admitted.)

17 **Q (BY MS. CALDWELL)** Ms. Pyatt, will you step
18 down so we can watch it on the video in realtime?

19 MS. CALDWELL: Court's indulgence. I pulled
20 the screen shots, but it doesn't look like this
21 particular projector shows that.

22 THE COURT: Okay.

23 (A brief pause in the proceedings.)

24 **Q (BY MS. CALDWELL)** Up in this area is when you
25 guys started running?

JADA PYATT - CROSS EXAMINATION

1 **A** Yes.

2 **Q** And that was you moving back across this way?

3 **A** Play it again. I can't see it.

4 **Q** Absolutely.

5 (Published to the jury.)

6 **Q** Was that you walking, moving?

7 **A** That's not clear enough for me.

8 **Q** Okay. That's fine.

9 This is what we just looked at it is now
10 bigger for you. So the car pulled off. Do you
11 believe that is you going back to the vehicle, your
12 vehicle?

13 **A** I can't tell.

14 **Q** That's fine. We'll move on. You can have a
15 seat.

16 Ms. Pyatt, you agree in Defense 3 that you
17 believe that this was your vehicle backing up?

18 **A** Yes.

19 **Q** And that is at 11:47?

20 **A** Uh-huh.

21 **Q** I'm showing you what is Defense No. 4. Can
22 you tell me what this is?

23 **A** At the hospital.

24 **Q** Can you tell me the timestamp?

25 **A** 12:03.

JADA PYATT - CROSS EXAMINATION

1 **Q** Does that look about when you were arriving?

2 **A** Yes.

3 MS. CALDWELL: At this time I move to admit
4 Defense 4.

5 THE COURT: Any objection?

6 MR. DeBUSK: None.

7 THE COURT: 4 is in evidence.

8 (Defendant's Exhibit 4 admitted.)

9 **Q** **(BY MS. CALDWELL)** You told Mr. DeBusk you
10 went straight to the hospital?

11 **A** Correct.

12 **Q** If you left at 11:47 and went straight to
13 seacoast, it took you approximately 15 minutes and
14 34 seconds to get to Seacoast then?

15 **A** It couldn't take that long, because when I
16 came back looking for Durance, the other people
17 that were out there -- like everyone was scrambling
18 around trying to figure out what just happened, and
19 I didn't see Durance, so I went to the car. And
20 then, at that point, I didn't know where they were
21 going. So I said -- I was in my car and that is
22 when I got the call from Joey, and he told me to
23 come to Seacoast.

24 I'm not familiar with that area. I'm not
25 from that side of town. So I'm putting it in GPS

JADA PYATT - CROSS EXAMINATION

1 to see how to get to Seacoast.

2 Q So at 11:47 your car was backing up?

3 A Yes.

4 Q And 12:03 you were arriving at the hospital?

5 A Yeah.

6 Q I'll show you what is premarked as Defense
7 Exhibits 5 and 6. Do you recognize these?

8 A Yes.

9 Q And in this first photo it appears that you
10 are getting up; is that correct?

11 A Yes.

12 Q What is the timestamp?

13 A 12:30.

14 Q I believe you asked the officers if you could
15 go get cigarettes, correct?

16 A Correct.

17 Q So you left Seacoast?

18 A Yes.

19 Q And this appears you returning?

20 A Correct.

21 Q What is the timestamp?

22 A 1:02.

23 Q So you were gone about 31 minutes or so?

24 A Uh-huh.

25 MS. CALDWELL: At this time I move to admit

JADA PYATT - CROSS EXAMINATION

1 Defense Exhibits 5 and 6.

2 THE COURT: Any objection?

3 MR. DeBUSK: No, Your Honor.

4 THE COURT: 5 and 6 are in evidence.

5 (Defendant's Exhibits 5-6 admitted.)

6 Q (BY MS. CALDWELL) Once you were at Seacoast,
7 you identified yourself to the officers and said
8 you knew Mr. McCray, but you didn't really talk to
9 them or anything?

10 A Right.

11 Q Do you remember telling the officers that you
12 had been at Captain Archie's?

13 A No.

14 Q If I show you a video with Sergeant Al Shone
15 (phonetic), would that refresh your memory?

16 A Yeah.

17 MS. CALDWELL: This has not been premarked.

18 At this time I'll play this video. For the
19 record, it is the Body Worn Camera No. 3000005156,
20 underscore, 210522, underscore, 040957.

21 THE COURT: What says the State?

22 MR. DeBUSK: I'm not sure that she laid a
23 foundation to admit a prior statement. And, also,
24 it is not in evidence yet.

25 THE COURT: And I agree.

JADA PYATT - CROSS EXAMINATION

1 Ladies and gentlemen, the only thing we can
2 do at this point is to ask you to go to your jury
3 room so the witness can refresh her memory, and as
4 soon as we do that, we'll have you back out and
5 continue the trial.

6 Do not discuss the case.

7 (The jury exits at 10:40 a.m., and the
8 following is heard out of the presence of the jury.)

9 THE COURT: All right. Mr. DeBusk, is there
10 any objection to this process?

11 MR. DeBUSK: As long as this is marked as an
12 exhibit so it can be --

13 (Defendant's Exhibit 7 marked.)

14 MS. CALDWELL: It was marked as Defense
15 Exhibit No. 7 for pretrial.

16 THE COURT: Okay. What is it actually? A
17 video?

18 MS. CALDWELL: This is the body worn camera
19 of, I believe it is Alex, but A. Jones. He is a
20 law enforcement officer from North Myrtle Beach.
21 He was the first officer on scene at Seacoast
22 Emergency Room who stayed in the ER bay.

23 THE COURT: Okay.

24 **PROFFER**

25

JADA PYATT - PROFFER TESTIMONY

1 **BY MS. CALDWELL:**

2 **Q** Is this the ER bay?

3 **A** Yes.

4 **Q** And we have moved it to just the portion when
5 he walked up, so nothing else is on there, and we
6 would only show the jury this.

7 **A** Okay.

8 (Published to the Court.)

9 **Q (BY MS. CALDWELL)** You see the ER bay and that
10 is you sitting there?

11 **A** Yes.

12 (Published to the Court.)

13 MS. CALDWELL: You can stop it.

14 **Q (BY MS. CALDWELL)** Do you remember telling
15 him --

16 **A** I was coming out of the restaurant, yeah.

17 **Q** You said he was coming out of the restaurant.

18 **A** I said we were coming out of the restaurant
19 and -- yeah.

20 **Q** Okay. Moving on.

21 THE COURT: So is the issue cleared up?
22 Let's place on the record exactly what we tried to
23 do here.

24 MS. CALDWELL: In this video, she states she
25 wasn't there. I wrote it down, but apparently it's

JADA PYATT - PROFFER TESTIMONY

1 not there, and she doesn't remember, so that's
2 fine. I guess I have the timestamp wrong, but I
3 won't bother her and make her watch the whole
4 four-minute video. She said she was leaving the
5 restaurant, and I will trust that.

6 THE COURT: Okay. Anything from the State?

7 MR. DeBUSK: I'm a little lost on this
8 myself, Your Honor. I'm not sure what the upshot
9 of all of this was.

10 THE COURT: All right. Well, you are not
11 going to play this in front of the jury?

12 MS. CALDWELL: I won't.

13 THE COURT: If you are, you just need to lay
14 the foundation, and we'll go through the process.

15 MR. DeBUSK: And I think she needs Sergeant
16 Jones, Your Honor.

17 THE COURT: I understand, but I don't think
18 that is what she's intending to do.

19 We'll take a ten-minute recess and resume
20 this trial.

21 Ms. Pyatt, you can step down, but can't talk
22 to anyone about your testimony.

23 THE WITNESS: Okay.

24 THE COURT: Or you can stay there, whatever
25 you would like.

JADA PYATT - CROSS EXAMINATION

1 THE WITNESS: Can I go outside?

2 THE COURT: We would rather you not, but you
3 can use the restroom if you need to. Just stay in
4 this area.

5 THE WITNESS: Okay.

6 THE COURT: Thank you.

7 (A recess was taken.)

8 THE COURT: Thank you. You can be seated.

9 Ready for the jury?

10 MR. DeBUSK: State is ready.

11 THE COURT: If we can have the jury, please.

12 (The jury enters at 11:04 a.m., and the
13 following is heard in the presence of the jury.)

14 THE COURT: Ms. Caldwell.

15 MS. CALDWELL: Thank you, Your Honor.

16 **CROSS EXAMINATION (CONT.)**

17 **BY MS. CALDWELL:**

18 **Q** You mentioned to Mr. DeBusk that Mr. McCray
19 didn't have a gun?

20 **A** Correct.

21 **Q** And you said that you knew definitively?

22 **A** Correct.

23 THE COURT: Ms. Pyatt, if you could --

24 THE WITNESS: Sorry.

25 **Q (BY MS. CALDWELL)** You said you knew that

JADA PYATT - CROSS EXAMINATION

1 because it could get you in trouble?

2 **A** Correct.

3 **Q** Did you pat him down?

4 **A** No.

5 **Q** Did you look at every single pocket? I think
6 he had pockets on his pants?

7 **A** Right.

8 **Q** Did you look in every pocket?

9 **A** No.

10 **Q** When you described the suspect, you said that
11 he was tall and had dreads?

12 **A** Yes.

13 MS. CALDWELL: May I approach the witness?

14 THE COURT: Sure.

15 **Q** (BY MS. CALDWELL) Ms. Pyatt, is this an
16 accurate representation of the length of dreads at
17 the time?

18 **A** Yes.

19 MS. CALDWELL: May I admit this into
20 evidence, Defense Exhibit 8?

21 MR. DeBUSK: No objection.

22 THE COURT: Defense Exhibit 8 is in evidence.

23 MR. DeBUSK: Actually, there is no foundation
24 except for the photo of what it is. There is no
25 foundation.

JADA PYATT - CROSS EXAMINATION

1 THE COURT: Can you ask more questions to lay
2 foundation?

3 MS. CALDWELL: Absolutely.

4 Q (BY MS. CALDWELL) In this photo, who is that?

5 A The guy that shot Durance.

6 Q Does that match the description of the
7 individual that you saw on the evening of May 21,
8 2021?

9 A Yes.

10 Q I will show you what's been admitted as
11 State's 30. This is your SLED lineup?

12 A Yes.

13 Q You picked No. 3?

14 A Yes.

15 Q And is No. 3 the same person as in Defense
16 Exhibit 8?

17 A Yes.

18 Q It's just that the dreads are a little
19 longer?

20 A Yes.

21 MS. CALDWELL: I move to admit Defense
22 Exhibit 8.

23 THE COURT: Any objection?

24 MR. DeBUSK: I think we still have to have
25 some authentication where the picture came from and

JADA PYATT - CROSS EXAMINATION

1 who took it and under what circumstances. Just
2 because the witness recognized it doesn't mean it
3 is what it purports to be.

4 THE COURT: I'm going to admit the photo over
5 objection. I think that this witness has
6 identified who the photo is taken of, and also,
7 certainly, testified to its relevance in this
8 matter. So 8 is in evidence over objection.

9 (Defendant's Exhibit 8 admitted.)

10 Q (BY MS. CALDWELL) Ms. Pyatt, were those the
11 length of the suspect's dreads that you saw that
12 night approximately?

13 A Approximately, yes.

14 Q Perfect. Thank you.

15 MS. CALDWELL: Court's indulgence.

16 (A brief pause in the proceedings.)

17 Q (BY MS. CALDWELL) Last question. Did they
18 swab your fingers at Seacoast Hospital for gunshot
19 residue?

20 A No.

21 MS. CALDWELL: Thank you, Ms. Pyatt. No
22 further questions.

23 THE COURT: Mr. DeBusk.

24 MR. DeBUSK: Yes, Your Honor.

25 REDIRECT EXAMINATION

JADA PYATT - REDIRECT EXAMINATION

1 **BY MR. DeBUSK:**

2 **Q** Have you ever seen Defense Exhibit 8 before
3 today, that picture?

4 **A** Yes.

5 **Q** Where did you see that picture?

6 **A** No, I haven't seen that picture.

7 **Q** You've never seen that picture?

8 **A** No.

9 **Q** But you've seen the defendant in a lineup and
10 all of that?

11 **A** Yes.

12 **Q** They didn't swab your hands for gun residue.
13 Did you fire a gun that night?

14 **A** No.

15 **Q** I'll show you what is marked as State's 32
16 for purposes of identification. Does the
17 individual in that photo have the type of hair that
18 you are describing with the short dreads?

19 **A** Yes.

20 MR. DeBUSK: For the record, that is State's
21 32. I'll bring that in with a later witness, Your
22 Honor.

23 THE COURT: Okay.

24 **Q** **(BY MR. DeBUSK)** I'll show you State's 35 and
25 ask if you recognize that?

JADA PYATT - REDIRECT EXAMINATION

1 **A** Yes.

2 **Q** What is that?

3 **A** Durance.

4 **Q** When was that picture?

5 **A** At Archie's.

6 **Q** Inside Captain Archie's?

7 **A** Yes, inside.

8 MR. DeBUSK: We move State's 35 into

9 evidence.

10 THE COURT: Any objection?

11 MS. CALDWELL: I would like to see it.

12 No objection.

13 THE COURT: 35 is in evidence.

14 (State's Exhibit 35 admitted.)

15 **Q** **(BY MR. DeBUSK)** Could it have taken you 15
16 minutes to get from Captain Archie's to Seacoast
17 Hospital?

18 **A** Yes.

19 **Q** Because you didn't know that part of town?

20 **A** Yes.

21 **Q** And you had to use your GPS?

22 **A** Yes.

23 **Q** Could you have been gone for 30 minutes to
24 find cigarettes?

25 **A** Yes.

JADA PYATT - REDIRECT EXAMINATION

1 **Q** Did you know that part of town, know where to
2 go to get cigarettes?

3 **A** No.

4 **Q** Did you have to look around?

5 **A** The gas stations were closed.

6 **Q** Were you also distraught?

7 **A** Very.

8 MR. DeBUSK: Thank you. Nothing further.

9 THE COURT: Ms. Pyatt, thank you for being
10 here.

11 Any objection for her being released?

12 MS. CALDWELL: No.

13 MR. DeBUSK: We would so move, Your Honor.

14 THE COURT: All right. You are free to go or
15 stay, whatever you wish.

16 MR. DeBUSK: We'll call Andrew Franklin --
17 Your Honor, can we have a brief --

18 THE COURT: Sure.

19 (Whereupon, a bench conference was had.)

20 (ANDREW FRANKLIN, having been duly sworn,
21 testified as follows:)

22 THE WITNESS: Andrew Franklin,
23 F-R-A-N-K-L-I-N.

24 **DIRECT EXAMINATION**

25

ANDREW FRANKLIN - DIRECT EXAMINATION

1 **BY MR. DeBUSK:**

2 **Q** Detective Franklin, you testified yesterday?

3 **A** Yes, sir.

4 **Q** And you are a detective with the North Myrtle
5 Beach Police?

6 **A** Yes.

7 **Q** And you were involved in the investigation of
8 the shooting of the Durance McCray?

9 **A** Yes, sir.

10 **Q** Were you familiar with a witness named Jada
11 Pyatt?

12 **A** Yes.

13 **Q** Was there a time she came to the North Myrtle
14 Beach Police Department for an interview?

15 **A** Yes, sir.

16 **Q** Who conducted that interview?

17 **A** Detective Bellamy.

18 **Q** The gentleman sitting here?

19 **A** Yes.

20 **Q** At one point, were you asked to obtain a
21 photo lineup?

22 **A** Yes, sir.

23 **Q** How did you do that?

24 **A** I filled out the request form through SLED,
25 or SKIP, which is our state center, and I sent that

ANDREW FRANKLIN - DIRECT EXAMINATION

1 information with an old booking photo or driver's
2 license or both.

3 Q Did they return a lineup?

4 A Yes, they did.

5 Q I'll show you State's 30. Do you recognize
6 that?

7 A Yes.

8 Q What is that?

9 A That is the photo lineup I received from
10 SLED.

11 Q Did you show that lineup to Ms. Pyatt?

12 A I did.

13 Q What were the circumstances?

14 A How do you mean?

15 Q What were the circumstances of showing it,
16 when and where?

17 A At our police department, inside our
18 interview room that is audio and video recorded.

19 Q What is the procedure you use when you show a
20 lineup to someone?

21 A Normally, I keep the photo lineup inside of a
22 folder where the witness can't see it. I read off
23 a specific form that our department has to her.

24 Q Was there a reason why you show a lineup
25 instead of Detective Bellamy who conducted

ANDREW FRANKLIN - DIRECT EXAMINATION

1 interview?

2 **A** Assisting him, and it helps eliminate bias.

3 **Q** I'll show you State's 29. Do you recognize
4 that?

5 **A** I do.

6 **Q** What is that?

7 **A** That is a copy of our photo lineup form that
8 we read to each witness.

9 **Q** What do you read to them -- to Ms. Pyatt?

10 **A** On this form, it is read: "I'm going to show
11 you a group of photographs. This group of
12 photographs may or may not contain a picture of a
13 person who committed a crime now being
14 investigated. Keep in mind that hair styles,
15 beards, and mustaches may be changed easily. Also,
16 photographs may not always depict the true
17 complexion of a person.

18 "When you have looked at all of the photos,
19 tell me if you recognize any of the individuals in
20 the lineup. Do you not discuss this lineup with
21 any other witnesses."

22 **Q** When you showed her the lineup, what did she
23 do?

24 **A** She picked out Mr. Riggins.

25 **Q** Did she take a long time to pick him out?

ANDREW FRANKLIN - DIRECT EXAMINATION

1 **A** No.

2 **Q** How long do you think?

3 **A** Maybe one or two seconds.

4 **Q** Did she indicate her choice?

5 **A** She did.

6 **Q** And how did she do so?

7 **A** I asked her to circle her choice, which was
8 No. 3, and then initial next to it.

9 **Q** Was that the photo of Mr. Riggins that you
10 had just sent for the lineup?

11 **A** It was.

12 **Q** Did she also indicate on the form?

13 **A** She did. She indicated Photo No. 3 and
14 signed.

15 MR. DeBUSK: I think 29 and 30 are in
16 evidence?

17 THE COURT: I have 30 is in evidence. So 29,
18 any objection?

19 MS. CALDWELL: No objection.

20 THE COURT: 29 and 30.

21 (State's Exhibits 29 admitted.)

22 MR. DeBUSK: Thank you. Answer any questions
23 the defense may have.

24 **CROSS EXAMINATION**

25

ANDREW FRANKLIN - CROSS EXAMINATION

1 **BY MS. CALDWELL:**

2 **Q** Detective Franklin, how did you select the
3 photo you sent to SLED?

4 **A** I believe it was the driver's license photo.

5 **Q** Do you know when that was taken?

6 **A** No, ma'am, not off the top of my head I
7 don't.

8 **Q** And do you know if there were any
9 publications by your department about this
10 incident?

11 **A** Not to my knowledge.

12 **Q** And when Ms. Pyatt identified Picture 3,
13 Mr. Riggins, did she tell you why she identified
14 him?

15 **A** No, she didn't tell me why.

16 **Q** Well, your form says that it could be
17 connected to the crime being investigated, so how
18 do you determine if she's identifying the suspect
19 or if she's just identifying someone that was
20 there?

21 **A** I believe Detective Bellamy spoke with her
22 about that, but I just presented the lineup.

23 MS. CALDWELL: Thank you. Court's
24 indulgence.

25 (A brief pause in the proceedings.)

ANDREW FRANKLIN - REDIRECT EXAMINATION

1 MS. CALDWELL: Nothing further.

2 THE COURT: Anything further?

3 MR. DeBUSK: Briefly.

4 **REDIRECT EXAMINATION**

5 **BY MR. DeBUSK:**

6 **Q** At the time you requested this lineup, was
7 there an arrest warrant issued yet?

8 **A** No.

9 **Q** So you didn't have any fresh photos of him?

10 **A** No.

11 **Q** But you had access to a driver's license
12 photo?

13 **A** Yes, sir.

14 **Q** And that is why you used that?

15 **A** Yes. It was the most recent photo.

16 **Q** Did she have any difficulty recognizing Mr.
17 Riggins?

18 **A** No, sir.

19 MR. DeBUSK: Your Honor, may I publish to the
20 jury?

21 THE COURT: Sure.

22 MR. DeBUSK: Thank you.

23 THE COURT: Thank you. You can step down,
24 Detective Franklin.

25 Any objection from him being released?

ANDREW FRANKLIN - REDIRECT EXAMINATION

1 MS. CALDWELL: No, sir.

2 MR. DeBUSK: No, sir.

3 THE COURT: Free to go.

4 Our next witness is going to be testifying
5 virtually. It is going to take about ten minutes
6 to set that up so we can have her appear virtually.
7 So we'll take a short break. As soon as she's with
8 us and available and everything is working right,
9 we'll have you out here for the next witness'
10 testimony.

11 Thank you for your attention, and don't
12 discuss this case. We'll have you right back out.
13 Thank you.

14 (The jury exits at 11:19 a.m., and the
15 following is heard out of the presence of the jury.)

16 THE COURT: All right. We'll be at ease
17 until you can get the witness ready to go on the
18 screen.

19 I will just tell you that the bailiff let me
20 know that sometimes the attorneys have their backs
21 towards the jury, and sometimes when the witness is
22 not on the stand, they are having trouble hearing.
23 I guess it is the acoustics in the room. Just keep
24 that in mind.

25 MR. DeBUSK: Yes, sir.

STEPHANIE CANO - DIRECT EXAMINATION

1 (A recess was taken.)

2 THE COURT: Thank you. Everyone be seated.

3 MR. DeBUSK: Would you like to turn it on so
4 you can see --

5 THE COURT: I can see it there.

6 Can we have the jury, please?

7 We can hear her?

8 UNIDENTIFIED SPEAKER: She's on mute right
9 now, but I'm fixing to unmute her.

10 THE COURT: But you all talked to her?

11 UNIDENTIFIED SPEAKER: Uh-huh. Yep.

12 THE COURT: Okay.

13 (The jury enters at 11:33 a.m., and the
14 following is heard in the presence of the jury.)

15 THE COURT: State ready to call your next
16 witness?

17 MR. DeBUSK: We call Stephanie Cano.

18 (STEPHANIE CANO, having been duly sworn,
19 testified as follows via Webex.)

20 **DIRECT EXAMINATION**

21 **BY MR. DeBUSK:**

22 **Q** Ms. Cano, do you live in Horry County?

23 **A** No, sir.

24 **Q** Do you live out of state now?

25 **A** Yes, sir.

STEPHANIE CANO - DIRECT EXAMINATION

1 **Q** Just so the jury will know the reason you are
2 testifying remotely, you have family issues that
3 make it difficult for you to move from the State?

4 **A** Yes, my daughter.

5 **Q** So you have to be close to your daughter to
6 take constant care of her?

7 **A** Yes, sir.

8 **Q** Did you live in Horry County in May of 2021?

9 **A** Yes, sir.

10 **Q** Where did you work?

11 **A** Captain Archie's.

12 **Q** Were you on duty on May 21 of 2021?

13 **A** Yes.

14 **Q** What did you do at Captain Archie's? What
15 were your duties?

16 **A** I was a waitress.

17 **Q** Do you recall that day, what time you would
18 have gone off duty?

19 **A** I don't.

20 **Q** Do you recall speaking to the dishwasher that
21 was on duty that day?

22 **A** No. I know I did. Like, today, I don't
23 remember much of back then.

24 **Q** Well, let me ask you: The next day, May 22,
25 2021, did you go to the North Myrtle Beach Police

STEPHANIE CANO - DIRECT EXAMINATION

1 Department?

2 **A** Yes.

3 **Q** Did you give a statement to Detective
4 Christopher Bellamy?

5 **A** Gave a statement.

6 **Q** About 1:25 in the afternoon?

7 **A** Sure.

8 **Q** At that time, did you tell Detective Bellamy
9 -- one moment -- did you tell him that the
10 dishwasher approached you and said he would give
11 you a hundred dollars if you told him --

12 MS. CALDWELL: Objection; leading.

13 MR. DeBUSK: I'm impeaching her with a prior
14 statement.

15 MS. CALDWELL: He is reading her statement,
16 if there is a video --

17 MR. DeBUSK: That is how you impeach
18 somebody.

19 THE COURT: What I'll do, given the
20 circumstances and the totality of the situation,
21 I'll allow this line of questioning, but object if
22 there is any other objection other than leading,
23 okay.

24 **Q** (BY MR. DeBUSK) Did you tell Detective
25 Bellamy that the dishwasher offered you a hundred

STEPHANIE CANO - DIRECT EXAMINATION

1 dollars to tell him when a certain individual left?

2 **A** I know that is what my statement says.

3 **Q** So you did make a statement at that time and
4 that is what it says?

5 **A** I read the statement, and I know that is what
6 it says, and I know it is my handwriting.

7 My issue with this is, back then, that -- I
8 was telling the detective -- is that I have
9 black-outs when I drink. So standing here today,
10 I'm not going to confirm my statement back then
11 since I don't technically remember it today.

12 **Q** So to be clear --

13 **A** I have no memory today.

14 **Q** You don't know now whether you said that or
15 not?

16 **A** I don't remember, but I know that I wrote
17 that statement, and it is in my handwriting.

18 **Q** But do you recall making that statement? I'm
19 talking about the oral statement when you spoke to
20 Detective Bellamy.

21 **A** No. I don't even remember what he looks
22 like.

23 **Q** So you don't remember making that statement?

24 **A** I know I made a statement, I just don't
25 remember the conversation.

STEPHANIE CANO - DIRECT EXAMINATION

1 **Q** Did you tell him that the dishwasher offered
2 you --

3 MS. CALDWELL: Objection; asked and answered.
4 She said she doesn't remember that.

5 **A** I know it is written on paper, so I'm just
6 going off what is written on the paper.

7 **Q** **(BY MR. DeBUSK)** Let me ask you this. I hope
8 you can see. This is State's 45.

9 (State's Exhibit 45 marked.)

10 **Q** **(BY MR. DeBUSK)** Can you see that if I hold it
11 very still?

12 **A** Yes.

13 **Q** Is that the statement you are referring to?

14 **A** Yes. That's my handwriting.

15 **Q** And you wrote that statement for Detective
16 Bellamy on May 22, at 1:25 p.m.?

17 **A** Yes.

18 **Q** Do you remember what that statement says?

19 **A** I've read it.

20 **Q** What does it say -- oh, do you want me to
21 hold it closer?

22 **A** I can't read it. I mean, it says that the
23 dishwasher offered me a hundred dollars.

24 **Q** To do what?

25 **A** Tell him when someone left.

STEPHANIE CANO - DIRECT EXAMINATION

1 **Q** Did he describe that person to you?

2 According to your statement, did he describe that
3 person?

4 **A** The statement says it was a black man in a
5 white shirt.

6 **Q** That was the description he gave, a person in
7 a white shirt?

8 **A** Yeah.

9 **Q** Now, did you take a picture of a person
10 sitting at the bar with a white shirt?

11 **A** I know I took a few pictures and gave one to
12 the detective.

13 **Q** So you did give a picture to Detective
14 Bellamy?

15 **A** That is what I was told. I haven't seen the
16 picture, but I was told I gave him one.

17 MS. CALDWELL: I'll object, because she said
18 she does not remember if she took a picture, what
19 she took a picture of. She said she gave one to
20 the detective. I think it would have to come
21 through Detective Bellamy saying that he received a
22 photo.

23 THE COURT: Mr. DeBusk.

24 MR. DeBUSK: I think I can show her the photo
25 and see if she took it.

STEPHANIE CANO - DIRECT EXAMINATION

1 THE COURT: He can show her the picture and
2 we'll go from there.

3 Q (BY MR. DeBUSK) I'm showing you what is
4 State's 31. Does that look familiar to you?

5 A It's the bar cash register.

6 Q And an individual in the white T-shirt, do
7 you see him back there?

8 A No.

9 Q Sorry. It is not a very good -- right here
10 (indicates).

11 A I see the shirt.

12 Q Okay. So could that -- is that the picture
13 you gave to Detective Bellamy?

14 A If he says so. If he said I did, yes.

15 Q But this statement, State's 45, you gave that
16 statement to Detective Bellamy on May 22, 2021?

17 A Yes.

18 Q And that was truthful at the time you wrote
19 it?

20 A To my knowledge.

21 MR. DeBUSK: Your Honor, the State moves
22 State's 45 into evidence.

23 THE COURT: Any objection?

24 MS. CALDWELL: Absolutely. She does not
25 remember what she wrote. She does not remember its

STEPHANIE CANO - CROSS EXAMINATION

1 truthfulness. She's not staying that she
2 intentionally is lying. She just simply says she
3 doesn't know what she wrote down, whether she had
4 any basis for it or not. I don't think it's
5 corroborated evidence, and we don't know if it was
6 coerced.

7 MR. DeBUSK: She just testified that she
8 wrote that, and it was truthful at time she wrote
9 it.

10 THE COURT: And, certainly, her testimony can
11 be weighed by the jury. She has authenticated the
12 statement as being her handwriting, so I'll admit
13 the statement, State's Exhibit 45, and note your
14 objection for the record.

15 (State's Exhibit 45 admitted.)

16 MR. DeBUSK: Thank you, Ms. Cano. Answer any
17 questions from defense.

18 CROSS EXAMINATION

19 BY MS. CALDWELL:

20 Q I'm going to stand over here so I'm not
21 blocking the jury's view. Let me know if you can't
22 hear me.

23 A I can hear you.

24 Q Okay. Ms. Cano, did you contact my office
25 about this case?

STEPHANIE CANO - CROSS EXAMINATION

1 **A** Yes, ma'am.

2 **Q** And did we --

3 **A** Are you Ms. Caldwell?

4 **Q** I am Ms. Caldwell, I'm so sorry.

5 **A** Okay. Yes. Yes, I did.

6 **Q** We talked about some of the concerns you had
7 about this case?

8 **A** Yes.

9 **Q** And you completed an affidavit?

10 **A** Yes.

11 **Q** And you had that affidavit notarized at your
12 bank?

13 **A** Yes, ma'am.

14 **Q** And you got a copy of your South Carolina
15 driver's license because that is the only license
16 you had at the time?

17 **A** Yes.

18 **Q** And you got a copy of your mailing address in
19 Texas?

20 **A** Yes.

21 **Q** Or might have been -- it was your bank
22 account in Texas?

23 **A** Yes.

24 **Q** With your Texas address. Do you know what
25 date that was done?

STEPHANIE CANO - CROSS EXAMINATION

1 **A** Maybe a month or two ago.

2 **Q** Does April 4, 2023 sound right?

3 **A** Yes. I was going to guess April 8th, but,
4 yes.

5 **Q** Did you -- was that notarized?

6 **A** Yes, it was notarized by my bank.

7 **Q** If I approached and showed you your
8 affidavit, would you be able to say if it looks
9 like what you signed?

10 **A** Yes.

11 **Q** (Indicates.)

12 **A** Yes.

13 **Q** Does that look true and correct?

14 **A** Yes, ma'am.

15 **Q** When you contacted my office, and when you
16 wrote this affidavit, your concern was that you
17 don't remember what happened in 2021; is that
18 correct?

19 **A** Yes, ma'am. I got a subpoena in the mail and
20 I had to Google your defendant, like some of the
21 information of the case, even his name.

22 **Q** When did you start notifying the detective or
23 the Solicitor's Office about your concerns with
24 your appearance?

25 **A** I really -- Detective DeBusk (sic) messaged

STEPHANIE CANO - CROSS EXAMINATION

1 me back in December or January. I told him that my
2 boss made me write a statement because I was at
3 work. He took my statement and made me write a
4 statement, and I wasn't trying to get fired because
5 I was already drinking that morning. So I told the
6 detective that my boss made me give the statement
7 to begin with, and that I really didn't remember
8 this. It was three years.

9 Q And, Ms. Cano, you were stating that you were
10 drinking on the night of May 21st?

11 MR. DeBUSK: Objection.

12 A Yes, ma'am.

13 MR. DeBUSK: I don't think she testified
14 to --

15 THE COURT: Hang on. There is an objection.

16 MR. DeBUSK: Yes, Your Honor. The question
17 about the statement is not on the record, and the
18 only witness is me.

19 MS. CALDWELL: Actually, she just told
20 Mr. DeBusk that she was drinking on the night of
21 May 21st, that's why I asked.

22 MR. DeBUSK: That's putting me as a witness,
23 Your Honor.

24 MS. CALDWELL: Well, it's part of the
25 testimony.

STEPHANIE CANO - CROSS EXAMINATION

1 THE COURT: I'll overrule the objection and
2 allow the testimony.

3 Wait for the answer, and if there is an
4 objection, ask the witness to not to answer before
5 I rule.

6 Q (BY MS. CALDWELL) Were you drinking on the
7 night of May 21, 2021?

8 A Yes, ma'am.

9 Q Were you drinking after you clocked out of
10 work?

11 A Yes, ma'am.

12 Q Were you drinking on the morning of May 22,
13 2021?

14 A Yes, ma'am.

15 Q Did you drive yourself to the police station?

16 A No, ma'am.

17 Q Did you drive yourself back from the police
18 station?

19 A No, ma'am.

20 Q When you made your statement to Detective
21 Bellamy, do you remember what you said today
22 without the written statement you were provided a
23 copy of?

24 A No, ma'am.

25 Q Did you even remember what my client looked

STEPHANIE CANO - CROSS EXAMINATION

1 like before you Googled him?

2 **A** No. When I Googled, it wasn't the person I
3 thought it was.

4 **Q** So you are not even certain that you talked
5 to Mr. Driscoll Riggins?

6 **A** Detective DeBusk (sic) said it was on the
7 video that I did.

8 **Q** But you, personally, don't have any
9 recollection?

10 **A** No, ma'am.

11 **Q** And you -- were you ever paid any money, to
12 your knowledge?

13 **A** Definitely did not get my tab covered, no.

14 **Q** And when you gave your statement, were you,
15 to the best of your ability, trying to tell the
16 detective what happened?

17 **A** Yes.

18 **Q** But you had been drinking for awhile?

19 **A** Yeah.

20 **Q** As one does, you were at a bar. It seems
21 like a laid-back environment. So you don't know at
22 this time if that was accurate?

23 **A** Yes, ma'am, contributing to the decision of
24 someone's life on a statement I made drunk -- if I
25 was sober when I did it, I would be, like, okay. I

STEPHANIE CANO - CROSS EXAMINATION

1 wouldn't doubt myself, but I just don't want to
2 have doubt.

3 Q Thank you, Ms. Cano.

4 Again, I just want to be clear, you made the
5 statement to either the detective or the
6 Solicitor's Office and made them aware in December
7 of 2022?

8 A Yes. I made them aware of this situation and
9 my daughter's situation back in December.

10 Q And you have repeatedly been informing them
11 every month since?

12 A Yes, ma'am. I even notified the DA's office
13 here and tried to talk to someone here about it,
14 but I kind of got the runaround from everybody.

15 Q Every single time you notified someone here,
16 what was the outcome?

17 A I just kind of got bulldozed over.

18 Q So they weren't trying to assist you in those
19 matters?

20 A No. I finally requested a lawyer to assist
21 me.

22 Q And you were appointed an attorney on May 5,
23 2023?

24 A Last Monday. Last Monday is when I finally
25 got a lawyer, so a week before today.

STEPHANIE CANO - REDIRECT EXAMINATION

1 Q Okay. May 8, 2023?

2 A Yes, ma'am.

3 Q Okay. And the subpoena that you were sent,
4 it looks like they probably came in sometime of
5 March 2023?

6 A Yes, ma'am.

7 Q And in March of 2023 you made the State aware
8 that you did not want to appear for various
9 reasons?

10 A Yes, ma'am.

11 MS. CALDWELL: Thank you. No further
12 questions.

13 THE COURT: Redirect?

14 **REDIRECT EXAMINATION**

15 **BY MR. DeBUSK:**

16 Q That affidavit that you signed and notarized,
17 did you type that?

18 A No.

19 Q Who did?

20 MS. CALDWELL: Objection.

21 THE COURT: Hang on.

22 MS. CALDWELL: The affidavit was --

23 A I verbally told him what to type, and he
24 wrote it up and sent it to me so I could review it
25 and get it notarized.

STEPHANIE CANO - REDIRECT EXAMINATION

1 MS. CALDWELL: It was also -- for the Court's
2 record, it was typed by attorney James Galmore.

3 MR. DeBUSK: Objection. She's testifying.

4 THE COURT: Thank you.

5 Q (BY MR. DeBUSK) Now, you remember drinking
6 the night of the shooting, right?

7 A Yes.

8 Q And you remember drinking the next day?

9 A Yeah. That was kind of my routine.

10 Q And you remember you definitely didn't get
11 the hundred dollars?

12 A Well, my bank statements showed that I did
13 not get extra money.

14 Q But you don't remember what happened that
15 night as far as talking to the police?

16 A No. I remember hearing the shots, and I
17 remember leaving, but, like, as far as
18 conversations, no.

19 Q The next day, you went to the North Myrtle
20 Beach Police Department and wrote this statement,
21 State's Exhibit 45, right?

22 A Yes.

23 Q And while you did that, you were on video,
24 correct?

25 A That is what I was told.

STEPHANIE CANO - REDIRECT EXAMINATION

1 **Q** And you called your mother?

2 **A** Yeah.

3 **Q** And you told her -- referring to your boss,
4 Billy Riggs -- you asked him, I'm not getting
5 fired, right?

6 MS. CALDWELL: Objection; leading.

7 THE COURT: Overruled.

8 **Q** **(BY MR. DeBUSK)** You said to Billy Riggs, "I'm
9 not getting fired, right? And he says, "No. You
10 are doing the right thing," and I was okay. I was
11 like, "You swear I'm not in trouble?" And he said,
12 "No, you're not in trouble."

13 Do you remember telling your mother that?

14 **A** I could have.

15 **Q** But your testimony today is that you don't
16 remember telling -- verbally telling Detective
17 Bellamy that you -- the dishwasher offered you a
18 hundred dollars to tell him when someone left?

19 **A** I know that is what I told him because that's
20 what my statement says.

21 **Q** So you know that is what you told him?

22 **A** That is what my statement says.

23 MR. DeBUSK: Thank you. Nothing further.

24 THE COURT: Thank you, Ms. Cano.

25 Would the attorneys approach?

DANIEL SPENCER - DIRECT EXAMINATION

1 (Whereupon, a bench conference was had.)

2 MR. DeBUSK: State calls Daniel Spencer.

3 MS. CALDWELL: While he's taking the stand, I
4 know it was not admitted into evidence, but since
5 it was referred to, I would like to make Ms. Cano's
6 affidavit a Court's exhibit.

7 (Court's Exhibit 4 marked.)

8 (DANIEL SPENCER, having been duly sworn,
9 testified as follows:)

10 MR. DeBUSK: For purposes of directing this
11 witness, I will have to open the SLED packaging on
12 State's Exhibit 14. I just wanted to put that on
13 the record.

14 THE WITNESS: Daniel Spencer, S-P-E-N-C-E-R.

15 **DIRECT EXAMINATION**

16 **BY MR. DeBUSK:**

17 **Q** Officer Spencer, who is your employer?

18 **A** Horry County Police Department.

19 **Q** How long have you been with Horry County
20 Police?

21 **A** Since 2002.

22 **Q** What is your current assignment?

23 **A** Assigned to the United States Marshal's
24 Fugitive Task Force.

25 **Q** What is that and what do they do?

DANIEL SPENCER - DIRECT EXAMINATION

1 **A** We adopt cases for defendants that are wanted
2 for violent crimes, such as homicide, robbery,
3 rape, et cetera.

4 **Q** How long have you been in law enforcement
5 altogether?

6 **A** Since 1999.

7 **Q** How about in May of 2021, what was your
8 assignment?

9 **A** Assigned, and currently still assigned, to
10 the United States Marshal Fugitive Task Force
11 Division.

12 **Q** Were you referred a case involving Driscoll
13 Riggins?

14 **A** I was. We adopted the case from North Myrtle
15 Beach Police Department.

16 **Q** How does that work? Does the local agency
17 ask for your assistance?

18 **A** Correct. They call me, and we adopt the case
19 so we can find whoever is wanted and wherever they
20 are at.

21 **Q** Based on your investigation, were you able to
22 locate Mr. Riggins?

23 **A** Yes, sir.

24 **Q** At that time, did you have an arrest warrant
25 in hand?

DANIEL SPENCER - DIRECT EXAMINATION

1 **A** Yes, sir.

2 **Q** Did you find Mr. Riggins?

3 **A** I did.

4 **Q** Did you arrest him to serve that warrant?

5 **A** I did.

6 **Q** Where did you locate him?

7 **A** On that date, we received information that

8 Mr. Riggins was at 304 Betty Circle in Marion,

9 South Carolina.

10 **Q** That is in Marion County?

11 **A** It is.

12 **Q** Did you arrest him there?

13 **A** I did.

14 **Q** What was his location?

15 **A** It was a trailer down off of Betty Circle.

16 We pulled up in the yard and surrounded the

17 residence. I observed Mr. Riggins standing on the

18 back porch talking on the cell phone. I approached

19 him and placed him under arrest.

20 **Q** So was it you that executed the arrest?

21 **A** It was.

22 **Q** When you arrest someone, do you search them?

23 **A** I do.

24 **Q** What is the purpose of searching them?

25 **A** For officer's safety.

DANIEL SPENCER - DIRECT EXAMINATION

1 **Q** Did you find anything when you served him?

2 **A** I asked if he had any weapons, and he told me
3 he did have a weapon on him.

4 **Q** What did you find?

5 **A** A handgun. It was orangish/black in color,
6 in his right pocket, and an extra magazine to go
7 with the handgun.

8 **Q** I'll show you what is marked as State's 37
9 and 38 and ask if you recognize these?

10 **A** I do.

11 **Q** What are those?

12 **A** That is the handgun that I took out of his
13 pocket.

14 **Q** What are the other photos?

15 **A** That is me taking the handgun out of his
16 pocket. This is before I took it out of his
17 pocket, the bulge in his pocket, and me taking it
18 out of his pocket, the serial number to the gun. I
19 took that picture of the serial number.

20 **Q** The other pictures is your hand, so you
21 couldn't take those, but that is you?

22 **A** That is me taking the gun out of his pocket.

23 MR. DeBUSK: State would offer State's 37 and
24 38 into evidence.

25 THE COURT: Any objection?

DANIEL SPENCER - DIRECT EXAMINATION

1 MS. CALDWELL: No, Your Honor.

2 THE COURT: Okay. State's 37 and 38 in
3 evidence.

4 (State's Exhibits 37-38 admitted.)

5 Q (BY MR. DeBUSK) State's 38 is a picture you
6 took?

7 A The picture of the serial number on the back
8 of the gun, correct.

9 Q I'm going to show you State's Exhibit No. 14.
10 I've opened the SLED packaging. I'll ask if you
11 recognize that?

12 A Same weapon.

13 Q Does it have a serial number?

14 A I don't want to touch it, but if it does, it
15 will be on the very back.

16 That is it. That is the same serial number.

17 Q Thank you.

18 After you collected that weapon at the time
19 of the arrest, what did you do with it?

20 A We had the local agency, Marion County
21 Sheriff's Office that was there, to be the local
22 agency, and I turned that over to them, and they
23 took it.

24 Q For safekeeping?

25 A Yes.

DANIEL SPENCER - CROSS EXAMINATION

1 Q Did you find any other firearms during the
2 arrest?

3 A I just found the one weapon in his pocket
4 with an extra magazine, is what I found.

5 Q That you found, correct.

6 What did you do with the defendant after he
7 was arrested?

8 A He was placed into custody and turned over to
9 Marion County Sheriff's Office.

10 Q Was he taken to the Marion County jail?

11 A I cannot answer that. I do not know that.
12 Our job is to take them into custody.

13 Q Is North Myrtle Beach the agency that
14 originated the warrant?

15 A That is correct.

16 Q Do you recall the officer that requested it?

17 A Detective Bellamy.

18 MR. DeBUSK: Answer any questions that the
19 defense may have.

20 CROSS EXAMINATION

21 BY MS. CALDWELL:

22 Q Good morning.

23 A Good afternoon.

24 Q Quite right, good afternoon.

25 You said that you received intel that

DANIEL SPENCER - CROSS EXAMINATION

1 Mr. Riggins was in Marion County?

2 **A** Yes, ma'am.

3 **Q** Who did you receive that from?

4 **A** We received information that he was at that
5 location.

6 **Q** From whom?

7 MR. DeBUSK: Objection. We probably have a
8 matter of law that we will have to take up.

9 THE COURT: Ladies and gentlemen, we'll ask
10 you to step to your jury room for a --

11 MS. CALDWELL: I'll withdraw the question.

12 THE COURT: Are you sure?

13 MS. CALDWELL: I'm positive.

14 THE COURT: Never mind.

15 **Q (BY MS. CALDWELL)** What was the address?

16 **A** I've got 304 Betty Court. It is like a
17 court/circle area, so Betty Court or Circle is in
18 Marion.

19 **Q** Are you aware of whose address that was?

20 **A** I do not have that information in front of
21 me. There was a female at that residence, but I
22 don't have her information in front of me.

23 **Q** Were you aware that at that time that
24 Mr. Riggins had informed people -- other law
25 enforcement agents that that was his location?

DANIEL SPENCER - CROSS EXAMINATION

1 MR. DeBUSK: Objection, Your Honor; hearsay.

2 THE COURT: She's asking for a statement from
3 the defendant.

4 MS. CALDWELL: If he says he wasn't aware,
5 he's allowed to do that.

6 THE COURT: He's able to answer her question.
7 Thank you.

8 **A** Repeat.

9 **Q** **(BY MS. CALDWELL)** When you went to 304 Betty
10 Circle, were you aware at that time that
11 Mr. Riggins had informed other law enforcement
12 agents that that was his location?

13 **A** I'm not aware of that at all.

14 **Q** All right. Thank you.

15 Were you aware at that time that Mr. Riggins
16 was living in Marion County?

17 **A** I'm not aware of that at all.

18 **Q** All right. And did he tell you about the
19 firearm in his pocket?

20 **A** He did tell me, because I ask every person
21 that I place in custody did they have anything on
22 them, and he did tell me.

23 **Q** And he was within the porch attached to the
24 home when you arrived?

25 **A** Standing on the back porch of the residence,

DANIEL SPENCER - CROSS EXAMINATION

1 the trailer.

2 Q Okay.

3 MS. CALDWELL: Court's indulgence.

4 (A brief pause in the proceedings.)

5 Q (BY MS. CALDWELL) Was Mr. Riggins compliant
6 with all of your requests?

7 A He was.

8 Q Was he cordial, respectful?

9 A He was to me, yes, ma'am.

10 Q Did he try to evade, runaway, flee?

11 A He did not.

12 MS. CALDWELL: Thank you. No further
13 questions.

14 THE WITNESS: You're welcome.

15 THE COURT: Anything further?

16 MR. DeBUSK: No. I ask that the officer be
17 excused from the subpoena to return to his duties.

18 THE COURT: Any objection?

19 MS. CALDWELL: No objection.

20 THE COURT: Sir, thank you. You are free to
21 go.

22 At this time, we will take a lunch break. We
23 ask you to begin this trial at 1:30. Don't discuss
24 this matter while you are away, and we'll see you
25 back at 1:30. Thank you so much.

DANIEL SPENCER - CROSS EXAMINATION

1 (The jury exits at 12:06 p.m., and the
2 following is heard out of the presence of the jury.)

3 THE COURT: Anything before we break for
4 lunch?

5 MR. DeBUSK: Nothing from the state.

6 MS. CALDWELL: Nothing.

7 THE COURT: Be ready to be back at 1:30.

8 (A lunch recess was taken.)

9 (State's Exhibits 46-48 marked.)

10 THE COURT: Thank you. Please be seated.

11 Everyone ready to do?

12 MR. DeBUSK: Yes, Your Honor. The state is
13 ready.

14 THE COURT: All right. If we can have the
15 jury.

16 (The jury enters at 1:36 p.m., and the
17 following is heard in the presence of the jury.)

18 THE COURT: State ready to proceed?

19 MR. DeBUSK: Yes. State calls Detective
20 Christopher Bellamy.

21 (CHRISTOPHER BELLAMY, having been duly
22 sworn, testified as follows:)

23 THE WITNESS: Chris Bellamy, B-E-L-L-A-M-Y.

24 **DIRECT EXAMINATION**

25

CHRISTOPHER BELLAMY - DIRECT EXAMINATION

1 **BY MR. DeBUSK:**

2 **Q** Who is your employer?

3 **A** City of North Myrtle Beach Police Department.

4 **Q** How long have you been with them?

5 **A** Almost 14 years.

6 **Q** What are your duties?

7 **A** I'm a detective.

8 **Q** How about in May of 2021?

9 **A** I was a detective also.

10 **Q** How long have you been a detective?

11 **A** Ten years now.

12 **Q** Did you participate in the investigation of
13 the death of Durance McCray?

14 **A** I did.

15 **Q** What was your role?

16 **A** Lead detective.

17 **Q** How were you first informed of the incident?

18 **A** Detective Owen Lynam was working an overtime
19 gig. He heard the call go out, and he informed me
20 what was going on.

21 **Q** Where did you respond to first?

22 **A** When he called me, he told me he was en route
23 to Captain Archie's and requested that I go to
24 Seacoast Hospital.

25 **Q** Obvious question, but what county is Seacoast

CHRISTOPHER BELLAMY - DIRECT EXAMINATION

1 and Captain Archie's in?

2 **A** Horry County.

3 **Q** Without telling us what they said, did you
4 speak to any witnesses at the scene?

5 **A** I did.

6 **Q** Who did you speak to?

7 **A** I spoke to Joey Sinclair and Jada Pyatt.

8 **Q** Did there come a time when you did a more
9 thorough investigation of those two?

10 **A** Yes.

11 **Q** Was that at a later date?

12 **A** It was later -- this was early hours, so it
13 was later -- same morning, but more or less the
14 next day.

15 **Q** So you were at the hospital in the wee hours,
16 and you talked with them later that day?

17 **A** Correct. Correct.

18 **Q** Did either witness give you a description of
19 who shot Durance McCray?

20 **A** Yes.

21 **Q** What was the purpose of getting a
22 description?

23 **A** We were trying to find out who the suspect
24 was.

25 **Q** Did you share that description with law

CHRISTOPHER BELLAMY - DIRECT EXAMINATION

1 enforcement?

2 **A** I did.

3 **Q** After you spoke to Mr. Sinclair and Ms.
4 Pyatt, what did you do?

5 **A** I went into the trauma room -- first, I
6 actually -- the BMW was parked out front. Our
7 officers had it secured. I took preliminary
8 photographs of the BMW, and I then I went in the
9 back --

10 THE COURT: I think we're having trouble
11 hearing you. Make sure you are speaking into that
12 microphone.

13 **A** Yes, sir. And then I went to the trauma room
14 where Durance McCray was.

15 THE COURT: Is that any better?

16 You have to speak up. I don't know what else
17 to tell you.

18 MR. DeBUSK: Court's indulgence while I look
19 for an exhibit.

20 (A brief pause in the proceedings.)

21 **Q** **(BY MR. DeBUSK)** I'll show you State's 8, 9,
22 and 10. Do you recognize these?

23 **A** I do.

24 **Q** What are those?

25 **A** These are pictures of the black BMW owned by

CHRISTOPHER BELLAMY - DIRECT EXAMINATION

1 Mr. Sinclair.

2 Q Did you notice any damage to the vehicle that
3 was of evidentiary value when you were at the
4 hospital?

5 A I did.

6 Q What did you do with the vehicle?

7 A We had it towed to our impound.

8 MR. DeBUSK: Madam Court Reporter, are 8, 9
9 and 10 in evidence?

10 COURT REPORTER: Yes.

11 Q (BY MR. DeBUSK) What did you do after you
12 photographed the car?

13 A After I photographed the car, I then had
14 spoken with Joey Sinclair and Jada Pyatt. I had --
15 on my way in, I notified Detective McGartland and
16 Detective Franklin, I asked Detective McGartland to
17 come to Seacoast with me, and I asked Detective
18 Franklin to go to Captain Archie's to assist
19 Detective Lynam and to start looking at any
20 possible vehicle that there may be.

21 Q At any point, did you check on the victim,
22 Durance McCray?

23 A Yes.

24 Q Did you do anything there?

25 A I photographed him.

CHRISTOPHER BELLAMY - DIRECT EXAMINATION

1 **Q** I'll show you State's Exhibit 36 and ask if
2 you recognize that?

3 **A** I do.

4 **Q** What is that?

5 **A** That is a picture of the victim, Durance
6 McCray.

7 **Q** Does it show his clothing he was wearing at
8 that time?

9 **A** It does.

10 MR. DeBUSK: The State moves Exhibit 36 into
11 evidence.

12 THE COURT: Any objection?

13 MS. CALDWELL: Your Honor, I would simply
14 state that that is more inflammatory than it is
15 helpful to the Court. The jury has been given the
16 video, and the shooting is already in evidence.
17 They heard testimony from Dr. Richards about where
18 the shots are. I don't think that this is
19 necessarily probative.

20 MR. DeBUSK: The relevance is it shows the
21 clothing of the individual as he was at the
22 hospital so it can be matched with the video.

23 MS. CALDWELL: They have photos from Captain
24 Archie's when he was walking that are already in
25 evidence.

CHRISTOPHER BELLAMY - DIRECT EXAMINATION

1 THE COURT: I understand your objection and
2 note your objection for the record. I think it is
3 more probative than prejudicial, and I'll allow
4 No. 36 into evidence.

5 (State's Exhibit 36 admitted.)

6 THE COURT: It is just a single picture.

7 Q (BY MR. DeBUSK) What is -- on State's 36,
8 what was the victim wearing?

9 A White T-shirt and brown kind of Carhart
10 colored shorts.

11 Q State's 35, do you recognize that?

12 A Yes, I do.

13 Q Is that showing the individuals with the same
14 clothing as the same individual in the emergency
15 room?

16 A It does.

17 Q Can you identify that individual?

18 A Durance McCray.

19 Q Where is that taken?

20 A Captain Archie's by the restroom area.

21 Q Is that a video still?

22 A It is.

23 MR. DeBUSK: 35 is in evidence, correct?

24 COURT REPORTER: Yes.

25 Q (BY MR. DeBUSK) Again, I have to ask the

CHRISTOPHER BELLAMY - DIRECT EXAMINATION

1 obvious. What was Mr. McCray's condition when you
2 saw him in the ER?

3 **A** He was deceased.

4 **Q** I think I asked you this earlier, but what
5 did you do with the car?

6 **A** We had it towed.

7 **Q** Where did you go next?

8 **A** Once I left Seacoast, I went to Captain
9 Archie's, met with Detective Franklin who had been
10 looking at the videos.

11 **Q** Based on your investigation of the videos,
12 were you able to identify a person of interest, a
13 suspect?

14 **A** Yes, we were.

15 **Q** Who was that?

16 **A** The dishwasher, who was identified as
17 Driscoll Riggins.

18 **Q** Now, at Captain Archie's was the actual scene
19 of the shooting processed for evidence?

20 **A** It was.

21 **Q** What did you do?

22 **A** I took the photographs while Detective Andrew
23 Franklin collected evidence, and once he collected
24 it, Detective McGartland spray painted -- when we
25 mark the evidence, there is a placard. He put the

CHRISTOPHER BELLAMY - DIRECT EXAMINATION

1 placard number on each -- spray painted it on the
2 asphalt to correspond with the placard number.

3 Q What items of evidence did you collect at the
4 scene?

5 A Detective Franklin?

6 Q What did Detective Franklin collect, yes?

7 A There were ten shell casings a 10-dollar
8 bill, and I think a shoe.

9 Q I'll show you State's Exhibit 17 through 23
10 inclusive and ask if you recognize these?

11 A I do.

12 Q What are they?

13 A They are pictures of the crime scene at
14 Captain Archie's with the evidence markers where
15 the number was.

16 Q Are those pictures you took?

17 A Yes.

18 Q And those were the evidence markers to the
19 casings collected by Detective Franklin?

20 A Yes.

21 Q Other than the placard, did they mark the
22 location of the casings?

23 A With orange spray paint.

24 Q After the placards were taken, did the orange
25 spray paint have the same number as the placard?

CHRISTOPHER BELLAMY - DIRECT EXAMINATION

1 **A** Yes.

2 **Q** So you could tell where the placards had
3 been?

4 **A** Yes.

5 **Q** Did you go back the next day -- was it
6 daylight or night when you processed the scene?

7 **A** It was dark.

8 **Q** Did you go back in the daylight?

9 **A** I did.

10 **Q** Did you use any device to get pictures of the
11 overall scene?

12 **A** A drone.

13 **Q** I'll show you State's 24 and 26 and ask if
14 you recognize these?

15 **A** I do.

16 **Q** What are they?

17 **A** Still shots from the drone footage.

18 **Q** Were you able to identify the location -- did
19 you watch the video of the shooting?

20 **A** Yes.

21 **Q** Was there a car parked near the scene of the
22 shooting?

23 **A** Yes.

24 **Q** Was it the same car you saw at the hospital?

25 **A** Yes.

CHRISTOPHER BELLAMY - DIRECT EXAMINATION

1 **Q** Where was that car parked relative to all of
2 the casings and the sign?

3 **A** In the area next to the dumpster.

4 **Q** Was it next to that sign?

5 **A** Yes.

6 **Q** Is it fair to say that you found casings on
7 both sides of the car?

8 **A** Yes.

9 **Q** Okay.

10 MR. DeBUSK: I believe 24 and 27 are in
11 evidence -- 24 and 26. May I publish?

12 THE COURT: Yes.

13 **Q** **(BY MR. DeBUSK)** Let's go back to the car.
14 Did you process the car after you took it to the
15 impound lot?

16 **A** I did.

17 **Q** What did you find in the car?

18 **A** We found in the A-post, which is like the
19 front windshield, there was a fragment of bullet
20 lodged into the frame of the car.

21 **Q** I'll show you State's 27. Do you recognize
22 that?

23 **A** I do.

24 **Q** What is that?

25 **A** The picture of the bullet I just referred to.

CHRISTOPHER BELLAMY - DIRECT EXAMINATION

1 MR. DeBUSK: Your Honor, I believe 27 is in
2 evidence. May I publish it?

3 THE COURT: Yes, sir.

4 (State's Exhibit 27 published to the jury.)

5 Q (BY MR. DeBUSK) What else did you find
6 besides the bullet in the A-post?

7 A Two spent bullets, one was in the passenger's
8 seat, and one was in the front driver's seat.

9 Q And State's 28, do you recognize that?

10 A I do.

11 Q What is it?

12 A Spent bullet, and I believe this is one that
13 was in passenger's seat, driver's side, and had a
14 pair of glasses beside it.

15 MR. DeBUSK: I believe 28 is in evidence,
16 Your Honor. May I publish?

17 THE COURT: Yes, sir.

18 (State's Exhibit 28 published to the jury.)

19 Q (BY MR. DeBUSK) When you processed the BMW,
20 did you look for fingerprints?

21 A I did.

22 Q Are those looking for latent prints?

23 A They are.

24 Q Did you find any latent prints?

25 A We collected 13.

CHRISTOPHER BELLAMY - DIRECT EXAMINATION

1 Q Who processed them?

2 A I did.

3 Q Were you able to identify the prints?

4 A I was.

5 Q Who did they belong to?

6 A Joey Sinclair and Benjamin Temples.

7 Q Who was that?

8 A Benjamin Temples is an

9 associate/friend/co-worker of Joey Sinclair.

10 Q Is there any evidence that he was at the
11 scene that night?

12 A No, sir.

13 Q But Joey Sinclair was?

14 A Yes.

15 Q Now, at some point, did Jada Pyatt, one of
16 the individuals you talked to at the hospital, come
17 to North Myrtle Beach for an interview?

18 A She did.

19 Q Did she have a photo lineup containing the
20 suspect?

21 A She was shown a photo lineup by Detective
22 Franklin.

23 Q Now, at that point, did you have reason to
24 arrest Driscoll Riggins?

25 A Yes. At that point, he was positively

CHRISTOPHER BELLAMY - DIRECT EXAMINATION

1 identified as the shooter.

2 Q Did you communicate with Mr. Riggins?

3 A Yes.

4 Q How so?

5 A He contacted me through a family member of
6 his by telephone and was -- figured he would come
7 in and talk to me.

8 Q Did you set up a time?

9 A We did.

10 Q Did he come?

11 A He did not.

12 Q What did you do next?

13 A I think that happened twice. After that, I
14 contacted -- warrants were obtained.

15 Q So you set up a second meeting?

16 A Yes.

17 Q Did he show up to the second meeting?

18 A He did not.

19 Q And what did you do after that?

20 A The warrants were obtained, and I contacted
21 Agent Daniel Spencer with the U.S. Marshal Task
22 Force.

23 Q Did Agent Spencer adopt the case?

24 A He did.

25 Q And, to your knowledge, did they ultimately

CHRISTOPHER BELLAMY - DIRECT EXAMINATION

1 arrest Driscoll Riggins?

2 A Yes.

3 Q Where was that?

4 A In Marion County.

5 Q When they arrested him, did he have any
6 firearms?

7 A Yes.

8 Q Did they take a firearm off of his person?

9 A They did.

10 Q I'll show you State's 14. Do you recognize
11 that?

12 A I do.

13 Q What is that?

14 A That is a 9-millimeter.

15 Q Was that the firearm taken off of his person?

16 A It was.

17 Q Was the second gun found at the scene?

18 A Yes.

19 MS. CALDWELL: Objection.

20 THE COURT: What is it?

21 MS. CALDWELL: Your Honor, it is relevance.

22 The firearm wasn't found at the scene.

23 THE COURT: If you can approach for a moment.

24 (Whereupon, a bench conference was had.)

25 THE COURT: Objection is overruled.

CHRISTOPHER BELLAMY - DIRECT EXAMINATION

1 Mr. DeBusk.

2 Q (BY MR. DeBUSK) How did No. 14 come into your
3 possession?

4 A The following day, after his arrest, we went
5 to Marion County, and they transferred custody of
6 the evidence they found to me.

7 Q Did you check the serial number against the
8 photo that the agent took when he was arrested?

9 A I did.

10 Q Was it the same gun?

11 A It was.

12 Q Was there a second firearm involved in the
13 case?

14 A There was a second one located at the time of
15 the arrest.

16 Q Where was that located?

17 A I believe it was in the defendant's
18 girlfriend's car.

19 Q Was the car searched pursuant to a search
20 warrant?

21 A It was.

22 Q I'll show you State's Exhibit 15. Do you
23 recognize that?

24 A Yes.

25 Q What is that?

CHRISTOPHER BELLAMY - DIRECT EXAMINATION

1 **A** Smith and Wesson 9-millimeter.

2 **Q** Is that the gun collected from the
3 girlfriend's vehicle?

4 **A** Yes.

5 **Q** Now -- I'll ask that question in a moment.

6 I have here State's Exhibits 12(a) through
7 12(m). Do you recognize those?

8 **A** Yes.

9 **Q** What are those?

10 **A** The shell casings collected by Detective
11 Franklin from Captain Archie's crime scene.

12 **Q** And do they contain his notes on the
13 packaging?

14 **A** Yes.

15 **Q** Did you collect anything from the BMW?

16 **A** I did.

17 **Q** What did you collect?

18 **A** There were two bullets, partial fragmented
19 bullet, and I think a bloody roll of paper towels,
20 and 13 latent fingerprint cards.

21 **Q** I misspoke. On the casings, it was A through
22 J.

23 I'll ask you now about L, M, N, and K. Do
24 you recognize these?

25 **A** Yes.

CHRISTOPHER BELLAMY - DIRECT EXAMINATION

1 Q What are they?

2 A The three bullets collected from the search
3 warrant for the BMW.

4 Q And you did have a search warrant before you
5 searched?

6 A Yes, sir, we secured a search warrant.

7 Q When you examined the BMW, you found these
8 projectiles. Were you able to tell whether the
9 projectiles were fired from the outside going into
10 the car, or inside the car out?

11 A Outside going in.

12 Q What is that based on?

13 A The projectile lodged into the post of the
14 car. The bullet, the round point, is the front,
15 and the flat part is the back. So the round point
16 was facing in, meaning it was fired from the
17 outside going into the car into the frame.

18 COURT REPORTER: Court's indulgence just one
19 moment.

20 (A brief pause in the proceedings.)

21 Q (BY MR. DeBUSK) Did you attend the autopsy of
22 Durance McCray?

23 A Yes, I did.

24 Q Were any projectiles recovered at the
25 autopsy?

CHRISTOPHER BELLAMY - DIRECT EXAMINATION

1 **A** Yes.

2 **Q** I'll show you State's 40, 41, 42, 43. Do you
3 recognize these?

4 **A** Yes.

5 **Q** What are they?

6 **A** The bullet and the bullet fragments collected
7 from the autopsy at MUSC.

8 **Q** I'll show you State's -- sub-exhibits 12(n)
9 through (u) inclusive, and ask if you recognize
10 these?

11 **A** Yes.

12 **Q** What are they?

13 **A** The bullets collected from the autopsy at
14 MUSC.

15 **Q** To whose custody did MUSC relinquish these
16 items?

17 **A** To my custody.

18 **Q** What did you do with them when you collected
19 them?

20 **A** I transported back to our police department,
21 transferred them to Detective Franklin, who put it
22 in evidence.

23 **Q** And let me ask you this: Are these eight
24 items, subitems, the same as the items shown in
25 those four photos?

CHRISTOPHER BELLAMY - DIRECT EXAMINATION

1 **A** Yes.

2 **Q** How were they packaged when you collected
3 from MUSC?

4 **A** Just like you see them now.

5 **Q** Inside the envelopes?

6 **A** Yes, sir. Inside the envelopes with stickers
7 and labeled where they are from.

8 **Q** And the label is put over the seal of the
9 envelope?

10 **A** Correct.

11 **Q** So they could tell if it had been opened?

12 **A** Correct.

13 **Q** What did you do with the envelopes after you
14 collected them?

15 **A** I signed for custody and drove them back to
16 North Myrtle Beach and signed them over to
17 Detective Franklin.

18 **Q** What did Detective Franklin do with them?

19 **A** He put them in evidence.

20 **Q** So you had ten casings from the scene, eight
21 projectiles and fragments from the autopsy, and
22 three projectiles from the car?

23 **A** Correct.

24 **Q** And you had two guns. What did you do with
25 them all?

CHRISTOPHER BELLAMY - DIRECT EXAMINATION

1 **A** All put in evidence.

2 **Q** Did you request any further analysis of them?

3 **A** We did.

4 **Q** And who was the evidence technician for North
5 Myrtle Beach?

6 **A** Chris Sengle.

7 **Q** Did you ask her to transport them to SLED?

8 **A** I did.

9 **Q** Did you examine the surveillance video from
10 Captain Archie's?

11 **A** Yes, sir, I did.

12 **Q** Are they the same reflected on State's 7?

13 **A** They are.

14 **Q** From the videos on this, were there multiple
15 camera angles?

16 **A** Yes, multiple.

17 **Q** Were you able to follow the victim, Durance
18 McCray, the whole time he was there that night at
19 Captain Archie's?

20 **A** We were.

21 **Q** I'll show you State's Exhibit 46. Do you
22 recognize this?

23 **A** I do.

24 **Q** What is that?

25 **A** A thumb drive containing the video footage.

CHRISTOPHER BELLAMY - DIRECT EXAMINATION

1 **Q** What is on the thumb drive?

2 **A** My initials.

3 **Q** No. No --

4 **A** Oh, this is the camera views from Captain
5 Archie's following the victim through Captain
6 Archie's.

7 **Q** Is there angles on there, on State's Exhibit
8 7, as well?

9 **A** Yes.

10 **Q** They are just in the order to show where the
11 victim walked?

12 **A** Correct.

13 MR. DeBUSK: Your Honor, at this time I would
14 offer State's Exhibit 46 into evidence.

15 MS. CALDWELL: I thought they were already in
16 evidence.

17 MR. DeBUSK: This is the same thing, just in
18 order.

19 MS. CALDWELL: By all means.

20 THE COURT: Any objection?

21 MS. CALDWELL: No, sir.

22 THE COURT: 46 is in evidence without
23 objection?

24 (State's Exhibit 46 admitted.)

25 MR. DeBUSK: May I publish to the jury, Your

CHRISTOPHER BELLAMY - DIRECT EXAMINATION

1 Honor?

2 THE COURT: You may.

3 MR. DeBUSK: May the witness step down?

4 THE COURT: Yes. Please understand, you have
5 to speak up because I'm not sure -- it is hard for
6 me to hear.

7 THE WITNESS: Yes, sir.

8 Q (BY MR. DeBUSK) I'm going to speed up this
9 video for purposes of illustration.

10 Are you able to identify these two people
11 walking here?

12 A Yes. This is the victim and Jada Pyatt
13 coming through the parking lot towards Captain
14 Archie's.

15 Q Approximately, 10:40?

16 A Correct.

17 Q And then again?

18 A That's them walking in the parking lot.

19 Q This is them?

20 A This is them walking into Captain Archie's.

21 Q And the video does skip a bit at some angles?

22 A Yes. There are some glitches, yes.

23 Q And again?

24 A That is them coming in, going towards the
25 front bar area.

CHRISTOPHER BELLAMY - DIRECT EXAMINATION

1 **Q** Now, let me ask you: When you reviewed this,
2 were you able to watch the victim the whole time he
3 was in Captain Archie's?

4 **A** Yes.

5 **Q** And at any time did he interact with the
6 defendant?

7 **A** No.

8 **Q** At any time were you aware of him being aware
9 of the defendant's presence?

10 **A** No, sir.

11 **Q** Can you identify that?

12 **A** This is where they meet Joey Sinclair.

13 **Q** Who is the individual with Durance McCray?

14 **A** Jada Pyatt.

15 **Q** Once they moved to the bar area, did they
16 stay there until they left the premises?

17 **A** They did.

18 **Q** And the rest of this recording is just all of
19 the views showing those two in order?

20 **A** Correct.

21 **Q** Thank you. Please return to your seat.

22 Were you able to locate the defendant on the
23 video from Captain Archie's?

24 **A** Yes, we were.

25 **Q** Where was he?

CHRISTOPHER BELLAMY - DIRECT EXAMINATION

1 **A** In the kitchen area.

2 **Q** Did he leave the kitchen area at times?

3 **A** He did.

4 **Q** Where did he go?

5 **A** Three times he left the kitchen area, walked
6 on the outside grass area towards the front outside
7 bar area where the band was playing, to where the
8 victim would have been. It appears that he peeks
9 around the corner and walks back to the kitchen
10 area.

11 **Q** I'm showing you State's Exhibit 47. Do you
12 recognize that?

13 **A** I do.

14 **Q** What is it?

15 **A** This is from the video from Captain Archie's
16 of Driscoll Riggins where he walks outside.

17 **Q** Does it show where the victim was at the same
18 time?

19 **A** It does.

20 **Q** Is this from the videos on State's Exhibit 7?

21 **A** Yes.

22 **Q** Everything on this appears on that?

23 **A** Yes.

24 MR. DeBUSK: State moves 47 into evidence.

25 THE COURT: Any objection?

CHRISTOPHER BELLAMY - DIRECT EXAMINATION

1 MS. CALDWELL: No objection.

2 THE COURT: Okay. State's 47.

3 (State's Exhibit 47 admitted.)

4 Q (BY MR. DeBUSK) Detective Bellamy, if you
5 will, step down.

6 When you say that the defendant left the
7 kitchen, can you show us where he went?

8 A He would walk out to about here, walk this
9 side to about right here waiting to see around the
10 corner, and then walk back.

11 Q At this point, can you see into the outdoor
12 bar?

13 A Yes.

14 Q Where was Durance McCray sitting?

15 A He was sitting in here.

16 Q So he could look into the area where the
17 victim was seated?

18 A Yes.

19 THE COURT: Do you have an objection?

20 MS. CALDWELL: I don't have an objection.

21 I'm having trouble hearing Detective Bellamy, and I
22 know he's not a loud holler, but maybe if you and
23 George can switch spots to speak into the
24 microphone.

25 THE COURT: We're going to have to speak

CHRISTOPHER BELLAMY - DIRECT EXAMINATION

1 loud.

2 MS. CALDWELL: I apologize.

3 MR. DeBUSK: May I publish State's 47?

4 THE COURT: Yes, sir.

5 Q (BY MR. DeBUSK) Detective Bellamy, what are
6 we looking at here?

7 A We're looking at the outside kitchen door to
8 Captain Archie's.

9 Q Would the outside kitchen door be down at
10 this end?

11 A Yes.

12 Q And what is at this end?

13 A Right by where the outdoor bar stage area
14 would be.

15 Q Would you indicate on the map?

16 A Right here.

17 Q Who is this individual?

18 A Driscoll Riggins.

19 Q Noting the time on the clock, which is around
20 10:59?

21 A Correct.

22 Q Now, where is he returning to?

23 A Returning to the kitchen.

24 Q Now, this is the same time period, correct?

25 A Correct. This is just a different view from

CHRISTOPHER BELLAMY - DIRECT EXAMINATION

1 inside the bar during the same time frame.

2 Q Where is Durance McCray?

3 A He is sitting at the bar with Jada Pyatt.

4 Q Could you indicate that for the jury, please?

5 A (Indicates.) That is Durance McCray and
6 Ms. Pyatt.

7 Q Is that the same period when the defendant
8 walked up and looked in the bar?

9 A Yes, sir.

10 Q Where would the defendant be looking from?

11 A Somewhere right over here (indicates).

12 Q Okay.

13 Is this another time?

14 A This is at 11:17 hours. You can see
15 Mr. Riggins coming through the kitchen, again back
16 towards the same area that he did the first time.
17 Again, back to the inside of the bar, same time
18 frame.

19 Q Is Mr. McCray seated at the same location?

20 A He's not moved.

21 This is at 11:23 hours, a little bit later.
22 You see Mr. Driscoll Riggins coming back for the
23 third time.

24 Q What time was the shooting?

25 A 11:44.

CHRISTOPHER BELLAMY - DIRECT EXAMINATION

1 This is, again, back inside the bar for the
2 last time.

3 Q Is Mr. McCray still in the same spot?

4 A Still in the same pot, still talking to
5 Ms. Pyatt.

6 Q Now, did you become aware of a witness named
7 Stephanie Cano?

8 A Yes.

9 Q How did you become aware of her?

10 A The morning after the shooting, Mr. Bill
11 Riggs called me and said that waitress approached
12 him and had vital information that I should hear
13 about.

14 Q Did you arrange an interview?

15 A I did.

16 Q Did she provide a statement for you?

17 A She did.

18 Q Let me ask you if you recognize State's 45?

19 MS. CALDWELL: I object. Renewing my
20 objection to the statement as Ms. Cano already
21 stated that she doesn't know if she wrote that.

22 THE COURT: All right. Overruled. Thank
23 you.

24 A It is, yes, sir.

25 Q (BY MR. DeBUSK) When she wrote that

CHRISTOPHER BELLAMY - DIRECT EXAMINATION

1 statement, did she provide you with a photograph?

2 A She did.

3 Q I'll show you State's 31. Do you recognize
4 that?

5 A I do.

6 Q What is it?

7 A It is a picture of the victim, Durance
8 McCray, seated at the bar.

9 Q When did you first see that photograph?

10 A On her cell phone.

11 Q Did she give you a copy?

12 A She texted it to me, yes.

13 Q This is the photograph that Stephanie Cano
14 gave to you?

15 A Yes.

16 Q During your interview, did you show her a
17 picture of the suspect?

18 A I did.

19 Q Did she identify them as the dishwasher?

20 A She did.

21 Q Let me show you, based on her statements, did
22 you then look at her movements on the videos?

23 A I did.

24 Q I'll ask you about State's 48. Do you
25 recognize this?

CHRISTOPHER BELLAMY - DIRECT EXAMINATION

1 **A** I do.

2 **Q** What is that?

3 **A** A video from Captain Archie's following

4 Ms. Cano.

5 **Q** Are all of the clips from here from State's 7

6 from Captain Archie's?

7 **A** They are.

8 MR. DeBUSK: State moves 48 into evidence at

9 this time.

10 THE COURT: Any objection?

11 MS. CALDWELL: No objection, Your Honor.

12 THE COURT: Thank you. 48 is in evidence.

13 (State's Exhibit 48 admitted.)

14 **Q** **(BY MR. DeBUSK)** I want to ask you, Detective
15 Bellamy, do some of these videos have sound?

16 **A** They do.

17 **Q** Is it distorted?

18 **A** Very.

19 **Q** Can you tell what people are saying?

20 **A** You cannot.

21 **Q** Are some of the videos typically liable to
22 skip?

23 **A** Yes.

24 **Q** Is the kitchen video one of those videos?

25 **A** Yes.

CHRISTOPHER BELLAMY - DIRECT EXAMINATION

1 **Q** Now, here, did you identify the people in the
2 foreground?

3 **A** I did. Driscoll Riggins and Stephanie Cano.

4 **Q** Is the counter continuous here?

5 **A** Yes.

6 **Q** So this is right after she talked to the
7 defendant?

8 **A** Yes.

9 **Q** Now, in this view, can you see the spot where
10 Durance McCray was sitting?

11 **A** He would be sitting right here.

12 **Q** Behind the cash register?

13 **A** Yes.

14 **Q** Where is this camera at this point?

15 **A** Seated right here at the bar across from
16 Durance McCray.

17 **Q** Okay. She continues to sit at that spot at
18 the bar for awhile?

19 **A** She does. That is Bill Riggs at the bar.

20 **Q** Is that still Ms. Cano talking to another
21 individual?

22 **A** It is.

23 **Q** Fair to say that she sat at the bar across
24 from the victim for several minutes?

25 **A** Yes.

CHRISTOPHER BELLAMY - DIRECT EXAMINATION

1 MR. DeBUSK: The entire video is in evidence
2 if the jury wants to review it, but I'm just
3 publishing certain parts of it.

4 A There is Ms. Cano leaving the bar, walking
5 back towards the kitchen.

6 Q (BY MR. DeBUSK) Now, this is a different view
7 of the same -- this is Ms. Cano here?

8 A Yes.

9 Q What does she appear to be doing?

10 A Looking at her phone.

11 Q What is she doing now?

12 A Appears to be taking a picture.

13 MS. CALDWELL: Speculation. We can't say
14 what she was doing with her phone while playing
15 with it, definitively.

16 MR. DeBUSK: It's on the video.

17 THE COURT: The video speaks for itself.
18 He's just testifying what it looks like she's
19 doing, so I'll overrule the objection.

20 Q (BY MR. DeBUSK) Is that Ms. Cano again?

21 A Ms. Cano going back to the kitchen.

22 Q What area of the kitchen is this?

23 A The dishwasher area.

24 Q After she returned from the restroom, did she
25 return to her seat at the bar?

CHRISTOPHER BELLAMY - DIRECT EXAMINATION

1 **A** Yes. Who is that, Ms. Cano?

2 **Q** Go ahead and have a seat.

3 Let me ask you about the video from the
4 kitchen dishwashing area. Is that particularly
5 glitchy?

6 **A** Yes.

7 **Q** If you run it frame by frame, can you get
8 individual frames?

9 **A** Yes, you can.

10 **Q** Let me show you --

11 MR. DeBUSK: Court's indulgence. I'm looking
12 for one particular exhibit.

13 (A brief pause in the proceedings.)

14 MR. DeBUSK: Got it.

15 **Q** **(BY MR. DeBUSK)** Let's start with State's 34.
16 What is that?

17 **A** This is a picture from the kitchen area of
18 Captain Archie's showing Mr. Riggins and Ms. Cano.

19 **Q** What time is that picture taken?

20 **A** 11:21:51.

21 **Q** Based on your examination of the videos, what
22 does she do after that discussion with the
23 defendant?

24 **A** She appears to go out to the bar area and
25 take a picture of the victim.

CHRISTOPHER BELLAMY - DIRECT EXAMINATION

1 MR. DeBUSK: State moves 34 into evidence.

2 THE COURT: No objection?

3 MS. CALDWELL: No.

4 THE COURT: 34 is in evidence.

5 (State's Exhibit 34 admitted.)

6 Q (BY MR. DeBUSK) That was 11:21:54?

7 A Correct.

8 Q I'll show you what is marked as State's 33.

9 Do you recognize that?

10 A I do.

11 Q What is that?

12 A Picture of Ms. Cano in the kitchen area of
13 Captain Archie's.

14 Q What time was that taken?

15 A 11:32:32, I believe.

16 Q Is that when she returns from the bar area?

17 A Yes.

18 Q I'll show you -- sorry.

19 MR. DeBUSK: State moves 33 into evidence.

20 THE COURT: Any objection?

21 MS. CALDWELL: None.

22 THE COURT: 33 is in.

23 (State's Exhibit 33 admitted.)

24 Q (BY MR. DeBUSK) I'll show you State's Exhibit

25 4. What is that?

CHRISTOPHER BELLAMY - DIRECT EXAMINATION

1 **A** I do. It is a picture of Ms. Cano showing
2 her phone to Mr. Riggins inside.

3 **Q** Where was that taken?

4 **A** Kitchen area of Captain Archie's.

5 **Q** What time?

6 **A** 11:32:37.

7 **Q** So a few seconds later?

8 **A** Correct.

9 MR. DeBUSK: State moves State's 4 into
10 evidence.

11 MS. CALDWELL: No objection.

12 (State's Exhibit 4 previously admitted.)

13 **Q** **(BY MR. DeBUSK)** What is that?

14 **A** Zoomed-up picture of Ms. Cano showing her
15 phone to Mr. Riggins, and it appears to be the same
16 picture that she provided to me.

17 **Q** Just to be certain, is State's Exhibit 32 a
18 close-up of State's 4, lower frame?

19 **A** Yes, it is.

20 **Q** Thank you.

21 MR. DeBUSK: States moves 32 into evidence.

22 THE COURT: Any objection?

23 MS. CALDWELL: I will object for the record
24 that it is, obviously, zoomed-in photos; therefore,
25 it is not the original and could have been altered.

CHRISTOPHER BELLAMY - DIRECT EXAMINATION

1 MR. DeBUSK: The original is in evidence as
2 well.

3 THE COURT: All right. I'll keep that ruling
4 under advisement, just don't publish at this time.

5 MS. CALDWELL: I will also state the video is
6 going to be -- all of this video will be given to
7 the jury. They can watch it themselves and make
8 their own conclusions.

9 THE COURT: Based on the foundation and the
10 two pictures, they seem to be the same picture,
11 I'll allow them in over the objection. State's 32.

12 (State's Exhibit 32 admitted.)

13 Q (BY MR. DeBUSK) To summarize, at
14 1:21:54 there was a discussion between the
15 defendant and Ms. Cano?

16 A Correct.

17 Q At 11:32:32, Ms. Cano returned to the
18 kitchen?

19 A Correct.

20 Q And at 11:32:39, in the dish washing area,
21 she shows her phone to the defendant?

22 A Correct.

23 Q And the picture on her phone appears to be
24 the same one as she gave you?

25 A Correct.

CHRISTOPHER BELLAMY - DIRECT EXAMINATION

1 MR. DeBUSK: At this time State will publish
2 parts of Exhibit 7, the original of the Captain
3 Archie's video.

4 Your Honor, while this is booting up, we
5 offer State's 14 and 15, the two guns into
6 evidence, based on the collection by the North
7 Myrtle Beach Police.

8 THE COURT: Any objection?

9 MS. CALDWELL: I still will renew my
10 objection to the second firearm. It was not found
11 on Mr. Riggins. It was lawfully purchased by
12 someone else and in someone else's vehicle. A
13 search warrant had to be obtained, and the vehicle
14 was parked at someone else's home.

15 THE COURT: Thank you.

16 There is proper foundation laid for the gun,
17 and so it is in evidence, 14 and 15.

18 (State's Exhibits 14-15 admitted.)

19 Q (BY MR. DeBUSK) What is this?

20 A This is the front parking lot of Captain
21 Archie's.

22 Q Were you able to identify this individual?

23 A Mr. Driscoll Riggins. He appears to be
24 taking the trash out to the dumpster area.

25 Q That is at 11:40?

CHRISTOPHER BELLAMY - DIRECT EXAMINATION

1 **A** Correct.

2 **Q** Before he clocked in?

3 **A** Correct.

4 **Q** In the interest of time, we'll change the
5 speed.

6 Is that him coming back here?

7 **A** Yes. That is Mr. Riggins returning.

8 **Q** Who is this coming into view here?

9 **A** This is Jada Pyatt as she was leaving the
10 bar.

11 **Q** Who is this?

12 **A** This will be the victim, Mr. Durance McCray.

13 **Q** Were you able to identify that vehicle?

14 **A** This is the black BMW that belongs to
15 Mr. Joey Sinclair.

16 **Q** Who is this?

17 **A** Mr. Driscoll Riggins.

18 **Q** What is this walking up?

19 **A** Driscoll Riggins walking up towards the black
20 BMW that Mr. Sinclair owns.

21 **Q** Given the quality of the video, were you able
22 to identify everybody in that crowd?

23 **A** Most everybody, yes.

24 **Q** Was Durance McCray among them?

25 **A** Yes, he was.

CHRISTOPHER BELLAMY - DIRECT EXAMINATION

1 **Q** This person coming up --

2 **A** He's right here.

3 **Q** Where is the defendant?

4 **A** Right in here. And then there is a glitch,
5 and then you can see in the headlights right
6 here -- it appears the defendant is running away.

7 **Q** What's that vehicle and the person in the
8 foreground?

9 **A** The person is Mr. Riggins from the same
10 video, just from a different camera view, same
11 parking lot.

12 The vehicle is going to be a black BMW for
13 Mr. Sinclair.

14 **Q** Two different angles of the same incident?

15 **A** Correct.

16 **Q** There is the kitchen again?

17 **A** Yes.

18 **Q** And what is this angle?

19 **A** This is kind of the front of Captain Archie's
20 going out to the front parking lot. This is the
21 same camera for this one, but this camera is
22 pointing towards the back of the kitchen doors
23 right here (indicates).

24 **Q** Who is this individual here?

25 **A** This is Mr. Riggins as you saw earlier taking

CHRISTOPHER BELLAMY - DIRECT EXAMINATION

1 the trash out towards the dump area about
2 11:40 hours.

3 Q Were you able to identify the other
4 individual?

5 A He was the fryer that night. We were never
6 able to locate him.

7 Q By the "fryer," the person that fries food
8 for the restaurant?

9 A Yes. Yes.

10 Q Who is this going back?

11 A Mr. Riggins coming back into view here.

12 Here comes Ms. Pyatt as she's leaving. He
13 appears to look over at her. They have a brief
14 conversation, and then Mr. Riggins comes at the
15 corner, and this is Mr. Durance McCray walking to
16 the parking lot. Mr. Riggins comes out through the
17 door, stands here at the corner, and looks in the
18 direction of Mr. McCray.

19 Q What time?

20 A 11:22.

21 Q Did you collect the timecard for Mr. Riggins?

22 A I did.

23 Q What time did he clock out?

24 A 11:42.

25 Q Is that State's Exhibit 33?

CHRISTOPHER BELLAMY - DIRECT EXAMINATION

1 **A** It is.

2 **Q** What is the time of the server?

3 **A** 11:42:16.

4 **Q** State's 6, what does that show?

5 **A** This is Mr. Riggins as he is clocking out.

6 **Q** What time did he clock out?

7 **A** 11:42:48.

8 **Q** So just 32 seconds after this video.

9 **A** He turns, goes inside the kitchen door, and
10 that is when he goes and clocks out.

11 He's now clocked out, and he comes and walks
12 to the parking lots towards the victim.

13 **Q** At any time, did you see him return to
14 Captain Archie's after this?

15 **A** No, sir.

16 **Q** Thank you. Please return to your seat.

17 Was the actual shooting on video?

18 **A** It appears to be right during a glitch.

19 **Q** And it was Cameras 1 and 7 on this view?

20 **A** Yes.

21 **Q** But distant from the camera?

22 **A** Distant, yes.

23 **Q** And there were glitches?

24 **A** Yes.

25 **Q** As there are throughout these?

CHRISTOPHER BELLAMY - DIRECT EXAMINATION

1 **A** Yes, sir. Correct.

2 **Q** Now, once again, State's 14 and State's
3 Exhibits 38 and 37 -- was State's Exhibit 14 the
4 gun that was taken from the pocket when the
5 defendant was arrested?

6 **A** It is.

7 **Q** Does it match the serial number?

8 **A** It does.

9 **Q** And it has this distinctive orange --

10 **A** Yeah. It is orange camouflage.

11 **Q** And the firearm taken from the girlfriend's
12 vehicle is a completely different color?

13 **A** It is green and black.

14 MR. DeBUSK: State moves Exhibits 12 and
15 sub-Exhibits A through F into evidence, along with
16 14 and 15.

17 THE COURT: Any objection?

18 14 and 15 are in.

19 MS. CALDWELL: No objection.

20 THE COURT: Okay. 12 and 12(a) through (u),
21 all of the sub-parts, are in without objection.

22 (State's Exhibit 12 and 12(a)-12(u)
23 admitted.)

24 **Q** **(BY MR. DeBUSK)** We have the isolation video
25 on Durance McCray?

CHRISTOPHER BELLAMY - CROSS EXAMINATION

1 **A** Correct.

2 **Q** At any point in that video, did you see him
3 making gun motions towards anyone?

4 **A** I did not.

5 **Q** Or any other threats?

6 **A** No.

7 **Q** Gang signs?

8 **A** No, sir.

9 MR. DeBUSK: Thank you.

10 THE COURT: Before we hear cross examination,
11 does anyone need to take a short break, or are you
12 ready for cross examination?

13 All right. Ms. Caldwell.

14 MS. CALDWELL: Thank you.

15 **CROSS EXAMINATION**

16 **BY MS. CALDWELL:**

17 **Q** Detective Bellamy, you said that you are or
18 was the lead detective for this case?

19 **A** Yes, ma'am.

20 **Q** And you have been a detective for quite
21 sometime?

22 **A** Yes, ma'am.

23 **Q** On the night of May 21, 2021, you responded
24 to Seacoast after learning about this incident?

25 **A** Yes, ma'am.

CHRISTOPHER BELLAMY - CROSS EXAMINATION

1 **Q** At Seacoast, when you first arrived,
2 Mr. Sinclair's BMW was parked in the ER bay?

3 **A** Uh-huh.

4 **Q** Did you -- you took preliminary photos?

5 **A** I did.

6 **Q** At that time I know latent fingerprints was
7 not collected, but was there any other evidence
8 collected from the outside of the vehicle?

9 **A** No. It was secured and towed for a search
10 warrant.

11 **Q** After you obtained the search warrant, was
12 the vehicle swabbed or any other evidence
13 collected, aside from the projectiles and the paper
14 towels?

15 **A** Was it swabbed?

16 **Q** Was it checked for any other items other than
17 fingerprints, projectiles, and paper towels?

18 **A** We did a thorough search of the car, but
19 nothing else was located.

20 **Q** And after taking some preliminary photos, you
21 walked inside and you took photos of Mr. McCray?

22 **A** I drove back -- the search warrant was done
23 at the police department.

24 **Q** I'm aware. Maybe I was not clear. At the
25 hospital, after you took preliminary photos at the

CHRISTOPHER BELLAMY - CROSS EXAMINATION

1 hospital, you walked inside and walked down the
2 hallway and took photos of Mr. McCray?

3 **A** I did.

4 **Q** So Casey Henry was present and Detective
5 McGartland?

6 **A** Yes, sir.

7 **Q** And you were taking photos trying to
8 understand what happened and collecting evidence?

9 **A** Correct.

10 **Q** And as you took photos, they collected
11 evidence?

12 **A** Correct.

13 **Q** Did he have the little mitts on his hands
14 that they put on victim's hands?

15 **A** He did not.

16 **Q** Did you collect fingerprints from him?

17 **A** From him?

18 **Q** I mean fingernail clippings, my apologies.

19 **A** No, ma'am.

20 **Q** Did you swab for gunshot residue?

21 **A** We did not.

22 **Q** Why not?

23 **A** SLED will not do GSRs on a victim who has
24 been shot, because they suspect gunshot residue to
25 be on them because they have been shot.

CHRISTOPHER BELLAMY - CROSS EXAMINATION

1 **Q** Okay. After you took those photos, you went
2 back outside into the ER bay?

3 **A** Yes.

4 **Q** Did you search Joey Sinclair's person?

5 **A** I did not, no.

6 **Q** Do you know if anyone searched his person?

7 **A** I'm sure the officers patted him down, yes.

8 **Q** Are you aware that they did not search his
9 person?

10 **A** That was before I got there, but I'm not
11 sure.

12 **Q** But you are the lead detective?

13 **A** Correct.

14 **Q** Did you search Ms. Pyatt's person?

15 **A** I did not.

16 **Q** Did you -- you learned that she arrived in
17 Mr. McCray's vehicle?

18 **A** Uh-huh.

19 **Q** Did you search his vehicle?

20 **A** I didn't have reason to.

21 **Q** When you were at Seacoast, you were speaking
22 with other officers and Detective MCGartland trying
23 to figure out what to do next. Do you recall
24 stating that you wanted gunshot residue testing
25 done?

CHRISTOPHER BELLAMY - CROSS EXAMINATION

1 **A** I think we did preliminarily, and then I
2 learned that SLED would not do it.

3 **Q** Do you recall stating that you wanted gunshot
4 residue testing done on Joey Sinclair?

5 **A** Yes. At that time, everyone was a suspect.

6 **Q** So did you do that?

7 **A** I was informed by Detective McGartland they
8 will not do that. SLED, per their policy, they
9 just changed it, if there is a shooting and you are
10 in close proximity, gunshot residue does not prove
11 whether or not you fired the gun, just if you were
12 in close proximity to a gun that was fired, so SLED
13 will not do it.

14 **Q** Not even on Ms. Pyatt, who was not supposedly
15 in the vehicle?

16 **A** She was right beside him when he got shot.

17 **Q** Do you recall telling Detective McGartland
18 that you only had one kit with you?

19 **A** We could have gotten more from the PD. I may
20 have. I don't recall.

21 **Q** Do you recall that he had none?

22 **A** I don't recall.

23 **Q** Do you want me to show you your video?

24 **A** I take your word for it, but -- it is very
25 possible, yes.

CHRISTOPHER BELLAMY - CROSS EXAMINATION

1 **Q** And then the next day -- actually, I
2 apologize. Did you review all of the footage
3 provided?

4 **A** Video?

5 **Q** Yes, from Captain Archie's and Seacoast ER.

6 **A** Yes.

7 **Q** And were you aware that Mr. Sinclair gave
8 Durance McCray's phone to Ms. Pyatt?

9 **A** After the fact, I learned the family had the
10 phone. I tried to retrieve it from the family, but
11 they did not want to provide it.

12 **Q** That's fair. Did you seek a search warrant
13 to do that?

14 **A** I did not.

15 **Q** Why didn't you seek a search warrant? It
16 could have revealed more information.

17 **A** I had no grounds to.

18 **Q** Later, the same day, on May 22, 2021, you
19 went to Captain Archie's in the daylight?

20 **A** Correct.

21 **Q** And you were taking the photos while
22 Detective McGartland was marking them, and
23 Detective Franklin was collecting them?

24 **A** Correct.

25 **Q** Did you or any other detectives or officers

CHRISTOPHER BELLAMY - CROSS EXAMINATION

1 search the rest of the parking lot?

2 **A** We did. We did. We walked the parking lot
3 all the way to the next road, to the stoplight.

4 **Q** Did you search the dumpsters?

5 **A** We did.

6 **Q** Did you look inside and look around?

7 **A** I think we looked into it. I don't recall
8 exactly.

9 **Q** And then about, I think, 5/23, in the
10 afternoon, are you aware that someone got a call to
11 respond to Captain Archie's?

12 **A** When?

13 **Q** May 23, 2021?

14 **A** In reference to?

15 **Q** A 9-millimeter Luger shell casing found.

16 **A** I think there was one found, yes.

17 **Q** So not all the evidence was collected when
18 the scene was secured?

19 **A** I think it was a bullet, not a spent shell
20 casing.

21 **Q** But, nonetheless, it was a 9-millimeter Luger
22 that was collected after the scene was released?

23 **A** I believe so. I'm not sure.

24 **Q** And the officer that collected that, I
25 believe it was Sergeant Johnson?

CHRISTOPHER BELLAMY - CROSS EXAMINATION

1 **A** Possibly.

2 **Q** His incident report noting that he collected
3 that, that went along with this entire
4 investigative packet?

5 **A** Yes.

6 **Q** Prior to May 21, 2021, had you ever
7 interacted with or heard of Durance McCray?

8 **A** I had not.

9 **Q** Had any of your officers?

10 **A** Not to my knowledge.

11 **Q** Were you aware that your officers were on
12 body cam talking about him?

13 **A** My officers?

14 **Q** Your officers.

15 **A** I am not.

16 MS. CALDWELL: Court's indulgence.

17 (A brief pause in the proceedings.)

18 **Q** **(BY MS. CALDWELL)** You told Mr. DeBusk you
19 found ten casings at the scene -- or collected at
20 the scene?

21 **A** Right.

22 **Q** And there were three projectiles collected
23 from the BMW?

24 **A** Yes.

25 **Q** And there were eight projectiles collected

CHRISTOPHER BELLAMY - CROSS EXAMINATION

1 from Mr. McCray's body?

2 **A** At autopsy, correct.

3 **Q** Eight plus three is 11?

4 **A** Uh-huh.

5 **Q** 11 and 10 are not the same numbers?

6 **A** No.

7 **Q** You stated a few moments ago that Mr. Riggins
8 directly called you; is that correct?

9 **A** Yes.

10 **Q** Were you aware that it was actually his
11 family member that called you and put you on
12 three-way?

13 **A** I was.

14 **Q** So that is not a direct call. He was put on
15 by his family member?

16 **A** Correct.

17 **Q** On that phone call, did he tell you what
18 happened?

19 MR. DeBUSK: Objection, Your Honor.

20 MS. CALDWELL: It is a statement by the --

21 THE COURT: Overruled, unless you want to
22 come forward.

23 MR. DeBUSK: Yes, Your Honor.

24 (Whereupon, a bench conference was had.)

25 THE COURT: Ladies and gentlemen, we'll have

CHRISTOPHER BELLAMY - CROSS EXAMINATION

1 a short break and we'll have you back as soon as we
2 take care of this matter. Do not discuss the case.

3 (The jury exits at 2:58 p.m., and the
4 following is heard out of the presence of the jury.)

5 MR. DeBUSK: The definition of hearsay is an
6 out-of-court statement by someone that is offered
7 for truth of the matter asserted.

8 Now, if a party opponent was to offer it,
9 that is not hearsay. But if the party themselves
10 tries to offer it, it is hearsay. In this case,
11 the contents of what the defendant told this
12 detective is not admissible because it is hearsay.
13 It doesn't adhere to any of the exceptions to the
14 hearsay rule. It is the very definition of
15 hearsay.

16 THE COURT: Ms. Caldwell.

17 MS. CALDWELL: Your Honor, first off,
18 Mr. Riggins will be testifying.

19 Second, I think it is relevant because the
20 State doesn't wish to enter his interview. This
21 phone call was not recorded. It was not in any
22 investigative notes. It is not necessarily a
23 statement for its own interest, because he admits
24 to a crime, and it was an integral part of this
25 investigation.

CHRISTOPHER BELLAMY - PROFFER - MS. CALDWELL

1 MR. DeBUSK: It remains hearsay. There are
2 limited circumstances after the defendant testifies
3 that it might be admissible, but those are very
4 limited at this point. There is no -- no statement
5 has been brought in. He has not testified, and it
6 is simply not allowed because it is hearsay. It is
7 excluded because it is hearsay and not offered by
8 the party opponent, but the party themselves. It
9 is hearsay.

10 THE COURT: Let me hear what the answer would
11 be in-camera, and then we'll go from there. If you
12 want to clear it up now.

13 MS. CALDWELL: I'll try to make it very
14 direct for him.

15 **PROFFER**

16 **BY MS. CALDWELL:**

17 **Q** My question is: On May 23, 2021, around
18 21:25 hours, you spoke with Mr. Riggins inside; is
19 that correct?

20 **A** Give me one second.

21 Yes. Yes.

22 **Q** When you spoke to him, did he tell you his
23 version of the incident of what happened that
24 night?

25 **A** He did.

CHRISTOPHER BELLAMY - PROFFER - MS. CALDWELL

1 **Q** Did he tell you that he had been bullied and
2 shot before?

3 **A** He did.

4 **Q** Did he tell you that this was going on for
5 two years?

6 **A** I believe, yes.

7 **Q** Did he tell you that he shot Durance McCray?

8 **A** Yes.

9 MS. CALDWELL: My only other question related
10 to that would be: Was that phone call on 25 hours
11 on May 23, 2021.

12 THE COURT: All right.

13 Mr. DeBusk, having heard that --

14 MR. DeBUSK: Yes, sir. It is clearly
15 hearsay. It is self-asserting because it puts a
16 defense up there without him exposing himself to
17 cross examination.

18 MS. CALDWELL: I put his defense up there in
19 my opening statement.

20 THE COURT: We'll take a short recess and be
21 back about ten minutes after 3:00, and I'll let you
22 know whether that is admissible or not. Thank you.

23 (A recess was taken.)

24 THE COURT: Thank you.

25 After consideration of the motions and the

CHRISTOPHER BELLAMY - CROSS EXAMINATION

1 objections, certainly I do find that the elicited
2 testimony is self-serving to the defense, and it is
3 hearsay. There is no exceptions that would make it
4 admissible, so that will be my ruling on that.

5 Are we ready to move forward with the jury?

6 MR. DeBUSK: Yes, Your Honor.

7 MS. CALDWELL: Yes.

8 MR. DeBUSK: For scheduling purposes, we have
9 a short chain witness and a SLED witness, and then
10 we'll probably be done.

11 THE COURT: Okay.

12 (The jury enters at 3:27 p.m., and the
13 following is heard in the presence of the jury.)

14 THE COURT: Ms. Caldwell.

15 MS. CALDWELL: Thank you, Your Honor.

16 CROSS EXAMINATION (CONT.)

17 BY MS. CALDWELL:

18 Q Detective Bellamy, let's do a recap over --
19 since the break. You did speak with Mr. Riggins
20 via phone?

21 A Yes.

22 Q And after that phone conversation, did you do
23 any further investigations?

24 A After that phone call, I don't believe so.

25 Q So based on the phone call you had with

CHRISTOPHER BELLAMY - CROSS EXAMINATION

1 Mr. Riggins at that time, you didn't go attempt to
2 search Mr. Sinclair's home?

3 A He was the victim.

4 Q Yes or no?

5 A No.

6 Q After that phone call, did you go back to
7 Captain Archie's and search the parking lot, the
8 road, et cetera?

9 A That was already done.

10 Q Did you do it again?

11 A No.

12 Q After that phone call, did you reach out to
13 Ms. Pyatt to search the vehicle?

14 A No.

15 Q And after that phone call, did you check for
16 any cameras between Captain Archie's and Seacoast?

17 A There are not any. We did, yes.

18 Q Okay. When Mr. Riggins was arrested in
19 Marion County, did he have a firearm on his person?

20 A He did.

21 Q Did he tell the U.S. Marshals he had a
22 firearm?

23 A Yes.

24 Q And an extra magazine for that?

25 A Yes.

CHRISTOPHER BELLAMY - CROSS EXAMINATION

1 Q Was that turned over to you?

2 A It was.

3 Q Did you examine that gun?

4 A Did I examine it?

5 Q Look at it, see what it was?

6 A I did, but I didn't alter -- touch it.

7 Q But you looked at it and wanted to see what
8 it was?

9 A Right.

10 Q I'll approach with what was marked as State's
11 14. Was this the firearm?

12 A It was.

13 Q You didn't touch it, but you looked at it and
14 figured out what was going on with it?

15 A Correct.

16 Q Do you know how many rounds this firearm can
17 hold?

18 A Ten, but I'm not for sure.

19 Q And in Marion County did you interview
20 Driscoll Riggins?

21 A I did.

22 Q Was Detective Lynam present?

23 A He was.

24 Q Did you both record the interview?

25 A We did.

CHRISTOPHER BELLAMY - CROSS EXAMINATION

1 Q Was Mr. Riggins read his Miranda rights?

2 A He was.

3 Q Did he voluntarily speak with you?

4 A He did.

5 Q Did he provide information about what
6 happened?

7 A He did.

8 Q You have been present in the courtroom the
9 entire time behind the State?

10 A Yes.

11 Q To the best of your knowledge, has that
12 interview been admitted into evidence or played for
13 the jury?

14 A No, it has not.

15 Q However, in that interview -- after that
16 interview, were you -- did you learn that this was
17 the firearm used, State's 14?

18 A Yes.

19 Q And you believe it holds ten rounds?

20 A Yes.

21 Q And there were ten projectiles on the ground?

22 A Correct.

23 Q Or ten casings, correct?

24 A Casings, yes.

25 Q My apologies. Ten casings on the ground,

CHRISTOPHER BELLAMY - CROSS EXAMINATION

1 presumably -- you didn't know at that point, but a
2 SLED report was done -- from the firearm that holds
3 ten rounds?

4 **A** At that point, we weren't sure, no.

5 **Q** But --

6 **A** Possibly, yes.

7 **Q** Possibly, okay. And, again, 11 projectiles
8 were found either in the vehicle or per
9 Mr. McCray's autopsy?

10 **A** Yes.

11 **Q** Three from the car?

12 **A** Yes. Eight from the body, yes.

13 **Q** Okay. How is it possible to have 11
14 projectiles from a gun that can only shoot ten
15 rounds?

16 **A** There were two magazines found on him.

17 **Q** At the time?

18 **A** And that may hold 12. Without looking at it,
19 I'm not sure exactly.

20 **Q** So it is possible that he quickly changed
21 magazines?

22 **A** That could be possible, yes.

23 **Q** It's possible that this holds 12?

24 **A** Correct.

25 **Q** But also possible there might have been

CHRISTOPHER BELLAMY - CROSS EXAMINATION

1 another gun involved, possibly?

2 **A** Possibly.

3 **Q** These videos that you and Mr. DeBusk just
4 went through, the compilations you made, those were
5 not in their original form, correct?

6 **A** They are off the original video.

7 **Q** But the original video provided by Captain
8 Archie's were chapters?

9 **A** Correct.

10 **Q** Separated into 30-minute time slots, correct?

11 **A** Yes.

12 **Q** From 10:38 p.m. on May 21, 2021 until
13 midnight on May 22, 2021?

14 **A** Correct.

15 **Q** So then the videos that you guys just went
16 through had to be compiled and created for trial,
17 correct?

18 **A** Correct.

19 **Q** And you or Mr. DeBusk made those, correct?

20 **A** Correct.

21 **Q** So it is not the original form?

22 **A** Correct.

23 MS. CALDWELL: Court's indulgence.

24 **Q** **(BY MS. CALDWELL)** Earlier, you stated that
25 the shooting happened during one of the glitches in

CHRISTOPHER BELLAMY - CROSS EXAMINATION

1 the cameras?

2 **A** Yes.

3 **Q** There are 32 chapters from Captain Archie's?

4 **A** Yes.

5 **Q** And are you aware there was not a Chapter 9,
6 so there is actually 31?

7 **A** Yes.

8 **Q** I found that out as well.

9 So 31 angles all over the bar?

10 **A** Correct.

11 **Q** So is there just more than Chapter 1 and 7
12 that looks out into that parking lot, even if from
13 a distance?

14 **A** I believe those are the two that were kept
15 throughout the whole parking lot.

16 **Q** But there were others that looked in the
17 direction of the parking lot?

18 **A** They may look in the direction, but I don't
19 think it would show it. You may have to refresh my
20 memory. There is a lot of angles.

21 **Q** I was going to say that I believe it is the
22 ICW --

23 **A** Do you know what channel number?

24 **Q** Let me check my notes as well.

25 (A brief pause in the proceedings.)

CHRISTOPHER BELLAMY - CROSS EXAMINATION

1 **A** I have each channel and what it shows.

2 MS. CALDWELL: No further questions.

3 THE COURT: Mr. DeBusk.

4 MR. DeBUSK: Your Honor, I move State's 31
5 into evidence that was authenticated by two
6 witnesses now.

7 THE COURT: Any objection?

8 MS. CALDWELL: My objection remains that it's
9 not authenticated because Ms. Cano does not know if
10 she took that or not.

11 THE COURT: I find it has been authenticated,
12 and 31 is in evidence over objection.

13 (State's Exhibit 31 admitted.)

14 **REDIRECT EXAMINATION**

15 **BY MR. DeBUSK:**

16 **Q** Did you determine which channel is the ICW
17 channel?

18 **A** The ICW channel?

19 **Q** Was there another channel that shows the
20 shooting area, as well as Channels 1 and 7?

21 **A** No.

22 **Q** Would they have been more distant?

23 **A** Yes.

24 **Q** Would there have been lighted areas where it
25 is difficult to see in the dark area?

CHRISTOPHER BELLAMY - CROSS EXAMINATION

1 **A** Yes.

2 **Q** So the best two channels that were shown was
3 1 and 7?

4 **A** Correct.

5 **Q** Let me ask you something. When you said that
6 there were 11 projectiles, that is not quite
7 accurate, is it?

8 **A** It's not. Some of the projectiles are
9 fragments. They are pieces of a bullet.

10 **Q** For 12(l), that is not -- that is a fragment,
11 correct?

12 **A** Correct.

13 **Q** 12(n), that is just the core of it, right?

14 **A** That would be correct.

15 **Q** And 12(p), that is just one fragment of the
16 outer part of the bullet?

17 **A** Correct.

18 **Q** So those could be the same bullet?

19 **A** Very possible.

20 **Q** And 12(q) is another fragment of a casing,
21 right?

22 **A** Correct.

23 **Q** As is 12(r)?

24 **A** Yes.

25 **Q** And 12(s) --

CHRISTOPHER BELLAMY - CROSS EXAMINATION

1 MS. CALDWELL: Your Honor, I have to object.
2 He's not the firearms expert. They have one, and
3 they can ask all these questions to the man that is
4 certified to do this.

5 MR. DeBUSK: Just following up on her cross
6 examination, Your Honor.

7 MS. CALDWELL: I used "projectile" because
8 that is the word he used.

9 THE COURT: Thank you, ma'am. I'll overrule
10 your objection. I think he has knowledge to
11 testify about this.

12 Q (BY MR. DeBUSK) So the ones that are separate
13 cores and jacket fragments could represent fewer
14 than five bullets?

15 A Correct.

16 Q So there is no way to tell if there were 11
17 or eight bullets?

18 A That's correct.

19 Q Now, the compilations we looked at, those
20 were exactly as on the original videos from Captain
21 Archie's?

22 A Yes.

23 Q They were just put in a different order to
24 show the different aspects of the case?

25 A Yes.

CHRISTOPHER BELLAMY - CROSS EXAMINATION

1 **Q** But everything on those compilations is on
2 State's Exhibit 7, the total collection?

3 **A** Yes. It was put in sequence to make it
4 easier to watch and follow without skipping
5 cameras. It is time efficient.

6 **Q** Now, suspects sometimes give statements to
7 police, right?

8 **A** Yes.

9 **Q** Do they give misleading statements?

10 **A** Yes.

11 MS. CALDWELL: Objection, Your Honor. We
12 weren't allowed to ask questions about --

13 THE COURT: Please approach.

14 (Whereupon, a bench conference was had.)

15 **Q** **(BY MR. DeBUSK)** Did you have any probable
16 cause to go back and search Ms. Pyatt's vehicle?

17 **A** I did not.

18 **Q** And you did search Mr. Sinclair's, right?

19 **A** Yes, we did.

20 **Q** Now, you did do fingerprints in the car, but
21 didn't take any DNA swabs?

22 **A** Correct.

23 **Q** Based on the videos, did the shooter appear
24 to touch the car?

25 **A** He did not.

CHRISTOPHER BELLAMY - CROSS EXAMINATION

1 **Q** You didn't do a search warrant to find the
2 victims phone; is that correct?

3 **A** That's correct.

4 **Q** Would you have needed an idea where the phone
5 was to make a search warrant?

6 **A** In order to do a search warrant, I would have
7 to prove to a judge that there was evidence on that
8 phone. Based off -- I had no prior knowledge that
9 either the defendant or victim, based off of the
10 video footage, that there was no probable cause to
11 get a search warrant.

12 **Q** And did you even have a location?

13 **A** I did not.

14 **Q** There was a round found in Captain Archie's
15 parking lot approximately two days after?

16 **A** I believe so, yes.

17 **Q** And that area was searched by the officers
18 when they -- when the scene was processed?

19 **A** Yes.

20 **Q** And no round was found there?

21 **A** No.

22 **Q** Is it possible that a 9-millimeter Luger
23 round could have been dropped by someone else?

24 **A** At this point, yes.

25 **Q** Is that a common round?

CHRIS SENGLE - DIRECT EXAMINATION

1 **A** Yeah, very common.

2 MR. DeBUSK: I would like to publish State's
3 31, 32, 4, 33, and 34 to the jury.

4 THE COURT: Okay.

5 (State's Exhibits 4 and 31-34 published to
6 the jury.)

7 MR. DeBUSK: And no further questions. Thank
8 you.

9 THE COURT: You can step down.

10 I assume that he is going to stay.

11 MS. CALDWELL: At this time we'll serve our
12 own subpoena in case I wish to recall him.

13 MR. DeBUSK: State calls Chris Sengle.

14 (CHRIS SENGLE, having been duly sworn,
15 testified as follows:)

16 THE WITNESS: Chris Sengle, S-E-N-G-L-E.

17 **DIRECT EXAMINATION**

18 **BY MR. DeBUSK:**

19 **Q** Who is your employer?

20 **A** North Myrtle Beach Police Department.

21 **Q** How long have you been with North Myrtle
22 Beach?

23 **A** Almost 16 years.

24 **Q** What are your duties?

25 **A** Evidence custodian.

CHRIS SENGLE - DIRECT EXAMINATION

1 **Q** What does an evidence custodian do?

2 **A** Accept all of the evidence from the officers,
3 and store it until it is disposed of or needs to be
4 transported.

5 **Q** Did you handle any evidence in relation to
6 the shooting of Durance McCray?

7 **A** I did.

8 **Q** I'll show you -- we'll do the hard one first.
9 State's 12, and inside are a number of
10 sub-exhibits, 12(a) through 12(u). Can you examine
11 that? You can take them out.

12 **A** (Witness examines document.) Yes.

13 **Q** Are there markings on the evidence that you
14 are able to identify them by?

15 **A** Yes.

16 **Q** What was done with that evidence that was in
17 your custody and control?

18 **A** It was taken out of the evidence lockers and
19 stored, and then transported to SLED for testing.

20 **Q** Were all of those items, A through U,
21 transported to SLED at the same time?

22 **A** Yes.

23 **Q** In a group?

24 **A** Yes.

25 **Q** Who requested the transport to SLED?

CHRIS SENGLE - DIRECT EXAMINATION

1 **A** Detective Bellamy.

2 **Q** While they were in your custody and control,
3 did you alter or change them in any way?

4 **A** No, I did not.

5 **Q** Did you open the package at all?

6 **A** No.

7 **Q** When you get to SLED, what do you do?

8 **A** I timestamp it and put it in an evidence
9 locker where I lock it.

10 **Q** Is the outer packaging that that is in, the
11 large plastic bag, that is provided by SLED?

12 **A** Yes.

13 **Q** When you drop it at SLED, do you put it in
14 the plastic bag?

15 **A** I do.

16 **Q** Is it heat sealed?

17 **A** Yes.

18 **Q** And do you sign the seal so it's tamper
19 indicative?

20 **A** Yes.

21 **Q** So when you got to SLED, all of those items
22 were put in that plastic bag?

23 **A** Yes.

24 **Q** Again, while they were in your custody and
25 control, you didn't alter or change them in any

CHRIS SENGLE - DIRECT EXAMINATION

1 way?

2 A I did not.

3 Q You had internal markings on the packaging?

4 A Yes.

5 Q We'll do these separately. State's 14.

6 A Yes.

7 Q What was done with that?

8 A It was taken out of the evidence locker and
9 stored until it was transported to SLED.

10 Q Did you provide the box?

11 A I did not. It came from another agency.

12 Q So the other agency put it in the box, and
13 you stored the box?

14 A Yes.

15 Q While it was in your custody or control, did
16 you alter or change it?

17 A I did not.

18 Q Did it go to SLED with the other items?

19 A It did.

20 Q Same with State's 15?

21 A Yes.

22 Q What did you do with that item?

23 A I stored it until it was transported to SLED
24 for testing.

25 Q And did it go at the same time as the other

CHRIS SENGLE - CROSS EXAMINATION

1 items?

2 **A** It did, yes.

3 **Q** Just to ask the overall question: Did you
4 alter or change them in any way while in your
5 possession?

6 **A** I did not.

7 **Q** Did they remain in a sealed condition?

8 **A** They did.

9 **Q** Thank you.

10 MR. DeBUSK: Answer any questions that the
11 defense may have.

12 MS. CALDWELL: Court's indulgence.

13 (A brief pause in the proceedings.)

14 **CROSS EXAMINATION**

15 **BY MS. CALDWELL:**

16 **Q** Good afternoon. So you received all of these
17 items, State's 12 and its subparts?

18 **A** Yes.

19 **Q** And they were in their individual little
20 baggies, and they have their own labels on them?

21 **A** Yes.

22 **Q** And when you receive items, you receive a
23 property and evidence sheet?

24 **A** I do.

25 **Q** Did you receive this property and evidence

CHRIS SENGLE - CROSS EXAMINATION

1 sheet?

2 **A** I did.

3 **Q** Those items were collected by Detective

4 Bellamy?

5 **A** Yes.

6 **Q** But turned into you by Detective Franklin?

7 **A** They were.

8 **Q** And in those items, are there numberings or

9 letterings to accompany the order of the items?

10 **A** Written on the evidence, you mean?

11 **Q** Written on that form.

12 **A** There's not.

13 **Q** And I know that different agencies do it

14 different, different custodians have their own

15 method, just like everyone for their own jobs, but

16 when you get these bags -- and I know you said you

17 didn't alter them?

18 **A** Correct.

19 **Q** Did you participate in labeling them?

20 **A** I did not.

21 **Q** But they are not labeled on there by a number

22 or a letter?

23 **A** Correct.

24 **Q** So, for example, this item was collected from

25 the autopsy; is that correct?

CHRIS SENGLE - CROSS EXAMINATION

1 **A** Yes.

2 **Q** And it has a number on it?

3 **A** Uh-huh.

4 **Q** What number does it have?

5 **A** A number nine.

6 **Q** Does that correspond to anything written on
7 the evidence sheet?

8 **A** I mean, it has "a jacket from the anterior
9 wall," is how he has it, so.

10 **Q** The anterior wall. I believe that would have
11 come out of -- either way, you don't know from
12 looking at that, right?

13 **A** Correct.

14 **Q** But it has a number nine on it?

15 **A** Correct.

16 **Q** I'll show you this. What is that item?

17 **A** This is the submission report for SLED.

18 **Q** And on that report it -- you write down -- or
19 Detective Bellamy includes everything you are
20 submitting to SLED?

21 **A** Correct.

22 **Q** And there are columns for the SLED ID number,
23 the item, what it is, and an agency number,
24 correct?

25 **A** Yes.

CHRIS SENGLE - CROSS EXAMINATION

1 **Q** The agency number comes from -- the first
2 part comes from the evidence and property sheet,
3 correct?

4 **A** I can't answer that, because I don't know how
5 the detective entered it.

6 **Q** Will you look specifically to determine --
7 here you go. So here's -- does that match the
8 evidence property sheet, the first part?

9 **A** It matches --

10 **Q** Does it match this number, the first one?

11 **A** Yes.

12 **Q** So, theoretically, the first part comes from
13 the particular evidence sheet itself to determine
14 how it was turned into you?

15 **A** Yes. Yes.

16 **Q** And then it has the assigned number nine to
17 it as well?

18 **A** Yes.

19 **Q** And the number nine is on the envelope as
20 well?

21 **A** Yes.

22 **Q** But it's not on the evidence and property
23 sheet, and we -- and it's not in a report anywhere?

24 **A** I don't know, honestly, this number nine, if
25 it was labeled from the autopsy report from the --

CHRIS SENGLE - CROSS EXAMINATION

1 I don't know.

2 Q I know you don't. I'm only asking to what
3 you know. You did not alter it or label it?

4 A Right.

5 Q For reference, Dr. Richards did not offer
6 them. So if we're looking at just the SLED receipt
7 you guys submitted, and just the evidence and
8 property sheet, is there any way to figure out
9 which projectile the casings come from where?

10 A If taken from these written down on the sheet
11 to what they had written on the envelope.

12 Q Does it match here?

13 A Not a hundred percent, no.

14 Q So we're not looking at the physical evidence
15 in your hand, 12 subparts, given only the evidence
16 receipt or evidence sheet, and the SLED receipt,
17 there is no way to tell where these items came
18 from?

19 A I mean, if you look at it like number three
20 is a fragmented bullet, and number three on
21 here....

22 Q But it's not numbered.

23 A True.

24 Q So you would be making an educated guesses to
25 determine how they sync up?

CHRIS SENGLE - REDIRECT EXAMINATION

1 **A** Right.

2 **Q** So if, say, only provided these two, then
3 they couldn't necessarily say, well, SLED number
4 here, and agency number here, we know what part
5 that came out of, but we can't do that, can we,
6 definitively?

7 **A** Correct. Right.

8 MS. CALDWELL: No further questions. Thank
9 you.

10 **REDIRECT EXAMINATION**

11 **BY MR. DeBUSK:**

12 **Q** When this is the collected from --

13 MR. DeBUSK: Your Honor, we're referring as
14 an example to State's sub-exhibit 12(r).

15 **Q** **(BY MR. DeBUSK)** If that is from an autopsy
16 and the doctor writes "bullets from lumbar" on the
17 envelope, does that bullet from the lumbar stay in
18 the envelope until it gets to SLED?

19 **A** Yes.

20 **Q** So if SLED looks at the number, they look at
21 "bullet from lumbar" and it tells them where it
22 comes from exactly?

23 **A** Right.

24 MR. DeBUSK: Thank you. No further
25 questions.

PAUL GREER - DIRECT EXAMINATION

1 THE COURT: Is there any objection to this
2 witness being released from her subpoena?

3 MR. DeBUSK: No, Your Honor. We so move.

4 MS. CALDWELL: No objection.

5 THE COURT: Thank you. You are free to go.

6 MR. BAGNAL: State calls Paul Greer to the
7 stand.

8 (PAUL GREER, having been duly sworn,
9 testified as follows:)

10 THE WITNESS: My name is Paul Greer,
11 G-R-E-E-R.

12 DIRECT EXAMINATION

13 BY MR. BAGNAL:

14 Q Mr. Greer, thank you for coming this
15 afternoon. I'm sure we're all excited to get to
16 this part.

17 Where are you currently employed?

18 A I'm employed at the South Carolina Law
19 Enforcement Division, which is commonly known as
20 SLED.

21 Q And how long have you been there?

22 A Just a little over nine years.

23 Q And your job title?

24 A At SLED, I'm a firearms examiner or forensic
25 scientist within our Forensic Services Laboratory.

PAUL GREER - DIRECT EXAMINATION

1 **Q** What does that entail?

2 **A** My day-to-day duties include examination of
3 firearms and firearms-related evidence, toolmarks
4 and toolmark-related evidence, conducting general
5 rifling characteristics exams on fired projectiles
6 submitted to the laboratory, serial number
7 restorations with obliterated serial numbers, and
8 performing destruction of weapons for agencies
9 across the state of South Carolina.

10 **Q** Describe for us a little bit what the
11 training and qualifications someone must have
12 obtained to be a forensic firearm analyst?

13 **A** Sure. First, I received a bachelor's of
14 science in biological sciences from the University
15 of South Carolina.

16 Upon my appointment at SLED, I began our
17 firearm and toolmark program. This is an in-house
18 apprenticeship program conducted right there at
19 SLED under the supervision of other court-qualified
20 examiners. There is no real training you can get
21 to do this job from a particular school and to be
22 signed off and ready to go when you get your
23 diploma, so we participate in that training
24 program. It was an extensive three year or so
25 apprenticeship style program I participated in.

PAUL GREER - DIRECT EXAMINATION

1 During that time, I completed multiple
2 written practical examinations. I assisted other
3 examiners prepping their cases for court, and I
4 also conducted mini microscopic comparisons.

5 At the conclusion of all of the training, I
6 was given a multi-part comprehensive final exam
7 that included some mock casework.

8 I successfully passed all of that in that
9 training program, and began casework on my own at
10 that time.

11 **Q** When did you get done with the training, and
12 when did you become, I guess, certified as a
13 firearms forensic analyst? When did you start
14 doing your own work?

15 **A** Sure. I believe I completed that training
16 casework on my own around September of 2017.

17 **Q** And did your training and experience with
18 SLED, does that allow you to glean certain insights
19 from firearms, ammunition, and components of both
20 that a layperson or someone like myself wouldn't be
21 able to?

22 **A** Yes, sir.

23 **Q** And how long have you been examining
24 firearms?

25 **A** Since I started at SLED in 2014. I began my

PAUL GREER - DIRECT EXAMINATION

1 career there in the firearms department, so I began
2 looking at firearms and that type of evidence
3 during my training program. So I've been looking
4 at this type of evidence for, approximately, nine
5 years.

6 Q Have you previously been qualified as an
7 expert in the examination of firearms and
8 ammunition in a court of law?

9 A Yes, sir, I have.

10 MR. BAGNAL: Your Honor, at this time the
11 State offers Paul Greer as an expert in the area of
12 firearms and ammunition identification.

13 THE COURT: Any objection?

14 MS. CALDWELL: Your Honor, United States v.
15 Marco Tibbs, a 2019 case, I would state that due to
16 the inability to establish error rates, absence of
17 objective standards, and lack of acceptance outside
18 of its own scientific community requires the
19 testimony to be limited to whether a weapon could
20 be excluded or not.

21 THE COURT: All right. At this time, based
22 on Mr. Greer's skill, knowledge, and expertise,
23 education and training, and the subject matter
24 being sought from the Solicitor's Office, I'm going
25 to find that he is a forensic firearm analyst and

PAUL GREER - DIRECT EXAMINATION

1 an expert in that, and he will be allowed to give
2 his expert testimony.

3 MR. BAGNAL: Thank you, Your Honor.

4 Q (BY MR. BAGNAL) Mr. Greer, did you have any
5 occasion to test any firearms and/or ammunition in
6 relation to this case?

7 A Yes, sir, I did.

8 Q And about when did you do that?

9 A My analysis or examination on this case
10 occurred on January 20 of 2023 through January 25
11 of 2023.

12 Q Okay. I'm showing you now what is marked as
13 State's Exhibit 14. It's already been entered into
14 evidence. Do you recognize what this is?

15 A This firearm is unloaded and safe for me to
16 handle, and I'll keep it pointed in my direction.

17 When evidence or firearms is submitted to the
18 laboratory, it is given a unique SLED number so it
19 can be tracked throughout the lab. Each item is
20 also given an item number.

21 I'm looking on this pistol to look for some
22 of the information that I've marked onto the gun.
23 I do see some of that information here.

24 This pistol, as well as the two magazines and
25 unfired cartridges, was my SLED Item 15, which was

PAUL GREER - DIRECT EXAMINATION

1 1-sky-CPX, dash, 2, a semi-auto pistol,
2 9-millimeter Luger caliber with a Serial
3 No. 697369. That was submitted with two magazines
4 and 20 unfired 9-millimeter Luger cartridges.

5 Q And there is some discrepancy in labeling
6 from SLED, Myrtle Beach, and now we have different
7 numbers here for courtroom exhibits. So if we can,
8 can we refer to this item as the model number "Sky"
9 from now on?

10 A Oh, sure, or Sky CPX.

11 Q Yeah. That will be fantastic, sir.

12 If you can, tell me what kind of pistol this
13 is? Is it a revolver?

14 A No, sir. That was determined to be a
15 semi-automatic pistol. A semi-automatic pistol is
16 a type of handgun, in this case, that you just saw,
17 where when you load a cartridge in order to fire,
18 with one pull of the trigger, you shoot one
19 cartridge.

20 When you pull the trigger, the firing pin of
21 the gun is released striking the primer of the
22 cartridge. The bullet will travel down the barrel
23 of that gun towards the target after the combustion
24 of gun powder, and the pressure from that exploding
25 and combusting will cause that firearm to cycle.

PAUL GREER - DIRECT EXAMINATION

1 So the slide on that gun moves rear-ward and allows
2 for that cartridge case to be extracted from that
3 gun.

4 Q Mr. Greer, I'm now showing you what has
5 already been marked in evidence as State's 15. Is
6 in another one of those semi-automatic handguns?

7 A Again, this firearm is unloaded, and I will
8 keep it pointed in my direction.

9 Yes. This was determined to be my SLED Item
10 No. 16. This is another type of a semi-automatic
11 handgun.

12 Q All right. I'll take that off of your hands.

13 Do semi-auto handguns, such as the model Sky
14 there and the other semi-automatic, do those leave
15 certain identifying markers on any projectiles,
16 casings, that have been fired through them?

17 A Yes, sir. Firearms, when they are
18 manufactured, they go through a series of different
19 processes where you are removing metal using
20 different manufacturing techniques.

21 During that machine process on the firearms,
22 as well as the use and wear and tear of just a
23 person using and cleaning that firearm, that has
24 the potential to leave microscopic imperfections
25 that are in turn placed on those projectiles when

PAUL GREER - DIRECT EXAMINATION

1 they are fired.

2 Q Let's hold on there for now for firearms.

3 Do -- did you have the opportunity to test
4 fire either of these weapons?

5 A Yes, sir. I test fired both of those.

6 Q And I'm now showing you what is marked for
7 pretrial identification purposes as State's Exhibit
8 13. Do you recognize this?

9 A Yes, sir. It is State's Exhibit 13. There
10 are two envelopes here that you will see with our
11 SLED lab number and item number. These are
12 envelopes that contain the test specimens, test
13 fired cartridge cases and bullets that I fired from
14 each of those two pistols we just discussed.

15 Q Let's talk a little bit about bullets, bullet
16 jacket, fragments, and/or casings. Can you tell
17 this Court what the difference is between the
18 three?

19 A Sure. Terminology is something that is very
20 important to us in the firearms department as we're
21 looking at all of these items of evidence and
22 reporting that out, so that way it is clear for us
23 and also those who may be reading our report.

24 One I think that may be used differently
25 around the world is just the use of the terminology

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1 associated with firearms and ammunition. A lot of
2 times people say, I'm out of bullets, or, I need to
3 go buy more bullets for my firearm. When we're
4 going to look at this in a laboratory setting,
5 we're very specific, so we'll kind of discuss some
6 of that.

7 When we're talking about ammunition, when you
8 say, I need more bullets, we'll refer to that as an
9 unfired cartridge or complete cartridge. It is
10 your piece of ammunition that was unfired. That is
11 what you would go to the store and buy a box of.

12 In regards to breaking that down a little
13 further, that unfired cartridge is made up of
14 several different components. You'll notice in the
15 middle of that cylindrical component that can be the
16 brass or nickel color or various different metals,
17 that is the cartridge case. That is what holds it
18 together.

19 Inside, you have the gun powder that causes
20 it to bust. On one end of the cartridge and that
21 cartridge case, you have a bullet that travels down
22 the barrel of the gun, and on the other end you
23 have the primer; that is what is struck by the
24 firing pin of the gun.

25 So to complete the anatomy, you have the

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1 unfired cartridge, which is your entire piece of
2 unfired ammunition that's made up of a cartridge
3 case, one end has a bullet, the other end has a
4 primer, and on the inside you have the gun powder
5 that makes it combust.

6 Q This is a piece of State's 15. Would you
7 please show the jury what you are talking about
8 there with the different components?

9 A Sure. If you can see here in the plastic,
10 I'm trying to single this guy out at the top, but
11 this is an unfired cartridge, unfired piece of
12 ammunition.

13 Here, the cylindrical component, it is nickel
14 in color. That is the cartridge case. When it is
15 fired, it becomes a fired cartridge case.

16 This brass color object down here is your
17 bullet. That is the projectile that will travel
18 down that barrel towards a target.

19 On this end here, if you can see that, there
20 is a small circle inside this end, and that is the
21 primer, and that is what is struck by the firing
22 pin.

23 Q Thank you, Mr. Greer.

24 Was it ammo like this that you shot or test
25 fired these two guns with?

PAUL GREER - DIRECT EXAMINATION

1 **A** I would have test fired 9-millimeter Luger
2 caliber ammunition in those firearms.

3 **Q** Where did you do that at?

4 **A** I did that in our laboratory. In our
5 laboratory, we have a water tank where we're able
6 to shoot and recover the test fire cartridge cases.
7 The water helps to slow down the bullet without
8 taking away the wear or adding to the microscopic
9 markings.

10 MR. BAGNAL: At this time we offer what is
11 marked for pretrial purposes as State's 13 into
12 evidence.

13 THE COURT: Any objection?

14 MS. CALDWELL: I don't object to the test
15 fire from the Sky firearm, but I do object to the
16 test fire from the Smith and Wesson as, again, it
17 is not relevant to this case.

18 THE COURT: Okay. We're going to allow
19 evidence Item 13 -- State's 13 into evidence over
20 the objection. Thank you.

21 (State's Exhibit 13 admitted.)

22 **Q** **(BY MR. BAGNAL)** So you just described for us
23 about the bullet that comes out of the cartridge.
24 Can you tell me a little bit about what happens to
25 bullets when they hit things?

PAUL GREER - DIRECT EXAMINATION

1 **A** Bullets are designed to travel towards the
2 target with high speed. We see bullets submitted
3 in laboratory in various states of wear or that
4 have been damaged because they struck some type of
5 target.

6 Different designs and types of bullets are
7 marketed for different reasons, but sometimes that
8 doesn't really matter because they may strike
9 something that causes them to do funny things. So
10 we receive bullets and fragments and pieces of just
11 portions of maybe their jacket or portions of the
12 ammo for just -- depending on what they struck and
13 how they acted when they struck that target.

14 **Q** I'll show you now what is entered into
15 evidence as 12(q) and 12(o). What would you call
16 that?

17 **A** Item 10, during my examination, was
18 determined to be one fired bullet jacket fragment.
19 That was just the jacket portion of the bullet, and
20 just a fragment or a portion of it. It was not the
21 complete intact bullet.

22 **Q** Would you tell the jury what that is?

23 **A** State's Exhibit 12(o) was my SLED item No. 9.
24 That was one fired bullet. That bullet was intact,
25 and I had pretty much the entire bullet to work

PAUL GREER - DIRECT EXAMINATION

1 with, to measure and weigh and examine. You can
2 see it there.

3 Q What can you tell us about this specific
4 bullet? Does it have any certain characteristics
5 that may lend itself to expansion upon impact of a
6 certain object?

7 A Sorry. Can you repeat the question?

8 Q Yeah. What can you tell me about this
9 particular bullet here? Does it have any
10 characteristics that lend itself to expansion upon
11 the impact of an object?

12 MS. CALDWELL: Objection, Your Honor.
13 Mr. Greer is more than welcome to testify about the
14 characteristics, as that is his field and he's an
15 expert, but talking about expansion and other
16 things, Mr. Bagnal is testifying. So I ask that he
17 leave that up to our expert.

18 THE COURT: Sounded like a question, so I'll
19 allow it and allow the answer.

20 A As far as its design, it is a copper jacketed
21 type of hollow point bullet. Its design is to
22 expand upon impact. These petals, if you will, are
23 designed to expand.

24 Q (BY MR. BAGNAL) Okay.

25 MR. BAGNAL: Your Honor, may I publish

PAUL GREER - DIRECT EXAMINATION

1 State's 12(q) and 12(o) to the jury?

2 THE COURT: Yes.

3 Q (BY MR. BAGNAL) Do hollow points like that,
4 do they always expand?

5 A Sometimes they do, sometimes they do not. It
6 just depends. I've seen them in various states as
7 they've been received in the laboratory.

8 Q And of the type you tested here, what's
9 marked as State's 13, were those hollow points?

10 A I did not use any type of hollow point
11 ammunition for my testing.

12 Q Can you tell me -- in a summary fashion is
13 fine -- what you learned from testing the bullets,
14 bullet jacket fragments from this case?

15 A Sure. In total, I received 11 different
16 types of projectiles. Those were pieces of lead,
17 fired bullet jacket fragments and fired bullet. I
18 compared and examined them with each other and with
19 the test bullets I fired from the Sky pistol and
20 the other Smith and Wesson pistol.

21 Based on their observable characteristics and
22 microscopic comparisons, I was able to determine
23 that several of those items, which were
24 specifically Item 4, 7, 8, 9, 19, and 20 were most
25 consistent with being bullets or the bullet jacket

PAUL GREER - DIRECT EXAMINATION

1 portion that are loaded into in some 9-millimeter
2 Luger cartridges.

3 Additionally, due to the damage and size of
4 some of those items, I was unable to determine the
5 caliber of Items 3, 5, 6, 10, and 21.

6 Additionally, no marks of value were found on
7 Items 3 and 6, as they were just pieces of lead,
8 and there was nothing I could do further. They
9 were unsuitable for identification with any other
10 firearms-related evidence.

11 **Q** And, in your opinion, why do you think they
12 were unsuitable?

13 **A** When I looked at them under the microscope, I
14 determined them to be most consistent with a piece
15 of lead. There was no marking on there that I felt
16 was going to be able to be used for any type of
17 identification or comparison. They either had lack
18 of marks or there wasn't enough, as it was just a
19 damaged small piece of lead.

20 MR. BAGNAL: Moment of the Court's
21 indulgence, Your Honor.

22 (A brief pause in the proceedings.)

23 **Q** **(BY MR. BAGNAL)** I'm showing you State's
24 Exhibit 12. Can you tell me whether that is an
25 item that you were able to -- excuse me. Can you

PAUL GREER - DIRECT EXAMINATION

1 tell me whether that is an item that is suitable
2 for identification purposes?

3 **A** This State's Exhibit 12(n) was my SLED Item
4 6. That was determined to be one piece of lead. I
5 determined after looking at it under the microscope
6 that it was unsuitable for any further
7 identification.

8 **Q** Switching gears to casings. How many casings
9 did you test for this trial?

10 **A** I received ten fired 9-millimeter Luger
11 caliber cartridge cases.

12 **Q** What did you learn about those casings?

13 **A** Based on my comparisons of those cartridge
14 casings, SLED Items Nos. 22 through 31, based on my
15 comparisons with each other, and also with the
16 cartridge cases that I test fired from those two
17 pistols, the Sky pistol and the Smith and Wesson
18 pistol, I determined that Items 22 through 31 were
19 all fired by the Sky pistol.

20 **Q** Would you please tell this jury what Items 22
21 through 31 are?

22 **A** Those were all fired 9-millimeter Luger
23 caliber cartridge cases. There were ten fired
24 cartridge cases.

25 **Q** And cartridge casings, to get this right in

PAUL GREER - DIRECT EXAMINATION

1 my mind, if we could, look at State's Exhibit 14
2 for a second. Can you tell me, when a gun is
3 fired, what happens to these casings here?

4 **A** When a gun is fired -- I mean this is a
5 semi-auto pistol. This is designed so that the
6 cartridge, after it is fired, the cylindrical
7 component will be extracted from the chamber and
8 ejected or kicked out of the gun.

9 MR. BAGNAL: If I may, these are Items 12(j),
10 12(I), and I'll go all the way to 12(b). I would
11 like to publish one of these to the jury.

12 THE COURT: All right.

13 (Published to the jury.)

14 **Q (BY MR. BAGNAL)** Turning your attention back
15 to state's Exhibit 14, the Sky model pistol here,
16 can you tell me how many rounds of ammunition that
17 gun holds?

18 **A** Let me refer to my notes.

19 During my testing, each of those magazines I
20 was able to load 11 cartridges to each one. So
21 with one cartridge in the chamber, that is a total
22 of 12.

23 **Q** Thank you, sir.

24 Can tell this jury one more time what State's
25 Exhibit 14 is, what Item 15 is?

PAUL GREER - DIRECT EXAMINATION

1 **A** Sure. This is, again, State's Exhibit 14.
2 This was determined to be one Sky Model CPX-2,
3 semi-automatic pistol, 9-millimeter Luger caliber,
4 with a Serial No. 697369. That was submitted with
5 two magazines and 20 unfired 9-millimeter Luger
6 cartridges.

7 **Q** Mr. Greer, did all of the casings that you
8 tested, did they match being fired from that gun?

9 **A** Yes, sir. All of the cartridges cases that I
10 received, I was able to determine were fired from
11 the Sky pistol.

12 **Q** And how many bullets that were suitable for
13 identification were able to be matched to that gun?

14 **A** Out of the projectiles and bullets I
15 received, I was able to identify five of them as
16 having been fired by the Sky pistol.

17 **Q** Items 3 and 6, SLED items, why were they not
18 suitable for identification?

19 **A** Again, those were just pieces of lead. There
20 was nothing microscopically that I was able to use
21 after looking at it under the microscope or that I
22 even saw that would be suitable for any further
23 identification. There were none of those valuable
24 microscopic markings on the projectile that was
25 left as a result of firing.

PAUL GREER - DIRECT EXAMINATION

1 **Q** In short, could you call that "damage"?

2 **A** Yes, sir, they were damaged. Pieces of lead,
3 I could not determine or be able to use them for
4 any further identification purposes.

5 **Q** And now to Items 5, 7, 10, and 21, the
6 remaining bullets and/or bullet fragments that you
7 tested. What can you tell me as they relate to the
8 model Sky pistol, State's 14, SLED Item 15?

9 **A** Due to damage or insufficient corresponding
10 marks, the microscopic markings on the projectiles
11 or on the bullets, the results of my comparisons of
12 Items 5, 7, 10, 21 with the each other and with the
13 test bullets that I fired from the Sky pistol were
14 inconclusive. Basically, I was unable to determine
15 whether those Items 5, 7, 10, and 21 were fired by
16 the Sky or another firearm with similar
17 characteristics.

18 **Q** What can you tell me about Items 5, 7, 10,
19 and 21 that relate to this pistol that you tested?

20 **A** In relation to the Smith and Wesson pistol,
21 based on differences in those classes, the overall
22 characteristics of those bullets and the rifling,
23 the lands and grooves, looking at those
24 measurements, I determined that Items 5, 7, 10, and
25 21 were not fired by the Smith and Wesson pistol.

PAUL GREER - DIRECT EXAMINATION

1 **Q** So every casing that you tested matched being
2 fired from that gun (indicates)?

3 **A** That's correct.

4 (A brief pause in the proceedings.)

5 MR. BAGNAL: Moment of Court's indulgence,
6 Your Honor.

7 (A brief pause in the proceedings.)

8 **Q** **(BY MR. BAGNAL)** Tell me what State's Exhibit
9 12(t) is.

10 **A** 12(t) was my SLED Item 7 that was determined
11 to be one fired bullet.

12 **Q** Can you tell me what State's 12(r) is?

13 **A** State's Exhibit 12(r) was my SLED Item 8 that
14 was determined to be one fired bullet fragment.

15 **Q** Would you tell us about 12(p), 12(u), and
16 12(s)?

17 **A** State's 12(p) was SLED Item 51, a fired
18 bullet jacket fragment.

19 State's 12(u) was SLED Item 4, one fired
20 bullet jacket fragment.

21 State's 12(s) was SLED Item No. 3, and that
22 was determined to be one piece of lead.

23 **Q** And, Mr. Greer, on those, can you tell this
24 jury where those were pulled from? I believe it
25 says it on the white card on the front.

PAUL GREER - DIRECT EXAMINATION

1 **A** Based on just the information on the
2 packaging, that is all of the information that I
3 have to go off of. I do not know who placed this
4 information here, but according to the packaging,
5 SLED Item 7, State's 12(t), it was listed as
6 "bullet from abdominal wall R."

7 State's Exhibit 12, dash, R, SLED Item 8 was
8 listed on the packaging as "bullet from lumbar."

9 State's Exhibit 12, dash, P, SLED Item 5 was
10 listed as "fragment jacket, right side of head."

11 State's Exhibit 12, dash, U, SLED Item 4 was
12 listed as "jacket fragment from top of head."

13 And 12(s), SLED Item 3, "bullet from jaw."

14 **Q** In any of those, could you match those in
15 your report or fired from the model Sky, SLED Item
16 15, State's Exhibit 14?

17 **A** I was able to determine Items 4, State's
18 12(u); Item 8, State's Exhibit 12(r), and that is
19 all of that bunch that were fired from the Sky
20 pistol.

21 **Q** 12(k), 12(m), and 12(l).

22 **A** State's 12(k), SLED Item 20: One fired
23 bullet.

24 State's Exhibit 12(m) was SLED Item No. 21.
25 That was determined to be one fired bullet

PAUL GREER - CROSS EXAMINATION

1 fragment.

2 State's Exhibit 12(1), SLED Item 19, was
3 determined to be one fired bullet.

4 Q Of those three, could you determine whether
5 they were fired from State's Exhibit 14, model Sky,
6 SLED Item No. 15?

7 A Out of these three projectiles, I was able to
8 determine that State's Exhibit 12(k) and 12(1),
9 SLED Item 19 and 20, were fired by the Sky pistol.

10 Q In total, how much was suitable for
11 identification and matched from being fired SLED
12 Item 15, model Sky?

13 A I was able to use five of those projectiles,
14 fired bullets with fragments, to identify as having
15 been fired from the Sky pistol.

16 MR. BAGNAL: Thank you, sir. No further
17 questions at this time. Answer any questions
18 defense counsel may have.

19 CROSS EXAMINATION

20 BY MS. CALDWELL:

21 Q Nice to see you. How are you?

22 A I'm good.

23 Q You are a man of science and you have all of
24 the scientific things, right?

25 A I do work in a forensic science laboratory.

PAUL GREER - CROSS EXAMINATION

1 **Q** So you are detailed oriented, and you refer
2 to -- I believe firearms testing has not only class
3 characteristics, as well as individual
4 characteristics on each item?

5 **A** Those are different types of characteristics
6 that we'll look for during our examination, yes,
7 ma'am.

8 **Q** You stated that the ten casings that you were
9 provided, all were fired by the Sky, black and
10 orange firearm, correct?

11 **A** Yes, ma'am. That is correct.

12 **Q** I'm going to --

13 MS. CALDWELL: May I approach the witness?

14 THE COURT: Sure.

15 **Q** **(BY MS. CALDWELL)** You are a man of science
16 with details. I'm a woman of detail organization.
17 I simplified, for my benefit, your findings. Will
18 you briefly look at these and tell me if that is
19 correct?

20 **A** Which items?

21 **Q** These labeled agency number and your SLED
22 number.

23 **A** The whole chart?

24 **Q** Just these, because the casings all matched.

25 **A** Oh, okay. Yes, ma'am.

PAUL GREER - CROSS EXAMINATION

1 (A brief pause in the proceedings.)

2 **A** Sorry. I have to look at multiple locations
3 to put it altogether.

4 **Q** (BY MS. CALDWELL) I pulled it all from your
5 one report.

6 **A** You wanted me to look at three through ten?

7 **Q** Yes.

8 **A** It does appear to be consistent with my
9 report, yes, ma'am.

10 **Q** I understand it might not be quite as
11 particularly detailed or necessarily -- but it
12 appears to have your findings, overall?

13 **A** Yes, ma'am, it does.

14 MS. CALDWELL: May I approach?

15 THE COURT: Yes, sir.

16 **Q** (BY MS. CALDWELL) So Items 19, 20, and 21 are
17 subset of 3. You looked at these with the State
18 already, correct?

19 **A** Yes, ma'am. SLED Items 19, 20, and 21.

20 **Q** And those were provided to you, and they all
21 had the same beginning set of numbers for the
22 agency ID, correct?

23 **A** I would have to refer to the submission
24 paperwork. It appears that agency item numbers
25 were 64893, dash, 164893, dash, 2, and 64893, dash,

PAUL GREER - CROSS EXAMINATION

1 3.

2 Q So on the same evidence ticket?

3 A I do not know the numbers or item system of
4 the agency submitting.

5 Q Understood. But these three items have
6 similar numbering?

7 A Yes, ma'am. I guess so. I just know what is
8 listed on that package. I don't know what that
9 number means.

10 Q That's fine. I don't want you to speak to
11 things you do not know.

12 Items -- I believe it was 19 and 20, so these
13 labeled "driver's seat," one is simply labeled
14 "passenger seat bullet"; is that correct?

15 A There is writing on the top listed as
16 "driver's seat" that I can see. Again, I don't
17 know the location.

18 Q But those two items you both -- you
19 determined both of those came from the Sky firearm?

20 A I was able to determine that Items 19 and 20
21 were fired by the Sky pistol.

22 Q Can you attempt to read what is under the
23 tape here?

24 A I'm not sure that I can.

25 Q All right.

PAUL GREER - CROSS EXAMINATION

1 And, again, you already reviewed these with
2 Mr. Bagnal.

3 MS. CALDWELL: Can I remove the paperclip?

4 MR. BAGNAL: I have no issue with that.

5 Q (BY MS. CALDWELL) These are SLED Items 3 to
6 10. These are your SLED Items 3 through 10, or it
7 appears that way?

8 A Yes, ma'am. I think they are all here.

9 Q There should be eight in total?

10 A Yes, ma'am.

11 Q And of those eight, only three were
12 conclusively fired by the Sky model pistol; is that
13 correct?

14 A Of these that are laid up here, I was able to
15 determine that Items 4, 8 and 9 were fired by the
16 Sky pistol. So just those three, yes, ma'am.

17 Q Okay. Thank you.

18 Can you tell us what it means when you say
19 "not suitable for other firearm evidence"?

20 A That is some of our terminology that we use
21 when we're reporting. Unsuitable conclusion is one
22 of the four conclusions we issue. That means that
23 based on what we're looking at microscopically, due
24 to damage or any other factors, that there is
25 nothing there that we're going to be able to use

PAUL GREER - CROSS EXAMINATION

1 for any further comparison to other related
2 evidence, and that other related evidence is other
3 bullets or test fires or things of that nature that
4 is similar to that type of evidence.

5 Q So related to other evidence does, in fact,
6 mean other evidence in this case, correct?

7 A Yes, ma'am.

8 Q And "inconclusive" or "caliber not
9 determined" simply means that there were not enough
10 striations, markings, and characteristics for you
11 to definitely say whether that came from the Sky
12 model with the 9-millimeter Luger or another
13 firearm like that?

14 A That is correct. Inconclusive is a fancy
15 word for "I don't know." Based on -- or due to
16 various factors, that would include damage,
17 inconsistent markings or insufficient markings at
18 that microscopic level, we're unable to determine
19 if those were fired by the same firearm or by the
20 Sky pistol or they could have been fired by another
21 firearm with similar characteristics.

22 When we are unable to determine the caliber,
23 that is due to the damage or size of the fragments.
24 We don't have enough of the complete intact
25 projectile to get a weight in order to compare to

PAUL GREER - REDIRECT EXAMINATION

1 other common weights of calibers. We are not able
2 to get a good measurement at the base of the bullet
3 in order to help us determine what caliber it is
4 most consistent with.

5 **Q** Final question. None of these came back as
6 definitively being fired by the Smith and Wesson
7 firearm?

8 **A** As far as the projectiles, we were able to
9 determine that some were fired by the Sky pistol.
10 We did have some that were inclusive with the Sky
11 pistol, but were unable to determine that they were
12 not fired by the Smith and Wesson. So that leaves
13 you with the two that are unsuitable for anything
14 further. So it kind of hit the end of the road, in
15 that sense.

16 So nothing was fired, that I could tell, from
17 the Smith and Wesson pistol based on what I
18 received.

19 MS. CALDWELL: Thank you. Nothing further.

20 THE COURT: Anything further?

21 MR. BAGNAL: Briefly redirect.

22 **REDIRECT EXAMINATION**

23 **BY MR. BAGNAL:**

24 **Q** Mr. Greer, does SLED make its own individual
25 testing numbers, or do they apply those to evidence

PAUL GREER - REDIRECT EXAMINATION

1 that comes in?

2 **A** When evidence is submitted to the laboratory,
3 it is submitted with some submitting information
4 from the submitting agency. That can include their
5 agency item number and a brief description.

6 SLED, when we give it the unique lab number
7 for our own internal system in order to track it,
8 we give it its own item number. So you'll hear us
9 refer to it as the SLED item number when we're
10 testifying in court, and that is how we use it
11 within the laboratory.

12 A lot of agencies have different styles.
13 They all have a different way of numbering items,
14 and we have to use something consistent for us. So
15 when items are logged in at SLED, they are given a
16 unique lab number, and each item is given its own
17 SLED item number as appropriate.

18 **Q** Can you tell us, were all of these items
19 tested by SLED?

20 **A** Yes, sir. All of the items in Container A
21 included SLED Items 3 through 10, and 19 through
22 21, those were all items I tested and reported on.

23 **Q** And Items 3 through 10, are they casings?

24 **A** Items 3 through 10 were all of those
25 projectile-type items of evidence, so pieces of

PAUL GREER - REDIRECT EXAMINATION

1 lead, fired bullets, fired bullet jacket fragments.

2 Q And of those bullets and bullet jacket
3 fragments, how many match State's Exhibit 16, the
4 model Sky pistol?

5 A Of the 11 projectiles received, I determined
6 that five of them were fired from the Sky pistol.

7 Q Were there a few more that you also tested,
8 but were inconclusive as being suitable for
9 identification to the model Sky pistol?

10 A That's correct. There were four additional
11 items there that I tested or compared with my test
12 results from the Sky pistol that were inconclusive.

13 Q Could you conclude that they were shot from
14 SLED Item 16?

15 A I was able to determine that those items were
16 not fired by Item 16.

17 Q So inconclusive as to the Sky pistol, but
18 certainly not conclusive as to this pistol?

19 A Correct. Inconclusive with the Sky, but not
20 fired by the Smith and Wesson.

21 Q Tell me about Items 3 and 6.

22 A They were just determined to be pieces of
23 lead that I was unable to determine their caliber,
24 as well as, additionally, no marks of value were
25 found on those, and they were unsuitable for

PAUL GREER - REDIRECT EXAMINATION

1 identification with other firearms-related
2 evidence.

3 Q Why is that?

4 A There were no marks of value. None of the
5 microscopic striations or impressions that I would
6 be able to use for any further comparisons. They
7 were just pieces of lead. We don't know -- they
8 could have been on the inside of the bullet kind of
9 making up that core around the jacket, but there
10 was none of those rifling impressions that I would
11 be looking at for comparisons on that piece of
12 lead. Furthermore, no marks of value that I deemed
13 suitable.

14 Q And could we call that "damage"?

15 A Yes, sir. They were damaged pieces of lead,
16 that is why we were unable to determine their
17 caliber, but they exhibited no marks of value for
18 us to use.

19 Q And the hollow points we discussed earlier,
20 are they designed to expand and/or fragment upon
21 impact?

22 A They are designed to expand, and sometimes
23 they do. It depends on different media that it may
24 go through. That gets outside of my expertise, but
25 they are just generally designed for expansion.

PAUL GREER - REDIRECT EXAMINATION

1 **Q** Speaking to the casings, the casings that you
2 tested, were they all suitable for identification?

3 **A** Yes, sir.

4 **Q** What did you conclude?

5 **A** The cartridge cases that were submitted as
6 Items 22 through 31, based on my microscopic
7 comparisons with each other and those test
8 cartridge cases fired from both pistols, I
9 determined that Items 22 through 31 were all fired
10 by the Sky pistol.

11 **Q** Fantastic.

12 Did you create a report?

13 **A** Yes, sir, I did.

14 **Q** Was that created on or about January 27,
15 2023?

16 **A** Yes, sir. The report was issued on that
17 date.

18 **Q** If I were to show you a copy of the report,
19 would you recognize it?

20 **A** Yes. I have a copy here, too.

21 (State's Exhibit 49 marked.)

22 **A** Yes, sir. It appears to be a copy of the
23 report.

24 MR. BAGNAL: The State seeks to offer what is
25 marked as State's 49 into evidence.

STATE RESTS - MOTIONS

1 THE COURT: Any objection?

2 MS. CALDWELL: No objection.

3 THE COURT: 49 is in evidence without
4 objection.

5 (State's Exhibit 49 admitted.)

6 MR. BAGNAL: Thank you, Your Honor.

7 Mr. Greer, nothing further.

8 THE COURT: Any objection from him being
9 released?

10 MR. BAGNAL: No, sir.

11 THE COURT: Mr. Greer, thank you for being
12 here. You are free to go.

13 All right. Ladies and gentlemen, if you will
14 just bear with us for a minute, I think that might
15 be the end of the testimony.

16 MR. DeBUSK: We are ready at this time. The
17 State rests.

18 THE COURT: All right. State rests.

19 Ladies and gentlemen, thank you for your time
20 and your attention. The State has rested, so
21 that's the State's case that we've heard thus far.

22 Given the time of the day, we ask that you
23 return here at 9:15 in the morning, and we'll
24 resume the trial at that time.

25 Please don't discuss this case. Don't do any

STATE RESTS - MOTIONS

1 independent research, talk to anyone about the
2 facts of this case, or anything along those lines.
3 Again, when the case is over, you can speak to
4 anyone about it that you want to or no one at all.
5 Until then, don't speak to anyone about this case.

6 I hope you have a good evening, and see you
7 back in the morning. Thank you.

8 (The jury exits at 4:53 p.m., and the
9 following is heard out of the presence of the jury.)

10 THE COURT: Being the time, I'll hear from
11 you if you have any motions or objections you would
12 like to renew or give you the opportunity to think
13 about those overnight and make them in the morning,
14 either way.

15 MS. CALDWELL: I will renew all of my
16 objections right now, but make my motion in the
17 morning. I would like to note for the Court that I
18 will add a copy of the chart that I gave Mr. Greer
19 to compare as a Court's exhibit, but I only have my
20 pink highlighted one, so I'll bring one tomorrow as
21 a Court's exhibit.

22 THE COURT: Anything from the State before we
23 rest for the day?

24 MR. BAGNAL: No, Your Honor.

25 THE COURT: Defense?

THE COURT AND ATTORNEYS - MOTIONS

1 MS. CALDWELL: No.

2 THE COURT: We'll try to start back at 9:30
3 so we can hear your motions and not keep the jury
4 waiting too long.

5 **(WHEREUPON, THE PROCEEDINGS FOR MAY 17, 2023**
6 **CONCLUDED.**

7 **THE FOLLOWING WAS HAD ON MAY 18, 2023 OUT OF**
8 **THE PRESENCE OF THE JURY.)**

9
10 (Defendant's Exhibits 9-13 marked.)

11 THE COURT: Thank you. Be seated. Good
12 morning.

13 MR. DeBUSK: Good morning, Your Honor.

14 THE COURT: Is everyone here ready to
15 proceed?

16 MR. DeBUSK: Yes, Your Honor.

17 THE COURT: Ms. Caldwell, any motions you
18 would like to make?

19 MS. CALDWELL: Yes, Your Honor. At this
20 time, as I stated yesterday, I would renew all of
21 my objections, specifically to the Smith and Wesson
22 being entered into evidence as it is unrelated.

23 I renew my objections specifically to
24 Ms. Cano's written statement being admitted as
25 evidence, but it is -- she didn't say that she

THE COURT AND ATTORNEYS - MOTIONS

1 intentionally lied, but she said she can't verify
2 that that is correct, and I believe it makes it
3 prejudicial to my client.

4 I will also at this time move for a directed
5 verdict. Taking the evidence in the light most
6 favorable to the State, they have not proven all of
7 the elements for murder. You must prove killing
8 with malice and wicked or evil intent. The State
9 has not shown he has wicked or evil intent. They
10 must show malice aforethought and there is no
11 evidence that my client had any premeditation of
12 any kind. They have not shown that he was acting
13 recklessly or deliberately, other than the fact
14 that he did shoot, but it -- they have not proven
15 beyond a reasonable doubt that he intentionally and
16 premeditatedly with malice wanted to kill Durance
17 McCray.

18 THE COURT: Thank you.

19 MR. DeBUSK: Premeditation is a malice. It
20 just has to be intent to harm at the time shots are
21 fired. We have an eyewitness that came out of the
22 darkness said, This is for -- she didn't catch the
23 name -- and started shooting. That is clearly
24 enough to support malice.

25 There is some evidence of premeditation, even

THE COURT AND ATTORNEYS - MOTIONS

1 though it is not required as proof, that he kept
2 walking back and looking at the victim in the back
3 bar. He offered a waitress \$100 to tell him when
4 he left, and as soon as he left, he turned, left
5 the building, you see him leaving the building, he
6 clocked out, and followed him. That is sufficient
7 evidence of killing of another with malice
8 aforethought, and also the killing was with a
9 firearm, so there is evidence for the other charge
10 as well.

11 THE COURT: Ms. Caldwell, anything further?

12 MS. CALDWELL: I will simply state that some
13 of the things that Mr. DeBusk listed, like the
14 paying of the hundred dollars, walking around,
15 implied that he had explicit and active knowledge
16 of when Mr. McCray left, and that is in question.
17 So they can't say that definitely; therefore, I
18 don't know they have proven beyond a reasonable
19 doubt that malice aforethought existed.

20 And the reason why I used premeditation is
21 because malice must exist before and during the
22 act, not just in that moment.

23 MR. DeBUSK: Your Honor, I would think that
24 the defense attorney would know that the standard
25 for a directed verdict motion is not proof beyond a

THE COURT AND ATTORNEYS - MOTIONS

1 reasonable doubt, but evidence sufficient for a
2 jury to find him guilty. Thank you, Your Honor.

3 THE COURT: All right. Ms. Caldwell, being
4 it is your motion, I'll hear from you and ask if
5 there is anything you would like to add?

6 MS. CALDWELL: No, sir.

7 THE COURT: To begin with, I understand your
8 objections, and they are certainly on the record,
9 and all of my rulings are the same, okay.

10 As to your motion for a directed verdict, the
11 Court's concern, at this point, with the existence
12 of evidence and not the sufficiency of the
13 evidence, certainly evidence exists in the record
14 that supports the charges that have been brought,
15 the indictments that have been true billed against
16 this defendant, and for that reason, I'm going to
17 deny your directed verdict motions.

18 So at this time does the State or the defense
19 plan to put up a case?

20 MS. CALDWELL: Yes, Your Honor.

21 THE COURT: At this time, Mr. Riggins, if you
22 will please stand.

23 All right, sir. You understand that you are
24 not required to put a case up at all? You don't
25 have to testify. You have the absolute right to

THE COURT AND ATTORNEYS - MOTIONS

1 remain silent. If you don't testify, I'll tell the
2 jury that they couldn't hold that against you.
3 They couldn't consider that at all, because you
4 have the absolute right to remain silent. In other
5 words, I would tell the jury that they couldn't
6 even talk about the fact that you didn't testify,
7 if that was your decision.

8 But, also, on the flip side of that, you have
9 the absolute right to enter any defense that you
10 choose to enter. You also have the right to
11 testify, but understand that if you do decide to
12 testify, that has to be your decision and your
13 decision alone. Certainly, you can talk to your
14 attorneys, you can get advice from other people,
15 but the decision as to whether or not you waive
16 your right to remain silent and not testify is your
17 decision, and your decision alone. Do you
18 understand.

19 MR. RIGGINS: Yes, sir.

20 THE COURT: If you do testify, you're treated
21 as any other witness. If you have any criminal
22 history, that is admissible, and, certainly, that
23 might come out before the jury. Do you understand
24 that?

25 MR. RIGGINS: Yes, sir.

THE COURT AND ATTORNEYS - MOTIONS

1 THE COURT: All right. I'll give you an --
2 have you already decided as to whether or not you
3 wish to testify?

4 MR. RIGGINS: Yes, sir.

5 THE COURT: And what is your decision?

6 MR. RIGGINS: I'm going to testify.

7 THE COURT: All right, sir. It will be a few
8 minutes. If you would like to take the opportunity
9 or have any other questions or need to talk to your
10 attorneys, please take this time to do that. If
11 you change your mind, let the Court know, okay?

12 MR. RIGGINS: Okay.

13 THE COURT: Thank you, sir.

14 Next, it came to my attention that we had a
15 juror that is sick and unable to be here today.
16 I'm not sure -- do we know which juror it is?

17 THE CLERK: Juror No. 366.

18 THE COURT: Juror 366. So the sixth juror on
19 the list that we struck from.

20 According to the rules in a criminal case,
21 that would mean that we need to randomly select
22 from Juror No. 420, the first alternate, and Juror
23 370, who is the second alternate, and those are
24 Juror Nos. 24 and 26 on the random strike sheet.
25 Does anyone have any objection to that?

THE COURT AND ATTORNEYS - MOTIONS

1 MR. DeBUSK: No, Your Honor, not from the
2 State.

3 THE COURT: Any from the defense?

4 MS. CALDWELL: None, Your Honor.

5 THE COURT: So at this time I'll just ask my
6 law clerk -- Clerk of Court, do you have both names
7 of the alternates? We'll scramble them here, and
8 if my law clerk will pick one of those.

9 Alternate No. 21, also No. 24 on the list,
10 the random strike sheet.

11 Juror 420 will be installed as the
12 twelfth juror at this time.

13 Any objection?

14 MR. DeBUSK: None from the State.

15 THE COURT: Defense?

16 MS. CALDWELL: None, Your Honor.

17 THE COURT: Thank you. Is there anything the
18 Court needs to address before we bring in a jury?

19 MR. DeBUSK: Nothing from the State.

20 THE COURT: Defense?

21 MS. CALDWELL: Your Honor, I will remind the
22 Court, as you are well aware, my stand-your-ground
23 motion is outstanding. Given this is the start of
24 my case, this is going to be primarily what I would
25 put up, and I would like to make my argument for

THE COURT AND ATTORNEYS - MOTIONS

1 that at the end of my case.

2 THE COURT: Absolutely. Do you have -- so
3 when we began this process, as we all know, a
4 stand-your-ground hearing was filed after we
5 selected a jury, I believe. Nobody had an
6 objection to having the Court rule on the
7 stand-your-ground before any jury decision would be
8 made. Is that still everybody's understanding, or
9 is there anyone that would like to deviate from
10 that?

11 MR. DeBUSK: No, Your Honor.

12 MS. CALDWELL: I would like to state, Your
13 Honor, that for it to be most appropriate for
14 Mr. Riggins, that your decision being made before
15 the jury goes to make a decision, because,
16 obviously, it goes to the jury if you deny the
17 motion, but if the motion is granted, he gets
18 immunity from prosecution, which means it shouldn't
19 go to the jury at all. So I ask that you make a
20 ruling before the case is given to the jury.

21 THE COURT: Certainly. I understand.

22 MS. CALDWELL: Thank you.

23 THE COURT: So if there is nothing further,
24 we'll have the jury.

25 (The jury enters at 9:39 a.m., and the

CHRISTOPHER EDWARDS - DIRECT EXAMINATION

1 following is heard in the presence of the jury.)

2 THE COURT: Thank you, ladies and gentlemen.

3 I appreciate your time and patience this week.

4 One of your fellow jurors was not able to
5 return today, and by random selection process, we
6 have chosen Juror 420 to replace that juror. You
7 are now a member of the 12-person jury, okay.

8 Thank you.

9 So, as you probably recall, the State rested
10 yesterday afternoon, and at this time we'll
11 recognize the defense for their case in chief.

12 MS. CALDWELL: At this time, the defense
13 calls Detective Edwards.

14 (CHRISTOPHER EDWARDS, having been duly
15 sworn, testified as follows:)

16 THE WITNESS: Christopher Edwards,
17 E-D-W-A-R-D-S.

18 **DIRECT EXAMINATION**

19 **BY MS. CALDWELL:**

20 **Q** Good morning. How are you?

21 **A** Good. How are you?

22 **Q** Good. Where do you work?

23 **A** Horry County Police Department.

24 **Q** How long have you worked there?

25 **A** Sixteen years.

CHRISTOPHER EDWARDS - DIRECT EXAMINATION

1 **Q** What is your current position or job title?

2 **A** Narcotics and Vice.

3 **Q** And in March of 2020, did you work for the
4 Horry County Police Department?

5 **A** I did.

6 **Q** What was your position in March of 2020?

7 **A** Assigned to the Violent Crimes Unit.

8 **Q** And what kind of tasks and responsibilities
9 were those?

10 **A** We were assigned cases involving violent
11 crimes, interviewing witnesses, collecting
12 evidence, investigating murders, shootings,
13 robberies.

14 **Q** And violent crimes, you kind of said it, but
15 to be clear, that includes murder, armed robbery,
16 things of that nature?

17 **A** Yes, ma'am.

18 **Q** Did you respond to a shooting incident on
19 March 7, 2020?

20 **A** Was that at the party shop?

21 **Q** Yes, a shooting incident.

22 **A** Yes.

23 **Q** Was there anyone killed as a result of that
24 incident?

25 **A** Two brothers.

CHRISTOPHER EDWARDS - DIRECT EXAMINATION

1 Q What were their names?

2 A Shamon and Tavon Livingston.

3 Q During the course of the investigation, did
4 you speak with the family members?

5 A I did. I was in pretty constant contact with
6 their mother.

7 Q Did you speak or attempt to speak with any of
8 the friends of Tavon and Shamon Livingston?

9 A I did.

10 Q During your investigation, did you speak with
11 Mr. Riggins?

12 A I did. He actually came in voluntarily right
13 after the homicide to speak with me. We were
14 talking with the family and friends overall to just
15 kind of gather information and understand what
16 happened.

17 Q So he came in voluntarily?

18 A Yes.

19 Q Did he call you on the phone?

20 A I spoke with him on the phone.

21 Q Did you learn the relationship between
22 Mr. Riggins and Tavon and Shamon Livingston?

23 A Pardon?

24 Q Did you learn about the relationship, like
25 how they knew each other, Mr. Riggins and Shamon

CHRISTOPHER EDWARDS - DIRECT EXAMINATION

1 and Tavon Livingston?

2 **A** I guess they were associates, friends.

3 **Q** Did you find they were close?

4 **A** Yes, ma'am.

5 **Q** When speaking with Mr. Riggins, did he relay
6 concerns for his own safety?

7 MR. DeBUSK: Objection; hearsay.

8 THE COURT: Sustained.

9 MS. CALDWELL: I would like to respond to the
10 objection, because it is not hearsay when it is a
11 statement of an individual that the defendant
12 provided.

13 THE COURT: Can you approach, please?

14 (The following was a bench conference out of
15 the hearing of the jury.)

16 MS. CALDWELL: The question is just -- I was
17 trying to not be very specific, but did he have
18 concerns for his safety that he feels he was in
19 danger.

20 MR. DeBUSK: That is hearsay.

21 THE COURT: It is stemming from someone, so
22 it is a statement of your client's?

23 MS. CALDWELL: To the detective, uh-huh, over
24 the phone, written in the detective's report.

25 MR. DeBUSK: Which is hearsay.

PROFFER - DETECTIVE EDWARDS BY MS. CALDWELL

1 MS. CALDWELL: No. But it is a statement by
2 my client.

3 MR. DeBUSK: An out-of-court statement.

4 THE COURT: Same issue as yesterday. It is a
5 self-serving statement.

6 MS. CALDWELL: But then -- that's fine. I'll
7 have to let him down and then call him back up.

8 (The following was had in open court.)

9 THE COURT: Ladies and gentlemen, if we could
10 take just a brief recess, and I'll bring you right
11 back out. Thank you. Don't discuss the case.

12 (The jury exits at 9:46 a.m., and the
13 following is heard out of the presence of the jury.)

14 THE COURT: Ms. Caldwell, the line of
15 questioning -- will you repeat the question just
16 before we went off?

17 MS. CALDWELL: Yes, sir. And, to be clear,
18 I'm happy to allow Detective Edwards to step down,
19 go about his day, and call him after Mr. Riggins
20 testifies if that makes the Court and State more
21 comfortable. I was trying to go straight from his
22 report, but I'm happy to do that.

23 **PROFFER**

24 BY MS. CALDWELL:

25 Q Detective Edwards, my question was: When you

PROFFER - DETECTIVE EDWARDS BY MS. CALDWELL

1 talked to Driscoll on the phone, did he say
2 anything about concerns for his safety?

3 **A** Yes.

4 **Q** Did he tell you someone was trying to harm
5 him?

6 **A** Yes.

7 THE COURT: How is that not hearsay? I mean,
8 it is improper to elicit or put up a defense in
9 this record based off of self-serving hearsay.
10 That is the law, as I understand it.

11 In other words, statements made to a third
12 party by your client, it was the same issue
13 yesterday. I just -- I mean, I think that you can
14 certainly elicit from this witness -- I mean,
15 subject to an objection from the State -- whether
16 or not he understood that your client was upset
17 about the situation or whatever that case may be,
18 but when you are asking for direct responses from
19 what your client told the third party, then I think
20 we have the same issue. It is self-serving
21 hearsay.

22 What does the State say?

23 MR. DeBUSK: It's self-serving hearsay. If
24 the defendant testifies, and there are very, very
25 limited circumstances under which a prior

PROFFER - DETECTIVE EDWARDS BY MS. CALDWELL

1 consistent statement can be admitted, if any of
2 those were to be satisfied, he may be able to
3 testify after the defendant testifies, but not
4 before. And it would have to be to fit that
5 exception, one of the bases for bringing a prior
6 consistent statement, which hasn't been satisfied
7 at this point.

8 THE COURT: Ms. Caldwell?

9 MS. CALDWELL: That's fine. I'm happy to
10 reroute. I was also not going to ask to admit
11 Detective Edwards' report into evidence, but I will
12 probably do that now. So, with that, I would ask
13 that it could be redacted as it references gang
14 involvement.

15 THE COURT: What is the State's position?

16 MR. DeBUSK: The report is hearsay, Your
17 Honor. The entire report is hearsay. It is
18 Detective Edward's recollection of what the
19 defendant told him. That's hearsay.

20 MS. CALDWELL: It was done in the
21 investigation to figure out what was happening in
22 an ongoing issue in a community.

23 MR. DeBUSK: That's hearsay.

24 THE COURT: The police report is not
25 admissible because it is hearsay, okay.

CHRISTOPHER EDWARDS - DIRECT EXAMINATION (CONT.)

1 MS. CALDWELL: Okay.

2 THE COURT: Are we clear how we need to move
3 forward?

4 MR. TODD: Can we have a few minutes and
5 maybe we can reroute the question?

6 THE COURT: Absolutely. Sure. Let's take a
7 five-minute recess.

8 You can step down, just don't talk to anyone
9 about your testimony.

10 (A recess was taken.)

11 THE COURT: Thank you. Please be seated.

12 MR. TODD: Thank you, Your Honor.

13 THE COURT: Ready to proceed?

14 MR. DeBUSK: State is ready.

15 THE COURT: Ms. Caldwell, anything we need to
16 address?

17 MS. CALDWELL: No, sir.

18 THE COURT: Can we have the jury, please?

19 (The jury enters at 10:01 a.m., and the
20 following is heard in the presence of the jury.)

21 THE COURT: All right. Ms. Caldwell.

22 MS. CALDWELL: Thank you, Your Honor.

23 **DIRECT EXAMINATION (CONT.)**

24 **Q (BY MS. CALDWELL)** Detective Edwards, let me
25 back up and ask it again. Did you speak to

CHRISTOPHER EDWARDS - DIRECT EXAMINATION (CONT.)

1 Driscoll Riggins in your investigation from
2 March 7, 2020?

3 **A** I did.

4 **Q** Were those conversations prior to May 21st,
5 2021?

6 **A** Yes, ma'am, they were.

7 **Q** Okay. And you said -- did you say that you
8 have been involved in violent crimes and the drug
9 unit?

10 **A** I was assigned to the Violent Crime Unit, and
11 I'm currently assigned to the Narcotic and Vice
12 Unit now.

13 **Q** So you've worked in a lot of places?

14 **A** Yes, ma'am.

15 **Q** Did you say you worked there for 16 years?

16 **A** Yes.

17 **Q** So a long time?

18 **A** Yes.

19 **Q** A lot of experience?

20 **A** Yes.

21 **Q** Through any of that work, and prior to this
22 case, this subpoena, did you ever hear of Durance
23 McCray?

24 **A** I did.

25 **Q** And what did you hear about him?

CHRISTOPHER EDWARDS - DIRECT EXAMINATION (CONT.)

1 MR. DeBUSK: Objection, Your Honor; hearsay.

2 MS. CALDWELL: All right. That's fine.

3 Withdrawn.

4 Q (BY MS. CALDWELL) Was a report -- did you
5 create a report ever prior to today, prior to this
6 case, about Driscoll Riggins and Durance McCray?

7 A Yes.

8 MS. CALDWELL: No further questions at this
9 time. I would move to have the report entered as a
10 Court's exhibit.

11 THE COURT: All right. Any questions from
12 the State?

13 MR. DeBUSK: No, Your Honor. He's still
14 under my subpoena.

15 (Court's Exhibits 5-7 marked.)

16 MS. CALDWELL: At this time, the defense
17 will call Driscoll Riggins.

18 (DRISCOLL RIGGINS, having been duly sworn,
19 testified as follows:)

20 THE WITNESS: Driscoll Riggins,
21 R-I-G-G-I-N-S.

22 THE COURT: Again, straight into the
23 microphone and make sure you speak into that.

24 DIRECT EXAMINATION

25

DRISCOLL RIGGINS - DIRECT EXAMINATION

1 **BY MS. CALDWELL:**

2 **Q** Good morning. How are you?

3 **A** All right.

4 **Q** Just like Judge Deberry reminded you, you are
5 quiet, so speak into that microphone.

6 How old are you?

7 **A** 31.

8 **Q** Where did you grow up?

9 **A** North Myrtle Beach.

10 **Q** What high school did you go to?

11 **A** North Myrtle Beach High School.

12 **Q** Where were you living in May of 2021?

13 **A** Marion County.

14 **Q** Did you have a job at that time?

15 **A** Yes, ma'am.

16 **Q** Where did you work?

17 **A** At Captain Archie's.

18 **Q** What did you do?

19 **A** Dishwasher.

20 **Q** When did you start that job?

21 **A** I think middle of May.

22 **Q** So about a week before?

23 **A** Yes. Yes, ma'am.

24 **Q** Who knew you worked there?

25 **A** Nobody.

DRISCOLL RIGGINS - DIRECT EXAMINATION

1 Q Did you like it so far?

2 A Yes, ma'am. It was all right.

3 Q Job is a job?

4 A Yes, ma'am.

5 Q Did you have a new schedule for future hours?

6 A Yes, ma'am.

7 Q And were you planning to work those hours?

8 A Yes, ma'am.

9 Q Were you specifically scheduled to work on
10 May 21, 2021?

11 A No, ma'am. I was called in.

12 Q And you came in when asked?

13 A Yes, ma'am.

14 Q Do you remember what time you clocked in that
15 day?

16 A Like around 3:00.

17 MS. CALDWELL: May I approach?

18 THE COURT: Yes, ma'am.

19 Q (BY MS. CALDWELL) I'll show you State's
20 Exhibit 5. What is this?

21 A The time sheet.

22 Q What time did you clock in on May 21st?

23 A 3:55.

24 Q Does that sound accurate?

25 A Yes, ma'am.

DRISCOLL RIGGINS - DIRECT EXAMINATION

1 Q Thank you.

2 Let's go back a little bit now. Did you know

3 Durance McCray prior to May 21, 2021?

4 A Yes, ma'am.

5 Q How did you know him?

6 A We hung out together when we was growing up
7 and whatnot.

8 Q How long had you known him?

9 A Like since 2008.

10 Q Most of your life?

11 A Yes, ma'am.

12 Q Did you all grow up together?

13 A Like sometimes, like, I would go to his house
14 on weekends or he be over there.

15 Q So you would see each other in social
16 situations?

17 A Yes, ma'am.

18 Q At one point, were you even friends or
19 friendly?

20 A Yes, ma'am.

21 Q You guys kept growing up, became teenagers,
22 young adults?

23 MR. DeBUSK: Object to the leading nature of
24 these questions.

25 THE COURT: Well, I haven't heard the full

DRISCOLL RIGGINS - DIRECT EXAMINATION

1 question, but keep in mind that this is your
2 witness. Ask appropriate questions, okay. Thank
3 you.

4 **Q** (BY MS. CALDWELL) When you grew up, did you
5 grow apart?

6 **A** Yes, ma'am.

7 **Q** Were you still friends?

8 **A** Somewhat.

9 **Q** Were you friendly on May 21, 2021?

10 **A** No, ma'am.

11 **Q** Did you ever start developing problems?

12 **A** Yes, ma'am.

13 **Q** When?

14 **A** Back in 2020.

15 **Q** What was the first thing that kind of
16 happened that directly affected you?

17 **A** The shooting that happened at the party shop.

18 **Q** What happened there?

19 **A** Two of my friends was killed.

20 **Q** What were their names?

21 **A** Tavon and Shamon Livingston.

22 **Q** How close were you guys?

23 **A** Close. We hung every day.

24 **Q** Would you call them your best friends?

25 **A** Yes, ma'am.

DRISCOLL RIGGINS - DIRECT EXAMINATION

1 **Q** So, to the best of your knowledge, did
2 Mr. McCray shoot them?

3 **A** No, ma'am.

4 **Q** To the best of your knowledge, was he ever
5 charged in connection with that?

6 **A** No, ma'am.

7 **Q** So why do you think he was involved?

8 **A** He indicated it on social media.

9 **Q** So you think he had something to do with it?

10 **A** Yes, ma'am.

11 **Q** Did he ever say anything or send anything to
12 you directly about it?

13 **A** Yes, ma'am.

14 **Q** What did he send you?

15 **A** Snapchat recordings.

16 **Q** So let's talk about how Snapchat works a
17 little bit, just in case not everyone has it. Do
18 you have to be friends with someone on Snapchat?

19 **A** Not really.

20 **Q** Well, do you have to both accept each other
21 to see each other's pictures?

22 **A** Yes, ma'am.

23 **Q** So do you both have to allow each other
24 permission to do that on the app?

25 **A** I am not really sure.

DRISCOLL RIGGINS - DIRECT EXAMINATION

1 **Q** Okay. That's no big deal.

2 How did you know it was a Snapchat from
3 Mr. McCray?

4 **A** He recorded it with his face in it.

5 MS. CALDWELL: May I approach?

6 THE COURT: Yes, ma'am.

7 **Q** **(BY MS. CALDWELL)** I'll show you what is
8 premarked as Defense Exhibit 9 for pretrial
9 matters. What is this?

10 **A** Picture of Mr. McCray.

11 **Q** How do you know?

12 **A** It's a picture of his face from Snapchat.

13 **Q** What is his Snapchat name?

14 **A** KBM Wilks.

15 MR. DeBUSK: No objection.

16 THE COURT: Are you moving that into
17 evidence?

18 MS. CALDWELL: I was going to ask more
19 questions, but if they don't object, I'll move it
20 into evidence.

21 THE COURT: No. 9 is in evidence then.

22 (Defendant's Exhibit 9 admitted.)

23 **Q** **(BY MS. CALDWELL)** Was that sent directly to
24 you?

25 **A** Yes, ma'am.

DRISCOLL RIGGINS - DIRECT EXAMINATION

1 **Q** And you can identify him because his face was
2 in it?

3 **A** Yes, ma'am.

4 **Q** And the name?

5 **A** Yes, ma'am.

6 **Q** Do you know when that was taken?

7 **A** I'm not sure.

8 **Q** That's okay. How do you have that?

9 **A** I saved it in my phone.

10 **Q** Did you take a screen shot of it?

11 **A** Yes, ma'am.

12 MS. CALDWELL: May I approach, Your Honor?

13 THE COURT: Yes, ma'am.

14 **Q** **(BY MS. CALDWELL)** I'll show you what is
15 premarked as Defense Exhibit 10 for pretrial
16 matters. What is that?

17 **A** Another Snapchat he sent to my phone that I
18 took a screen shot of.

19 **Q** Did it look familiar and accurate of when you
20 received it?

21 **A** Yes, ma'am.

22 **Q** You screen-shotted that?

23 **A** Yes, ma'am.

24 **Q** Was that sent directly to you?

25 **A** Yes, ma'am.

DRISCOLL RIGGINS - DIRECT EXAMINATION

1 **Q** When you get a Snapchat video, you can watch
2 it once?

3 **A** You have up to 24 hours before it erases.

4 **Q** Can you record it?

5 **A** Yes, ma'am.

6 **Q** Was this a Snapchat video?

7 **A** Yes, ma'am. That was the beginning of it.

8 **Q** Did you record that video?

9 **A** Yes, ma'am.

10 MS. CALDWELL: At this time I move to admit
11 what is marked as Defense Exhibit No. 11.

12 MR. DeBUSK: Object. That is hearsay, Your
13 Honor.

14 MS. CALDWELL: Your Honor, this goes directly
15 to the state of mind of my client. When we're
16 working on a case like this, we get to show why he
17 was afraid and what he believed and information he
18 was receiving from other individuals.

19 This was sent directly to him, so he can
20 identify who is in it, how he got it, and when he
21 got it.

22 MR. DeBUSK: He can testify as to state of
23 mind, but can't use hearsay to do it.

24 THE COURT: Does the State know what is on
25 the video?

DRISCOLL RIGGINS - DIRECT EXAMINATION

1 MR. DeBUSK: Yes, Your Honor.

2 THE COURT: Ladies and gentlemen, we have to
3 take a short recess. We'll have you back. Please
4 don't discuss the case.

5 (The jury exits at 10:14 a.m., and the
6 following is heard out of the presence of the jury.)

7 MS. CALDWELL: Your Honor, at this time can I
8 proffer the video?

9 THE COURT: Yes. That is what I'll need to
10 see.

11 (Video published to the Court.)

12 THE COURT: All right. What is the State's
13 position?

14 MR. DeBUSK: It's hearsay, Your Honor. It's
15 clearly offered for the truth of the matter
16 asserted. There is no hearsay exception that fits
17 it. The declarant is not available and can't
18 answer cross examination.

19 MS. CALDWELL: He's right, the declarant is
20 unavailable, and it's a statement of a party
21 opponent --

22 MR. DeBUSK: The victim is not a party
23 opponent; the State is.

24 MS. CALDWELL: The victim is an adverse
25 person to the defense. This isn't being offered

DRISCOLL RIGGINS - DIRECT EXAMINATION

1 for the truth of the matter asserted. I'm not
2 saying that that is what he definitely believed.
3 We're showing how it affected Mr. Riggins' state of
4 mind because it was sent directly to him.

5 THE COURT: Anything further?

6 MR. DeBUSK: The defendant can testify as to
7 what he believed and that he -- the general basis,
8 but hearsay statements can't be used to support
9 that. He can say why he believed it and what he
10 based his belief on, but can't use hearsay
11 statements to establish that.

12 MS. CALDWELL: He's already testified that
13 the individuals who were killed on March 7, 2020
14 were his friends. They were close to him. This
15 video talked about them directly, and it goes to
16 show that he -- and it supports that he was being
17 threatened and harassed.

18 THE COURT: I'll allow it in. I can
19 understand it is not being offered for the truth of
20 the matter asserted. Otherwise, I do see it as
21 hearsay, but based on the testimony that is already
22 in the record, I'll allow it in.

23 If we can have the jury.

24 (The jury enters at 10:21 a.m., and the
25 following is heard in the presence of the jury.)

DRISCOLL RIGGINS - DIRECT EXAMINATION

1 **Q** **(BY MS. CALDWELL)** Did you receive a Snapchat
2 from Mr. McCray?

3 **A** Yes, ma'am.

4 **Q** Was it a video?

5 **A** Yes, ma'am.

6 MS. CALDWELL: At this time I move to enter
7 into the record Defense Exhibit 11 and publish it
8 to the jury.

9 THE COURT: I thought it was 10. It is 11?

10 MS. CALDWELL: It is 11. I did not ask to
11 admit 10.

12 THE COURT: Same objection from the State?

13 MR. DeBUSK: Yes, sir.

14 THE COURT: All right. We're allowing the
15 video over State's objection.

16 (Defendant's Exhibit 11 admitted and
17 published to the jury.)

18 MS. CALDWELL: For the record, this is the
19 only video on this flash drive.

20 **Q** **(BY MS. CALDWELL)** Is that a fair and accurate
21 representation of what you received?

22 **A** Yes, ma'am.

23 **Q** Was it altered in any way, shape, or form?

24 **A** No, ma'am.

25 **Q** Look at the screen shot in front of you.

DRISCOLL RIGGINS - DIRECT EXAMINATION

1 What was the name at the top of the video?

2 **A** KBM Wilks.

3 **Q** Is that the same name as the other picture?

4 **A** Yes, ma'am.

5 MS. CALDWELL: At this time I move to enter
6 Defense Exhibit 10, the screen shot of the
7 beginning of the video.

8 MR. DeBUSK: Subject to the same objection,
9 Your Honor.

10 THE COURT: We'll allow 10 in subject to the
11 same objection.

12 (Defendant's Exhibit 10 admitted.)

13 **Q** **(BY MS. CALDWELL)** Who is Fizzle?

14 **A** My friend, Tavon Livingston.

15 **Q** And you were close to Tavon?

16 **A** Yes, ma'am.

17 **Q** Who is Ty?

18 **A** His uncle, Tyrone Ford.

19 **Q** Is he still alive?

20 **A** No, ma'am.

21 **Q** Do you know how he died?

22 **A** He was killed.

23 **Q** Were you friends with him?

24 **A** Yes, ma'am.

25 **Q** What does it mean to "show their ass"?

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DRISCOLL RIGGINS - DIRECT EXAMINATION

1 **A** It depends how you use it, really. Like
2 basically he was saying smoking a blunt.

3 **Q** Why do you think it was sent to you?

4 **A** He was trying to be funny.

5 **Q** Did he post any other videos related to his
6 death?

7 **A** Yes, ma'am, but I didn't see them.

8 **Q** What was it?

9 **A** Him urinating on their graves.

10 **Q** Were there any other -- any direct acts of
11 violence against you by Mr. McCray or his
12 associates?

13 **A** Yes, ma'am.

14 **Q** Did Durance McCray shoot at the former home
15 of the Livingstons, Linda Livingston's home?

16 **A** Yes, ma'am.

17 **Q** How do you know?

18 **A** Because I was there that night.

19 **Q** Did he shoot your mom's house?

20 **A** Yes, ma'am.

21 **Q** How do you know?

22 **A** I was there when it happened.

23 **Q** Did he shoot you?

24 **A** Yes, ma'am.

25 **Q** Where?

DRISCOLL RIGGINS - DIRECT EXAMINATION

1 **A** In the leg.

2 **Q** How do you know it was him?

3 **A** I seen him before he hung out the window.

4 **Q** When did that happen?

5 **A** I want to say this was the end of 2020.

6 **Q** Do you remember when you received that video?

7 **A** It was like in November 2020.

8 **Q** In or around January of 2021, did you learn
9 about any other threats?

10 **A** Yes, ma'am.

11 **Q** What was it?

12 **A** That he had put money on my head to get me
13 killed.

14 MR. DeBUSK: Object; that is hearsay.

15 THE COURT: I apologize, I didn't understand
16 the response. Can you reask the question, and
17 before you respond, I'll make a ruling.

18 **Q** **(BY MS. CALDWELL)** I asked if there were any
19 other threats made against him?

20 THE COURT: Can the attorneys approach?

21 (The following was a bench conference out of
22 the hearing of the jury.)

23 THE COURT: What did he respond?

24 MR. DeBUSK: He said he learned he had money
25 on his head, but that's cause for hearsay from

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1 someone else.

2 MS. CALDWELL: If he's saying someone is
3 paying -- specifically Durance McCray is paying to
4 have him killed.

5 MR. DeBUSK: He can say he believed it, but
6 he can't say --

7 MS. CALDWELL: I'll reword it.

8 THE COURT: If you will reword it.

9 (The following is had in open court.)

10 **Q (BY MS. CALDWELL)** Did you believe that
11 someone wanted to pay to have you killed?

12 **A** Yes, ma'am.

13 **Q** Who?

14 **A** Durance McCray.

15 **Q** You think he was putting money up for that?

16 **A** Yes, ma'am.

17 **Q** Did you receive anything else that made you
18 thought he would do that?

19 **A** I had texts and stuff on the other phone, but
20 I forgot the passwords.

21 **Q** Did you receive any Snaps?

22 **A** Yes, ma'am.

23 MR. DeBUSK: Hearsay; objection.

24 THE COURT: Overruled.

25 MS. CALDWELL: May I approach the witness?

DRISCOLL RIGGINS - DIRECT EXAMINATION

1 THE COURT: Yes, ma'am.

2 Q (BY MS. CALDWELL) This is marked for pretrial
3 purposes as Defense Exhibit 12. What is this?

4 A This is a Snapchat he sent to my phone.

5 Q Sent to you?

6 A Yes, ma'am.

7 Q What is the name at the top?

8 A KBM Wilks.

9 Q Will you read that to the --

10 MR. DeBUSK: Objection; not in evidence.

11 THE COURT: Let me see the exhibit.

12 All right. Can the attorneys approach,
13 please?

14 (The following was a bench conference that
15 was had out of the hearing of the jury.)

16 MS. CALDWELL: It came off of the phone that
17 was provided by the State.

18 MR. DeBUSK: No. I understand what it is
19 now.

20 THE COURT: Do you have the same objection?

21 MR. DeBUSK: Same objection.

22 MS. CALDWELL: I would --

23 MR. DeBUSK: But a further objection that she
24 was publishing an item not in evidence.

25 THE COURT: Yeah. I understand. You have to

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DRISCOLL RIGGINS - DIRECT EXAMINATION

1 get that into evidence before you can have him read
2 it; understand?

3 MS. CALDWELL: Okay. Yeah. Court's
4 indulgence for a moment.

5 (The following was had in open court.)

6 Q (BY MS. CALDWELL) Is that a Snapchat you
7 received?

8 A Yes, ma'am.

9 Q Directly to you?

10 A Yes, ma'am.

11 Q From Durance McCray?

12 A Yes, ma'am.

13 Q Is that a fair and accurate representation of
14 what you received?

15 A Yes, ma'am.

16 Q Has it been altered?

17 A No, ma'am.

18 Q Did you take a screen shot of it?

19 A Yes, ma'am.

20 Q Just like the others?

21 A Yes, ma'am.

22 Q Why?

23 A To save it in my phone.

24 MS. CALDWELL: At this time I move to admit
25 Defense Exhibit 12.

DRISCOLL RIGGINS - DIRECT EXAMINATION

1 THE COURT: All right.

2 MR. DeBUSK: Subject to my objection as to
3 hearsay, Your Honor.

4 THE COURT: I'll allow it over the State's
5 objection.

6 (Defendant's Exhibit 12 admitted.)

7 MS. CALDWELL: At this time I move to publish
8 it to the jury.

9 THE COURT: Okay.

10 Q (BY MS. CALDWELL) Were you scared of
11 Mr. McCray?

12 A Yes, ma'am.

13 Q Did you believe that he actually wanted you
14 dead?

15 A Yes, ma'am.

16 Q So on May 21, 2021, when did you clock in?

17 A Like 3:05.

18 Q What kind of tasks did your job entail?

19 A Dish washing and going to the front dining
20 hall.

21 Q About how long was your normal shift?

22 A Like eight or nine hours.

23 Q And were you supposed to work that day?

24 A No, ma'am.

25 Q And no one knew you worked there?

DRISCOLL RIGGINS - DIRECT EXAMINATION

1 **A** No, ma'am.

2 **Q** Did Mr. McCray show up at Captain Archie's
3 that night?

4 **A** Yes, ma'am.

5 **Q** About what time?

6 **A** I really can't recall.

7 **Q** Were you made aware of that?

8 **A** Yes.

9 **Q** How?

10 **A** By numerous co-workers.

11 **Q** Did that make you nervous?

12 **A** Somewhat, yes, ma'am.

13 **Q** Did you become extra aware of your
14 surroundings?

15 **A** Yes, ma'am.

16 **Q** Did you start wandering around the
17 restaurant?

18 **A** Yes, ma'am.

19 **Q** Were you pacing a little bit?

20 **A** Yes.

21 **Q** Did you call your loved ones?

22 **A** I think I made one or two phone calls.

23 **Q** Were you looking around the restaurant?

24 **A** Yes, ma'am.

25 **Q** Like the State's video showed?

DRISCOLL RIGGINS - DIRECT EXAMINATION

1 **A** Yes, ma'am.

2 **Q** But did you continue to do your job tasks?

3 **A** Yes, ma'am.

4 **Q** And did you ever come into contact, physical
5 contact, with Mr. McCray?

6 **A** In the parking lot; that is about it.

7 **Q** Prior to that?

8 **A** We made eye contact; that's about it.

9 **Q** Do you think he knew you worked there?

10 **A** A possibility. I don't know.

11 **Q** Where was he seated?

12 **A** At the outside bar.

13 **Q** You were in and out of the kitchen?

14 **A** Yes, ma'am.

15 **Q** Where is the kitchen?

16 **A** In the back.

17 **Q** In the inside bar?

18 **A** Yes, ma'am.

19 **Q** Can you see the inside bar from the outside
20 bar?

21 **A** Yes, ma'am.

22 **Q** Can you see the kitchen from the outside bar?

23 **A** Yes, ma'am.

24 **Q** I'll show you what is marked as Defense
25 Exhibit 13.

DRISCOLL RIGGINS - DIRECT EXAMINATION

1 **A** A picture of me standing in the inside bar.

2 **Q** When was that taken?

3 **A** 10:57.

4 **Q** On what day?

5 **A** 5/21/2021.

6 **Q** Is that what you wore to work that day?

7 **A** Yes, ma'am.

8 **Q** Were you -- is that when you were working
9 that day?

10 **A** Yes, ma'am.

11 **Q** What were you thinking at that time?

12 **A** Basically, kind of scared me that he was
13 there.

14 **Q** Okay. Were you looking out to the outside
15 bar?

16 **A** Yes, ma'am.

17 MR. DeBUSK: No objection.

18 MS. CALDWELL: I move to admit Exhibit 13.

19 THE COURT: Into evidence without objection.

20 (Defendant's Exhibit 13 admitted.)

21 **Q** **(BY MS. CALDWELL)** Did you finish all of your
22 tasks that evening?

23 **A** Yes, ma'am.

24 **Q** So you did all of your work?

25 **A** Yes, ma'am.

DRISCOLL RIGGINS - DIRECT EXAMINATION

1 Q Did you clock out?

2 A Yes, ma'am.

3 MS. CALDWELL: May I approach?

4 THE COURT: Yes, ma'am.

5 Q (BY MS. CALDWELL) I'll show you State's 5 and

6 6. Is that you?

7 A Yes, ma'am.

8 Q What time did you clock out?

9 A 11:42.

10 Q What does the photo show?

11 A Me clocking out.

12 Q What is the exact timestamp?

13 A 11:42.

14 Q Why did you clock out?

15 A I was done.

16 Q Finished work?

17 A Yes, ma'am.

18 Q How long does it say that you worked?

19 A Eight-and-a-half hours.

20 Q Is that a normal shift?

21 A Yes, ma'am.

22 Q At that time, did you have personal knowledge

23 that Mr. McCray left?

24 A No, ma'am.

25 Q Did you pay someone to tell you he left?

DRISCOLL RIGGINS - DIRECT EXAMINATION

1 **A** No, ma'am.

2 **Q** Which door did you exit out of?

3 **A** The back door.

4 **Q** Where is that?

5 **A** In the kitchen.

6 **Q** When you exited that door, what did you do?

7 **A** I stood there for a minute looking for a ride
8 home.

9 **Q** When you came to work, how did you originally
10 plan to get home?

11 **A** I was going to call my girlfriend for a ride,
12 but she didn't answer the phone, so I walked to my
13 grandma's house.

14 **Q** Does she live close by?

15 **A** Yes, ma'am.

16 **Q** How close?

17 **A** Probably like a 15-minute walk.

18 **Q** And you couldn't get ahold of your
19 girlfriend?

20 **A** No, ma'am.

21 **Q** What did you do then?

22 **A** I proceeded to walk through the parking lot.

23 **Q** Did you walk straight out of the parking lot?

24 **A** Yes, ma'am.

25 **Q** Did you intentionally stop at any point in

DRISCOLL RIGGINS - DIRECT EXAMINATION

1 time?

2 **A** Yes, ma'am.

3 **Q** Where?

4 **A** I stopped like half way out of the parking
5 lot, like before you get to the top.

6 **Q** Was there a vehicle there?

7 **A** Yes, ma'am.

8 **Q** Was this the only entrance and exit?

9 **A** Yes, ma'am.

10 **Q** When you stopped by the car -- could you see
11 Mr. McCray clearly?

12 **A** Yes, ma'am.

13 **Q** Did he say anything to you?

14 **A** Yes, ma'am.

15 **Q** Who was around?

16 **A** It was a group of females, his girlfriend,
17 and Joey Sinclair.

18 **Q** Was there a car?

19 **A** Yes, ma'am.

20 **Q** Did the driver appear to know Mr. McCray?

21 **A** Yes, ma'am.

22 **Q** What kind of car was it?

23 **A** Black BMW.

24 **Q** Did you know the driver?

25 **A** Yes, ma'am.

DRISCOLL RIGGINS - DIRECT EXAMINATION

1 Q Who was it?

2 A Joey Sinclair.

3 Q So what did he stay to you?

4 A First, Durance said something.

5 Q What did he say?

6 A "You going to be on a T-shirt next just like
7 your homeboys."

8 Q Did you all -- did you keep walking forward?

9 A Yes, ma'am. After we had words, yes, ma'am.

10 Q Did you keep exchanging words?

11 A Yes, ma'am.

12 Q And, again, is there any other way to get
13 out?

14 A No, ma'am.

15 Q Did you try to hide behind a dumpster?

16 A No, ma'am.

17 Q Did you try to walk in a straight line as
18 possible?

19 A Yes, ma'am.

20 Q Let's talk about that area. Is it a large
21 space?

22 A Somewhat, yes, ma'am.

23 Q I'll show you what's been marked as State's
24 Exhibit 3. Does this look like Captain Archie's
25 parking lot?

DRISCOLL RIGGINS - DIRECT EXAMINATION

1 **A** Yes.

2 **Q** And Captain Archie's?

3 **A** Yes, ma'am.

4 MS. CALDWELL: May the witness step down?

5 THE COURT: Sure.

6 **Q** **(BY MS. CALDWELL)** Where were you when you
7 walked out of the building?

8 **A** Right there.

9 **Q** Where were you when you paused?

10 **A** Right up in here (indicates).

11 **Q** And that is when you started exchanging
12 words?

13 **A** Yes, ma'am.

14 **Q** So where would the dumpsters be?

15 **A** Right up in here.

16 **Q** From your point of view, were they on your
17 left or right?

18 **A** My left.

19 **Q** Was there a sign?

20 **A** Yes, ma'am.

21 **Q** Where was the BMW?

22 **A** Probably like right up in here (indicates).

23 **Q** How was it facing?

24 **A** Like leaving out of the parking lot.

25 THE COURT: If you could, keep your voice up.

DRISCOLL RIGGINS - DIRECT EXAMINATION

1 **Q** **(BY MS. CALDWELL)** How was it facing?

2 **A** Facing like he was leaving out of the parking
3 lot.

4 **Q** Were you both facing the same direction, you
5 and the car?

6 **A** Yes, ma'am.

7 **Q** About where did the incident happen?

8 **A** Right up in here (indicates).

9 **Q** Did Mr. McCray continue to speak to you as
10 you got closer?

11 **A** Yes, ma'am.

12 **Q** Did he make any gestures or movements?

13 **A** Like reaching up under his shirt, yes, ma'am.

14 **Q** What did you think he was reaching for?

15 **A** A firearm.

16 **Q** Why do you think he had a firearm?

17 **A** Because he shot at me in the past.

18 **Q** Do you know if he normally carried a gun?

19 **A** Yes, ma'am.

20 **Q** At that time, did the driver get back in the
21 car?

22 **A** No, ma'am.

23 **Q** After he said your face would be on a
24 T-shirt, and you believed he reached for a gun,
25 what did you do?

DRISCOLL RIGGINS - DIRECT EXAMINATION

1 **A** I fired my weapon.

2 **Q** Where did you get it from on your person?

3 **A** Out of my pocket.

4 **Q** Then what happened?

5 **A** The driver jumped in the car, and I followed
6 Durance around the car.

7 **Q** The back or the front?

8 **A** The front.

9 **Q** Did they say anything else?

10 **A** "Grabbed the chopper." "Grab the chopper,"
11 he kept saying that.

12 **Q** What is a "chopper"?

13 **A** An assault rifle.

14 **Q** Did you follow him around the car?

15 **A** Yes.

16 **Q** Did you shoot into the car?

17 **A** Yes, ma'am.

18 **Q** Do you know how many times you shot?

19 **A** I'm not sure.

20 **Q** Did the driver get out of the car?

21 **A** After I ran out, yes, ma'am. As soon as I
22 passed around his car.

23 **Q** Why did you keep shooting?

24 **A** Because he was reaching in the back seat.

25 **Q** What did you do next?

DRISCOLL RIGGINS - DIRECT EXAMINATION

1 **A** I exited the parking lot.

2 **Q** At that time, did you know if Mr. McCray was
3 alive or deceased?

4 **A** No, ma'am.

5 **Q** Did you come to work with a gun?

6 **A** Yes, ma'am.

7 **Q** Why do you have a gun?

8 **A** For my safety.

9 **Q** Were you supposed to have a gun?

10 **A** No, ma'am.

11 **Q** Why?

12 **A** Because I'm a convicted felon.

13 **Q** What are those charges?

14 **A** It would have sent me back to prison.

15 **Q** What were the charges?

16 **A** Common law robbery, strong arm robbery.

17 **Q** One of those was a North Carolina v. Alford
18 plea?

19 **A** Yes, ma'am.

20 **Q** Was the other an attempted?

21 **A** Yes, ma'am.

22 **Q** So you knew you weren't supposed to have a
23 gun, but you had one anyway?

24 **A** Yes, ma'am.

25 **Q** Why?

DRISCOLL RIGGINS - DIRECT EXAMINATION

1 **A** For my protection.

2 **Q** And you knew that was a crime anyway?

3 **A** Yes, ma'am.

4 **Q** After running out of the parking lot, where
5 did you go?

6 **A** I was proceeding to leave out of the parking
7 lot until I seen the vehicle behind me, so I ran
8 upside the bridge.

9 **Q** Where did you go next?

10 **A** I called a ride and went back home.

11 **Q** Where is home?

12 **A** Marion County.

13 **Q** How long had you been living in Marion
14 County?

15 **A** Like since the end of 2020.

16 **Q** Who were you living with?

17 **A** My girlfriend.

18 **Q** Did you reach out to any law enforcement
19 officers?

20 **A** Like a couple, yeah, Detective Edwards.

21 **Q** Did you see Detective Edwards here this
22 morning?

23 **A** Yes, ma'am.

24 **Q** On May 23, 2021, did you speak with a family
25 member?

DRISCOLL RIGGINS - DIRECT EXAMINATION

1 **A** Family member called my phone.

2 **Q** Did you talk to them?

3 **A** Briefly, yes, ma'am.

4 **Q** Who is that family member?

5 **A** My aunt.

6 **Q** On that same date that you spoke to your
7 aunt, did you talk with Detective Bellamy?

8 **A** Yes, ma'am.

9 **Q** Did you tell them what happened?

10 **A** Yes, ma'am.

11 **Q** Did you tell them that you and Mr. McCray had
12 been having trouble for awhile?

13 **A** Yes, ma'am.

14 **Q** Did you tell Detective Bellamy you thought
15 that McCray was reaching for a gun?

16 **A** Yes, ma'am.

17 **Q** During the phone call, did you tell Detective
18 Bellamy that you shot Durance McCray?

19 **A** Yes, ma'am.

20 **Q** Did you consider turning yourself in?

21 **A** Yes, ma'am.

22 **Q** Why didn't you?

23 **A** Because it was a large amount of money put
24 out for me to have me killed, so I didn't leave.

25 **Q** Did you think that that might actually

DRISCOLL RIGGINS - DIRECT EXAMINATION

1 happen, that you might actually be killed?

2 **A** Yes, ma'am.

3 **Q** That is why you didn't turn yourself in?

4 **A** Yes, ma'am.

5 **Q** Did you tell any officers where you were?

6 **A** Yes, ma'am.

7 **Q** Were you eventually arrested?

8 **A** Yes, ma'am.

9 **Q** Where was that?

10 **A** In Marion County, at my girlfriend's house.

11 **Q** What was the address?

12 **A** I have to say the address?

13 **Q** No. Let me rephrase it. Had you been at the
14 same location since May 22, 2021?

15 **A** Yes, ma'am.

16 **Q** What day were you arrested?

17 **A** I think the 28th.

18 **Q** And that was your girlfriend's home?

19 **A** Yes, ma'am.

20 **Q** That you had been living at?

21 **A** Yes, ma'am.

22 **Q** How long?

23 **A** Since like November of 2020.

24 **Q** When the U.S. Marshals arrived, did you tell
25 them you had a gun?

DRISCOLL RIGGINS - DIRECT EXAMINATION

1 **A** Yes, ma'am.

2 **Q** Did they seize it?

3 **A** Yes, ma'am.

4 **Q** What did it look like?

5 **A** It was a black and orange camouflage.

6 **Q** I'll show you what is premarked as State's

7 14. Do you recognize this?

8 **A** Yes, ma'am.

9 **Q** Is this your firearm?

10 **A** Yes.

11 **Q** Is this the firearm you used to shoot Durance
12 McCray?

13 **A** Yes, ma'am.

14 **Q** Did the U.S. Marshals seize anything else
15 from you?

16 **A** Two phones.

17 **Q** Did one of those phones have the videos and
18 pictures on it?

19 **A** Yes, ma'am.

20 **Q** Did you give them the passcode?

21 **A** I gave Detective Bellamy the password.

22 **Q** Did you have an interview with the
23 detectives?

24 **A** Yes.

25 **Q** Was it Marion County or Horry County

DRISCOLL RIGGINS - DIRECT EXAMINATION

1 detectives -- or North Myrtle Beach?

2 **A** North Myrtle Beach.

3 **Q** Was that interview recorded?

4 **A** Yes, ma'am.

5 **Q** Did you waive your Miranda rights?

6 **A** Yes, ma'am.

7 **Q** Did you voluntarily speak with them?

8 **A** Yes, ma'am.

9 **Q** Did you tell them what happened?

10 **A** Yes, ma'am.

11 **Q** Did you tell them what firearm you used?

12 **A** Yes, ma'am.

13 **Q** Did you tell them that the marshals seized
14 that gun?

15 **A** Yes, ma'am. They were there when they seized
16 it.

17 **Q** Did you tell the North Myrtle Beach officers
18 about your contact with an Horry County officer?

19 **A** Yes, ma'am.

20 **Q** Did Detective Bellamy give you the name of
21 the other officer?

22 **A** I think, yes, ma'am.

23 **Q** What was it?

24 **A** Detective Elvis (phonetic).

25 **Q** Did Detective Bellamy make any comments to

DRISCOLL RIGGINS - DIRECT EXAMINATION

1 you? Did he seem to know the history about you and
2 Durance McCray?

3 **A** He said he heard about it.

4 **Q** What did he hear about it specifically?

5 **A** About us going back and forth.

6 MR. DeBUSK: Objection; hearsay.

7 THE COURT: Sustained.

8 **Q (BY MS. CALDWELL)** Did you tell Detective
9 Bellamy and Detective Lynam the truth?

10 **A** Yes, ma'am.

11 **Q** Did you tell them what happened?

12 **A** Yes, ma'am.

13 **Q** Did they tell you -- did you learn that there
14 weren't any guns seized from Mr. McCray's person or
15 the BMW?

16 **A** Yes, ma'am.

17 **Q** But did you still believe he had a gun?

18 **A** Yes, ma'am.

19 **Q** Have you told the Court here today what you
20 said in that interview?

21 **A** No, ma'am.

22 **Q** You haven't?

23 **A** Oh, yes, ma'am.

24 **Q** Are you telling the Court the truth today?

25 **A** Yes, ma'am.

DRISCOLL RIGGINS - DIRECT EXAMINATION

1 Q Are you telling the detectives the truth?

2 A Yes, ma'am.

3 Q And that video was recorded?

4 A Yes, ma'am.

5 Q To your knowledge -- you have been sitting
6 here the whole time -- has that interview been
7 admitted and played for the jury?

8 A No, ma'am.

9 Q Were you being been harassed, threatened,
10 bullied, and targeted by Durance McCray and his
11 associates in 2020?

12 A Yes, ma'am.

13 Q What about 2021?

14 A Yes, ma'am.

15 Q Did you genuinely believe Durance McCray
16 wanted you dead?

17 A Yes, ma'am.

18 Q When you woke up on May 21, 2021, did you
19 intend to shoot someone that day?

20 A No, ma'am.

21 Q Did you make a plan to shoot Durance McCray?

22 A No, ma'am.

23 Q Driscoll, on May 21, 2021, did you genuinely
24 believe you were in danger?

25 A Yes, ma'am.

DRISCOLL RIGGINS - CROSS EXAMINATION

1 Q Did you pull your gun first?

2 A Yes, ma'am.

3 Q Did you shoot Durance McCray?

4 A In self-defense, yes, ma'am.

5 MS. CALDWELL: Court's indulgence.

6 Q (BY MS. CALDWELL) When you previously spoke
7 with Detective Edwards from Horry County, what did
8 you tell him?

9 A That I got shot at by Durance McCray.

10 Q When was that?

11 A I want to say -- I think, like, the beginning
12 of 2021.

13 Q Did you all talk any time before that?

14 A Yes, ma'am.

15 MS. CALDWELL: Please answer any questions
16 Mr. DeBusk or Mr. Bagnal may have for you.

17 THE WITNESS: Yes, ma'am.

18 CROSS EXAMINATION

19 BY MR. DeBUSK:

20 Q Mr. Riggins, you said you had a criminal
21 record. You said you had a common law robbery?

22 A Yes, sir.

23 Q From 2010?

24 A Yes, sir.

25 Q And an attempted armed robbery?

DRISCOLL RIGGINS - CROSS EXAMINATION

1 **A** Yes, sir.

2 **Q** That was from 2014?

3 **A** Yes, sir.

4 **Q** A violent crime, right?

5 **A** Yes, sir.

6 **Q** And that would disqualify you from carrying a
7 weapon, right?

8 **A** Yes, sir.

9 **Q** And then in North Carolina, in 2020, you had
10 an attempted possession of a firearm by a felon; is
11 that correct?

12 **A** Yes, sir.

13 **Q** So you are aware you weren't supposed to have
14 a firearm?

15 **A** Yes, sir.

16 **Q** You said you lived in Marion County?

17 **A** Yes, sir.

18 **Q** Is that what you told Captain Archie's?

19 **A** No, sir.

20 **Q** What did you tell Captain Archie's?

21 **A** I gave my grandmother's address.

22 **Q** So you lied?

23 **A** No, I didn't lie. You don't have to put your
24 current address. It was an address.

25 **Q** If it is put on your W2 form for your taxes,

DRISCOLL RIGGINS - CROSS EXAMINATION

1 you have to give them your current address, right?

2 A Yes, sir.

3 Q So you turned in a federal form with a bad
4 address?

5 A I had lived with my grandma.

6 Q You live in Marion. That's about 60 miles
7 away, right?

8 A I don't know how far that is.

9 Q Takes more than an hour in a car?

10 A I guess.

11 Q You don't have a car, do you?

12 A Not anymore.

13 Q You didn't have a car at that time?

14 A No, not at that time.

15 Q But you got a job at Captain Archie's
16 60 miles away?

17 A Yes, sir.

18 Q And you told Captain Archie's you lived in
19 Little River?

20 A Yeah.

21 Q Now, Durance sent you some Snapchat videos?

22 A Yes, sir.

23 Q You made your own, too, in response?

24 A I didn't make no Snapchat videos. You said
25 Snapchat? I didn't make no Snapchat videos.

DRISCOLL RIGGINS - CROSS EXAMINATION

1 MR. DeBUSK: Your Honor, before publishing --

2 **A** Snapchat and Facebook are two different
3 things.

4 MS. CALDWELL: Your Honor, if I may, I do not
5 want to testify, but --

6 MR. DeBUSK: It is a matter of law, Your
7 Honor.

8 THE COURT: Ladies and gentlemen, we have to
9 ask you to have a short break. We'll have you back
10 in. Please don't discuss this case.

11 (The jury exits at 10:578 a.m., and the
12 following is heard out of the presence of the jury.)

13 THE COURT: Mr. DeBusk.

14 MR. DeBUSK: I have a video made by the
15 defendant that I would like the Court to see
16 in-camera.

17 THE COURT: Okay.

18 MS. CALDWELL: Your Honor, I have no problem
19 with the Court reviewing it in-camera. Mr. Riggins
20 was not trying to be argumentative. He simply is
21 stating -- he was trying to clarify it is Facebook
22 video, not Snapchat.

23 MR. DeBUSK: Are you objecting to it
24 because --

25 MS. CALDWELL: I certainly object to the

DRISCOLL RIGGINS - CROSS EXAMINATION

1 video being played to the jury. I don't think it
2 is relevant.

3 THE COURT: All right. We'll take a look.

4 MS. CALDWELL: We'll withdraw the objection.
5 I remember what is in the video. If you want to
6 review it, it's fine. I'll withdraw the objection.

7 THE COURT: What position does the State
8 take?

9 MR. DeBUSK: We'll move it into evidence.

10 THE COURT: So there is no objection into it
11 being moved?

12 MS. CALDWELL: No objection to publishing it
13 to the jury either.

14 May I speak with my client for a moment?

15 THE COURT: Do we need a break? Let's take
16 five minutes.

17 (State's Exhibit 50 admitted.)

18 (A recess was taken.)

19 THE COURT: All right. Are we ready?

20 MR. DeBUSK: Just one correction. It is
21 actually State's 50.

22 THE COURT: All right. You'll move that in
23 before the jury?

24 MR. DeBUSK: Yes, sir.

25 THE COURT: If we can have the jury, thank

DRISCOLL RIGGINS - CROSS EXAMINATION

1 you.

2 (The jury enters at 11:11 a.m., and the
3 following is heard in the presence of the jury.)

4 THE COURT: All right. Mr. DeBusk.

5 **CROSS EXAMINATION**

6 **BY MR. DeBUSK:**

7 **Q** So, Mr. Riggins, in that same time frame you
8 made a Facebook video for Mr. McCray?

9 **A** I don't say who it was, no.

10 **Q** You made a Facebook video and said some
11 things?

12 **A** Yeah, I said some things.

13 MR. DeBUSK: Your Honor, I offer State's 50
14 into evidence.

15 THE COURT: All right. No objection?

16 MS. CALDWELL: No objection.

17 THE COURT: State's 50 is in evidence 50.

18 (State's Exhibit 50 published to the jury.)

19 **Q (BY MR. DeBUSK)** Who was that addressed to,
20 Mr. Riggins?

21 **A** The individuals that were shooting at me.

22 **Q** You've already testified that was Durance
23 McCray?

24 **A** Yeah.

25 **Q** So were you scared of Durance McCray?

DRISCOLL RIGGINS - CROSS EXAMINATION

1 **A** Yeah.

2 **Q** Now, you said -- could you see Durance McCray
3 from where you sit from the kitchen?

4 **A** Yes, sir.

5 **Q** Why did you walk outside three times in the
6 middle of your shift?

7 **A** To be aware of my surroundings.

8 **Q** So you made multiple trips out there, three
9 outside and one, at least, to look at him?

10 **A** Yeah. Be aware of my surroundings.

11 **Q** Mr. Riggins, who is this (indicates)?

12 **A** Me.

13 **Q** What are you doing at this point?

14 **A** Standing outside.

15 **Q** What are you looking at?

16 **A** Looking at the parking lot, it looks to me.

17 **Q** Is there an individual right here in the
18 parking lot?

19 **A** Can't tell.

20 THE COURT: Speak in the microphone.

21 **A** I can't tell.

22 **Q** **(BY MR. DeBUSK)** Could you go down here for a
23 minute? Where are you standing on this video on
24 this map?

25 **A** By the outside cooler.

DRISCOLL RIGGINS - CROSS EXAMINATION

1 Q Right here?

2 A Yes, sir.

3 Q These people walking by over here, they are
4 right here by the water, right?

5 A Yes, sir.

6 Q How far is that? Maybe 30 feet?

7 A Probably.

8 Q Where were you when you said they started
9 yelling at you?

10 A Farther down.

11 Q You mean here?

12 A The car was standing by like right here and
13 right up in here.

14 Q May 28, 2021 at 2:06 in the afternoon, did
15 you give a statement to Marion to Detectives Bell
16 and Lynam at the police department?

17 A Yes.

18 Q At that point, you said you didn't know who
19 Joey Sinclair was?

20 A I didn't know at the time.

21 Q You just described some guy with long dreads?

22 A Yes, sir.

23 Q When you went out there and walked across the
24 parking lot and saw the individual that you say you
25 were afraid of, Durance McCray, you could have

442

DRISCOLL RIGGINS - CROSS EXAMINATION

1 turned around and walked right back to Captain
2 Archie's, couldn't you have?

3 A I could.

4 Q And you had your gun on you when you were in
5 Captain Archie's?

6 A Yes, sir.

7 Q Do they serve alcohol at Captain Archie's?

8 A Yes, sir.

9 Q Do you have a concealed weapons permit?

10 A No, sir.

11 Q But you had a prior violent conviction?

12 A Yes, sir.

13 Q When you were arrested, the marshal had to
14 have the house surrounded?

15 A Not until I went outside.

16 Q But they did have it surrounded when you were
17 arrested?

18 A Yes, sir.

19 Q When you spoke to detective Edwards, he
20 offered to make a case against Durance McCray,
21 didn't he?

22 MS. CALDWELL: Objection, Your Honor.

23 THE COURT: What is your objection?

24 MS. CALDWELL: It is hearsay. He can't
25 testify to what Detective Edwards said.

DRISCOLL RIGGINS - CROSS EXAMINATION

1 THE COURT: Sustained. Ask another question,
2 or if you would like to make an argument.

3 MR. DeBUSK: Well, Your Honor, the answer to
4 the question is what I was getting at, but I'll
5 recall Detective Edwards on redirect.

6 Q (BY MR. DeBUSK) You spoke to Detective
7 Bellamy on the phone?

8 A Yes, sir.

9 Q And you set up a couple of times to come meet
10 him, but you never did, correct?

11 A Correct.

12 Q First time you talked to him on the telephone
13 you told a different story than you told at Marion
14 County, didn't you?

15 A No, sir.

16 Q At that time, you told him, didn't you, that
17 you were taking the trash out and Durance walked up
18 to you?

19 A I don't recall.

20 Q You don't remember whether you did or not?

21 A Yeah.

22 MR. DeBUSK: Nothing further, Your Honor.

23 THE COURT: Anything further, Ms. Caldwell?

24 MS. CALDWELL: Yes, Your Honor.

25 REDIRECT EXAMINATION

DRISCOLL RIGGINS - REDIRECT EXAMINATION

1 **BY MS. CALDWELL:**

2 **Q** I'll go back. You physically lived in Marion
3 County?

4 **A** Yes.

5 **Q** Where did you have your mail sent?

6 **A** To my grandma's house.

7 **Q** Where does she live?

8 **A** In Little River.

9 **Q** Do any other members of your family have mail
10 sent there?

11 **A** Yes, ma'am.

12 **Q** Why?

13 **A** Everybody uses that address.

14 **Q** How long had your grandmother lived there?

15 **A** Her whole life.

16 **Q** So it was a safe address to get mail?

17 **A** Yes, ma'am.

18 **Q** Now, the video they played, you didn't
19 address that to anyone?

20 **A** No, ma'am.

21 **Q** Did you mention a drive-by shooting?

22 **A** Yes, ma'am.

23 **Q** Who shot at you?

24 **A** Durance McCray.

25 **Q** You said, "Quit playing me," what does that

DRISCOLL RIGGINS - REDIRECT EXAMINATION

1 mean?

2 **A** Stop playing with me.

3 **Q** Why?

4 **A** Just to let them know, you know, stop playing
5 with me.

6 **Q** You said, "Pull up on me," what does that
7 mean?

8 **A** Come see me directly.

9 **Q** You said, "There's a bag on your head"; is
10 that correct?

11 **A** Yes, ma'am.

12 **Q** What does that mean?

13 **A** Money.

14 **Q** Money for what?

15 **A** To have me killed.

16 **Q** Who do you think put that bag on your head?

17 **A** Durance McCray.

18 **Q** The phone call you had with Detective
19 Bellamy, was that recorded?

20 **A** I don't think. I'm not sure.

21 **Q** Did he say it was recorded?

22 **A** No, ma'am, not that I know of.

23 **Q** Did you write a statement over the phone?

24 **A** No, ma'am.

25 **Q** Did you say that Durance McCray came up to

DRISCOLL RIGGINS - REDIRECT EXAMINATION

1 you at the trash can?

2 **A** I don't recall, no, ma'am.

3 **Q** Driscoll, what was your hair like in May of
4 2021?

5 **A** I had dreads.

6 **Q** How long were they?

7 **A** About that long (indicates).

8 **Q** Can you show the jury on your head?

9 **A** About right there (indicates).

10 MS. CALDWELL: May I approach?

11 THE COURT: Yes, ma'am.

12 **Q** **(BY MS. CALDWELL)** I'm showing you what is
13 entered as Defense Exhibit 8. Is that you?

14 **A** Yes, ma'am.

15 **Q** When was that photo taken?

16 **A** I think the 28th.

17 **Q** Of?

18 **A** 2021.

19 **Q** In?

20 **A** May.

21 **Q** And is that an accurate representation of
22 what you looked like on May 21, 2021?

23 **A** No, ma'am.

24 **Q** It's not?

25 **A** No. It was a different hairstyle.

DRISCOLL RIGGINS - REDIRECT EXAMINATION

1 **Q** What does your hair look like now?

2 **A** I cut it.

3 **Q** Did you alter it for the purposes of this
4 hearing or trial?

5 **A** No, ma'am.

6 MS. CALDWELL: Court's indulgence.

7 **Q** **(BY MS. CALDWELL)** Driscoll, what did it feel
8 like being in fear of being shot?

9 MR. DeBUSK: Objection; beyond the scope of
10 cross examination.

11 MS. CALDWELL: I can ask him what his state
12 of mind was leading up to the event.

13 MR. DeBUSK: I didn't ask that, Your Honor.

14 THE COURT: It is outside of the scope of
15 cross examination. You are limited only to what
16 Mr. DeBusk's questions was about.

17 **Q** **(BY MS. CALDWELL)** Did you say you were in
18 fear?

19 **A** Yes, ma'am.

20 **Q** Did you tell Detective Bellamy that?

21 **A** Yes, ma'am.

22 **Q** Did you previously tell Detective Edwards
23 that?

24 **A** Yes, ma'am.

25 **Q** Were you in fear?

CHRISTOPHER BELLAMY - DIRECT EXAMINATION

1 **A** Yes, ma'am.

2 MS. CALDWELL: No further questions.

3 THE COURT: You can step down.

4 Do you have another witness, Ms. Caldwell?

5 MS. CALDWELL: I'll recall Detective Bellamy,
6 please.

7 (CHRISTOPHER BELLAMY, having been duly
8 sworn, testified as follows:)

9 THE WITNESS: Chris Bellamy.

10 **DIRECT EXAMINATION**

11 **BY MS. CALDWELL:**

12 **Q** Mr. Bellamy, you testified yesterday, and
13 Mr. Riggins testified today. Did you interview him
14 on March 28, 2021?

15 **A** Yes, ma'am.

16 **Q** Where was that?

17 **A** Marion County Sheriff's Office.

18 **Q** Who was present?

19 **A** Detective Lynam and myself.

20 **Q** Was the interview recorded?

21 **A** It was.

22 **Q** It was recorded by you?

23 **A** It was.

24 **Q** Did anyone else record it?

25 **A** Detective Lynam.

CHRISTOPHER BELLAMY - DIRECT EXAMINATION

1 **Q** Did Mr. Riggins tell you who informed him
2 that Durance McCray was at Captain Archie's?

3 **A** He did not.

4 **Q** Did he tell you that three co-workers came
5 and told him?

6 **A** Yes, but he would not identify them.

7 **Q** Did you try to investigate those co-workers?

8 **A** We did.

9 **Q** Through the videos?

10 **A** Yes.

11 **Q** After May 28, 2021?

12 **A** We already tried beforehand, yes.

13 **Q** But -- so you didn't go back after this
14 interview?

15 **A** I went back and re-watched the video several
16 times.

17 **Q** Did you go back and try to identify the
18 individuals at Captain Archie's after May 28,
19 20221?

20 **A** Detective Lynam was doing that part of the
21 investigation.

22 **Q** But you did not?

23 **A** No, ma'am.

24 **Q** Mr. Riggins told you in that interview that
25 Mr. McCray had been trying to kill him for a long

CHRISTOPHER BELLAMY - DIRECT EXAMINATION

1 time?

2 **A** Yes.

3 **Q** Did you investigate that?

4 **A** I had spoken so Detective Edwards, yes.

5 **Q** Did you investigate that any further after
6 May 28, 2021?

7 **A** I had already concluded that part of the
8 investigation.

9 **Q** So was it accurate?

10 **A** What is accurate?

11 **Q** Was that an accurate statement?

12 **A** Yes.

13 **Q** Do you know if Mr. Riggins' grandmother lives
14 a 15-minute walk away?

15 **A** 1330 Jackson Way, yes.

16 **Q** Is that close to Captain Archie's?

17 **A** It is about 3 miles.

18 **Q** And it's walkable?

19 **A** Yes.

20 **Q** Someone could walk it?

21 **A** Yes.

22 **Q** If you didn't have a car?

23 **A** It would be a long walk, but, yes.

24 **Q** Did he tell you which gun he used?

25 **A** He did.

CHRISTOPHER BELLAMY - DIRECT EXAMINATION

1 Q Was that gun provided to you?

2 A Yes.

3 Q Did you look for fingerprints?

4 A It was sent to SLED to process everything.

5 Q So no one from your police department dusted
6 for fingerprints?

7 A No, ma'am. Can I explain?

8 Q Absolutely.

9 A When you do any kind of ballistics with
10 firearms, there is a certain procedure you do,
11 because if you do fingerprints first, you can mess
12 up evidence. That way -- once we collect it, it
13 was already sealed and packaged, and we send it all
14 to SLED for processing.

15 Q Yesterday, did you tell us that you did not
16 swab for GSR on any other --

17 A I don't know -- I know it was never sent off,
18 if we did.

19 Q Why did you not do that?

20 A SLED will not test GSR on a gunshot victim
21 because they were shot, because there is going to
22 be gunshot residue there.

23 Q You would have collected that evidence on or
24 about May 21, 2021?

25 A The 22nd.

CHRISTOPHER BELLAMY - DIRECT EXAMINATION

1 **Q** What was the date of your SLED receipt?

2 **A** I would have to look. When we got it back or
3 sent it off?

4 **Q** Where you sent it off. Your name was on it,
5 I believe.

6 **A** Give me one second.

7 The date is January 27, 2023.

8 **Q** The date you sent it to SLED?

9 **A** This is when SLED begins to work on it. I'll
10 have to check with Chris Sengle as to when it was
11 sent. I know SLED has a backlog, so it could be
12 several months to sometimes a year before they get
13 to the case we sent them.

14 **Q** Okay. Would it have been July 11 of 2021
15 that the items were sent?

16 **A** We have to check with Chris Sengle.

17 **Q** Let me make it more general --

18 **A** It's possible.

19 **Q** In your common practice, do you try to send
20 evidence to SLED as soon as possible?

21 **A** Yes, we do.

22 MR. DeBUSK: Your Honor, I have no idea what
23 it is. Everything is redacted.

24 MS. CALDWELL: That's the point.

25 THE COURT: Can the attorneys approach?

CHRISTOPHER BELLAMY - DIRECT EXAMINATION

1 (The following was a bench conference had out
2 of the hearing of the jury.)

3 THE COURT: This report certainly was -- I'm
4 not sure what you are trying to do.

5 MS. CALDWELL: I'm not trying to admit
6 evidence. I wanted to see if he would look at it,
7 see it. It is a common SLED sheet and it says that
8 they did test.

9 MR. DeBUSK: There is no identifying evidence
10 information on it, Your Honor. No lab number, no
11 nothing. Nobody can authenticate that.

12 MS. CALDWELL: I'm not asking him to
13 authenticate it.

14 MR. DeBUSK: He can't refresh his memory off
15 of that.

16 MS. CALDWELL: I wasn't --

17 THE COURT: The other issue is that this is
18 an incident date from 2020.

19 MS. CALDWELL: Uh-huh.

20 MR. DeBUSK: Relevance, Your Honor.

21 THE COURT: Yeah. I certainly haven't heard
22 why it's relevant.

23 MS. CALDWELL: He said that SLED did not test
24 items recently.

25 MR. DeBUSK: You need someone from SLED to

CHRISTOPHER BELLAMY - DIRECT EXAMINATION

1 explain that.

2 MS. CALDWELL: Well, they didn't. That's
3 fine.

4 (The following was had in open court.)

5 Q (BY MS. CALDWELL) During the interview of
6 May 28, 2021 did, Mr. Riggins tell you that he
7 thought Mr. McCray had a firearm?

8 A He said he assumed he did, yes.

9 Q That he believed he had a firearm?

10 A Yes.

11 Q After May 28, 2021 --

12 A But he said he never saw a firearm.

13 Q That wasn't my question. I said did
14 Mr. Riggins ask -- say that he believed Durance
15 McCray had a firearm?

16 A Yes.

17 Q After May 28, 2021, did you research Captain
18 Archie's?

19 A Did I research Captain Archie's?

20 Q The parking lot for a firearm?

21 A No, ma'am.

22 Q Did you look on the pathway to Seacoast?

23 A That already was done on the 22nd.

24 Q After May 28, 2021, did you search?

25 A No.

CHRISTOPHER BELLAMY - DIRECT EXAMINATION

1 **Q** Did you reinterview anyone else after May 28,
2 2021?

3 **A** I don't think so, no.

4 **Q** Did you interview anyone else that worked at
5 the restaurant?

6 **A** No, ma'am.

7 **Q** Did you talk to any more patrons after
8 May 28, 2021?

9 **A** No, ma'am.

10 **Q** After May 28, 2021, did you just proceed with
11 getting him transferred from Marion County to Horry
12 County?

13 **A** We did proceed with that, but I did go back
14 and re-watched the video footage to double check
15 everything, and nothing changed.

16 **Q** And then he was brought to J. Reuben Long?

17 **A** Correct.

18 **Q** And warrants were served?

19 **A** Correct.

20 **Q** I'll show you Defense 8. Is this a fair and
21 accurate depiction of what Mr. Riggins looked like
22 in May of 2021?

23 **A** Is this the booking photo?

24 **Q** Yes.

25 **A** Then, yes, it is. I just didn't know where

CHRISTOPHER BELLAMY - DIRECT EXAMINATION

1 it came from.

2 Q This is the J. Reuben Long booking photo
3 taken the day you served the warrants.

4 A That is what I thought. Yes.

5 Q Is it a fair and accurate depiction?

6 A Yes.

7 Q That is what his hair looked like?

8 A Yes.

9 Q When you are providing new information for
10 any incident, do you normally investigate it?

11 A Yes.

12 Q Why didn't you here?

13 A Because he had given the information when I
14 talked to him on the phone, and I already looked
15 into it.

16 Q But did you look into it again?

17 A It already had been done, so, no, I did not.

18 Q Didn't Mr. DeBusk just say there were two
19 different stories, in your opinion?

20 A Yes. What he told me, and what I saw on the
21 video.

22 Q I believe Mr. DeBusk and Mr. Riggins just
23 testified that he doesn't recall telling you --

24 A Yes. May I?

25 Q Absolutely.

CHRISTOPHER BELLAMY - DIRECT EXAMINATION

1 **A** So I was off duty, and if you don't mind,
2 I'll read this, because this is what I wrote.

3 MS. CALDWELL: I would move to strike. I
4 would object to reading your narrative.

5 **Q** **(BY MS. CALDWELL)** Refresh your memory, but
6 don't read your report, as we've established those
7 are not admissible.

8 **A** I was off duty and I received a phone call
9 from a female who identified herself as Mr.
10 Riggins' aunt stating that she had Mr. Riggins on
11 the phone, and he would like to speak with me.

12 So I spoke with Mr. Riggins. I told him to
13 come into the police department, speak with me, and
14 let's get his side on the story on the record. He
15 started talking, and he was on the phone, not in
16 custody at this time. He had every right to hang
17 up. He proceeded to tell me about the history
18 between him and Durance and with the two brothers.

19 **Q** I'll stop you there. He gave you information
20 on May 23, 2021?

21 **A** Yes.

22 **Q** And you said that you investigated all of the
23 information there from that conversion --

24 **A** I'll get to that.

25 **Q** -- between May 23 and May 28th?

CHRISTOPHER BELLAMY - CROSS EXAMINATION

1 **A** Yes.

2 **Q** Okay. When was the arrest warrant sought?

3 **A** On the 22nd.

4 **Q** He was identified by others, but before you
5 spoke with him?

6 **A** Correct.

7 **Q** Okay. After May 28, did you do any
8 investigation?

9 **A** I went back and re-watched the video.

10 **Q** Other than watching the Captain Archie's
11 videos already in your possession, did you do any
12 further investigation?

13 **A** No, ma'am.

14 MS. CALDWELL: No further questions.

15 **CROSS EXAMINATION**

16 **BY MR. DeBUSK:**

17 **Q** Do you see this gun?

18 **A** Yes, sir.

19 **Q** Where was it collected?

20 **A** Mr. Riggins' pocket.

21 **Q** So in Mr. Riggins' pocket?

22 **A** Yes.

23 **Q** What would fingerprints mean on a gun that is
24 in someone's pocket?

25 **A** That their fingerprints would already be on

CHRISTOPHER BELLAMY - CROSS EXAMINATION

1 it.

2 Q Let's talk about this interview by phone.

3 The defendant was not in custody when that

4 interview was done?

5 A No, sir.

6 Q And he didn't call you directly, but someone

7 from his family called on his behalf?

8 A Yes.

9 Q And got him on the phone with you?

10 A Yes.

11 Q And he told you the story?

12 A He did.

13 Q What did he tell you?

14 A He told me as he was walking through the
15 parking lot taking the trash out that he was
16 approached by the victim, Durance McCray, and that
17 is where the altercation started from.

18 Q And when he talked to you on the 28th, what
19 did he tell you?

20 A He did not recall taking the trash out. He
21 said that he was leaving, going home, and that is
22 when he was -- he saw Mr. McCray, and that is when
23 the altercation started.

24 Q Now, after the original time, did you watch
25 the video?

CHRISTOPHER BELLAMY - CROSS EXAMINATION

1 **A** Yes.

2 **Q** After the original talk on the phone, did you
3 watch a video?

4 **A** I did.

5 **Q** Did he, in fact, take out the trash?

6 **A** He did.

7 **Q** Did he return to the building?

8 **A** He did.

9 **Q** Did he leave again?

10 **A** He did.

11 **Q** Did he approach Mr. McCray or did Mr. McCray
12 approach him?

13 **A** He approached Mr. McCray.

14 **Q** You didn't search Captain Archie's again
15 after the original processing?

16 **A** No, sir. We conducted a thorough search the
17 night of. We processed the crime scene. People
18 came by and -- we kept the crime scene all night.
19 We processed it that night. We went back the
20 following morning while we still had custody of the
21 whole scene. We double checked everything, made
22 sure we didn't miss anything before we released it.
23 Once we release the crime scene, we have no control
24 of it. It is beyond our control.

25 **Q** Did you see any choppers, any assault rifles?

CHRISTOPHER BELLAMY - REDIRECT EXAMINATION

1 **A** No, sir.

2 MR. DeBUSK: Nothing further.

3 THE COURT: Ms. Caldwell, redirect?

4 MS. CALDWELL: Yes, Your Honor, briefly.

5 **REDIRECT EXAMINATION**

6 **BY MS. CALDWELL:**

7 **Q** Did you complete the arrest warrants?

8 **A** I did.

9 **Q** When did you do those?

10 **A** It would have been on the 22nd.

11 **Q** About what time?

12 **A** What time?

13 **Q** If you know.

14 **A** I don't recall. I would have to go back and
15 look.

16 **Q** Would it have been after you talked to the
17 other witnesses?

18 **A** It would have been after we reviewed all of
19 the witnesses and all of the video.

20 MR. DeBUSK: Object; beyond the scope of
21 cross.

22 MS. CALDWELL: They were talking about when
23 he was arrested. I'm asking when the arrest
24 warrants were sought.

25 THE COURT: I'll allow it. Understand the

CHRISTOPHER BELLAMY - REDIRECT EXAMINATION

1 limited purpose of redirect. If you would like to
2 show him the arrest warrants, you are more than
3 welcome to.

4 MS. CALDWELL: I'm going to.

5 **A** I have them right here. I have the date of
6 the warrant. It doesn't have a time.

7 **Q** **(BY MS. CALDWELL)** That is fine. It was in
8 your notes, but I don't know where I put it.

9 But, what is this?

10 **A** This is a copy of my warrant request.

11 **Q** Is it accurate?

12 **A** Yes.

13 **Q** What is the date?

14 **A** The date is May 22, 2021.

15 **Q** What was the date the arrest warrant was
16 signed?

17 **A** It should be the same date.

18 **Q** By the judge?

19 **A** Yes.

20 **Q** That was the very next day?

21 **A** After we spoke with the witnesses and
22 reviewed the footage.

23 MR. DeBUSK: I'll renew my objection; beyond
24 the scope of cross.

25 THE COURT: Can we move on? Thank you.

DEFENSE RESTS

1 **Q** **(BY MS. CALDWELL)** Didn't you testify earlier
2 that the shooting was during a glitch?

3 **A** The actual part of it, yes. There is two
4 different camera angles. You don't actually see
5 the actual shooting. You can see when it occurs,
6 and we have eyewitnesses that confirmed it.

7 **Q** Based on when you got the warrant, were you
8 done with the investigation?

9 **A** The initial part, yes.

10 MS. CALDWELL: No further questions.

11 THE COURT: Thank you. You can step down.

12 Ms. Caldwell, any other witnesses?

13 MS. CALDWELL: Defense rests.

14 THE COURT: All right. Ladies and gentlemen,
15 at this time there is matter of law we need to take
16 up outside of your presence. If you will -- I know
17 that we've ordered lunch for you in an effort to
18 try to move this case along. I'm not sure what the
19 status of that is. If we can get you back before
20 it gets here, or it may be here, but we'll
21 certainly use the most sufficient use of your time,
22 and we'll figure that out momentarily, and you will
23 be notified.

24 If you will -- I appreciate your attention
25 this week. While you are in your jury room, you

DEFENSE RESTS

1 can't talk about this case, but if you will, among
2 yourselves, since you've had an opportunity to get
3 to know one another, so among the 12 jurors, if you
4 would elect the foreperson on your own and let the
5 bailiff know who that foreperson is before you
6 return to court, I would appreciate it.

7 What the foreperson does is simply preside
8 over any deliberations the jury may have. If there
9 is a question or any reason that the jury might
10 need to contact the Court, you just utilize that
11 foreperson to initiate that contact. Otherwise,
12 the foreperson doesn't have any more power over the
13 jury than anyone else.

14 Thank you. We'll have you back out as soon
15 as we can. Thank you.

16 (The jury exits at 11:51 a.m., and the
17 following is heard out of the presence of the jury.)

18 THE COURT: Does the defense have any reply
19 witnesses?

20 MR. DeBUSK: The prosecution?

21 THE COURT: Yes, sorry.

22 MR. DeBUSK: We have two, perhaps. We can do
23 it after lunch. It won't be long.

24 THE COURT: Are you prepared to do it now?

25 MR. DeBUSK: One I am, one I'm not.

DEFENSE RESTS

1 THE COURT: I was notified that lunch won't
2 be here until 12:45. Can you try to get the other
3 one on the way?

4 MR. DeBUSK: He is on the way, but he won't
5 be here until 1:30, Your Honor. He's coming from
6 Little River.

7 THE COURT: We'll take a 10-minute recess,
8 and then break for lunch.

9 (A recess was taken.)

10 THE COURT: Are we ready to proceed?

11 MR. DeBUSK: Yes, Your Honor.

12 THE COURT: Defense?

13 MS. CALDWELL: Yes, sir.

14 THE COURT: All right. Let me ask you, as
15 far as planning purposes, Mr. DeBusk, how long do
16 you think your witnesses will last today?

17 MR. DeBUSK: Both short. My direct is 15
18 minutes or less.

19 THE COURT: What is everyone's position if
20 this case does proceed to the jury as to when you
21 would like to argue and charge?

22 MR. DeBUSK: At the Court's discretion.
23 Whenever you want to do it whether this afternoon
24 or tomorrow morning, it doesn't matter to me.

25 THE COURT: Does the defense have a position?

CHRISTOPHER "DREW" EDWARDS - DIRECT EXAMINATION

1 MS. CALDWELL: I prefer we do it all at once
2 so they can hear the closings, get the
3 instructions, and then go back if it's going to the
4 jury. I guess I prefer to start in the morning. I
5 also don't know how long it will take to argue the
6 stand-your-ground motion.

7 THE COURT: I understand. And all of this is
8 subject to when we can conclude. It is
9 increasingly looking like it won't be today, but
10 we'll see where we wind up.

11 If we can have the jury, sir.

12 (Whereupon, the jury enters at 12:06 p.m.,
13 and the following is heard in the presence of the
14 jury.)

15 THE COURT: Does the State have any witnesses
16 in reply?

17 MR. DeBUSK: Yes, Your Honor, we do. I call
18 Detective Drew Edwards.

19 (CHRISTOPHER DREW EDWARDS, having been duly
20 sworn, testified as follows:)

21 THE WITNESS: Christopher Drew Edwards.

22 **DIRECT EXAMINATION**

23 **BY MR. DeBUSK:**

24 **Q** Who is your employer?

25 **A** Horry County Police Department.

CHRISTOPHER "DREW" EDWARDS - DIRECT EXAMINATION

1 **Q** How long have you been with Horry County
2 Police?

3 **A** 16 years.

4 **Q** What were your duties in March of 2020?

5 **A** I was a violent crimes investigator.

6 **Q** Did you work on a crime with Shamon and Tavon
7 Livingston were shot?

8 **A** Yes, sir.

9 **Q** During the course of your investigation, did
10 you speak to Driscoll Riggins?

11 **A** I did.

12 **Q** Was he in custody?

13 **A** No, sir.

14 **Q** Did he come in with you willingly and talk
15 with you?

16 **A** Yes, at the M.L. Brown Building.

17 **Q** When was the interview?

18 **A** I'm not sure of the exact time, but after
19 Shamon and Tavon was killed.

20 **Q** But it was before the incident in this case?

21 **A** Yeah. It was within a month of the homicide
22 at the party shop.

23 **Q** Which was the Livingston murders?

24 **A** Yes.

25 **Q** So within a month after the Livingston

CHRISTOPHER "DREW" EDWARDS - DIRECT EXAMINATION

1 brothers were killed?

2 **A** Yes.

3 **Q** Where did you speak to him?

4 **A** At the M.L. Brown Building in Conway.

5 **Q** Did he say anything about Durance McCray?

6 **A** That day, not specifically. I don't think he
7 did. It was more of a general

8 there's-going-to-be-problems-in-the-Longs-community
9 talk.

10 **Q** Did he at that time tell you something about
11 Durance McCray?

12 **A** He did.

13 **Q** What did he say?

14 **A** He said while he was riding around in the
15 Poplar community, he was being targeted by Durance.

16 **Q** Did you suggest a legal way to remedy that
17 situation?

18 **A** I did. I encouraged him to file a police
19 report and to call 911 every time he encountered
20 them or had a problem.

21 **Q** If he would have filed a police report on
22 Durance McCray, would you have prosecuted
23 Durance --

24 **A** Yes, sir.

25 **Q** Did he file a report?

CHRISTOPHER "DREW" EDWARDS - CROSS EXAMINATION

1 **A** No, sir.

2 **Q** To your knowledge, were there any reports or
3 investigation involving a shooting involving McCray
4 and Riggins?

5 **A** No, sir.

6 MR. DeBUSK: Thank you. Answer any questions
7 that the defense may have.

8 THE COURT: Ms. Caldwell.

9

10 **CROSS EXAMINATION**

11 **BY MS. CALDWELL:**

12 **Q** Detective Edwards, just again, those reports
13 were made to you in 2020?

14 **A** Yes. Yes, ma'am.

15 **Q** You had those conversations with Mr. Riggins
16 in 2020?

17 **A** Yes.

18 **Q** That was before May 21, 2021?

19 **A** Yes, ma'am.

20 **Q** And he spoke with you voluntarily?

21 **A** Yes.

22 MS. CALDWELL: Nothing further.

23 THE COURT: Anything further?

24 MR. DeBUSK: No. We ask that he be excused
25 from his subpoena.

THE COURT AND ATTORNEYS

1 MS. CALDWELL: No objection.

2 THE COURT: Detective Edwards, thank you for
3 being here. You're free to go.

4 MR. DeBUSK: The State has one more witness,
5 but won't be here until 1:30.

6 THE COURT: Ladies and gentlemen, we've tried
7 to do some pre-planning, but there is one final
8 witness. That witness is en route as we speak, but
9 not here yet.

10 I understand that your food should be here
11 within the next 20 minutes or so. So we're just
12 going to have to recess until that witness is
13 prepared to testify. We'll certainly give you time
14 to finish lunch, and then we'll move to conclude
15 the testimony, okay.

16 Please don't discuss this case yet. I
17 appreciate your patience. See you back as soon as
18 we can.

19 (The jury exits at 12:11 p.m., and the
20 following is heard out of the presence of the jury.)

21 THE COURT: I'm still well aware that we have
22 the stand-your-ground motion that is going to be
23 argued and ruled upon, upon the closing of all of
24 the testimony in this case and before this case may
25 move to the jury.

THE COURT AND ATTORNEYS

1 What I would like to do is take this
2 opportunity to ask, in the event that this case
3 does go to the jury, like a pre-charge conference
4 at this time, just so that we can try to be
5 prepared and see what we need to do research on,
6 what is the defense's thinking as far as charges?
7 Are you in a position at this time to let me know?

8 MS. CALDWELL: Subject to further research,
9 but I have pulled some charges in preparation of
10 the trial.

11 First, I would ask that the Court charge on
12 self-defense. The reason I ask that is any
13 evidence, from which it could be reasonably
14 inferred that defendant acted in self-defense, the
15 defendant is entitled to the instruction, *State v.*
16 *Hill, 1993; State v. Mueller, 1984; State v.*
17 *Atkinson, 1984.*

18 He might be entitled to all of these, even if
19 he inflicted the wounds and was the aggressor.
20 However, we understand the charges must be tailored
21 to this particular incident or particular
22 circumstances.

23 I apologize, Your Honor, my knowledge -- I
24 wasn't expecting to do this.

25 THE COURT: No problem.

THE COURT AND ATTORNEYS

1 MS. CALDWELL: Will this Court allow me to
2 submit the proposed instructions I've pulled? They
3 are typed up and pulled out of --

4 THE COURT: Well, let me ask each of you what
5 your position is on a voluntary manslaughter
6 charge?

7 MS. CALDWELL: Asking for it to be included.

8 THE COURT: State's position?

9 MR. BAGNAL: State has no objection to the
10 manslaughter charge.

11 THE COURT: All right. Well, then, we can
12 finalize this. I mean, I was just trying to get an
13 idea of what we were talking about and what might
14 be the problems.

15 Is there anything else from the State?

16 MR. BAGNAL: Yes, sir. The State would ask
17 that you charge mutual combat as well. There has
18 been sufficient testimony in the record that
19 Mr. Riggins did approach the victim, that the two
20 had a preexisting, so-called, "beef" with each
21 other, and that he believed Mr. Riggins -- excuse
22 me, Mr. McCray to be armed at that time. We think
23 mutual combat would apply in this situation, and we
24 ask you charge it.

25 THE COURT: And the defense's position? You

THE COURT AND ATTORNEYS

1 don't have to take a position now. I was just
2 curious.

3 MS. CALDWELL: Your Honor, I would like to
4 research mutual combat a little more. My brief
5 recollection -- I'm not entirely sure that that is
6 what I remember.

7 THE COURT: Okay. Anything else?

8 MR. BAGNAL: May I approach at this time?

9 THE COURT: Sure.

10 Do you have a copy of this?

11 MS. CALDWELL: That would be nice.

12 MR. BAGNAL: We can provide one.

13 THE COURT: So we're going to be in recess
14 for the lunch hour. We'll be flexible as to when
15 this witness shows up. Also, I'm not sure when the
16 jury's food will come, but we'll give them an
17 opportunity to enjoy their lunch, and then whatever
18 time that might be, come back together and we'll
19 resume as soon as possible. You understand?

20 MR. BAGNAL: Thank you, Your Honor.

21 THE COURT: I don't anticipate it will be
22 before 1:30.

23 MR. DeBUSK: My witness is due at 1:30.

24 THE COURT: All right. We'll see then.

25 MS. CALDWELL: May I approach with my

THE COURT AND ATTORNEYS

1 instructions? They are in PDF form, so I can
2 immediately e-mail them to you and Mr. Bagnal and
3 Mr. DeBusk.

4 THE COURT: Sure.

5 (A lunch recess was taken.)

6 THE COURT: Please be seated.

7 MR. DeBUSK: Your Honor, my last witness
8 showed up in shorts and a T-shirt, so I decided not
9 to call him.

10 THE COURT: Where does that put us as far
11 as --

12 MR. DeBUSK: Giving the lateness of the hour,
13 I'm concerned if we argue and charge we wouldn't
14 have time for deliberations unless we stay in the
15 late hours. I would like to have argue and charge
16 instead of splitting it.

17 THE COURT: Defense is in agreement?

18 MS. CALDWELL: Absolutely.

19 THE COURT: All right. All right. We'll go
20 ahead and bring the jury in.

21 Mr. DeBusk, do you want to recognize for this
22 witness or --

23 MR. DeBUSK: Your Honor, I'll just stand up
24 and rest our case.

25 (The jury enters at 1:40 p.m., and the

THE COURT AND ATTORNEYS

1 following is heard in the presence of the jury.)

2 THE COURT: Is the State ready?

3 MR. DeBUSK: At this time, the State rests
4 its rebuttal case.

5 THE COURT: I know it is kind of confusing.
6 We anticipated -- we were indicated that there was
7 going to be another witness, but there is not going
8 to be another witness, and so you've heard all of
9 the testimony in this matter.

10 There is a matter of law that is outstanding
11 that will take some time and that will take better
12 than of an hour to hear. Then, as you know,
13 potentially, we would have closing arguments and
14 charge on the law. You know, I don't know how long
15 that will take. Typically, that will take another
16 hour-and-a-half or so, maybe a little less or maybe
17 a little more.

18 When you do the math, that puts us late into
19 the afternoon. There is a lot of court staff and
20 other people affected by what we do here. The
21 bottom line is once you receive this case, if you
22 receive this case to begin deliberations, we can't
23 leave. We need to stay here until the jury reaches
24 a verdict. We don't know how long that might take.

25 So, in the interest to fairness to the State

THE COURT AND ATTORNEYS

1 and the defendant in this matter, I think it is in
2 everyone's best interest if we take up the matters
3 of law, be prepared, and get all of the Court's
4 business done we do outside of the presence of the
5 jury this afternoon so we can come here first thing
6 tomorrow morning, argue, charge, and then you would
7 have the balance of the day, or however long it
8 might take you -- whether it is a short while or a
9 long while -- to come up with whatever verdict you
10 may come up with.

11 So I think that is the best course of action
12 and the most fair thing to do at this point in
13 time. I apologize if it seems like, you know -- we
14 didn't anticipate things right with lunch and all
15 of that. You can blame that on me.

16 But in the interest of justice, and also in
17 the interest of not wasting any of your time, we'll
18 let you go today and ask that you come back and be
19 prepared to argue and charge at 9:30 in the
20 morning, and then you'll receive the case at that
21 point in time and can deliberate at that time.

22 Thank you again for your time and patience
23 and your attention. I apologize for any
24 inconvenience, and we'll see you tomorrow. Don't
25 discuss the case, please.

STAND-YOUR-GROUND ARGUMENTS

1 (The jury exits at 1:43 p.m., and the
2 following is heard out of the presence of the jury.)

3 THE COURT: Are we ready to proceed with the
4 stand-your-ground arguments?

5 MS. CALDWELL: Yes.

6 MR. DeBUSK: Yes, Your Honor.

7 THE COURT: I'll be happy to hear from
8 Ms. Caldwell.

9 MS. CALDWELL: Your Honor, as you are well
10 aware, the South Carolina statute basically
11 codified the Castle Doctrine in the right to
12 protect oneself. It includes all elements of
13 self-defense saved for the duty to retreat. In
14 this case, I do believe that it has been
15 sufficiently met.

16 The first element is being that the defendant
17 must be without fault in bringing on the
18 difficulty. In this instance, Mr. Riggins was
19 rightfully at work when Mr. McCray appeared. I
20 know that the State will say he had a firearm and
21 wasn't supposed to. However, there is clear case
22 law that says even if you are not supposed to have
23 a firearm, you can arm yourself in self-defense.

24 Mr. Riggins believed that he was going to be
25 murdered, shot, injured or his family might be for

STAND-YOUR-GROUND ARGUMENTS

1 over a year at the time that this happened. He
2 reported that to law enforcement. He tried to stay
3 out of the way. He moved to live in Marion with
4 his girlfriend instead of living in North Myrtle
5 Beach. He did get a job because it was available
6 to him.

7 The second element is that the defendant must
8 actually believe or actually was in imminent danger
9 of serious bodily injury or death. Your Honor, I
10 think it is fairly clear through his testimony,
11 through the video played, through some of the
12 Snapchat that Mr. Riggins was under genuine belief
13 that Mr. McCray would want to kill him. He already
14 harmed his god-brothers. He sent threats, shot up
15 his godmother's home, shot up his mother's home.
16 He shot at Mr. Riggins, and then, conveniently,
17 right after he was arrested, his father's home was
18 shot at, and also items were thrown into it. That
19 is on the interview, Your Honor.

20 Mr. Riggins did wander around. He did look
21 to see through the tiki bar where Mr. McCray was.
22 He wanted to make sure that he was going to be safe
23 to leave. I know the State says it looks like he
24 was trying to make sure that he left at the same
25 time, but it is also that he was just trying to

STAND-YOUR-GROUND ARGUMENTS

1 make sure that they didn't have the direct
2 encounter, Your Honor.

3 Not to mention, the case law is clear you
4 have the right to act on appearances. He believed
5 that Mr. McCray reached for his waistband. He
6 states that he heard someone say, "Get the
7 chopper"; that means get a gun. He thought that he
8 was going to be shot. He does not have to wait for
9 someone to get the jump on him.

10 The other option is to stand there and get
11 shot himself. That is not appropriate.

12 I know that they are saying that there is no
13 weapons found in the BMW or Mr. McCray's person,
14 but that doesn't mean that they weren't there or
15 not thrown out of the vehicle, because whether the
16 cameras are there or not, they said they weren't,
17 but they weren't checked. The roadways were not
18 thoroughly checked. They said we walked the
19 grounds. That is not the same as looking for a
20 firearm, Your Honor.

21 The final element is that if it's based on
22 his belief that a reasonable prudent person man of
23 ordinary firmness would have held the same belief,
24 if someone believes that another person is trying
25 to kill them, then I do believe that a reasonable

STAND-YOUR-GROUND ARGUMENTS

1 person would arm themselves, even if they know they
2 are not supposed to.

3 Yes, he does have a prior conviction.

4 However, I will point out to this Court that the
5 first one was done under North Carolina v. Alford,
6 which I know that is treated as a guilty
7 conviction, but it was saying that he's not saying
8 he did anything wrong, but he'll plead to it.

9 The second was an attempted. It was reduced.
10 An attempted crime, while, again, it is violent and
11 a conviction, it is not the same as the commission
12 of a crime.

13 THE COURT: Let me stop you. I'm confused
14 with your argument as to -- how that applies to
15 stand-your-ground?

16 MS. CALDWELL: Because the defendant must be
17 without fault of bringing on the difficulty, and he
18 can't be conducting any unlawful activity.

19 THE COURT: Okay. I understand. Go ahead.

20 MS. CALDWELL: The unlawful activity would
21 be, theoretically, him having a firearm despite his
22 past convictions.

23 I also -- they weren't recent. I know he was
24 charged in 2020 in North Carolina for attempt to
25 possess a firearm by a felon; however, that was in

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1 the vehicle that he was there. So that is a
2 constructive possession case. We see that all the
3 time with drugs and guns and things. He was in the
4 vehicle, but it wasn't his firearm, and it wasn't
5 registered to him, obviously.

6 Your Honor, even if he had the duty to
7 retreat, which he did not, there was no other exit.
8 There was nowhere else for him to go. Go sit in
9 Captain Archie's and hope that people leave? He
10 didn't know they were leaving, Your Honor. He
11 testified that he didn't know when they left. He
12 testified that he didn't actually pay her.

13 Ms. Cano testified that she never received
14 money. If you watch all of the video from Ms.
15 Cano, she was sitting outside, texting, smoking a
16 cigarette, hanging out for the later part of the
17 evening and was not coming to tell Mr. Riggins
18 where Mr. McCray was.

19 Your Honor, I believe that the elements of
20 the stand-your-ground are met here. I remind the
21 Court that you are in the position of the fact
22 finder right now, which allows you to act not as
23 the jury, but you get to decide on the facts, and
24 if you decide that there are enough facts here,
25 then he is immune from any type of prosecution,

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1 including this trial that we just had.

2 Your Honor, I believe he has met the elements
3 for stand-your-ground.

4 THE COURT: Thank you.

5 Mr. DeBusk.

6 MR. DeBUSK: Your Honor, I would argue that
7 the law says that a person might be -- claim
8 self-defense when they are illegally armed, if they
9 arm themselves in a response to a threat.

10 In this case, Mr. Riggins' own testimony said
11 he brought that gun with him that day, all day,
12 before Mr. McCray was even on the premises. He was
13 a disqualified person. He had a prior violent
14 conviction. He was carrying a gun and knew he
15 shouldn't have been. He had just gone to prison in
16 North Carolina for the same thing. He was carrying
17 a gun without a concealed weapons permit, and he
18 was carrying a gun on premises that served alcohol.
19 All three of those is independently illegal.

20 I would say that he's engaging in illegal
21 activities, so he's not entitled to the
22 stand-your-ground protection.

23 Secondly, the standard here is preponderance
24 of the evidence. In this case, you heard from
25 three people that were present at the shooting.

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1 The first was Jada Pyatt. She said they were
2 standing there looking at the guy laying on the
3 ground when the defendant came out of the darkness,
4 said, "This is for," blank, and started shooting.
5 No argument.

6 You heard from Joey Sinclair who said he was
7 standing next to him, getting in his car, getting
8 ready to leave. There was no name calling, no
9 T-shirt comments, no chopper comments.

10 Then, you heard from the defendant. The
11 defendant's story is he walked out there not
12 knowing Durance McCray was in the parking lot.
13 That is beggar's belief, Your Honor. He went
14 outside of the bar three times and looked at the
15 victim sitting in the bar. One time, he, himself,
16 said he was walking through the bar and looked over
17 there and saw him.

18 He offered a waitress \$100 to tell him when
19 the victim left. She testified that she told the
20 truth in May of 2015 -- 2021 when she gave that
21 statement to the North Myrtle Beach police.

22 Then, right before the shooting, somebody
23 walks in, sees Jada Pyatt leaving, talks to the
24 defendant, the defendant walks out, stands
25 30 feet -- about me to the door over there -- from

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1 the defendant that he's been watching all day,
2 walking across the parking lot, looks at him, turns
3 around, goes back in, clocks out, and goes walking
4 across the parking lot.

5 He clearly brought the fight to Durance
6 McCray. He was at fault in bringing on the
7 difficulty.

8 Now, even if you take his own story, he says
9 it is a story of mutual combat. He says that he
10 was walking across the parking lot and the
11 defendant started -- the victim started making
12 comments about him being on a T-shirt, and he
13 believed him to be armed. He knew himself to be
14 armed. He continued to walk towards the victim.
15 That, in itself, is an invitation of mutual combat,
16 and that puts him at fault for bringing on the
17 difficulty.

18 He never saw a gun, and that's because the
19 victim didn't have a gun. A reasonably prudent
20 person wouldn't have thought that a person standing
21 in the parking lot looking at a drunk man on a
22 sidewalk was a threat to anyone.

23 By a preponderance of the evidence, the
24 burden has not been met, just by the sheer number
25 of witnesses that says there was no talk about the

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1 T-shirt or choppers. Then, by the facts
2 themselves, Your Honor. Thank you.

3 THE COURT: All right. Anything further?

4 MS. CALDWELL: Absolutely, Your Honor.

5 First, I will respond to the witnesses. Both
6 Ms. Pyatt and Mr. Sinclair had bias. Ms. Pyatt was
7 his girlfriend. Mr. Sinclair was his friend. They
8 went to that bar to meet Mr. McCray -- or
9 Mr. Sinclair. Mr. McCray and Ms. Pyatt went there
10 to meet Mr. Sinclair. They were, obviously,
11 friends. They have a bias to the victim in this
12 case. That does not necessarily mean that my
13 client is lying or that he's wrong, but it does
14 mean that they could be lying about what happened.
15 They had plenty of time to talk before the police
16 arrived, and hearing such statements like, Your
17 face is going to be on a T-shirt, or, Get the
18 chopper, would not be beneficial to either one of
19 them, because neither one of them could have a
20 firearm.

21 I don't think it is mutual combat if
22 Mr. Riggins had never acted in violence against
23 Mr. McCray. While he did have a firearm, he went
24 to work with a firearm. He did that -- he said he
25 armed himself because it was a constant threat that

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1 started in, at least, March of 2021, and continued
2 to happen. There were repeated incidents, and it
3 kept happening and didn't seem like it was going to
4 stop until, unfortunately, one of these was
5 deceased.

6 I don't know what Mr. DeBusk wanted
7 Mr. Riggins to do besides stand there and get shot.
8 He genuinely thought he was going to. There was
9 one exit. He wasn't bringing a fight to him. He
10 clocked out of work after 8.60 hours, which is a
11 common shift for a dishwasher. He completed all of
12 his tasks, and he was going home. He wasn't
13 looking for a fight. He wasn't looking for a fight
14 or anything that.

15 Furthermore, this person that they are
16 talking about didn't come here and testify. They
17 said they could never identify him. They said they
18 don't know who it is. He didn't show up and say he
19 was watching Jada Pyatt and told Mr. Riggins that
20 she left. Where is this person? Did they actually
21 say that? Can we prove that? No, because the
22 videos don't have sound on the outside.

23 Furthermore, he said he didn't know. Your
24 Honor, he has the right to act on appearances. A
25 reasonably prudent man who knew of Mr. McCray's

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1 past -- don't get me wrong, he wasn't convicted of
2 all of these, but I counted attempt murders,
3 assault and battery with intent to kill, convicted
4 of assault and battery second, burglary second
5 non-violent. There were multiple violent crimes of
6 which he was a part of and charged with. I went
7 through them all, and every single one of them,
8 even the dismissed ones, someone identified him by
9 name and face. He was known to law enforcement.
10 He was known to Mr. Riggins, a reasonable prudent
11 person, who knows his history --

12 MR. DeBUSK: Object about the record of
13 Mr. McCray; that is not in evidence.

14 MS. CALDWELL: Your Honor, this is a motion
15 hearing. This isn't a trial hearing. I didn't put
16 it in front of the jury, it is a motion.

17 MR. DeBUSK: It's a motion based on the
18 evidence presented to the Court, and that is not in
19 evidence. Thank you.

20 THE COURT: I agree. It has to be introduced
21 during the testimony of the stand-your-ground. But
22 I understand. If you would like to continue your
23 argument.

24 MS. CALDWELL: A reasonable prudent person
25 who is best friends, people he considered brothers,

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1 were murdered.

2 Another gentleman, Tyrone Ford, also his
3 friend, murdered. All of them, Mr. McCray
4 continued to celebrate their deaths. We can't
5 definitively say he was involved, but he was happy
6 they were dead, and he made it known.

7 Mr. Riggins had a genuine belief that that
8 was going to happen to him as well. He armed
9 himself because it was a constant threat. His
10 mother's home was shot. His godmother's house was
11 shot, and he, himself, was shot in the leg. He
12 witnessed all of those at the hands of Durance
13 McCray.

14 He was under constant threat, so he armed
15 himself. I think it is only right to give him
16 immunity through the stand-your-ground statute.

17 THE COURT: All right. I appreciate each of
18 your arguments. Certainly, I've been present and
19 here for the testimony. I understand my role at
20 this point, on a stand-your-ground hearing, as the
21 finder of facts. The burden of proof is the
22 preponderance of the evidence to determine whether
23 or not Mr. Riggins acted pursuant to the
24 stand-your-ground law, which is 16-11-410, and
25 whether or not he deserves immunity from

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1 prosecution under that act.

2 So, as a judge of the facts, it is necessary
3 for me to determine the credibility of the
4 witnesses. Certainly, I find that the video
5 evidence in this case, which I'll -- I've watched
6 several times at this point, suggests that -- and
7 by the defendant's own admission -- that he knew
8 the victim, Durance McCray, was present at Captain
9 Archie's on that night. He testified and it was
10 corroborated by video that he even made contact
11 with Durance -- eye contact with Durance McCray
12 during the day in question.

13 Furthermore, when we consider the video
14 evidence that shows Mr. McCray and Mr. Riggins just
15 prior to the fatal event, it certainly seems, and
16 looks as though, Mr. Riggins notices Mr. McCray
17 leaving the establishment, and as has been
18 testified to many times throughout the trial, there
19 is only one way in and one way out. This business
20 is at the end of a peninsula.

21 There is no question, and I recognize the
22 fact, that there was quite a history between these
23 two individuals between the defendant and Mr.
24 McCray, that that history was violent. Certainly
25 Mr. Riggins seemed to have appropriate beliefs that

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1 some day some incident might happen that would
2 endanger his life.

3 But the problem that I would grant immunity
4 under these facts is that Mr. Riggins didn't have
5 to leave the establishment at that point in time.
6 I mean, I have to consider whether or not he was
7 without fault in bringing upon the difficulty.
8 Certainly, it looks like, from the video evidence,
9 that he brought himself to the difficulty.

10 Now, whether or not he's entitled to
11 self-defense beyond that is a question for the jury
12 to determine. But as far as the immunity statute
13 that I'm determining the facts under at this point
14 in time, I can't find that he was without fault in
15 bringing on the difficulty based on the evidence
16 and based on the credibility of the witnesses.

17 Furthermore, in large part, based on the
18 video evidence, and even the defendant himself
19 admitted to him being the person on the video as it
20 was suggested throughout the trial, and also that
21 Mr. McCray and Ms. Pyatt and Mr. Sinclair were also
22 in the same place and doing the same things as was
23 suggested throughout the trial. So all of those
24 things were corroborated.

25 So having found the defendant was not without

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1 fault in bringing on the difficulty and bringing on
2 the confrontation, the evidence doesn't suggest
3 that, and I don't find that. Certainly, the jury
4 can find whatever it is that they deem is
5 appropriate. So I'm going to deny your immunity
6 based on the stand-your-ground law by a
7 preponderance of the evidence.

8 Having said that, I should have a jury charge
9 prepared that I can give each of you, and we'll try
10 to print that out right now and provide that to
11 you, and then give you an opportunity to take a
12 look at it. We'll go from there, as far as the
13 charge conference.

14 Before we do any of that, if either side
15 would like to make any motions or another directed
16 verdict motion that needs to be made, I'll be happy
17 to hear that.

18 MS. CALDWELL: I was waiting for the State,
19 but at this time I'll renew all of my objections
20 throughout the trial.

21 I also would make a motion for a directed
22 verdict. Again, I don't believe that this -- the
23 State has proven the elements of murder. That is
24 what they are here to prove: Murder and possession
25 of a weapon during a violent crime. They have not

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1 proved malice. They have not proved malice
2 aforethought, expressed or implied. It is the same
3 -- I have the same belief I did before Mr. Riggins
4 testified and now: It has not been proven.

5 Also, at this time, I'll draw the Court's
6 attention to State v. McCarty, which is a 2022
7 case, that states that failure to have a ruling on
8 stand-your-ground on immunity can warrant a
9 mistrial prior to trial.

10 THE COURT: Say that again.

11 MS. CALDWELL: State V. McCarty, a 2022 case.
12 I have a copy for everyone. Would you like me to
13 approach?

14 THE COURT: Sure.

15 Mr. DeBusk, did you want to respond?

16 MR. DeBUSK: On the motion for directed
17 verdict, Your Honor?

18 THE COURT: Yes.

19 MR. DeBUSK: Yes, Your Honor. The standard
20 here is not how the defense counsel feels, but
21 whether there is evidence on the record that would
22 support a guilty verdict.

23 Here, we have an eyewitness that says the
24 defendant walked up to the defendant and started
25 shooting and saying, "This is for," showing an

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1 intentional act. There were several instances
2 where he was watching and stalking the victim
3 throughout the evening. All of that is sufficient
4 to support murder, and murder is a violent crime.
5 He did it with a gun, and that is the possession of
6 a weapon.

7 THE COURT: As far as the motion for a
8 directed verdict, we're not here to determine the
9 sufficiency of the evidence, but simply the
10 existence of the evidence. Certainly, as I've
11 already ruled before, I think there is evidence in
12 this record that exists that will support the
13 charges and the indictments.

14 As to the weight the jury gives that evidence
15 and what they decide to do with it, that is up to
16 them, but I think the evidence exists.

17 Ms. Caldwell, I'll hear from you, but I
18 guess -- are you making a motion for a mistrial?

19 MS. CALDWELL: I'm not. I'm just putting it
20 on the record for preservation for an appeal that I
21 would like this Court aware that there is a 2022
22 case that states failure to rule on a
23 stand-your-ground motion, before the jury, before
24 opening statements can be made, can result in a
25 mistrial.

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1 THE COURT: But you are not making a motion
2 for a mistrial?

3 MS. CALDWELL: Not at this time, but I wanted
4 it on the record that it does exist.

5 MR. DeBUSK: Your Honor, there was no
6 pretrial motion for the stand-your-ground. There
7 was a motion at the time the jury was waiting to
8 come in and hear testimony.

9 MS. CALDWELL: It was pretrial because the
10 jury wasn't sworn. Trial hadn't started.

11 THE COURT: That is certainly what happened.
12 Ms. Caldwell appeared after the jury was selected,
13 before the jury was sworn, apparently filed a
14 motion for a stand-your-ground hearing. The Court
15 asked the attorneys whether or not they would be
16 fine with having a stand-your-ground hearing within
17 the trial, basically. There was no objections
18 made, whatsoever. That is what happened.

19 Certainly, outside of the presence of the
20 jury we had a stand-your-ground argument after the
21 conclusion of the testimony, and I made a ruling
22 and findings pursuant to my role as a fact finder
23 outside of the presence of the jury, and that
24 brings us to where we are now.

25 There is no motion for a mistrial, so having

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1 said that, we'll get you these charges, and then
2 we'll be available for any charge conference or
3 concerns that we need to take up regarding any
4 charges, okay.

5 MR. DeBUSK: Thank you, Your Honor.

6 THE COURT: We'll be in recess. We'll give
7 each side -- we'll give you time, 15, 20 minutes to
8 look at it and come back in to make sure or hear
9 anyone's objections or additional requests and go
10 from there; is that fair?

11 MR. DeBUSK: Yes, Your Honor.

12 (A recess was taken.)

13 THE COURT: Has each side has had an
14 opportunity to review the proposed charge by the
15 Court?

16 I will tell you, I did scratch off in the
17 self-defense charge the size and the age paragraph.
18 I didn't intend for that to be in there. I don't
19 think it is applicable in this case, so I won't
20 charge that.

21 If you need more time to review it let me
22 know.

23 MR. DeBUSK: We're fine.

24 THE COURT: Are there any additions or
25 subtractions or requests from the State?

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1 MR. BAGNAL: No objection, Your Honor.

2 THE COURT: Ms. Caldwell?

3 MS. CALDWELL: Your Honor, I would request
4 that the mutual combat just be put in its own
5 section outside of the self-defense.

6 THE COURT: What's the State's position?

7 MR. BAGNAL: I think mutual combat is where
8 it belongs in this case. Mutual combat is a
9 description of self-defense gone wrong. I believe
10 it's right where it needs to be.

11 MS. CALDWELL: Mutual combat and self-defense
12 can't exist together, so I think it should be its
13 own separate item.

14 THE COURT: All right. I'll take that under
15 advisement and let you know.

16 Do you have a problem with the actual mutual
17 combat charge that is within -- I mean, I
18 understand you are telling me where it is placed in
19 the charge, but are you okay with what it says?

20 MS. CALDWELL: Your Honor, for the most part.
21 I do believe what you have -- or what has been
22 suggested is appropriate.

23 Sorry, people were doing research for me, and
24 they pulled something for me, and I was trying to
25 pull it so I get the appropriate citation.

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1 THE COURT: I understand.

2 (A brief pause in the proceedings.)

3 MS. CALDWELL: Your Honor, I ask that we add
4 -- and I would be happy to forward this to you. It
5 is pulled out of an old 2012 solicitors handbook
6 that was acquired by our office. It simply states,
7 "When two persons engage in mutual combat and one
8 kills another, if it is done in the sudden heat of
9 passion upon sufficient provocation without
10 premeditation or malice, it is voluntary
11 manslaughter, citing *State v. Taylor*, 356 S.C. 227,
12 2003."

13 THE COURT: And what does the State say?

14 MR. BAGNAL: We think it is covered by the
15 charge.

16 To go back to the placing of the charge for
17 mutual combat, the State will concede that, you
18 know, if it needs to be moved from the self-defense
19 description there, that it just be placed before,
20 that way the jury has a clear idea of what it is.

21 MS. CALDWELL: I have no problem with that.

22 THE COURT: Okay.

23 MR. BAGNAL: I think the verbiage of the
24 charge is good.

25 THE COURT: All right. Can you send me that

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1 request?

2 MS. CALDWELL: Absolutely. I'll forward it
3 to you and your law clerk.

4 THE COURT: Is there any objection to adding
5 that request to the --

6 MR. BAGNAL: Which one, Your Honor?

7 THE COURT: The one that she just placed on
8 the record to the voluntary manslaughter charge?

9 MS. CALDWELL: Maybe I wasn't clear.

10 MR. BAGNAL: Would you repeat?

11 MS. CALDWELL: Maybe I confused myself or
12 somebody, but I would request that on the mutual
13 combat page we add the instruction that mutual
14 combat -- of course this has the appropriate
15 language, but that mutual combat can exist and can
16 warrant voluntary manslaughter.

17 THE COURT: I understand.

18 MS. CALDWELL: Does that make sense?

19 MR. DeBUSK: Your Honor, the existing charge
20 is for murder and manslaughter. They are
21 independent of the mutual combat and self-defense.

22 Self-defense applies to all of the charges
23 from assault first to murder, and it is clear from
24 the charge it is separate things. You don't have
25 to go back and state it again. I think the

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1 existing charge covers it, Your Honor.

2 MS. CALDWELL: I'll simply add that I think
3 that the mutual -- I think it needs to be
4 emphasized at some point, that mutual combat does
5 not necessarily mean that they have to find him
6 guilty of murder. I think that it should be
7 classified it could be found under manslaughter or
8 murder.

9 THE COURT: I'll take a look at the case you
10 provided and, you know, be cautious as to not to
11 confuse the jury. Certainly, I'll look at that,
12 whether it needs to be included, and I'll give you
13 an opportunity to comment on that. It probably
14 would be the first thing in the morning, and we'll
15 go from there.

16 MR. DeBUSK: One small thing. Under the
17 possession of a weapon during the commission of a
18 violent crime, it says, "Blank is a violent crime."
19 I ask that both "murder" and "manslaughter" be
20 inserted.

21 THE COURT: We checked the statute, and
22 murder and manslaughter are listed in the statute
23 as violent crimes. I have it written in on mine
24 also, the final -- well, just before the final
25 paragraph of that, "A violent crime or attempting

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1 to commit a violent crime, murder and voluntary
2 manslaughter are violent crimes."

3 MR. DeBUSK: Thank you, Your Honor.

4 THE COURT: Is there any -- those are the
5 only issues about mutual combat?

6 MS. CALDWELL: Yes, sir.

7 THE COURT: Is there any reason why we
8 shouldn't recess until 9:15 tomorrow morning?

9 MR. DeBUSK: No reason from the State.

10 MS. CALDWELL: No, Your Honor.

11 THE COURT: Then, at that time, I'll
12 certainly let you know about the mutual combat and
13 move forward with the closing arguments and the
14 charge on the law. Thank you.

15 **(WHEREUPON, THE PROCEEDINGS FOR MAY 18, 2023**
16 **CONCLUDED.**

17 **THE FOLLOWING WAS HAD ON MAY 19, 2023 OUT OF**
18 **THE PRESENCE OF THE JURY.)**

19 THE COURT: Thank you. Please be seated.
20 Good morning. If the attorneys want to come see, I
21 have copies of the verdict form.

22 (A pause in the proceedings.)

23 MR. DeBUSK: No objection from the State,
24 Your Honor.

25 MS. CALDWELL: No objections.