

Aug 26 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of General Sessions

Assigned Judge: Darrell Scott Fisher, Circuit Court Judge
Disposition Judge: G.D. Morgan, Jr., Circuit Court Judge

Appellate Case No. 2023-000182 and 2023-001149

The State of South Carolina,

Respondent,

v.

Luis Armando Alvarez,

Appellant.

AND

The State of South Carolina,

Respondent,

v.

Juan Carlos Alvarez,

Appellant.

RECORD ON APPEAL
VOLUME I

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STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)
State of South Carolina,)
v.)
Luis Amrando Lopez Alvarez,)
Defendant.)

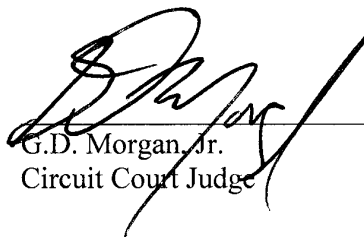
IN THE COURT OF GENERAL SESSIONS
THIRTEENTH JUDICIAL CIRCUIT

INDICTMENT #'s
2019-GS-23-00306; 2018-A-23-30208932;
2018-A-23-30208933; 2018-A-23-30208934

22 NOV 22 AM 10:02
Paul HICKENBERRY, DOC 604, SC

ORDER

This matter is before the Court on Defendant Luis Armando Lopez Alvarez's Motion for New Trial and Motion for Verdict in Arrest of Judgment, which the Court was notified of and received the week of October 31, 2022. Based on a thorough review of the file and the submissions of the parties, the motions are DENIED.


G.D. Morgan, Jr.
Circuit Court Judge

November 3, 2022
Greenville, South Carolina

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)
)
State of South Carolina,)
)
)
v.)
)
Juan Carlos Alvarez,)
)
Defendant.)

IN THE COURT OF GENERAL SESSIONS
THIRTEENTH JUDICIAL CIRCUIT

Indictment #: 2018GS2309563; 2018GS2309562

ORDER

2023 JUN 13 AM 11:44
FBI/MEKENSIE-00050250

This matter is before the Court on defendant Juan Carlos Alverezes' Motion for Verdict In Arrest of Judgment and Motion for New Trial. The Court has reviewed the motions and notes the motions were filed on May 28, 2022. However, the Court was not aware of the motions for some unknown reason until June 8, 2023 when it was notified by counsel and consequently no ruling has been previously issued. The Court also notes that similar motions were filed by co-defendant Luis Armando Lopez Alvarez on or about the same day in May 2022, but the Court was not made aware of those motions until November 2022. Upon receiving co-defendant's motion in November 2022, the Court inquired of counsel for this defendant if there were motions from this defendant, but did not receive a response. As to the co-defendant's motions received in November 2022, the Court immediately and thoroughly reviewed the motions, legal arguments set forth in the motions and the case law cited in support of the motions and issued its order denying the motions. Likewise, the Court in the present case has thoroughly reviewed defendant's motions, legal arguments set forth in his motions and the case law cited in his motions.

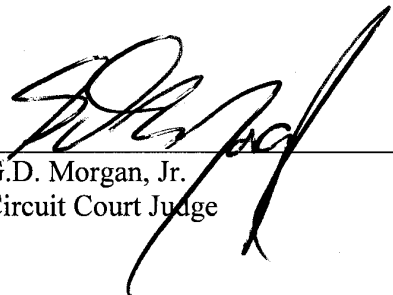
Based on the analysis of the testimony, review of the arguments and case law submitted by the defendant, the motions are denied. The Court reviewed the same arguments as the co-defendant and denied co-defendant's motions. Specifically, as to defendant's Motion for New Trial on the

failure to charge self-defense, the Court finds the evidence did not warrant a charge on this defense. All four elements of self-defense must be present. *State v. Williams*, 427 S.C. 246, 830 S.E. 2d 904 (2019) *State v. Slater*, 373 S.C. 66, 644 S.E.2d 50 (2007).

As to the failure to charge defendant's right to not testify argued in its Motion for New Trial, the parties were aware of the proposed charges that were to be charged to the jury and the Court charged the jury accordingly. No request to charge the jury on failure to testify was made and no exceptions were raised. While deliberating, the Court was informed the jury had reached a verdict. When the Court came into the courtroom, the attorneys at a bench conference brought to the attention of the court that this charge was not given. Following a discussion with counsel at the bench, the Court brought the jury in but did not take the verdict and consequently did not know what the verdict was at that time. The Court then gave them the charge and instructed the jury to continue deliberations to reach a verdict. The jury subsequently reached a verdict. Based on the above, the motion is denied.

As to the argument for a Brady violation in its Motion for Verdict In Arrest of Judgment, the Court, as it did with the co-defendant motion as to his Brady violation argument, thoroughly reviewed the arguments and issues. Based on this review, the motion is denied.

It is so ordered



G.D. Morgan, Jr.
Circuit Court Judge

June 12, 2023
Greenville, South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

State of South Carolina

v.

Luis Armando Lopez Alvarez,

Defendant

IN THE COURT OF GENERAL SESSIONS
THIRTEENTH JUDICIAL CIRCUIT

INDICTMENT #s

2019GS2300305; 2019GS2300306

2018A2330208932, 35, 33, 34

MOTION FOR NEW TRIAL

22 MAY 20 PM 10:57
Paul Wickensimer CDD GUL SC

FAILURE TO CHARGE: SELF-DEFENSE

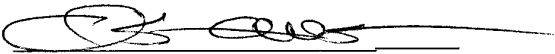
On May 9, 2022, a trial was held against the Defendant captioned above. In a charging conference after the close of the State's and the Defense's case, counsel for the State argued that self-defense should not be included as a jury charge. After oral arguments on this issue, the Court ruled that self-defense would not be included as a jury charge. The defendant is entitled to have the jury instructed on self-defense if there is any evidence in the record from which it could reasonably be inferred that he acted in self-defense, and a trial court's refusal to do so is reversible error. State v. Light, 378 S.C. 641, 664 S.E.2d 465 (2008). Here, evidence was presented at trial concerning the number of individuals other than the Defendants who had started difficulty with them on the night of the incident at bar. Testimony was presented that the Defendants were outnumbered 3-to-2 at minimum, and possibly 4-to-2. Testimony was presented that one of the eyewitnesses brandished a club against the Defendants. In combination with impeachment evidence calling into question the credibility of the witnesses and victims, circumstantial evidence existed upon which a charge of self-defense could appropriately be presented to the jury. Accordingly, this defendant, by and through its undersigned counsel, moves for a new trial based on the Court's failure to charge self-defense.

FAILURE TO CHARGE: DEFENDANT'S RIGHT NOT TO TESTIFY

On May 9, 2022, a trial was held against the Defendant captioned above. In charging the jury, the Court did not charge the jury regarding their Fifth Amendment right not to testify until they had reached a verdict, but before the initially decided verdict was published. Under the United States and South Carolina Constitutions, a defendant has a right to remain silent and to not testify during his trial. See U.S. Const. amend. V; S.C. Const. art. I, 12. The jury charge presented, though accurate in its statement of the law, was not timely presented. Accordingly, this defendant moves for a new trial based on the Court's untimely jury charge of the Defendant's right to remain silent and not testify.

Respectfully submitted,

Asher Watson, Attorney at Law

BY: 

Asher Watson
SC Bar Id No. 101006
Attorney for Defendant
416 East North Street
Greenville, S. C. 29601
Phone: (864) 467-0380
Fax: (864) 362-8342

Dated: May 20, 2022
Greenville, South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

State of South Carolina

v.

Luis Armando Lopez Alvarez,

Defendant

IN THE COURT OF GENERAL SESSIONS
THIRTEENTH JUDICIAL CIRCUIT

INDICTMENT #s
2019GS2300305; 2019GS2300306

**MOTION FOR VERDICT
IN ARREST OF JUDGMENT**

22 MAY 20 AM 10:57
Paul Wickensimer CDC GVL SC

BRADY VIOLATION

On May 9, 2022, a trial was held against the Defendant captioned above. In a pretrial matter heard, Defendant, by and through his counsel, submitted a “Motion to Dismiss Due To Brady Violation.” Oral arguments were heard on this motion that day. That same day, during a pretrial Biggers hearing, testimony of one officer was submitted in which further grounds were discovered for Brady violations. This Court took the motion and arguments under advisement and adjourned for that day. On Wednesday, May 11, counsel for the Defendant submitted an “Amended Motion to Dismiss Due To Brady Violation” that included the additional grounds discovered for a Brady violation. Further oral arguments were held in which the State denied bad faith action on their part, though that was not alleged. The Defendant argued that the State failed to preserve and provide evidence to the Defense which held exculpatory value, especially regarding the physical status of the defendants where self-defense in a close-quarters combat setting is in issue. See State v. Cheeseboro, 346 S.C. 526, 552 S.E.2d 300 (2001). The State also failed to preserve and provide evidence to the Defense from the lead investigator’s body worn camera whose exculpatory value was also apparent. See Id. The defense requested that these cases be dismissed as the remedy for such violations, and these motions were denied.

South Carolina courts have recognized the authority of a trial court to grant a verdict in arrest of judgment to prevent entry of judgment on the insufficiency of the indictment or some other fatal defect appearing on the face of the record. State v. Taylor 348 S.C. 152, 558 S.E. 2d 917 (Ct. App. 2001). The failure to grant a dismissal for the Brady violation illustrated in the pretrial motions and arguments is a fatal defect. Accordingly defense hereby moves this Honorable Court to grant a verdict of not guilty in arrest of the judgement of guilty against this Defendant for the State's Brady violations.

DEFECTIVE INDICTMENT

During the trial proceedings against the Defendant, the State made a motion to amend the indictments against Luis Alvarez. The Defendant, by and through his counsel, objected to these amendments and moved for a dismissal. This motion was denied. Due to the insufficiency of the indictment, the Defendant hereby moves this Honorable Court to grant a verdict of not guilty in arrest of the judgement of guilty against this Defendant pursuant to State v. Taylor.

Respectfully submitted,

Asher Watson, Attorney at Law

BY: 

Asher Watson
SC Bar Id No. 101006
Attorney for Defendant
416 East North Street
Greenville, S. C. 29601
Phone: (864) 467-0380
Fax: (864) 362-8342

Dated: May 20, 2022
Greenville, South Carolina

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FAILURE TO CHARGE: DEFENDANT'S RIGHT NOT TO TESTIFY

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Respectfully submitted,

Sara Gorski

BY: 

Sara Gorski, Esq.
SC Bar Id No. 102609
Attorney for Defendant
305 East North Street, Suite 123
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Phone: (864) 467-8522
Fax: (864) 467-8521

Dated: May 25, 2022
Greenville, South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

State of South Carolina

v.

Juan Carlos Alvarez,

Defendant

IN THE COURT OF GENERAL SESSIONS
THIRTEENTH JUDICIAL CIRCUIT

INDICTMENT #s
2018GS2309563; 2018GS2309562

**MOTION FOR VERDICT
IN ARREST OF JUDGMENT**

22 MAY 23 PM 3:43
PAUL W. HENDERSON, CLERK

BRADY VIOLATION

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Respectfully submitted,

Sara Gorski

BY: _____



Sara Gorski, Esq.
SC Bar Id No. 102609
Attorney for Defendant
305 East North Street, Suite 123
Greenville, S. C. 29601
Phone: (864) 467-8522
Fax: (864) 467-8521

Dated: May 25, 2022
Greenville, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
	)	THIRTEENTH JUDICIAL CIRCUIT
COUNTY OF GREENVILLE	)	
	)	
STATE OF SOUTH CAROLINA,	)	2019-GS-23-00305
	)	2019-GS-23-00306
	)	
v.	)	VERDICT FORM
	)	
Luis Armando Alvarez	)	
Defendant	)	
_____	)	

1. As to Count One of Indictment **2019-GS-23-00305**, the charge of **Attempted Murder**, committed upon Orlando Lopez, we the Jury find the Defendant:

☒ Guilty.
☐ Not Guilty.

IF you find the Defendant **GUILTY of Attempted Murder**, then you must consider Count Two. However, if you find the defendant **NOT GUILTY of Attempted Murder**, then you must not consider Count Two.

2. As to Indictment **2019-GS-23-00305**, the charge of **Possession of a Weapon During Commission of a Violent Crime**, we the Jury find the Defendant:

☒ Guilty.
☐ Not Guilty.

Please continue to the next page

PLEASE NOTIFY THE BAILIFF WHEN YOU HAVE COMPLETED THIS FORM.

3. As to Count One of Indictment **2019-GS-23-00306**, the charge of **Attempted Murder**, committed upon Javier Solis, we the Jury find the Defendant:

☒ Guilty.

☐ Not Guilty.

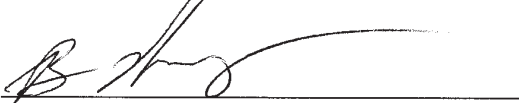
IF you find the Defendant **GUILTY of Attempted Murder**, then you must consider Count Two. However, if you find the defendant **NOT GUILTY of Attempted Murder**, then you must not consider Count Two.

4. As to Count Two of Indictment **2019-GS-23-00306**, the charge of **Possession of a Weapon During Commission of a Violent Crime**, we the Jury find the Defendant:

☒ Guilty.

☐ Not Guilty.

I certify this decision was the unanimous decision of the jury:



Foreperson
May 12, 2022

PLEASE NOTIFY THE BAILIFF WHEN YOU HAVE COMPLETED THIS FORM.

STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
	)	THIRTEENTH JUDICIAL CIRCUIT
COUNTY OF GREENVILLE	)	
	)	
STATE OF SOUTH CAROLINA,	)	2018-GS-23-09562
	)	2018-GS-23-09563
	)	
v.	)	VERDICT FORM
	)	
Juan Carlos Alvarez	)	
Defendant	)	
_____	)	

1. As to Count One of Indictment **2018-GS-23-09562**, the charge of **Attempted Murder**, committed upon Orlando Lopez, we the Jury find the Defendant:

☒ Guilty.
☐ Not Guilty.

IF you find the Defendant **GUILTY of Attempted Murder**, then you must consider Count Two. However, if you find the defendant **NOT GUILTY of Attempted Murder**, then you must not consider Count Two.

2. As to Indictment **2018-GS-23-09562**, the charge of **Possession of a Weapon During Commission of a Violent Crime**, we the Jury find the Defendant:

☒ Guilty.
☐ Not Guilty.

Please continue on to the next page

PLEASE NOTIFY THE BAILIFF WHEN YOU HAVE COMPLETED THIS FORM.

3. As to Count One of Indictment **2018-GS-23-09563**, the charge of **Attempted Murder**, committed upon Javier Solis, we the Jury find the Defendant:

☒ Guilty.

☐ Not Guilty.

IF you find the Defendant **GUILTY of Attempted Murder**, then you must consider Count Two. However, if you find the defendant **NOT GUILTY of Attempted Murder**, then you must not consider Count Two.

4. As to Count Two of Indictment **2018-GS-23-09563**, the charge of **Possession of a Weapon During Commission of a Violent Crime**, we the Jury find the Defendant:

☒ Guilty.

☐ Not Guilty.

I certify this decision was the unanimous decision of the jury:



Foreperson
May 13, 2022

PLEASE NOTIFY THE BAILIFF WHEN YOU HAVE COMPLETED THIS FORM.

WITNESSES

Jason M Cassel

Greenville County Sheriffs Office

10/12/2018

ARREST WARRANT NUMBER

2018A2330208932 / 2018A2330208935

**ACTION OF GRAND JURY
TRUE BILL**

Brian C. B.

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2019-GS-23-
WDR

000305

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

December

TERM 2019-2020

THE STATE

vs.

LUIS ARMANDO ALVAREZ

Indictment for

3410 / 0549

ATTEMPTED MURDER AND POSSESSION OF A
WEAPON DURING THE COMMISSION OF A
VIOLENT CRIME

VIOLATION § 16-03-0029 and § 16-23-0490

ENTERED
ACCT.

FILED

JAN 18 2019

Clerk of Court
Greenville County

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

INDICTMENT FOR
**ATTEMPTED MURDER AND POSSESSION OF A WEAPON
DURING THE COMMISSION OF A VIOLENT CRIME**

At a Court of General Sessions, convened on **DEC 22 2020** the Grand Jurors of Greenville
County present upon their oath:

COUNT ONE

ATTEMPTED MURDER

That LUIS ARMANDO ALVAREZ did in Greenville County, on or about the 25th day of September, 2018, unlawfully, with malice aforethought, and with the intent to kill, attempt to kill Orlando Lopez. This is in violation of § 16-03-0029 of the South Carolina Code of Laws (1976) as amended.

COUNT TWO

POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

That LUIS ARMANDO ALVAREZ did in Greenville County, on or about the 25th day of September, 2018, possess or visibly display a knife during the commission or attempted commission of a violent crime, to wit: Attempted Murder. This is in violation of §16-23-0490 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


SOLICITOR

BAR # 66112

STATE OF SOUTH CAROLINA

COUNTY OF Greenville

STATE

VS.

Luis Armando Alvarez

AKA:

Race: [REDACTED] Sex: M Age: 36DOB: [REDACTED] SS# [REDACTED]Address: [REDACTED]City, State, Zip: [REDACTED]DL#: 000000000 SID#: [REDACTED]

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2019GS2300305A/W#: 2018A2330208932Date of Offense: 9/25/2018S.C. Code § : 16-03-0029CDR Code #: 3410

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: Murder/Attempted Murderin violation of § 16-03-0029 of the S.C. Code of Laws, bearing CDR Code # 3410 ✓☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45

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

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. [REDACTED] (def.'s initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.
ATTEST:[Signature]
Richardson, Doug

66112

SC Bar#

Defendant

[Signature]
WATSON, ASHER
Attorney for Defendant

101006

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center,for a determinate term of 25 days/months/years/Time Served ☐ Youthful Offender Act not to exceed _____ years

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

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

The sentence shall run

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:2019GS2300306 - All counts2019GS2300305 - All counts☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC.
_____ days/months☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.

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

STATE VS Luis Armando Alvarez INDICTMENT/CASE#: 2019GS2300305

SPECIAL CONDITIONS: A/W#: 2018A2330208932

☐ PTUP after _____ months/years

And Other Terms Listed Below:

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol testing
- ☐ Attend Voc. Rehab. or Job Corp ☐ No Contact with ☐ Domestic Violence Intervention Program
- ☐ Mental Health Counseling ☐ May serve W/E beginning : _____
- ☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment 0 _____ days/hours
- ☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.
- ☐ Other: _____

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

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

Payment Term _____ ☐ Set by SCDPPPS

Recipient: _____

*Fine:

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ Beginning _____	\$ _____
§14-1-206 (Assessments 107.5 %)	\$ _____
§14-1-211(A)(1) (Conv. Surcharge)	\$100 \$ <u>100.00</u>
§14-1-211(A)(2) (DUI Surcharge)	\$100 \$ _____
§56-5-2995 (DUI Assessment)	\$12 \$ _____
§56-1-286 (DUI Breath Test)	\$25 \$ _____
§14-1-212 (Law Enforce. Funding)	\$25 \$ <u>25.00</u>
§14-1-213 (Drug Court Surcharge)	\$150 \$ _____
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41 \$ _____
§50-21-114(BUI Breath Test Fee)	\$50 \$ _____
§56-5-2942(J) (Vehicle Assessment)	\$40/ea \$ _____
3% to County (if paid in installments)	TBD \$ <u>3.75</u>

- ☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.
- ☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund

TOTAL \$ 128.75

Clerk of Court/ Deputy Clerk: Paul B. Wickman

Court Reporter: L. Scott

Presiding Judge: S. Magan

Judge Code: 2773

Sentence Date: 5-13-22

STATE OF SOUTH CAROLINA

COUNTY OF Greenville

STATE

VS.

Luis Armando Alvarez

AKA:

Race: [REDACTED] Sex: M Age: 36DOB: [REDACTED] SS# [REDACTED]Address: [REDACTED]City, State: [REDACTED]DL#: 000000000 SID#: [REDACTED]

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2019GS2300305AW#: 2018A2330208935Date of Offense: 9/25/2018S.C. Code § : 16-23-0490CDR Code #: 0549

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or deathin violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549 ✓☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45

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

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. [REDACTED] (def.'s initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.
ATTEST:[Signature]
Richardson, Doug

66112

SC Bar#

Defendant

[Signature]WATSON, ASHER
Attorney for Defendant

101006

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center,for a determinate term of 5 days/months/years/Time Served ☐ Youthful Offender Act not to exceed _____ years

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

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

The sentence shall run

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:2019G2300305 - All counts2019GS2300306 - All counts☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC.
_____ days/months☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.

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

J.

STATE VS Luis Armando Alvarez INDICTMENT/CASE#: 2019GS2300305

SPECIAL CONDITIONS: A/W#: 2018A2330208935

☐ PTUP after _____ months/years

And Other Terms Listed Below:

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol testing
- ☐ Attend Voc. Rehab. or Job Corp ☐ No Contact with ☐ Domestic Violence Intervention Program
- ☐ Mental Health Counseling ☐ May serve W/E beginning : _____
- ☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment 0 _____ days/hours
- ☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.
- ☐ Other: _____

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

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

Payment Term _____ ☐ Set by SCDPPPS

Recipient: _____

***Fine:**

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ Beginning _____

§14-1-206 (Assessments 107.5 %)		\$
§14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§56-5-2995 (DUI Assessment)	\$12	\$
§56-1-286 (DUI Breath Test)	\$25	\$
§14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§14-1-213 (Drug Court Surcharge)	\$150	\$
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41	\$
§50-21-114(BUI Breath Test Fee)	\$50	\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)	TBD	\$ 3.75

- ☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.
- ☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund

TOTAL \$ 128.75

Clerk of Court/ Deputy Clerk: Paul B. Wickham

Court Reporter: L. Scott

Presiding Judge: [Signature]

Judge Code: 2773

Sentence Date: 5-13-22

WITNESSES

Jason M Cassel

Greenville County Sheriffs Office

10/12/2018

ARREST WARRANT NUMBER

2018A2330208933 / 2018A2330208934

ACTION OF GRAND JURY

TRUE BILL

Brian C. Bell

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2019-GS-23-
WDR

000306

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

December

TERM 2019 2020

THE STATE

vs.

LUIS ARMANDO ALVAREZ

Indictment for

3410 / 0549

ATTEMPTED MURDER AND POSSESSION OF A
WEAPON DURING THE COMMISSION OF A
VIOLENT CRIME

VIOLATION § 16-03-0029 and § 16-23-0490

ENTERED
ACCT.

FILED

JAN 18 2019

Clerk of Court
Greenville County

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR

**ATTEMPTED MURDER AND POSSESSION OF A WEAPON
DURING THE COMMISSION OF A VIOLENT CRIME**

At a Court of General Sessions, convened on **DEC 22 2020** the Grand Jurors of Greenville
County present upon their oath:

COUNT ONE

ATTEMPTED MURDER

That LUIS ARMANDO ALVAREZ did in Greenville County, on or about the 25th day of September, 2018, unlawfully, with malice aforethought, and with the intent to kill, attempt to kill Javier Solice. This is in violation of § 16-03-0029 of the South Carolina Code of Laws (1976) as amended.

COUNT TWO

POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

That LUIS ARMANDO ALVAREZ did in Greenville County, on or about the 25th day of September, 2018, possess or visibly display a knife during the commission or attempted commission of a violent crime, to wit: Attempted Murder. This is in violation of §16-23-0490 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


SOLICITOR

BAR # 66112

STATE OF SOUTH CAROLINA

COUNTY OF Greenville

STATE

VS.

Luis Armando Alvarez

AKA:

Race: HISPANIC Sex: M Age: 36DOB: [REDACTED] SS# [REDACTED]Address: [REDACTED]City, State, Zip: [REDACTED]DL#: 000000000 SID#: [REDACTED]

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2019GS2300306A/W#: 2018A2330208933Date of Offense: 9/25/2018S.C. Code § : 16-03-0029CDR Code #: 3410

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: Murder/Attempted Murderin violation of § 16-03-0029 of the S.C. Code of Laws, bearing CDR Code # 3410 ✓☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45

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

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

ATTEST:

Richardson, Doug

66112

SC Bar#

Defendant

WATSON, ASHER
Attorney for Defendant

101006

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center,for a determinate term of 25 days/months/years Time Served ☐ Youthful Offender Act not to exceed _____ yearsand/or to pay a fine of \$ _____ provided that upon the service of _____ days/months/years/Time Served and or payment of \$ _____ ; plus costs and assessments as applicable*; the balance is suspended with **probation** for _____

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

The sentence shall run

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

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

STATE VS Luis Armando Alvarez INDICTMENT/CASE#: 2019GS2300306

SPECIAL CONDITIONS: A/W#: 2018A2330208933

☐ PTUP after _____ months/years

And Other Terms Listed Below:

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol testing
☐ Attend Voc. Rehab. or Job Corp ☐ No Contact with ☐ Domestic Violence Intervention Program
☐ Mental Health Counseling ☐ May serve W/E beginning : _____
☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment 0 _____ days/hours
☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.
☐ Other: _____

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

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

Payment Term _____ ☐ Set by SCDPPPS

Recipient: _____

***Fine:**

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

Clerk of Court/ Deputy Clerk: Paul B. Wickens

Court Reporter: L. Sater

Presiding Judge: [Signature]

Judge Code: 2773

Sentence Date: 5-13-22

STATE OF SOUTH CAROLINA

COUNTY OF Greenville

STATE

VS.

Luis Armando Alvarez

AKA:

Race: HISPANIC Sex: M Age: 36

DOB: [REDACTED] SS# [REDACTED]

Address: [REDACTED]

City, State, Zip: [REDACTED]

DL#: 000000000 SID#: [REDACTED]

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2019GS2300306

A/W#: 2018A2330208934

Date of Offense: 9/25/2018

S.C. Code § : 16-23-0490

CDR Code #: 0549

SENTENCE SHEET

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

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

TO: Weapons / Poss. Weapon During Violent Cr

in violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45

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

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

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

Richardson, Doug

66112

SC Bar#

Defendant

WATSON, ASHER
Attorney for Defendant

101006

SC Bar#

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

for a determinate term of 5 days/months/years/Time Served ☐ Youthful Offender Act not to exceed _____ years

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

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

The sentence shall run

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:

2019 GS 2300306 - All counts

2019 GS 23 00305 - All counts

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

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

☐ The Defendant Shall be Released from County Detention Center.

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

STATE VS Luis Armando Alvarez INDICTMENT/CASE#: 2019GS2300306

SPECIAL CONDITIONS: A/W#: 2018A2330208934

☐ PTUP after _____ months/years

And Other Terms Listed Below:

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol testing
☐ Attend Voc. Rehab. or Job Corp ☐ No Contact with ☐ Domestic Violence Intervention Program
☐ Mental Health Counseling ☐ May serve W/E beginning : _____

☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment 0 _____ days/hours

☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

☐ Other: _____

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

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

Payment Term _____ ☐ Set by SCDPPPS

Recipient: _____

***Fine:**

		\$
Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ Beginning _____		
§14-1-206 (Assessments 107.5 %)		\$
§14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§56-5-2995 (DUI Assessment)	\$12	\$
§56-1-286 (DUI Breath Test)	\$25	\$
§14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§14-1-213 (Drug Court Surcharge)	\$150	\$
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41	\$
§50-21-114(BUI Breath Test Fee)	\$50	\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)	TBD	\$ 3.75

- ☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund

TOTAL \$ 128.75

Clerk of Court/ Deputy Clerk: Paul B. Wickens
Court Reporter: L. Scott

Presiding Judge: [Signature]
Judge Code: 2773
Sentence Date: 5-13-22

WITNESSES

Jason M Cassel

JMC

Greenville County Sheriffs Office

10/12/2018

ARREST WARRANT NUMBER

2018A2330208846 / 2018A2330208847

ACTION OF GRAND JURY

TRUE BILL

Brian C. Bell

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2018-GS-23-

WDR

009562

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

December

TERM 2018 2020

THE STATE

vs.

JUAN CARLOS ALVAREZ

Indictment for

3410 / 0549

**ATTEMPTED MURDER AND POSSESSION OF A
WEAPON DURING THE COMMISSION OF A
VIOLENT CRIME**

VIOLATION § 16-03-0029 and §16-23-0490

**ENTERED
ACCT.**

FILED

DEC 17 2018

Clerk of Court
Greenville County

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

INDICTMENT FOR
**ATTEMPTED MURDER AND POSSESSION OF A WEAPON
DURING THE COMMISSION OF A VIOLENT CRIME**

At a Court of General Sessions, convened on

DEC 22 2020

the Grand Jurors of Greenville

County present upon their oath:

COUNT ONE

ATTEMPTED MURDER

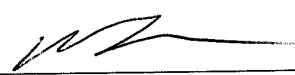
That JUAN CARLOS ALVAREZ did in Greenville County, on or about the 22nd day of September, 2018, unlawfully, with malice aforethought, and with the intent to kill, attempt to kill Orlando Lopez. This is in violation of § 16-03-0029 of the South Carolina Code of Laws (1976) as amended.

COUNT TWO

POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

That JUAN CARLOS ALVAREZ did in Greenville County, on or about the 22nd day of September, 2018, possess or visibly display a knife during the commission or attempted commission of a violent crime, to wit: Attempted Murder. This is in violation of §16-23-0490 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


SOLICITOR

BAR # 66112

STATE OF SOUTH CAROLINA

COUNTY OF Greenville

STATE

VS.

Juan Carlos Alvarez

AKA:

Race: [REDACTED] Sex: M Age: 39DOB: [REDACTED] SS# [REDACTED]Address: [REDACTED]City, State / Zip: [REDACTED]DL#: [REDACTED] SID#: [REDACTED]

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2018GS2309562A/W#: 2018A2330208846Date of Offense: 9/22/2018S.C. Code § : 16-03-0029CDR Code #: 3410

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: Murder/Attempted Murderin violation of § 16-03-0029 of the S.C. Code of Laws, bearing CDR Code # 3410 ✓☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45

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

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

66112

SC Bar#

Defendant

GORSKI, SARA
Attorney for Defendant

102609

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center,for a determinate term of 25 days/months/0 years/Time Served ☐ Youthful Offender Act not to exceed _____ yearsand/or to pay a fine of \$ _____ provided that upon the service of _____ days/months/years/Time Served and or payment of \$ _____ ; plus costs and assessments as applicable*; the balance is suspended with **probation** for _____

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

The sentence shall run

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

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

2018 GS 2309563 - All counts
2018 GS 2309562 - All counts

STATE VS Juan Carlos Alvarez INDICTMENT/CASE#: 2018GS2309562

SPECIAL CONDITIONS: A/W#: 2018A2330208846

☐ PTUP after _____ months/years

And Other Terms Listed Below:

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol testing
☐ Attend Voc. Rehab. or Job Corp ☐ No Contact with ☐ Domestic Violence Intervention Program
☐ Mental Health Counseling ☐ May serve W/E beginning: _____
☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment 0 _____ days/hours
☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.
☐ Other: _____

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

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

Payment Term _____ ☐ Set by SCDPPPS

Recipient: _____

***Fine:**

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

Clerk of Court/ Deputy Clerk: Paul B. Wickerman
Court Reporter: L. Scott

Presiding Judge: [Signature]
Judge Code: 2773
Sentence Date: 5-13-22

STATE OF SOUTH CAROLINA

COUNTY OF Greenville

STATE

VS.

Juan Carlos Alvarez

AKA:

Race: Sex: M Age: 39DOB: SS# Address: City, State, Zip: DL#: SID#:

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2018GS2309562A/W#: 2018A2330208847Date of Offense: 9/22/2018S.C. Code § : 16-23-0490CDR Code #: 0549

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: Weapons / Poss. Weapon During Violent Crin violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45

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

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

66112

SC Bar#

Defendant

GORSKI, SARA
Attorney for Defendant

102609

SC Bar#

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

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

The sentence shall run

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 2018 GS 23 09 562 - All counts
2018 GS 23 09 563 - All counts☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC.
 days/months☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.

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

STATE VS Juan Carlos Alvarez INDICTMENT/CASE#: 2018GS2309562

SPECIAL CONDITIONS: A/W#: 2018A2330208847

☐ PTUP after _____ months/years

And Other Terms Listed Below:

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol testing
☐ Attend Voc. Rehab. or Job Corp ☐ No Contact with ☐ Domestic Violence Intervention Program
☐ Mental Health Counseling ☐ May serve W/E beginning : _____
☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment 0 _____ days/hours
☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.
☐ Other: _____

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

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

Payment Term _____ ☐ Set by SCDPPPS

Recipient: _____

***Fine:**

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ Beginning _____

§14-1-206 (Assessments 107.5 %)		\$
§14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§56-5-2995 (DUI Assessment)	\$12	\$
§56-1-286 (DUI Breath Test)	\$25	\$
§14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§14-1-213 (Drug Court Surcharge)	\$150	\$
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41	\$
§50-21-114(BUI Breath Test Fee)	\$50	\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)	TBD	\$ 3.75

- ☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund

TOTAL \$ 128.75

Clerk of Court/ Deputy Clerk: Paul B. Wickham

Court Reporter: L. Scott

Presiding Judge: [Signature]

Judge Code: 2773

Sentence Date: 5-13-22

WITNESSES

Jason M Cassel

JMC

Greenville County Sheriffs Office

10/12/2018

ARREST WARRANT NUMBER

2018A2330208848 / 2018A2330208849

**ACTION OF GRAND JURY
TRUE BILL**

Brian C. Bell

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2018-GS-23-
WDR

009563

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

December

TERM 2018 2020

THE STATE

vs.

JUAN CARLOS ALVAREZ

Indictment for

3410 / 0549

**ATTEMPTED MURDER AND POSSESSION OF A
WEAPON DURING THE COMMISSION OF A
VIOLENT CRIME**

VIOLATION § 16-03-0029 and 16-23-0490

**ENTERED
ACCT.**

10

FILED
DEC 17 2018
Clerk of Court
Greenville County

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
**ATTEMPTED MURDER AND POSSESSION OF A WEAPON
DURING THE COMMISSION OF A VIOLENT CRIME**

At a Court of General Sessions, convened on
County present upon their oath:

DEC 22 2020

the Grand Jurors of Greenville

COUNT ONE

ATTEMPTED MURDER

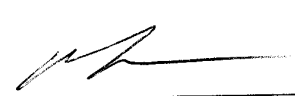
That JUAN CARLOS ALVAREZ did in Greenville County, on or about the 22nd day of September, 2018, unlawfully, with malice aforethought, and with the intent to kill, attempt to kill Javier Solice. This is in violation of § 16-03-0029 of the South Carolina Code of Laws (1976) as amended.

COUNT TWO

POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

That JUAN CARLOS ALVAREZ did in Greenville County, on or about the 22nd day of September, 2018, possess or visibly display a knife during the commission or attempted commission of a violent crime, to wit: Attempted Murder. This is in violation of §16-23-0490 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


SOLICITOR

BAR # 66112

STATE OF SOUTH CAROLINA

COUNTY OF Greenville

STATE

VS.

Juan Carlos Alvarez

AKA:

Race: Sex: M Age: 39DOB: SS# Address: City, State Zip: DL#: SID#:

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2018GS2309563A/W#: 2018A2330208848Date of Offense: 9/22/2018S.C. Code § : 16-03-0029CDR Code #: 3410

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: Murder/Attempted Murderin violation of § 16-03-0029 of the S.C. Code of Laws, bearing CDR Code # 3410☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45

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

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

66112

SC Bar#

Defendant

GORSKI, SARA
Attorney for Defendant

102609

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center,for a determinate term of 25 days/months/years/Time Served ☐ Youthful Offender Act not to exceed _____ years

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

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

The sentence shall run

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 2018 GS 23 09562 - All counts☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC. _____ days/months☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.

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

STATE VS Juan Carlos Alvarez INDICTMENT/CASE#: 2018GS2309563

SPECIAL CONDITIONS: A/W#: 2018A2330208848

☐ PTUP after _____ months/years

And Other Terms Listed Below:

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol testing
☐ Attend Voc. Rehab. or Job Corp ☐ No Contact with ☐ Domestic Violence Intervention Program
☐ Mental Health Counseling ☐ May serve W/E beginning : _____

☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment 0 _____ days/hours

☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

☐ Other: _____

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

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

Payment Term _____ ☐ Set by SCDPPPS

Recipient: _____

*Fine:

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ Beginning _____	\$ _____
§14-1-206 (Assessments 107.5 %)	\$ _____
§14-1-211(A)(1) (Conv. Surcharge)	\$100 \$ 100.00
§14-1-211(A)(2) (DUI Surcharge)	\$100 \$ _____
§56-5-2995 (DUI Assessment)	\$12 \$ _____
§56-1-286 (DUI Breath Test)	\$25 \$ _____
§14-1-212 (Law Enforce. Funding)	\$25 \$ 25.00
§14-1-213 (Drug Court Surcharge)	\$150 \$ _____
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41 \$ _____
§50-21-114(BUI Breath Test Fee)	\$50 \$ _____
§56-5-2942(J) (Vehicle Assessment)	\$40/ea \$ _____
3% to County (if paid in installments)	TBD \$ 3.75

- ☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund

TOTAL \$ 128.75

Clerk of Court/ Deputy Clerk: Paul B. Wickham

Court Reporter: L. Scott

Presiding Judge: [Signature]

Judge Code: 2773

Sentence Date: 5-13-22

STATE OF SOUTH CAROLINA

COUNTY OF Greenville

STATE

VS.

Juan Carlos Alvarez

AKA:

Race: Sex: M Age: 39

DOB: SS#

Address:

City, State, Zip:

DL#: SID#:

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2018GS2309563

A/W#: 2018A2330208849

Date of Offense: 9/22/2018

S.C. Code § : 16-23-0490

CDR Code #: 0549

SENTENCE SHEET

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

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

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

in violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45

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

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

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

Richardson, Doug

66112

SC Bar#

Defendant

GORSKI, SARA
Attorney for Defendant

102609

SC Bar#

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

for a determinate term of 5 days/months/years/Time Served ☐ Youthful Offender Act not to exceed years

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

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

The sentence shall run

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 2018GS2309562 - All counts
2018GS2309563 - All counts

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

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

☐ The Defendant Shall be Released from County Detention Center.

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

STATE VS Juan Carlos Alvarez INDICTMENT/CASE#: 2018GS2309563

SPECIAL CONDITIONS: A/W#: 2018A2330208849

☐ PTUP after _____ months/years

And Other Terms Listed Below:

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol testing
- ☐ Attend Voc. Rehab. or Job Corp ☐ No Contact with ☐ Domestic Violence Intervention Program
- ☐ Mental Health Counseling ☐ May serve W/E beginning : _____
- ☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment 0 _____ days/hours
- ☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.
- ☐ Other: _____

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

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

Payment Term _____ ☐ Set by SCDPPPS

Recipient: _____

***Fine:**

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ Beginning _____		\$
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§14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§56-5-2995 (DUI Assessment)	\$12	\$
§56-1-286 (DUI Breath Test)	\$25	\$
§14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§14-1-213 (Drug Court Surcharge)	\$150	\$
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41	\$
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- ☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund

\$500	\$
TBD	\$
TOTAL	\$ 128.75

Clerk of Court/ Deputy Clerk: Paul B. Wickham

Court Reporter: L. Scott

Presiding Judge: [Signature]

Judge Code: 2773

Sentence Date: 5-13-20

State of South Carolina Court of General Sessions
County of Greenville

State of South Carolina	)	
	)	
	)	Transcript of Record
v.	)	2019-GS-23-00305
	)	2019-GS-23-00306
Luis Armando Alvarez	)	2018-GS-23-09562
and	)	2018-GS-23-09563
Juan Carlos Alvarez	)	
<u>Defendants.)</u>		

May 9-13, 2022
Greenville, South Carolina

B E F O R E:

The Honorable G. D. Morgan, Jr., Judge; and a jury.

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

W. Douglas Richardson, Assistant Solicitor
Attorney for the State

Jessica Holland, Assistant Solicitor
Attorney for the State

Asher Watson, Assistant Public Defender
Attorney for the Defendant Luis Alvarez

Sara Gorski, Assistant Public Defender
Attorney for the Defendant Juan Alvarez

Paul Neely, Assistant Public Defender
Attorney for the Defendant Juan Alvarez

Lisa Scott
Circuit Court Reporter

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- - -

E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
1-6	State's - pics		X
7-8	State's - pics		X
30	State's - lineup		X
16-20	State's - pics		X
31	State's - lineup		X
21-22	State's - pics		X
42	State's - passport		X
23	State's - picture		X
25	State's - picture		X
33-41	State's - latent prints		X

- - -

P R O C E E D I N G S

* * * * *

THE COURT: All right. Hear any motions?

MS. GORSKI: Your Honor, before we begin, we would -- at this time, we would like to invoke the rule to sequester any witnesses who are currently in the courtroom or would actually possibly step into the courtroom while doing so.

THE COURT: All right. What's the State say?

MR. RICHARDSON: Your Honor, it's -- we're not opposed to that. I would say that we have two victims who will remain -- we would ask who would remain.

THE COURT: Yeah, the victims -- the victims can remain. Victims can remain.

MR. RICHARDSON: And then we have our investigating officer, and then we also have our first witness.

THE COURT: All right. Well, the victims can remain, the investigating officer can remain as well, and the first witness coming up. So other than that, everybody else in agreement on sequestration?

MR. RICHARDSON: State's -- the State's fine.

THE COURT: Anything else?

1 MR. NEELY: Thank you, Your Honor.

2 THE COURT: Okay. All right. First motion.
3 I'll hear from the State.

4 MR. RICHARDSON: Your Honor, we have -- we're
5 going to introduce photographic lineups, so we're
6 ready to proceed if this is the time you would like
7 to do that with the Biggers hearing.

8 THE COURT: All right. Proceed.

9 MS. HOLLAND: Your Honor, the State would call
10 Jason Cassel.

11 THE WITNESS: (Approaching.)

12 THE CLERK: Sir, if you'd please pause at the
13 end of the bench. Place your left hand on the Bible
14 and raise your right hand.

15 THE WITNESS: (Complying.)

16 THE CLERK: You do solemnly swear or affirm to
17 tell the truth, the whole truth, and nothing but the
18 truth so help you God?

19 THE WITNESS: Yes, ma'am, I do.

20 THE CLERK: Thank you. Please be seated.

21 THE WITNESS: (Complying.)

22 THE CLERK: And please state your name for the
23 record.

24 THE WITNESS: Jason Cassel.

25 THE CLERK: Thank you.

1 JASON CASSEL,
2 having been produced and first duly sworn as a
3 witness on behalf of the State, then testified as
4 follows:

5 DIRECT EXAMINATION

6 BY MS. HOLLAND:

7 Q. Officer Cassel, will you state where you work?

8 A. I work for the Greenville County Sheriff's
9 Office.

10 Q. And were you employed there on September 22,
11 2018?

12 A. Yes, ma'am, I was.

13 Q. Okay. I'm going to skip ahead. Were you
14 called out to this incident, which happened on that
15 night, at the Vibe nightclub on Whitehorse Road?

16 A. Yes, ma'am. Not Whitehorse Road. It was East
17 North Street.

18 Q. I'm sorry. East North Street. Thank you.
19 Were you the lead investigator?

20 A. Yes, ma'am, I was.

21 Q. Did you speak to the witnesses involved in the
22 case?

23 A. Yes, I did.

24 Q. Okay. And who did you speak to?

25 A. Both victims and several witnesses.

1 Q. Okay. Did you speak to Angela Solis and
2 Orlando Lopez?

3 A. Yes, I did.

4 Q. When you spoke to Ms. Solis, did she indicate
5 to you if she could identify who either of the
6 defendants?

7 A. I don't recall.

8 Q. Okay. What about Orlando Lopez? Did he
9 indicate that to you?

10 A. I asked him if he could identify them in the
11 future. Yes.

12 Q. Okay. So let's go to Ms. -- we're going to --
13 we're going to break these up. So let's go to
14 Ms. Solis. When you -- did you ever show her a
15 photo lineup?

16 A. Yes, I did.

17 Q. Okay. And over the course of your time as a
18 police officer, have you shown many photo lineups?

19 A. Absolutely.

20 Q. Okay. What other officers were present when
21 you showed her that photo lineup?

22 A. I believe Deputy Nunez ---

23 Q. Okay.

24 A. --- was present with me.

25 Q. And what was his role while he was there?

1 A. He was in uniform patrol with me.

2 Q. Okay. And Ms. Solis speaks English, correct?

3 A. Yes.

4 Q. Okay. And what is the length of time between
5 the time the crime had been committed and the time
6 that you showed the photo lineup?

7 A. I would say roughly 12 hours or so.

8 Q. And who had prepared the lineup?

9 A. I did.

10 Q. How was it prepared?

11 A. We compiled photo lineups from Greenville
12 County records based on characteristics -- similar
13 characteristics, age, et cetera, physical
14 description. We complied them based on either
15 previous photographs, DMV photos, et cetera, that's
16 in the database.

17 Q. Okay. And where were you when you showed this
18 lineup to her?

19 A. At the hospital.

20 Q. Okay. And what did you say to her when you
21 showed her the lineup?

22 A. Each and every time I present a lineup to a
23 victim or a witness, I present it. I'll give it --
24 I'll -- I'll -- I'll advise them, "Ma'am or sir, I
25 have a photo lineup, a six-person photo lineup."

1 I -- this -- the defendant -- or I'll say, "The
2 suspect may or may not be in this lineup. I need
3 you to look at all six photographs and only choose
4 the suspect that committed this crime if you're
5 absolutely 100 percent sure." And then I will
6 present it to them and let them look at it.

7 Q. And just to confirm: There was no photo showup
8 or in-person lineup done prior to you showing her
9 this photo lineup?

10 A. Correct.

11 Q. Okay. Was she shown any photos -- I'm sorry.
12 I just asked you that. Did she identify someone in
13 the photo lineup you showed her?

14 A. Yes, she did.

15 MS. HOLLAND: Okay. Your Honor, may I approach
16 the witness?

17 THE COURT: Yes. And y'all don't need -- going
18 forward the whole trial, y'all don't need to ask my
19 permission to approach. Y'all can approach anytime
20 you want. Okay.

21 MS. HOLLAND: Thank you.

22 MR. NEELY: Thank you, Your Honor.

23 BY MS. HOLLAND:

24 Q. If you could look at that and tell me what that
25 is.

1 A. That's the photo lineup I compiled with
2 Defendant Juan Alvarez.

3 Q. Okay. And is that the photo lineup you showed
4 Angela Solis?

5 A. Yes, it is.

6 Q. Okay. And who did she identify as the person
7 she saw in the bar that night?

8 A. Picture no. 6, Juan Alvarez.

9 Q. How long did it take her to identify that
10 person?

11 A. From my recollection, it was less than a
12 minute.

13 Q. Okay. And how sure was she when she made it?

14 A. She was absolutely sure.

15 Q. And the person she identified, is that one of
16 the defendants?

17 A. Yes, it is.

18 Q. Okay. And who is that?

19 A. Juan Alvarez.

20 Q. Okay. I'm going to go through the same process
21 for Mr. Lopez. I'm going to hand you State's
22 Exhibit 30. And what is that? What is State's
23 Exhibit 30?

24 A. It's another photo lineup featuring the
25 Defendant Juan Alvarez. I changed the location of

1 where he was. He's picture no. 4 in this photo
2 lineup.

3 Q. And were Mr. Lopez and Ms. Solis together when
4 you showed them these lineups or were they separate?

5 A. They were separate.

6 Q. Okay. And who else was on the scene when you
7 showed Mr. Lopez that lineup?

8 A. I do not recall who was in the hospital room.

9 Q. Okay.

10 A. Sorry.

11 Q. And what was the length of time between the
12 time the crime had been committed and when you
13 showed Mr. Lopez that lineup?

14 A. It was immediately after the first victim.
15 Roughly, 12 hours or so after the incident.

16 Q. Okay. And did you prepare that photo lineup in
17 the same manner as you did for Ms. Solis?

18 A. Yes, ma'am.

19 Q. And when you presented it to him, what did you
20 say?

21 A. I presented the lineup. I said the -- "I
22 compiled a six-person photo lineup for you to
23 review. The suspect may or may not be pictured in
24 this lineup. Only make a selection of the suspect
25 if you're absolutely 100 percent sure it is him."

1 Q. Okay. And did you show Mr. Lopez any pictures
2 of the defendants or get a photo showup or a
3 physical lineup in any way?

4 A. No, ma'am.

5 Q. Did you in any way suggest to him who the --
6 who he should pick?

7 A. Absolutely not.

8 Q. Okay. And did he identify someone in the
9 lineup?

10 A. Yes, he did. Defendant Juan Alvarez pictured
11 in block no. 4.

12 Q. Okay. And just to be clear, when you showed
13 these photo lineups to both of these people, you did
14 not suggest who they should pick?

15 A. Absolutely did not.

16 MS. HOLLAND: Okay. Thank you. I'm going to
17 hand you over to Mr. Richardson.

18 BY MR. RICHARDSON:

19 Q. Sir, as far as Orlando Lopez is concerned, do
20 you recall when you -- did you show him a lineup, as
21 well?

22 A. I don't believe so.

23 Q. To Orlando Lopez?

24 A. Oh, Orlando?

25 MS. HOLLAND: I'm sorry, Your Honor. That was

1 my fault. We need to ask Mr. Cassel to sit -- to
2 stand down. We need to call another witness.

3 THE COURT: All right.

4 MS. HOLLAND: I apologize.

5 THE COURT: Okay. Any cross? Yeah, hold on
6 just a minute. Hold on. We've got cross.

7 MS. HOLLAND: Yes, cross.

8 THE WITNESS: Okay.

9 CROSS-EXAMINATION

10 BY MR. NEELY:

11 Q. Investigator Cassel, on the night of September
12 22nd, that was when you visited the hospital,
13 correct?

14 A. It was -- yeah. It was -- it was around -- I
15 think around maybe 8:00 p.m. that evening. Yes.

16 Q. It was 8:00 p.m. when you visited the hospital?

17 A. Yes. It was the beginning of my next shift,
18 which was actually the same day.

19 Q. Okay. Do you generate the photo lineups on
20 scene or do you generate them at the law enforcement
21 center?

22 A. We typically go to the law enforcement center
23 to compile them in the Greenville County records.

24 Q. Okay. So on the bottom of the photo lineup
25 when it says "printed on" and it's got the time,

1 that would've been the time that you were at the law
2 enforcement center, correct?

3 A. I never noticed that before, but possibly.

4 Q. All right. And that would've been around eight
5 o'clock?

6 A. I don't see a time. Oh -- on the -- yes. Yes.
7 Correct.

8 Q. Okay. And then on the actual statement that
9 goes with the identification, it's got the time that
10 you showed those photos, correct?

11 A. Yes. Yes. Two different times. One was when
12 we compiled it and one was when we presented it to
13 the -- to the witness.

14 Q. I gotcha. And so the time would've been closer
15 to ten o'clock instead of eight o'clock?

16 A. Roughly, yeah.

17 Q. The night that this happened, that this
18 incident originally occurred in the early morning
19 hours of the 22nd, you respond to the parking lot of
20 Club Vibe?

21 A. Yeah, it was roughly 3:00 a.m., 3:20.

22 Q. All right. And in the early morning hours of
23 September 22nd when you responded, you were wearing
24 a body-worn camera?

25 A. Yes.

1 Q. And at the time that you responded, your
2 body-worn camera was activated?

3 A. Absolutely.

4 Q. Okay. And that has been turned over to the --
5 to the Solicitor's Office and put into evidence?

6 A. It's uploaded to the server, which they have
7 access to.

8 Q. Okay. And on the night that you were wearing
9 it, you were following -- you were wearing it in
10 compliance with the Greenville County Sheriff's
11 Office body-worn camera policies, correct?

12 A. Correct.

13 Q. And you always follow Greenville County
14 Sheriff's Office policies, correct?

15 A. Absolutely.

16 Q. The night that you went to the hospital, were
17 you equipped with your body-worn camera?

18 A. Yes.

19 Q. I am going to show you a copy of the Greenville
20 County Sheriff's Office body-worn camera policies.
21 This policy says that law enforcement officers
22 are -- that "recording law enforcement officers'
23 encounters with the public aids in resolving
24 complaints, prosecution in criminal cases," et
25 cetera, correct?

1 A. Correct.

2 Q. All right. And it said that deputies are to
3 record their interactions with the general public in
4 accordance with these policies, correct?

5 A. Correct.

6 Q. All right. And it gives about 11 here. Not
7 an -- not an exhaustive list, but a list of 11 times
8 that this policy is to be followed?

9 A. Yeah, this is -- these 11 are basic guidelines.
10 It's not all inclusive.

11 Q. So there -- there could be other times that
12 you're supposed to use it, but certainly these 11
13 times?

14 A. Correct.

15 Q. Okay. And number six says field contacts,
16 correct?

17 A. Yes.

18 Q. All right. Going out to the hospital on the
19 night of the 22nd for the photo lineup, that's a
20 field contact, correct?

21 A. Yes.

22 Q. So your body-worn camera would've been
23 activated that night?

24 A. Yes.

25 Q. And it would've been uploaded?

1 A. Yes.

2 Q. And accessible by the Solicitor's Office?

3 A. Yes.

4 Q. Okay. So this interaction with these
5 individuals should be on your body cam?

6 A. Should be.

7 Q. Okay. At the time that this occurred in 2018,
8 Jeffrey Nunez was your training officer or you were
9 his training officer?

10 A. I was his. Yes, sir.

11 Q. Okay. Was he also equipped with a body cam?

12 A. I don't know. I know that the field training
13 officer always has one obviously, and I don't
14 remember four years ago if trainees were issued one
15 or not. I can't recall.

16 Q. Okay. When you went to the hospital on the
17 night of the 22nd, did you take an interpreter with
18 you.

19 A. No, we did -- well, Mr. Nunez -- Deputy Nunez
20 speaks fluent Spanish.

21 Q. Okay. Now, when we say fluent -- when you say
22 he speaks fluent Spanish, is he certified?

23 A. I am not sure about that. He's from South
24 America though.

25 Q. Okay. So do you know what dialect he speaks?

1 A. No, sir.

2 Q. Do you know if it's the similar dialect to what
3 Mr. Lopez or Ms. Solis or the Alvarez brothers
4 speaks?

5 A. I have no idea.

6 Q. All right. So do you know if he's actually
7 able to communicate with anybody that speaks Spanish
8 on the same level that they are speaking?

9 A. My experience working with him, everybody he's
10 ever spoken to appeared to understand everything he
11 said to them in Spanish.

12 Q. Do you speak Spanish?

13 A. No, sir.

14 Q. So you don't know that to be 100 percent true,
15 I do?

16 A. No, I do not.

17 Q. Okay. Mr. Solis, does he speak Spanish --
18 excuse me. Mr. Lopez, does he speak Spanish?

19 A. Yes, I believe so.

20 Q. Does he speak any English?

21 A. Very little.

22 Q. So on the night that you went to the hospital,
23 you were communicating with Mr. Lopez through
24 Officer Nunez?

25 A. Correct.

1 Q. Okay. But Ms. Solis, she speaks English?

2 A. I believe so. I don't -- I don't recall.

3 Q. Okay. Were you speaking with her that night
4 through Deputy Nunez or were you speaking to her
5 like you and I are interacting?

6 A. I don't remember honestly. I cannot remember
7 that.

8 Q. All right. Switch gears just a little bit
9 here, but do me a favor. These two written
10 statements, who wrote these statements?

11 A. I wrote them as they were telling me.

12 Q. When you say "as they were telling me," you
13 mean as they were telling Deputy Nunez?

14 A. Yes.

15 Q. And he was telling you?

16 A. I believe so.

17 Q. So you're assuming, as you write these
18 statements, that Deputy Nunez is correctly
19 translating what these witnesses are saying?

20 A. Yes.

21 Q. But you have no idea what they're saying?

22 A. Correct.

23 Q. Okay. At the time that this incident occurred,
24 we just talked about Deputy Nunez being your
25 trainee. How long had he be in training at that

1 point?

2 A. I don't know what -- at what point of his
3 training he was in. Several months from what I
4 recall.

5 Q. Had he been with you the entire time?

6 A. No.

7 Q. All right. On the night of September 22 -- let
8 me correct that. In the early morning hours of the
9 22nd. Easy to make that mistake. In the early
10 morning hours of the 22nd, the description that was
11 given to you by just about everybody that was out
12 there was Hispanic males, correct?

13 A. Yes. From what I recall.

14 Q. Maybe some clothing?

15 A. Correct.

16 Q. No facial identifications? no hair? no tattoos?
17 no scars? Hispanic males?

18 A. Hispanic males. Yes.

19 Q. Right? We didn't get descriptions of skin
20 tone? We didn't break it down into what specific
21 type of Hispanic male, just Hispanic males?

22 A. Correct.

23 Q. Okay. And then some time, an hour into this, I
24 believe you were in the woods on the K-9 track?

25 A. Yes.

1 Q. A Facebook photo was shown to either Deputy
2 Tideman -- if I'm stating his name correctly -- or
3 Sergeant McCoy?

4 A. I don't know about that. I don't know about a
5 Facebook picture.

6 Q. Well, that's how we identified the -- that's
7 how y'all identified the suspects, correct?

8 A. That's not how I identified the suspect.

9 Q. How did you identify the suspect?

10 A. From a passport ---

11 Q. From a ---

12 A. --- that was left in a vehicle.

13 Q. From a passport that was left in a vehicle?

14 A. Yes, sir.

15 Q. Okay. And based on that passport left in the
16 vehicle, that is where we generated our suspect,
17 which is where we then generated our six-pack lineup
18 that we're shown?

19 A. Yes, sir.

20 Q. Okay. At any point in time, did you show these
21 individuals the passport?

22 A. No, I did not.

23 MR. NEELY: Okay. Thank you.

24 THE COURT: Mr. Watson, do you have anything?

25 MR. WATSON: I have nothing further.

1 MS. HOLLAND: We have redirect.

2 THE COURT: Redirect. Okay.

3 REDIRECT EXAMINATION

4 BY MS. HOLLAND:

5 Q. Why did you place Mr. Alvarez in that lineup?

6 A. We located ---

7 Q. Juan Alvarez?

8 A. Yes, ma'am. We located a passport in a white
9 Ford Econoline van, which through our investigation
10 learned that it was the vehicle that they came to
11 the club in. So located that passport in the
12 vehicle. And based on that, I compiled the photo
13 lineup of Juan Alvarez.

14 Q. Okay. So not based upon any Facebook photos?

15 A. No, ma'am.

16 MS. HOLLAND: Okay. Beg the Court's indulgence
17 for just one moment. (Counsel conferring.)

18 Your Honor, I believe that's all the questions
19 we have for Officer Cassel, unless defense has some
20 follow-up. We do have other witnesses.

21 THE COURT: Any recross?

22 MR. NEELY: No, thank you, Your Honor.

23 THE COURT: You may step down.

24 THE WITNESS: (Complying.) Thank you, sir.

25 THE COURT: All right. Next witness.

1 MR. RICHARDSON: Your Honor, the State would
2 call Orlando Lopez.

3 THE CLERK: Sir, please come forward.

4 THE WITNESS: (Complying.)

5 THE CLERK: Would you please pause at the end
6 of the bench. Place your left hand on the Bible and
7 raise your right hand.

8 THE WITNESS: (Complying.)

9 THE CLERK: You do solemnly swear or affirm to
10 tell the truth, the whole truth, and nothing but the
11 truth so help you God?

12 (Through the interpreter:)

13 THE WITNESS: Yes.

14 THE CLERK: Thank you. Please be seated.

15 THE WITNESS: (Complying.)

16 THE CLERK: Please state your name for the
17 record.

18 THE WITNESS: Orlando Antonio Mesa Lopez.

19 ORLANDO ANTONIO MESA LOPEZ,
20 having been produced and first duly sworn as a
21 witness on behalf of the State, then testified as
22 follows:

23 DIRECT EXAMINATION

24 BY MR. RICHARDSON:

25 Q. Mr. Lopez, how old are you?

1 A. Forty-seven.

2 Q. And were you in the case that we're here about
3 a victim of a crime?

4 A. Yes, sir.

5 Q. And did you speak to police officers about who
6 did this crime?

7 A. Yes, sir.

8 Q. And do you recall, were you shown a photo
9 lineup by a police officer?

10 A. Yes, sir.

11 Q. Okay. And do you recall where you were shown
12 that?

13 A. Yes, sir.

14 Q. Okay. And where was that?

15 A. In the hospital.

16 Q. And do you remember when you were shown that,
17 how long after the crime you were shown that?

18 A. No. I don't remember how long after, but I was
19 at the hospital then.

20 Q. Okay. And do you remember who was there when
21 the lineup was shown to you?

22 A. They were two police agents.

23 Q. And was one of those police agents fluent in
24 Spanish?

25 A. I believe so. There was one that spoke

1 Spanish.

2 Q. And did he translate for the other officer?

3 A. Yes, sir.

4 Q. And did you understand everything that he told
5 you?

6 A. The questions they asked; what had happened;
7 everything.

8 Q. Okay. And part of it was also questioning you
9 or showing you this lineup?

10 A. Yes.

11 Q. Do you recall what they told you about the
12 lineup?

13 A. No. Just to recognize the one that attacked
14 me.

15 Q. Okay. Did they ever suggest to you to pick out
16 a particular photo in the lineup?

17 A. No. Just to recognize the attacker. That was
18 it.

19 Q. And so did they influence your decision at all
20 about who to pick out of that lineup?

21 A. Well, they asked me if I recognize the face of
22 one of them.

23 Q. And what was your response to that?

24 A. Yes. I did recognize one of the photos that
25 were shown to me.

1 Q. And was that the person that attacked you on
2 that night of September 22, 2018?

3 A. Yes, sir.

4 Q. And how long did it take you to pick -- pick
5 out this individual?

6 A. I don't know. I think a minute or less than
7 minute.

8 Q. Okay. And this person, did you have close face
9 contact on the night of this incident?

10 A. No. They were next to where I was, but I did
11 not talk to them. They -- I just talked to them
12 when they started treating me badly.

13 Q. And were you able to see their faces when they
14 were close to you?

15 A. Yes.

16 Q. And were you able to see their faces when
17 you -- when you were attacked?

18 A. No.

19 Q. And did you -- were you shown a lineup and
20 picked somebody out of the lineup of who attacked
21 you?

22 THE INTERPRETER: Can you repeat the question
23 for the interpreter, please?

24 BY MR. RICHARDSON:

25 Q. The -- did you pick an individual out of the

1 lineup of who attacked you?

2 A. Yes.

3 Q. And let me show you what's been marked State's
4 Exhibit 30. Is that the lineup that you were shown?

5 A. Yes, sir.

6 Q. And there's -- did you make any markings on
7 that lineup?

8 A. Yes, sir.

9 Q. And did you tell the officer and show the
10 officer who you picked by making those marks?

11 A. Yes, sir.

12 Q. And how confident are you in that selection
13 that's the person that attacked you?

14 A. Because I saw his face when he mistreated me
15 inside of the location.

16 Q. Okay. And is that person in the courtroom
17 today?

18 A. Yes, sir.

19 Q. Okay. And what is he wearing?

20 A. An earpiece as me.

21 Q. I'm sorry?

22 A. What is he wearing?

23 Q. Yes. What clothing is he wearing?

24 A. The shirt of lines -- stripes.

25 MR. RICHARDSON: Beg the Court's indulgence.

1 (Counsel conferring.) That's all the questions I
2 have.

3 THE COURT: All right. Cross-examination.

4 MS. GORSKI: Thank you, Your Honor.

5 CROSS-EXAMINATION

6 BY MS. GORSKI:

7 Q. Good afternoon, Mr. Lopez.

8 A. Good afternoon.

9 Q. I have a couple of questions about what you
10 just spoke about with Mr. Richardson. How did you
11 actually learn the name "Juan Alvarez"?

12 A. Because it was said at the hospital. I didn't
13 know them.

14 Q. Okay. When you say "it was said at the
15 hospital," who said it or who told you that name?

16 A. No. I do not remember who, but they did say
17 the name of both of them.

18 Q. And when you say "both of them," what are their
19 names?

20 A. Luis and Juan.

21 Q. And you said that all of this took place at the
22 hospital?

23 A. Yes.

24 Q. And it was within 24 hours of it happening?

25 A. Yes.

1 Q. At that time you were still in the hospital for
2 some injuries?

3 A. Yes.

4 Q. Were you actually taking medications at that
5 time for pain when you were in the hospital?

6 A. Yes. All the time.

7 Q. Okay. And how long were you in the hospital?

8 A. I don't remember well. Two or three days.

9 Q. But during that time when the officers went to
10 see you, you were on medication?

11 A. Yes, of course. For the pain and everything,
12 yes.

13 Q. Did you let the officers know that?

14 A. I don't remember.

15 Q. So you don't remember telling the officers
16 that?

17 A. They did ask me a lot of questions. I don't
18 remember everything.

19 Q. Okay. There was a statement about the
20 photographs.

21 A. Yes.

22 Q. And that statement includes what happened --
23 your version of what happened?

24 A. Yes.

25 Q. Did you write it?

1 A. I don't remember if I wrote it or was the
2 agent -- the police agent.

3 Q. So you don't know who wrote it?

4 A. I don't remember if it was me.

5 Q. Do you know if you only wrote one or more than
6 one?

7 A. I don't remember if I wrote it, no.

8 Q. Okay.

9 A. I was in the hospital.

10 Q. Okay. And the officer that did write it --
11 because I have one in my hands -- according to what
12 you said, was written by Officer Cassel. I can show
13 it to you if you'd like.

14 A. Yes.

15 Q. You didn't write that, did you?

16 A. No.

17 Q. That's not your handwriting?

18 A. No.

19 Q. But this is your signature?

20 A. Yes, ma'am.

21 Q. Okay. Do you read English?

22 A. No.

23 Q. Then do you know what you signed what it says?

24 A. The officer should've told me what it was.

25 Q. Do you remember which officer?

1 A. No.

2 Q. Did that officer who wrote it explain to you
3 what he had written?

4 A. For me to sign surely.

5 Q. But you didn't read it yourself?

6 A. I don't know who read it to me, but there was
7 someone there that spoke Spanish.

8 MS. GORSKI: Give me one moment? No more
9 questions.

10 THE COURT: All right. Any redirect,
11 Mr. Watson?

12 MR. WATSON: No. I have nothing further.

13 THE COURT: I'm sorry. Now, any redirect?

14 MR. RICHARDSON: No further questions.

15 THE COURT: All right. Thank you, sir. You
16 may step down.

17 THE WITNESS: (Complying.)

18 MS. HOLLAND: Your Honor, do you want to handle
19 these separately? Do you want to handle Mr. Lopez,
20 and then we also have another witness.

21 THE COURT: Yeah. Okay. So how many -- do you
22 have more -- one more witness? Why don't we just go
23 ahead and get the testimony. Let's just do that.

24 MS. HOLLAND: Okay.

25 THE CLERK: Would you please come forward.

1 THE WITNESS: (Complying.)

2 THE CLERK: Please pause at the end of the
3 bench. Place your left hand on the Bible and raise
4 your right hand.

5 THE WITNESS: (Complying.)

6 THE CLERK: Do you solemnly swear or affirm to
7 tell the truth, the whole truth, and nothing but the
8 truth so help you God?

9 THE WITNESS: Yes, I do.

10 THE CLERK: Thank you. Please be seated.

11 THE WITNESS: (Complying.)

12 THE CLERK: And would you please state your
13 name for the record.

14 THE WITNESS: Angela Solis.

15 THE CLERK: Thank you.

16 ANGELA SOLIS,
17 having been produced and first duly sworn as a
18 witness on behalf of the State, then testified as
19 follows:

20 DIRECT EXAMINATION

21 BY MS. HOLLAND:

22 Q. Okay. Ms. Solis, were you at Vibe nightclub on
23 the night of September 22, 2018?

24 A. Yes, I was.

25 Q. Okay. Who were you there with?

1 A. My husband.

2 Q. Okay. At that night, did you have a chance to
3 view some men inside the bar who were interacting
4 with Orlando Lopez?

5 A. Yes, I did.

6 Q. Okay. Were you ever given the opportunity to
7 identify anyone for law enforcement?

8 A. Yes, I did.

9 Q. How many people did you identify?

10 A. I identified one person.

11 Q. And how many lineups were you shown?

12 A. One.

13 Q. Okay. How long after you viewing those men
14 inside the nightclub, were you -- were you shown a
15 photo lineup? How long after between what happened
16 and you being shown the photo lineup?

17 A. Roughly, 24 hours.

18 Q. Okay. And how -- tell us how you were able to
19 view the men you saw inside the Vibe nightclub?

20 A. Meaning when I saw them?

21 Q. Yes. When you saw them, how long? Describe
22 that to us.

23 A. So we walked in and they were the only
24 customers that were there at the time. So I -- you
25 know, I just looked and happened to see them. And

1 then I was sitting almost across them, so I could,
2 you know, see them for the whole night until the
3 whole incident happened. This would be from
4 around -- between 9:30 and 10:00 p.m. until the
5 incident happened.

6 Q. Okay. And what was the -- the lighting like in
7 the nightclub that night?

8 A. It wasn't dimmed all the way because it was
9 like a private celebration, so it was okay. Like
10 you were able to see faces and see each other very
11 well.

12 Q. And were you under the influence of anything
13 that night?

14 A. No.

15 Q. Okay. Had you had anything to drink?

16 A. During the whole night, I had one margarita.

17 Q. Okay. And were you ever impaired that you
18 could not have identified someone?

19 A. Not at all.

20 Q. Okay. And how good is your eyesight?

21 A. It's pretty good. I use my glasses just for
22 far sometimes, not all the time.

23 Q. Okay. And were you ever shown a photo lineup
24 by officers?

25 A. The lineup?

1 Q. Yes?

2 A. Yes.

3 Q. And where were you when that was shown?

4 A. At the hospital.

5 Q. Okay. And you said that was about 24 hours?

6 A. It was roughly 24 hours after.

7 Q. Okay. And I'm showing you what's been marked
8 as State's Exhibit 31. What is that?

9 A. That is the lineup that I was shown. And I was
10 told to identify -- you know, if I see the person or
11 if I could identify anybody that was there, and I
12 identified the last picture on the bottom.

13 Q. Okay. And who was there when you were shown
14 the lineup?

15 A. During the lineup, it was me, my husband, and
16 Jhefrey was in the -- in the room with us.

17 Q. Okay.

18 A. He went to visit my husband that night.

19 Q. And was Officer Cassel there, as well?

20 A. It was Officer Cassel and I believe Officer
21 Nunez, the Hispanic officer.

22 Q. And, Angela, you speak English perfectly. Did
23 you communicate with him in English that night?

24 A. Yes.

25 Q. Okay. And when Officer Cassel showed you that

1 lineup, what did he say to you?

2 A. He told me he was going to show me a lineup.

3 And if I see one of -- if I see one or whoever, two
4 people, you know, together inside, just to circle it
5 and initial and date it.

6 Q. And just to be clear, you did not see the
7 actual violent incident that happened to your
8 husband and Mr. Orlando Lopez? You were identifying
9 who you saw in a bar that night?

10 A. Exactly.

11 Q. Okay. And did he in any way suggest to you who
12 you should pick?

13 A. No, ma'am. Not at all.

14 Q. Did he in any way give you a row or in any way
15 indicate to you who you should pick out of that
16 lineup?

17 A. No, ma'am.

18 Q. Okay. And who did you pick?

19 A. I chose the last picture on the bottom.

20 Q. Okay. And did you circle and initial that?

21 A. Yes, I did.

22 Q. Okay. And on there, is that your signature?

23 A. Yes, it is.

24 Q. Okay. How sure were you and are you that
25 that's the person -- the person you saw in Vibe

1 nightclub?

2 A. One hundred percent.

3 Q. Okay. And do you see that person in the
4 courtroom today?

5 A. Yes, I do.

6 Q. And can you tell us what he's wearing or
7 describe it?

8 A. He's right in front of me. I believe that is a
9 striped shirt.

10 Q. Okay. And there's been brought up a Facebook
11 photo.

12 A. Yes.

13 Q. Okay. Can you describe to us what happened
14 with the Facebook photo?

15 A. So that Facebook photo, when the whole incident
16 happened and I was waiting for rescue and the police
17 to come, someone near the -- I believe it was the
18 wife of the owner of the bar, she showed me the
19 people. Because she's like, "I know their names.
20 This is one of them." So she sent me the -- the
21 screen shot from Facebook, and it was him. It
22 was -- in that picture is him, his brother, both
23 sitting right there next to the door, and his wife
24 and the two children.

25 Q. Okay. And when you identified the person in

1 the lineup, were you identifying who you saw on
2 Facebook or were you identifying who you saw in the
3 bar?

4 A. I identified who I saw in the bar.

5 Q. Okay. So the Facebook photo did not ---

6 A. It didn't make any difference for me. No,
7 ma'am.

8 MS. HOLLAND: Okay. Thank you. Beg the
9 Court's indulgence just one moment. (Counsel
10 conferring.) Please answer any questions Ms. Gorski
11 may have for you.

12 THE COURT: All right. Cross?

13 CROSS-EXAMINATION

14 BY MR. NEELY:

15 Q. Ms. Solis, on the morning that this incident
16 happened, you were in contact with Paula Garcia?

17 A. Partina (phonetic).

18 Q. Partina?

19 A. Yes.

20 Q. She's -- she's the -- she's Bladimir's wife?

21 A. Yes.

22 Q. Okay. And the two of them owned Club Vibe?

23 A. Yes.

24 Q. Okay. And so most of the officers had already
25 left to go on the K-9 track, but you were standing

1 in the parking lot with a couple of police officers
2 when she reached out to you about the Facebook?

3 A. The Facebook picture, it was either before she
4 left because she left prior to the officers
5 arriving. And once she heard the sirens coming near
6 them, she left.

7 Q. Okay. But she reached out to you?

8 A. With the picture. Yes.

9 Q. Okay. At any point in time, did any of the
10 officers ask you for her contact information?

11 A. I don't recall.

12 Q. Okay. At any point in time, did any of the
13 officers ask you to send them a copy of that
14 Facebook picture?

15 A. I don't recall that either.

16 Q. Okay. Prior to that Facebook interaction or
17 seeing the Facebook screen shot, did you know the
18 name of Luis Lopez or Juan Alvarez?

19 A. I've known -- so when the whole situation
20 happened before the Facebook, yes, she gave me one
21 of their names and then she was -- Paula.

22 Q. Before the interaction happened in the parking
23 lot?

24 A. Yes.

25 Q. Okay.

1 A. No. No. No. Before the incident, like -- let
2 me change that. Before the Facebook picture that I
3 showed the officers, she sent me one of their names.

4 Q. Okay.

5 A. And then she told me she was going to find out
6 with another friend what was the other one's name.

7 Q. Okay. Just so I make sure I got it clear.
8 Incident in the parking lot occurred?

9 A. Uh-huh.

10 Q. Paula texted you and said, "This is the name of
11 one of them"?

12 A. Yes.

13 Q. You told the officers that was Luis Lopez?

14 A. Yes.

15 Q. Okay. Not Juan Alvarez, but Luis Lopez?

16 A. She -- she told me the name of one. I don't
17 recall exactly which one.

18 Q. But you told the officer the name?

19 A. Yes. Yes.

20 Q. Okay. And then she sent you the Facebook
21 screen shot?

22 A. Yes. Uh-huh.

23 Q. Okay. And was that screen shot ever shared
24 with law enforcement?

25 A. I don't recall. I know I showed it to them. I

1 don't recall if they took, you know, the name and
2 search it or anything. I don't know.

3 Q. Did you ever screen shot it and send it to
4 Officer Cassel or any other police officer?

5 A. No. To be honest with you, I don't remember.

6 Q. Okay. But you -- you are fluent in English?

7 A. Yes, sir.

8 Q. This is the statement that you gave at the
9 hospital, correct?

10 A. Yes.

11 Q. Okay. You did not write this statement?

12 A. That is not my handwriting. That is my
13 signature.

14 Q. Okay. Why did the officer write your statement
15 for you?

16 A. I believe at that moment I was very shocked
17 still and I didn't feel comfortable. And I am
18 fluent in English speaking wise, but I make a lot of
19 mistakes when I'm writing. I don't know how to --
20 so there's some words that I can't -- I want it to
21 be phrased properly.

22 Q. Sure. Did you go to high school in the states?

23 A. I did not go to high school in the states. No,
24 sir.

25 Q. All right. You just told the Solicitor that

1 you were inside of Club Vibe at the time that this
2 occurred?

3 A. Yes.

4 Q. Okay. And you also just testified that you did
5 not see what happened in the parking lot?

6 A. Yes.

7 Q. All right. Your statement says that you
8 identified the person who assaulted my husband
9 during a stabbing at Club Vibe.

10 A. Uh-huh.

11 Q. You said, "My husband, Javier, was stabbed and
12 cut when a box cutter, a knife, when he tried to
13 help another man who was getting attacked with the
14 knife. There were two men who attacked my husband,
15 and Juan Alvarez was one of them."

16 A. Yes.

17 Q. That's what this written statement says?

18 A. Yes.

19 Q. But your testimony is, you did not see any of
20 that?

21 A. I did not see it, but ---

22 Q. You did not see any of what is in this written
23 statement, did you?

24 A. I did not see what happened. I know what
25 happened. I did not see them do it. However, they

1 were the only customers that were there.

2 Q. Okay. But you -- again, you did not see what
3 happened?

4 A. I did not see it. No, sir.

5 Q. Okay. So you can identify who was sitting in
6 the bar that night?

7 A. Exactly.

8 MR. NEELY: Okay. Thank you. One moment, Your
9 Honor. Thank you, Your Honor.

10 THE COURT: Any redirect?

11 MR. WATSON: Nothing further.

12 THE COURT: I'm sorry. All right. Now any
13 redirect?

14 MS. HOLLAND: Nothing further, Your Honor.

15 THE COURT: All right. Ma'am, you may step
16 down.

17 THE WITNESS: (Complying.)

18 THE COURT: All right. Next witness.

19 MS. HOLLAND: Your Honor, that's all the
20 State's witnesses for the Biggers hearing.

21 THE COURT: All right. Let me ask you this, is
22 Ms. Solis -- is she sequestered?

23 MR. NEELY: Yes, Your Honor.

24 THE COURT: She's a -- she's a spouse of a
25 victim though, isn't she?

1 MR. NEELY: She is, but she's also a witness,
2 Your Honor.

3 THE COURT: But doesn't the -- doesn't the
4 statute identify her as somebody that under the
5 constitution -- South Carolina's Constitution allow
6 her to stay in? Because it defines -- in the -- in
7 the statute, it defines victim and it includes
8 child, spouse, investigating officer.

9 MR. NEELY: Your Honor, if -- if I may, and
10 we're looking up the Victim's Bill of Rights in our
11 State constitution, but at this moment, we're
12 weighing the Victim's Bill of Rights and the State
13 constitution versus our defendants' right to due
14 process. They have been hauled into court by the
15 State, so their rights to due process, which is why
16 the sequestration rule, which is in effect, trumps
17 whatever's in the Victim's Bill of Rights.

18 THE COURT: Is there any -- any position from
19 the State?

20 MS. HOLLAND: Your Honor, she's going to
21 testify early the following day. Our intention was
22 to leave her sequestered until that point. At that
23 point, I was going to readdress it with Your Honor.

24 THE COURT: I'll just exercise my discretion
25 and keep her sequestered until she testifies.

1 MR. NEELY: And, Your Honor, once she testifies
2 and she's done testifying, I don't believe we have
3 any problem with her remaining.

4 MS. HOLLAND: She will be one of the early
5 witnesses, and we've already discussed that with
6 her.

7 THE COURT: All right. I'll hear from you.

8 MS. HOLLAND: Your Honor, the Biggers hearing
9 is just narrowly about whether or not the
10 identification procedure was objective and
11 unnecessary. The State's position is that both
12 witnesses have testified that the officer did not
13 suggest to them who they should pick. Certainly,
14 the defense has brought up a lot of points that go
15 to credibility that they can cross-examine both the
16 officer and the witnesses about that I think they
17 all testified and established that this was not
18 suggestive, that he did not suggest to them who they
19 should pick when they identified Juan Alvarez.

20 THE COURT: Mr. Neely or Mr. Watson or
21 Ms. Gorski?

22 MR. NEELY: Your Honor, we have nothing at this
23 time.

24 THE COURT: Mr. Watson?

25 MR. WATSON: Likewise.

1 THE COURT: All right. Anything else?

2 MR. RICHARDSON: Nothing on that, same from the
3 State.

4 THE COURT: All right. I find that the
5 identification did not result from any suggestive
6 process or procedure by the -- by law enforcement in
7 this case. Obviously, there's two steps -- a
8 two-prong step in that. First is, whether or not
9 it's suggestive and unnecessary. You don't even get
10 to the second step. And I'm not getting to the
11 second step because I find that the process was not
12 suggestive and unnecessary.

13 All right. Next motion from the State?

14 MR. RICHARDSON: No -- no further motions.

15 THE COURT: All right. Anything from the
16 defense?

17 MR. WATSON: Yes, Your Honor. We have a motion
18 to dismiss due to a Brady violation.

19 THE COURT: All right. I'll hear from you.

20 MR. WATSON: If I can first give a copy of the
21 written motion that I drafted.

22 The crux of our argument regards a Deputy Dave
23 Urbina who served warrants on the defendants and the
24 charges at bar. As you may notice, the casework or
25 melee allegedly occurred between the defendants.

1 Deputy Urbina reported three days after he served
2 these warrants. In part, and this is an appendix to
3 the motion that, "I am fluent in Spanish and
4 translated to the suspects of my arrest. My
5 body-worn camera was activated while I read the
6 above-listed warrants." And to this day, we have
7 not been provided a copy of Deputy Urbina's
8 body-worn camera from that warrant search.

9 And my statement of law, as it appears in the
10 motion, that as Brady pauses the scope of pulling
11 the evidence is material in nature in the guilt or
12 punishment of criminal defendant violates their
13 right to due process.

14 A prudent prosecutor would resolve questions
15 and doubts in favor -- and questions of doubt in
16 favor of disclosure. They all serve around the
17 sphere of fairness, not necessarily saying that the
18 prosecutor did anything deliberately.

19 There is an element in a Brady violation as a
20 possibility of alleging that faith, but that's in
21 immaterial whether it's an intentional act or not
22 because the Brady violation is still -- the harm is
23 done. If the State fails to preserve the evidence
24 and possesses exculpatory value or impeachment
25 value, it constitutes denial of due process.

1 So in the applicable law here, the defendant
2 chose the Brady violation by demonstrating that
3 favorable evidence could've been presented ---

4 THE COURT: You might want to read just a
5 little bit slower.

6 MR. WATSON: So defendant shows a Brady
7 violation by demonstrating that favorable evidence
8 could've been presented to put -- to put the whole
9 case in such a different light as to undermine the
10 confidence of a verdict. And I know we're not at a
11 verdict yet.

12 The contents of the video and the audio
13 evidence that the defendants were -- what that
14 evidence was when they were booked cannot be shown
15 with certainty. We concede that. Its exculpatory
16 value cannot be apparent to anyone but the State
17 prior to its disappearance.

18 If the State argues that the exculpatory value
19 cannot be apparent to anyone but itself before its
20 disappearance and use that as a defense to a Brady
21 violation argument, it's basically leveraging the
22 benefit of its own nondisclosure as an excuse for
23 that very nondisclosure.

24 It's cyclical reasoning basically to saying
25 that the violation must be apparent or that the

1 pro -- the evidentiary value must be apparent, but
2 if that's the defense here, the reason it's not
3 apparent to us is because we never got to see it.
4 And this is going against what we have understood
5 from talking with our clients that they were, in
6 fact, injured, had acted in a way that is consistent
7 with self-defense and that physical evidence that
8 could've been caught on the body camera had we had
9 it at that time most recent that the police came in
10 contact with the defendants from this alleged
11 incident is right here at this time.

12 THE COURT: And you're talking about his body
13 camera when they were just serving ---

14 MR. WATSON: They were serving a warrant.

15 THE COURT: --- a warrant.

16 MR. WATSON: There were two officers serving a
17 warrant. It was signed off by Officer Manley. And,
18 you know, we don't have the contents of that video.
19 We don't -- you know, we're -- the only -- the
20 remedy to this supposedly might be, oh, well, just
21 let them testify, but then we're pigeonholing our
22 client into burning their constitutional right not
23 to incriminate themselves.

24 The State's failed to preserve evidence which
25 could've possessed exculpatory evidence, especially

1 regarding the physical status of Luis and Juan
2 Alvarez for self-defense in a close quarters combat
3 setting is an issue. The defendants will never
4 know, and this only due to the State's failure to
5 preserve and disclose this evidence, as their duty
6 under Brady. And, accordingly, we ask that this
7 result in a dismissal.

8 THE COURT: All right. Mr. Richardson or
9 Ms. Holland.

10 MR. RICHARDSON: Well, Your Honor, first, I
11 have lengthy motion here that ---

12 THE COURT: I forgot to ask. Do y'all -- we'll
13 go with him, and then do y'all have a motion? Is it
14 a joint motion?

15 MS. GORSKI: Yes, Your Honor.

16 THE COURT: Okay. We just got a -- because
17 we've got these multiple defendants, we just want to
18 make sure that we've got the procedure right.

19 All right. Mr. Richardson.

20 MR. RICHARDSON: First of all, Your Honor, I
21 have a lengthy motion here. I've basically been
22 ambushed. He -- if he knew this, if he'd come to me
23 and talked to me, we could've ascertained if, in
24 fact, there is a camera out there, a video out
25 there. Right now I do not know.

1 However, this warrant was read some three weeks
2 after their arrest. And they were actually
3 extradited out of Florida and brought here to
4 Greenville. And according to his motion, and I'm
5 not sure exactly when the warrant was read, but his
6 motion states that it was served on October 12,
7 2018. This incident took place on September 22,
8 2018.

9 I do not -- we provided all discovery that I
10 have in my possession to them, including exculpatory
11 material. So if we're talking three weeks or so
12 after this, because exculpatory claim of injury
13 would certainly have been solved at that time. If
14 he'd come to me, I would've said -- seen if we had
15 this material for him to -- to view.

16 Your Honor, it's not material as to their case
17 this late in the future. And that's part of the
18 elements of exculpatory evidence. It's -- you know,
19 exculpatory is withholding evidence. That has not
20 been done by the Government. I don't know -- I do
21 not even know if this body cam is out there. It may
22 be. I certainly can go look. But at this point in
23 time, that is not a standard that would cause this
24 case to be dismissed.

25 THE COURT: Mr. Watson, what's in the -- what's

1 the camera -- or, Mr. Neely, or do you even want to
2 respond?

3 MR. NEELY: I do, Your Honor. First of all, to
4 say that it's not material to our case, this goes
5 back to the State has something that's in their
6 possession that the defense does not know about. It
7 is impossible where we stand today, 1,305 days after
8 the service of this warrant, for either of the
9 defendants or their counsel to stand up to this --
10 to this Court and say it's not material because we
11 don't know.

12 It does go to the exculpatory defense what
13 these defendants look like after this altercation
14 with Mr. Lopez and Mr. Solis. And the best
15 opportunity for us to view these individuals was on
16 that body cam at that time.

17 Now, nobody is accusing the State of acting in
18 bad faith. However, the case law in this state does
19 say that anything in possession of law enforcement
20 is in tune through the Solicitor's Office, which
21 means even if the Solicitor has not seen it but law
22 enforcement has it, it's the same as the Solicitor
23 having it and if it's potentially exculpatory, they
24 have to turn it over.

25 And I will point the Solicitor to Officer

1 Urbina's incident report, which was turned over to
2 the defense, that says, "My body-worn camera was
3 activated while I read the above-listed warrant in
4 Spanish." So we don't know what the conversation
5 was had with our clients. We don't know what our
6 clients look like at the time of the warrant.

7 And, Your Honor, I also take exception to the
8 fact that the Solicitor said that he was ambushed by
9 this point. These defendants have had several
10 defense attorneys over the course of their
11 representation, both brothers have. And each time a
12 new attorney was appointed or retained, that
13 attorney filed a Rule 5 Brady request with the State
14 filed with the Clerk of Courts Office. And each
15 time a letter was sent from the Solicitor's Office
16 signed by Mr. Richardson that said, "We have fully
17 complied with Rule 5." If they haven't turned it
18 over, I'm sorry, but they have not complied with
19 Brady with Kyle with Rule 5.

20 So at this time, there is a Brady violation.
21 This can't -- this particular body-worn camera is
22 the start of the failure to disclose by the State.
23 Officer Cassel testified during the Biggers hearing
24 that his camera was on the night that he went to the
25 hospital and took these written statements from

1 these defendant -- or from the victims and took
2 photo identification lineups. Those also have not
3 been turned over to the defense, as well as 911
4 calls, the Facebook photo that was mentioned, lab
5 reports of cocaine that was seized, a passport that
6 was seized out of the van that night that was used
7 to identify Juan Alvarez to generate the photo
8 lineup, or any Florida reports because they were --
9 as Mr. Richardson stated, these boys were originally
10 arrested -- I'm speaking too fast and I apologize.
11 These gentlemen were originally arrested in Florida
12 on an indigent injustice warrant and extradited back
13 to the state, and we have nothing from the State of
14 Florida.

15 So at this point, it's not just Officer
16 Urbina's camera. There's a list of items that have
17 not been turned over to the defense. We are
18 entitled -- he is constitutionally afforded the
19 right to present a complete defense. And at this
20 point, he's being -- he's being deprived of that, so
21 we join in Lois Alvarez's motion.

22 THE COURT: All right. Anything else,
23 Mr. Watson?

24 MR. WATSON: Nothing further, Your Honor.

25 THE COURT: All right. Yes, sir.

1 MR. RICHARDSON: Judge, I mean, I reiterate
2 what I've said -- said before. This is four years
3 and I have not heard anything from them. We are --
4 have an open-file policy. We give them everything
5 we have. If this video is out there, then that's
6 something that we can go look and find, but four
7 years later on the eve of trial they bring up this
8 motion in a total ambush fashion. So at this point,
9 I don't know. I can't address -- I can't address
10 the Court on the particulars of it because this is
11 the first I've seen of that motion -- this motion.
12 Maybe the better practice would be with me is to
13 come to me and say, "Do you have this body camera?"
14 We gave them everything that we have in our
15 possession.

16 MR. NEELY: Your Honor, case law in this state
17 again says open-file policy does not excuse Brady
18 violations. And the Solicitor does have -- I know
19 he's -- I know he keeps repeating to the Court,
20 should've come to us, should've come to us,
21 should've -- should've come to us.

22 Three different attorneys have filed Brady
23 motions with the Solicitor's Office. That -- that's
24 it. That covers us. That is what is required of
25 the defense. And he say -- he keeps saying, "I

1 don't know that this exists." It's in his officer's
2 incident report.

3 They have chosen to call Lois Alvarez and Juan
4 Alvarez into court. Their defense attorneys have
5 filed Rule 5 motions and have followed the rules.
6 They have not. And by not doing so, by not
7 affording us the opportunity to see these body cams,
8 they are shifting the burden away from them.

9 The State has the burden of proof, but now for
10 us at trial to put a complete defense to say that
11 they were not the aggressors, they were the
12 aggrieved party, would require our clients to take
13 the witness stand and testify.

14 And the Fifth Amendment to the Constitution
15 says that no defendant can be compelled to do that,
16 but that is what this Brady violation is forcing us
17 to do. It's shifting the burden. So their right to
18 due process, the right to be free of
19 self-incrimination is being violated because of
20 these Brady violations.

21 THE COURT: Mr. Richardson, what about the fact
22 that there have been several -- I think it sounds
23 like three prior Brady requests?

24 MR. RICHARDSON: Yes, Your Honor. I believe
25 he's correct on that.

1 THE COURT: Okay.

2 MR. RICHARDSON: And what happened in that is,
3 we -- we have everything in our systems, it's a PCS
4 system. Everything is downloaded with that
5 including the body cams and we make that available
6 to each attorney as they're substituted. And -- and
7 I will say, Judge, the remedy on this is not
8 dismissal.

9 THE COURT: What is the remedy?

10 MR. RICHARDSON: Well, I would suggest to the
11 Court that we be allowed to go and see if we can
12 find that -- the body cam, if there is one.

13 MS. GORSKI: Your Honor, I'm going to object to
14 that. As we know, this case is three years plus
15 old. In order to take a timeout to go and look for
16 something that may or may not exist that was already
17 expected to have been given over at the very
18 beginning of the case so that we could also work in
19 this part of the case, there is no way that the
20 timeout to go look or hunt or search, we have no
21 idea how long or what the potential of that is.

22 So then we just -- just are pushing the case
23 further down the line. Leaving it open again.
24 We're here on a special set date, special set all
25 the logistics have been worked out for this trial

1 for this reason. If there is something that is due
2 and it is due at the time it is due and timely,
3 that's the whole point of it. Just as if we needed
4 to turn something over to them, we would have to
5 follow those rules.

6 The difference here is the consequence. The
7 difference here is that both of these gentlemen have
8 been looking forward. They are both being put
9 basically on the stand to say what happened when
10 they didn't have to, when they don't have to, when
11 it is the State's responsibility to turn over to us
12 to see what pivot -- does it pivot the case? We
13 don't know, but it did do something. That body
14 camera, when it was on, the verbs activated,
15 translated, all of those words ---

16 THE COURT: And you're talking about Urbina's
17 body cam?

18 MS. GORSKI: Body cam. Yes, sir. When all of
19 that comes together, that point is where the case
20 itself changes into something else. It goes from
21 being open to a different status, so that's how
22 important this particular body-worn camera is.

23 THE COURT: The body as I understand -- let me
24 ask you this. The body camera that was used by
25 Urbina was solely to serve the warrants on them; is

1 that right?

2 MS. GORSKI: To serve the warrants on them. He
3 also includes in there that he translated, so he did
4 more than just serve a warrant. However, I wish I
5 could speak to what else was done. I don't know if
6 his body camera would've been three minutes or three
7 hours. I don't know what the interaction was and I
8 have no way of guessing. The only way I would be
9 able to sustain anything that either one of them
10 tell me or tell their own counsel. How? Put them
11 on the stand. That's not the way it's supposed to
12 work. That's why the rules are in place. That's
13 why the rules need to be enforced so that we are not
14 burden shifting every time it seems to work out that
15 way or because the age of the case or we can take a
16 timeout.

17 THE COURT: Yes, sir.

18 MR. NEELY: Your Honor, to say the body cam is
19 on solely for the purpose of serving a warrant
20 undermines the importance of what happened. This is
21 our first opportunity to see our clients in this
22 case. This is our first opportunity to verify what
23 they are telling us happened in that parking lot.
24 The importance of it cannot be understated because
25 it completely shifts the defense that they are able

1 to present to the jury. And, again, due process
2 says they are constitutionally afforded the right to
3 present a complete defense. So the camera was on
4 because Greenville County Sheriff's Office body-worn
5 camera policy says during the service of warrants,
6 but the importance of it cannot be understated.

7 And so the -- now because we do not have it,
8 even though it was in a report that was written on
9 October 15, 2018, for us to explain to a jury
10 injuries that the client had, that our clients had,
11 they have to get on the witness stand to tell the
12 jury about it.

13 And, again, the Fifth Amendment says nobody can
14 compel them to do that, but because of the Brady
15 violation, they're being forced to.

16 THE COURT: Let me make sure I'm correct. This
17 was three weeks later; is that correct?

18 MR. NEELY: 9/22 was the night of the incident.

19 THE COURT: October 12th was the service of the
20 warrants?

21 MR. NEELY: Yes, sir. That's correct.

22 THE COURT: All right. Anything else on that?
23 I'll -- I'll -- I will take a look at that and take
24 it under advisement.

25 Let me ask you this, this is almost -- this is

1 20 till 5:00. I don't see any way really to start
2 this trial. We got some more motions, right?

3 MR. RICHARDSON: Your Honor, the problem I have
4 is, I have a witness here who's flown in and is
5 flying out tomorrow.

6 THE COURT: Well, let me ask you this, how many
7 more motions do we have?

8 MR. NEELY: It does kind of depend on how Your
9 Honor rules on the Brady violation. So if Your
10 Honor is taking it under advisement, it's tough for
11 us to give the Court an answer at this time.

12 MS. GORSKI: Your Honor, I -- I -- I don't know
13 if I'm coming out of left field with this. We'd be
14 happy to speak to Mr. Richardson about something
15 reasonable to meet in the middle. If they want to
16 take a few minutes, we'd ask the Court to do that.

17 THE COURT: I'm going to take look at this for
18 a minute anyway, so why don't y'all do that. I'm
19 going to take a short recess, take a look at it, and
20 I'll come back in and see where we are.

21 MS. GORSKI: Very good. Thank you.

22 (From 4:36 to 5:08 p.m., a recess was had.)

23 THE COURT: All right. Let me go back on the
24 record. We just had a meeting in chambers. And
25 from a logistics standpoint, we've got the jury

1 sitting back there. I wanted to bring them out and
2 send them home today, because I understand that the
3 witness issue that you had can -- that witness can
4 testify on Wednesday.

5 MR. RICHARDSON: We have resolved that. Yes,
6 sir.

7 THE COURT: Okay. All right. So what I'm
8 going to do now, I'm going to bring them out and
9 send them home today to come back Wednesday morning
10 at 9:30. And then we can handle the rest of the
11 motions either this afternoon. And if we still need
12 to handle some other issues, we can do it Wednesday
13 morning. And I'll have y'all come in whatever time
14 we think we'll need before the jury comes in at
15 9:30. I want to make sure that this jury doesn't
16 have to wait again, so that's why I want to go ahead
17 and just handle everything today.

18 But let me ask the interpreters, I understand
19 -- is there -- can one of y'all -- all we need I
20 think is one; is that correct? Is that -- all we
21 need is one interpreter right now?

22 INTERPRETER ALFONSO: Your Honor, according to
23 the South Carolina interpreting policy and procedure
24 guide, for any trial there needs to be a team of
25 interpreters. And right now the team that has been

1 assigned is myself and Ms. Saccucci.

2 THE COURT: And which one is it -- is that the
3 one that's not here?

4 INTERPRETER ALFONSO: She is actively
5 interpreting and standing up.

6 THE COURT: Oh, well, educate me.

7 INTERPRETER SACCUCCI: Your Honor?

8 THE COURT: Yes, ma'am.

9 INTERPRETER SACCUCCI: And I'm sorry to
10 interrupt. I do have to be in Greer Wednesday for
11 another hearing, but I think I'll be done around
12 9:30 or 10:00. I was planning on coming right
13 after.

14 THE COURT: You've got a hearing in Greer and
15 you believe you'll be through with the hearing by
16 9:30 or 10:00; is that correct?

17 INTERPRETER SACCUCCI: Well, that's my hope.

18 THE COURT: So you -- I mean, the earliest
19 would be 9:30 or 10:00 is your finished there and
20 then have to travel here?

21 INTERPRETER SACCUCCI: Yes, Your Honor.

22 THE COURT: I didn't realize that. I thought
23 we had -- we were ready to go once we got through
24 today and then we're ready to go.

25 INTERPRETER ALFONSO: Your Honor, also in the

1 guide, it mentions that when the team is
2 interpreting, they usually alternate every 30 to 45
3 minutes and we do it unobtrusively; therefore, I, as
4 the Interpreter Alfonso would be here at the normal
5 time to start and I'll be able to interpret until
6 Ms. Saccucci's arrival when then I would -- I would
7 become the passive interpreter and she would become
8 the active.

9 THE COURT: All right. So we could then go
10 forward at 9:30?

11 INTERPRETER ALFONSO: Absolutely, Your Honor.

12 THE COURT: Okay. Do we need a witness
13 interpreter? Will the other lady be there?

14 INTERPRETER ALFONSO: Your Honor, the
15 interpreter is unaware of that, but according to
16 Section 17-1-15, it mentions that the appointed
17 interpreter of the proceeding interpret for the
18 victims, the defendants, and the testimony of any
19 witness who is -- has limited English proficiency.
20 Therefore, according to South Carolina's Appellate
21 Court Rule 511, we would have to comply by
22 maintaining confidentiality and impartiality as part
23 of our code of ethics.

24 THE COURT: So does that mean that on Wednesday
25 morning, could we go forward with testimony? It

1 doesn't sound like it.

2 INTERPRETER ALFONSO: Absolutely.

3 THE COURT: We can?

4 INTERPRETER ALFONSO: Yes, sir.

5 THE COURT: Okay. All right. And let me ask
6 you this, if -- if we continue on, if I'm letting
7 the jury go right now, we continue on just to wrap
8 up these motions, no testimony, just arguments on
9 these motions, can we go forward this afternoon?

10 INTERPRETER ALFONSO: Yes. The interpreters
11 are available to the Court until court is adjourned.

12 THE COURT: All right. Well -- all right. We
13 can finally dismiss the jury. And y'all available,
14 we can finish up these items?

15 INTERPRETER ALFONSO: Yes, Your Honor.

16 THE COURT: Okay. That sounds good. All
17 right. I'm going to bring -- let's bring the jury
18 in.

19 (At 5:15 p.m., jury entered the courtroom.)

20 THE COURT: All right. Ladies and gentlemen,
21 first of all, I want to apologize that y'all had to
22 stay back there. But I want to tell you, ever since
23 y'all walked back, we have been handling issues. We
24 have worked the solid time that y'all have been back
25 there, so I apologize for that. And because we are

1 continuing -- we are going to continue to work
2 here -- early evening here, so we're going to keep
3 going and there's some just legal issues that I had
4 to take up with the lawyers and that's what we're
5 taking up right now.

6 So what I'm going to do is, I'm going excuse
7 you for the day. And tomorrow is actually a state
8 holiday. And so when there is a state holiday, all
9 court personnel are not here, and so what we will do
10 is resume Wednesday morning. So tomorrow we will
11 not hold any court, and we will resume Wednesday
12 morning at 9:30. So tomorrow you can go back to
13 work or take a day off or whatever you want to --
14 whatever you do, and then we'll see you first thing
15 Wednesday morning at 9:30.

16 I understand, Mr. Thompson, you're already in
17 the seat. All right. So you've been selected
18 and -- as the foreperson. And just, ladies and
19 gentlemen, a couple of things. One, Mr. Thompson is
20 the foreperson. Now, he doesn't have any greater
21 vote than all of y'all. He's just simply sort of my
22 liaison between me and y'all during this. And any
23 questions that come up during trial, he will be the
24 one to let the bailiff know and to let me know.

25 A couple of things. You have probably noticed

1 that there are some ladies in here that are also --
2 they have headsets on and microphones. They are
3 interpreters, and they will be interpreting some of
4 the witness' testimony and will also be interpreting
5 for the defendants. So that's -- this is a little
6 bit different. It's not an unusual thing, but this
7 is what we need in this trial and they are entitled
8 to that. And so these ladies here are -- I'm very
9 appreciative of their help and they will be
10 interpreting as we go through the trial.

11 And so there may -- let me just kind of give
12 you a little bit of forewarning. There may be times
13 where it's delayed a little bit just from questions
14 that need asked because it has to go through, but I
15 think it's going to work fine and just be patient
16 with us as we -- as we do go through that.

17 So I'm going to excuse you for the day. And
18 I'll tell you as we go through the trial, please
19 don't discuss the case. Don't look anything up.
20 And I know there's a big temptation to pull out your
21 phone and Google, and so I am asking -- actually,
22 requiring this. I'm ordering you not to do that.
23 Do not talk about it with anybody. Don't go home
24 with your spouse and your better half and
25 significant other, children, anybody else, "Hey, do

1 you know about this case? I'm on this jury." You
2 can talk with them all day long when you get through
3 with this trial, but until you get through, until I
4 tell you at the end of the case that you can
5 deliberate among yourselves, that is the first time
6 that you can talk about the case.

7 And that includes with each other. When you go
8 back in breaks during the trial, you are not allowed
9 to discuss it. You can talk about anything. You
10 can talk about baseball. You can talk about the
11 weather, whatever, but you cannot discuss anything
12 about the case, and that includes just a comment
13 about a witness. Boy, does that witness what he or
14 she was wearing. It may seem very minor, but you're
15 not to discuss it at all.

16 And, again, please do not go on social media.
17 Do not go by the scene. Do not do anything at all
18 until the case is over. And at that point, you can
19 look at it all you want to, but I'm requesting that
20 you don't do that. I know you won't. I feel
21 confident in all 14 of you, so I know you won't do
22 it.

23 So I will see you 9:30 on Wednesday morning. I
24 hope everybody has a good night tonight and tomorrow
25 and I'll see you Wednesday morning.

1 (At 5:19 p.m., jury was excused for the day.)

2 THE COURT: All right. As we discussed in
3 chambers, I want to continue on the pretrial
4 motions, and as I understand there are additional
5 arguments on the Brady motion; is that correct?

6 MS. GORSKI: Your Honor, we're in such a --
7 because we don't know what will be located or not
8 located or ever located or -- and that kind of
9 really makes it difficult to put forth any other
10 motion without knowing because, obviously, whether
11 it's produced or not will make a difference. It
12 will make a difference what we present to Your
13 Honor. It will make a difference just what we
14 discuss with our clients regarding that part of it.

15 We really don't want to put forward the ifs,
16 what ifs, what if, because that can't. We don't
17 have -- we don't have anything to -- to justify it.
18 So really at this time, we take the same position as
19 the Court and wait for the opportunity to locate the
20 body-worn camera that we spoke of.

21 THE COURT: Let me know what the -- what are
22 the -- you already mentioned Deputy Urbina's body
23 cam and I think you mentioned a 911 call?

24 MS. GORSKI: A 911 call. We have not seen the
25 passport that has been spoken of. We also are very,

1 very interested in getting the body-worn camera from
2 Officer Cassel at the hospital. He referenced to
3 Florida reports that give us the time line of events
4 that got these gentlemen from Florida here. We
5 don't know what the transport was; how they got
6 here; who transported them.

7 THE COURT: All right. So we've got 911.
8 We've already talked about Urbina's, the deputy.
9 You're asking about the body cam from deputy -- from
10 Investigator Cassel.

11 MS. GORSKI: Correct.

12 THE COURT: The passport, and I think you also
13 mentioned the 911 call.

14 MS. GORSKI: Yes.

15 THE COURT: Okay. And what else?

16 MS. GORSKI: The Florida paperwork that would
17 have created a time line of who and what, where, and
18 how these gentlemen got from Florida where they were
19 actually picked up physically and brought to South
20 Carolina.

21 THE COURT: What's that got -- what is the
22 relevance of that as far as material evidence and
23 exculpatory evidence? What is their paperwork and
24 getting them from Florida to South Carolina?

25 MS. GORSKI: Because upon the arrest in West

1 Palm Beach, which I believe is the general vicinity,
2 we don't know if they were put in jail there. If
3 they had come right -- I -- we don't know what
4 happened.

5 THE COURT: What's the material -- what's the
6 materiality of that?

7 MS. GORSKI: Going back to the same point. We
8 don't know medical pictures, were there photographs
9 taken? Whoever picked them up in Florida would've
10 had to have written some report about, did they say
11 something? Did they present something? Did the
12 officer say something to them. Did they -- it's
13 just an unknown, but we're missing that gap of time.
14 We also can't narrow down the gap of time they were
15 in Florida before they were brought here when they
16 encountered Officer Urbina.

17 THE COURT: All right. So what else? So we've
18 got Urbina's body cam, Cassel's body cam, Florida
19 paperwork and transporting the defendants up,
20 passport. You said a 911 call. That was
21 earlier ---

22 MS. GORSKI: Yes.

23 THE COURT: --- in the cross-examination ---

24 MS. GORSKI: Yes, Your Honor.

25 THE COURT: --- oral argument. And then what

1 else?

2 MS. GORSKI: That would be the list, Your
3 Honor.

4 THE COURT: All right. Yes, ma'am.

5 MS. HOLLAND: Your Honor, the passport is in
6 the courtroom. That has been in P&E the entire
7 time. It's behind me.

8 THE COURT: All right. Now, how about the
9 Florida paperwork on transporting them up?

10 MR. RICHARDSON: Your Honor, that -- I can get
11 the name of the person, the supervisor of that unit.
12 It's actually on our witness list, so what are you
13 -- I don't know exactly what it is they want.

14 MR. NEELY: What -- what we're -- what we're
15 referencing is the brothers were picked up in West
16 Palm Beach, Florida. The -- the agency in Florida
17 that picked them up would have written reports,
18 possibly taken pictures, whatever it is, and also
19 notified through NCIC to locate them here, to let
20 them know that the brothers had been picked up on
21 the fugitive from justice warrant.

22 We're interested in the Florida agency
23 paperwork that goes along with this arrest because
24 it will be the initial arrest that led to the
25 brothers being extradited back to South Carolina,

1 where once they were in the local law enforcement
2 center, then they came into contact with Officer
3 Urbina.

4 THE COURT: Yes, sir.

5 MR. WATSON: With regard to the Florida
6 material that we're seeking, and going back to the
7 argument I made about Urbina's report saying that
8 was the first contact that Greenville had had --
9 well, the contact with law enforcement generally may
10 have been well before that. We don't know how soon
11 before that. And so the value -- you know, seeing
12 the value of what was said or what was written in
13 Florida may be of even greater importance.

14 MR. RICHARDSON: Are they referring to the
15 police reports? Is that what y'all are referring
16 to?

17 THE COURT: I'll be honest with you, I'm having
18 a little hard time figuring out what you're talking
19 about. What are you talking about, police reports?

20 MS. GORSKI: A report that would memorialize
21 the events, the time, who, what. Only because we
22 don't know. We don't know if they were kept in a
23 West Palm Beach County jail for this amount of time,
24 if photographs were taken of them, if they gave a
25 written statement or spoken to. None of that we

1 have. We just kind of skip in time and go forward.
2 And, unfortunately, we don't have that either when
3 they're given the warrants.

4 MR. NEELY: Yes. In part, police reports. We
5 have police reports from our agency here that say
6 "On this date, we served this warrant. My body-worn
7 camera was on." We have a separate incident report
8 from our agency here that says that the brothers,
9 after the service of the warrant, were cleared
10 through NCIC.

11 Florida would've done the exact same thing. So
12 we -- we want that paperwork which would've
13 indicated what contact they had with the Alvarez
14 brothers in Florida, because, again, they are the
15 ones serving the warrant. Essentially, they had
16 some communication with the Alvarez brothers to let
17 them know what communication they had, what
18 condition they were in when they were arrested.
19 That becomes material.

20 MS. GORSKI: It goes -- it all stems back to
21 that underlying fundamental right that instead of
22 having either of them or both take the stand because
23 that's how we want to know whatever it is that's
24 putting it on them. That's not the way it's
25 supposed to work. We're supposed to evaluate it

1 with them before they make that decision. That's
2 their decision to make based on what we have. We
3 don't have it. We only have what they told us, so,
4 yes, it's important.

5 THE COURT: All right. Anything else from the
6 State on that?

7 MR. RICHARDSON: Just that I don't know about
8 that. They could've investigated it. They have
9 investigators too.

10 THE COURT: All right. Well, let's do this.
11 As we talked in chambers, make inquiries to see
12 what -- what is out there if it can be discovered
13 and let -- let's -- as soon -- as soon as that is
14 done, let me know, let Ms. Davis -- e-mail her, not
15 my law clerk. Remember she's going to be with me
16 this week. So let me know one way or the other what
17 you find. And then I'll hear it, everybody on that,
18 assuming something is found or not found. But I'm
19 taking it under advisement right now until that
20 information is -- is obtained.

21 All right. Can -- are there any other motions
22 that can be heard without me taking that under
23 advisement? Are there any motions that can be heard
24 now that we can take care of some things?

25 MS. GORSKI: Your Honor, I -- I'm looking at

1 Mr. Watson. I believe that he's in agreement that
2 we don't because we're also, like Your Honor,
3 waiting to see what becomes available.

4 MR. WATSON: That's correct.

5 THE COURT: All right. I want to -- as soon as
6 you find out what information you have or don't
7 have, I want to be notified of that because what
8 I'll probably do is have y'all come in here early
9 Wednesday morning. And I understand from the
10 court -- I mean, the interpreter, that will be okay.
11 They will have somebody that morning, and we can
12 handle those issues at that time and any additional
13 motions and then go forward.

14 Let me ask you this. I'm not -- obviously, not
15 telling you but asking you what they are, your
16 arguments or anything like that. I'm just trying to
17 figure out from a time standpoint. If there were
18 some other motions, logistically what do you
19 anticipate the time would be in those motions?
20 Because that's going to determine what time I need
21 to get y'all in here Wednesday morning. And I'm not
22 going to hold you to it, but I'm just trying to get
23 an idea. And I understand you may not know at this
24 time, but I'm just -- I don't want that jury sitting
25 out there any longer Wednesday morning either. And

1 just give me a range. I mean, just give me an idea.

2 MS. GORSKI: I don't want to say. I don't
3 know.

4 THE COURT: I'm not going to hold you to it.
5 Okay. Is it more than an hour?

6 MS. GORSKI: Could be.

7 THE COURT: Could be more than an hour?

8 MR. NEELY: It could be, but probably an hour.

9 THE COURT: All right. Well, that's -- I
10 know -- I know you don't know and it all depends on
11 also what we find -- what the State finds as far as
12 this other stuff.

13 All right. So what I want to do is, I want to
14 be notified immediately what you got, and then we
15 will -- I will have y'all in here Wednesday morning
16 early to get those taken care of so we can get
17 moving, assuming we go forward. So I don't want to
18 hold that jury out any longer. I want to get this
19 trial started. And, unfortunately, tomorrow hurts
20 because we can't go forward.

21 MS. GORSKI: Judge, if we were to work
22 something, then we would also ---

23 THE COURT: Yeah, I want to -- I want y'all to
24 notify Ms. Davis as soon as -- on these evidentiary
25 issues or any other issues that come up or any other

1 resolutions to anything. Let -- let her know so
2 I'll find out, so she can let me know and I'll -- I
3 can find out and go from the, so -- and she will
4 check her e-mail.

5 All right. Anything else?

6 MR. RICHARDSON: Nothing from the State, Your
7 Honor.

8 MS. GORSKI: Nothing from the defense.

9 THE COURT: All right. Well, I've sort of
10 set -- because of tomorrow that just really ---

11 MS. GORSKI: I know.

12 THE COURT: --- and it's -- you know, that's a
13 problem. All right. Let me know what y'all find
14 out, and then we will -- I will -- that will allow
15 me to make a determination what time I'll have y'all
16 in here Wednesday morning. All right.

17 MS. GORSKI: Thank you, Your Honor.

18 MR. NEELY: Thank you, Your Honor.

19 (At 5:33 p.m., the proceedings concluded.)

20 May 11, 2022

21 THE COURT: All right. Good morning. Any
22 updates on our discussions and documents?

23 MR. RICHARDSON: Your Honor, if I may, might I
24 lead off?

25 THE COURT: Yes, sir.

1 MR. RICHARDSON: Your Honor, yesterday we were
2 noticed right before trial after the jury was picked
3 of an alleged Brady violation. Your Honor, because
4 of that and because of the late notice and because
5 of me not being noticed by him beforehand, I had to
6 spend the night figuring out what was going on and
7 why that body cam was not given to the defense. I
8 have done that.

9 I want to note for the record, Madam Court
10 Reporter, please put these dates down exactly. Sara
11 Gorski accepted discovery on 2/26 of 2021. Asher
12 Watson accepted discovery on 4/28 of 2020. In fact,
13 the Public Defender before this, Michael Martinez,
14 accepted discovery on 3/12/2020. I would ask that
15 these be -- be made Court's exhibits.

16 THE COURT: All right.

17 MR. RICHARDSON: Because they felt the normal
18 course of conduct in the Thirteenth Circuit -- I've
19 been doing this for 29 years. What attorneys do is,
20 that when something is not available that they see
21 available, the proper measure is for them to contact
22 me for me to then have a discussion with them.
23 Motions -- we have motion dockets. There are
24 motions to compel. If I am failing to give them
25 something intentionally as they have alleged in

1 their motion, then that's where it's resolved. It's
2 not resolved -- and I'm going to get to why I think
3 it's happening today or yesterday. That's where
4 it's resolved, a motion to compel.

5 It never happens because the Thirteenth Circuit
6 has an open-file policy. We give evidence to them
7 as -- more than we have to under Rule 5 and under
8 Brady. We had -- my investigator went through this
9 arbitrator. I'm going to explain to the Court how
10 this works.

11 Back in 2018, body cams that are fitted on
12 these officers here. This was new innovation at the
13 time. They were going through several methods of
14 switching back and forth. The -- if I'm speaking
15 too fast now, please let me know. Okay?

16 We went back and searched both Officer Cassel's
17 and Urbina's weapons. We can do that. What happens
18 is when they have these body cams, they have to hit
19 the button two times to start the body cam. When
20 that body cam starts, it is then saved on their body
21 cam. The methodology is, is that when they enter
22 into the law enforcement center, that body cam is
23 downloaded into a system.

24 That system is provided to us, the State, as
25 prosecutors. When we get the case file, we go

1 through each and every one of our officers and we
2 look for body cams. So I was mystified on why this
3 particular body cam had not been given to them. I
4 went through and said, "It's not here." So we went
5 through. And, Judge, the reason it's not here is
6 because it was never downloaded into the system.

7 There are many factors -- and I'm -- I'm going
8 to ask the Court to make these documents Court's
9 exhibits also. Both these documents establish that
10 the evidence was never downloaded. There are
11 reasons for that, Your Honor. I can't tell you why
12 it wasn't downloaded this time, but I can tell you
13 this:

14 At the time it was a new technology. They were
15 trying out different systems. That could be a
16 possibility. What often happens, and I've had this
17 happen in more than one case I have, is that the
18 battery dies. These batteries have a limited life.
19 They die. And sometimes that will cause us not to
20 get the body cams. In addition to that, it could've
21 been an inadvertent on the -- on punching a button.
22 That -- I'm telling the Court reasons why this
23 could've happened.

24 The fact of the matter is, is that from the
25 State's standpoint, we never had that evidence. The

1 motion that they've said, said I have suppressed
2 evidence is an improper motion. It's a frivolous
3 motion. And the reason why it's a frivolous motion,
4 Your Honor, is because they never came to me about
5 this. We could've discussed this and had this
6 hashed out way before today. What this is by these
7 three attorneys is a method to delay this case.
8 That's what this is.

9 Ms. Gorski said she wanted me to come to the
10 table, that this motion was filed to get me to the
11 table to get -- give her a good deal. She said that
12 and I believe she said that in chambers, Your Honor.

13 Under the law, we don't have it. I will say,
14 hypothetically, if it -- let's -- let's assume their
15 argument is is that this is lost evidence or this --
16 and by the way, the -- I should say to the Court.
17 We cannot purge this. This -- this evidence --
18 these body cams are kept for lengthy periods of
19 time. I believe it's ten years. We cannot, as the
20 State, purge it. This officer or any other officer
21 cannot get in that system and purge that or chump
22 that or get rid of it in some form or fashion.

23 Your Honor, hypothetically, they want to argue
24 that what we have here is lost evidence. I will
25 cite the *State v. May*, 306 S.C. 335, due process

1 rights were violated. A defendant must show that it
2 was destroyed in bad faith or that the State
3 destroyed evidence that possessed exculpatory value.
4 I'm going get to that in a minute too, Your Honor.
5 It is apparent before the evidence was destroyed.
6 And the defendant cannot obtain other evidence that
7 is comparable to what they are asking for.

8 So, hypothetically, and I maintain this was not
9 lost and it was not destroyed evidence, and they
10 can't prove that. But, hypothetically, if that's
11 the case, Your Honor, we have gone -- we have done
12 some due diligence on this, which the defense did
13 not do. Four years this case has been going on.
14 They did not do this. We went down there and we got
15 mugshots of the defendants. These mugshots were
16 taken at the time of the incident at the time when
17 those warrants were read, when they were brought
18 back to Greenville. Your honor, these mugshots show
19 absolutely no injury.

20 Amazingly, we decide what we're going do is,
21 we're going to take it a step further. I don't know
22 the answer to the question. I want to find out. I
23 want to give them information if these defendants
24 have some kind of injury. We draft an order. We
25 draft an order to get the booking report, which

1 questions were asked, "Do you have injuries?" to the
2 defendants. That booking report, the only way we
3 can get it is through your order.

4 THE COURT: You got no response from the
5 defense?

6 MR. RICHARDSON: The response from the defense
7 is that he objected to it, Your Honor.

8 Now, he's talking out of both sides of his
9 mouth. We are trying to get him the evidence. If
10 it's there, then that booking report is going to
11 show the injuries. It also is comparable evidence
12 that goes to injury, which is the reason why they
13 want this body cam. I truly don't think they want
14 the body cam, Your Honor.

15 Twenty-nine years. I have tried more cases
16 than I can count. I've never had this happen
17 before. This is a simple delay tactic. It's a way
18 for me to give them some kind of deal, and it's
19 improper, Your Honor. It's a frivolous motion.

20 THE COURT: I want to hear from the defense.
21 Why -- why was -- why was not -- why -- why was --
22 prior to trial, prior to yesterday, or prior to
23 Monday efforts not made to try to get this
24 documentation? Why would -- why did the defense
25 object? I was ready to sign that order. Why -- why

1 did the defense object to that order?

2 MR. NEELY: Which question should I answer
3 first?

4 THE COURT: The first one.

5 MS. GORSKI: Your Honor, good morning.

6 THE COURT: Good morning.

7 MS. GORSKI: I'm sorry. I can't hold back one
8 thing. I was told that I said the motion was filed
9 to bring Doug Richardson to the table for a good
10 deal. Your Honor, I'm sorry. With all due respect
11 to the Court and everyone here, I did not say that
12 and I just want that on the record.

13 THE COURT: All right. I -- I understand, but
14 tell me about the other points.

15 MS. GORSKI: When Mr. Richardson is speaking
16 about motions to compel, asking for things. Those
17 things are things that I would be made aware of that
18 if they exist. When I file a Rule 5 at the
19 beginning of the case when it's assigned to me, that
20 is a motion that is a continuing motion. In other
21 words, if something were to come up, we ask the
22 State just as if we owe them the same courtesy,
23 rights, all of those words, yes.

24 I have in my hands the actual table of
25 contents, I call it, of the items that were made

1 available to me. The body cam from Officer Goziozo
2 (phonetic) is not listed. The body cam from Officer
3 Urbina is not listed. And all of the other things
4 that we talked about that we requested were not
5 requested for any other reason than because we need
6 them and were made aware of them during our own
7 review of our case.

8 So we have a report that is not made individual
9 by another officer that authored it, Officer Manley.
10 But in reading it, we find out about the body cams,
11 but they are not in either of these two pieces of
12 paper -- I'm sorry if I'm going too fast -- that I
13 could have asked, put on a motion calendar. I
14 couldn't because I didn't know they existed.

15 I found out through our own investigation of
16 our case. And as we prepare, we come across things,
17 okay, just as they're made available up until
18 May 8th. And I don't know if we can pull it up
19 today to print one. It's not listed on here. What
20 is listed on here now that we got yesterday was a
21 911 call that we requested that was not on the
22 original one either. The CAD report was made
23 available yesterday. It was not listed on here
24 either. So we're not talking about one specific
25 thing or looking or fishing or trying to figure out.

1 But for us to try to say that we are trying to
2 delay cannot be. Why? Because we can't ask for
3 anything until we know it exists, that it's
4 available, that it's there. We have not claimed
5 that anything has been destroyed or done maliciously
6 or on purpose or any of those things. All of those
7 sound more like verbs you would use when someone's
8 using excuses and making things up. You did this.
9 You did that. No. We asked for what we found out
10 through our own research what was due to us from way
11 at the beginning when we requested it, just like
12 everything else. But if you look on the same table
13 of contents today, we have extra items, yes, but
14 those were made available yesterday.

15 So we're not asking for anything that we were
16 on notice that even existed. So we're not asking
17 for something that we made up. We found out of
18 their existence through what was available. That's
19 our due diligence. Yes. That's what we have to do,
20 go through, find out what is this, whatever it is
21 we're going to use it for, but we can't ask for it.
22 We can't request it. We can't have -- put it on a
23 motion calendar if we don't even know it's there.
24 And like I said, we have additional items now that
25 are on there, but they weren't on there the entire

1 time. So how would we ever know they existed?

2 So in all fairness, rather than quoting things
3 that I did not say, let's get back to the heart of
4 it, which is whatever it is that was not there was
5 not there when it was supposed to be. It's not
6 supposed to be made available day two of the trial
7 or day three of the trial, or let's just say we're
8 not going to need it, we're not going to use it, and
9 make that decision for us if it is something that is
10 due to be given to us. We requested it. We
11 requested it in writing. That in and of itself
12 should have made just those other items here
13 available.

14 Then I'll say it falls back on the State. If
15 the State would have gone through and read, why did
16 the State not say to the defense, oh, the mentioning
17 of extra body cams or other officers? This is what
18 happened. Yes, I agree they had to go find out
19 yesterday, but that was day two of the trial
20 theoretically. That was not before the start of
21 trial for the purpose of preparing for a trial. So
22 how then can we prepare a complete defense when we
23 don't have complete State's discovery that is due us
24 and we went through every proper channel to request?

25 I'm going to let Mr. Neely address the order,

1 but I will say, Your Honor, there is nothing that we
2 have asked for that we didn't come up through our
3 own research, our own investigation. That to say I
4 could've made a motion to compel? A motion to
5 compel what is already supposed to have been handed
6 over?

7 Mr. Richardson mentioned years 2020, 2021,
8 2018. Yes, that's right. This is a very, very aged
9 case. We want to resolve it just as much. We want
10 to resolve it in a reasonable manner, as well. I
11 have only stood up and asked Your Honor for the
12 times to see if we could talk. Not because now this
13 motion is filed, now I want a good deal. I never
14 said the words "good deal."

15 I filed a motion. Mr. Watson, we all joined
16 for a different purpose. Well, the purpose is
17 stated here, that we did not receive what we needed
18 to provide a complete defense for both of these
19 gentlemen. That's what we asked for. Not for extra
20 favors or good deals. That doesn't even come into
21 play. We're here for procedural issues. We're here
22 for evidentiary issues, for other issues, but not
23 through any other manner than the way we're supposed
24 to. We have followed and abided by everything that
25 we are held to. Yes. We're accountable as well.

1 We did our part. And now to get it thrown back
2 because we did that, that, Your Honor, is not fair.

3 THE COURT: Mr. Neely, what about the order?

4 MR. NEELY: Thank you, Judge. The response at
5 the back of yesterday is because what was proposed
6 by the State is not comparable to what was requested
7 and what the Brady violation entails. My response
8 to the Court is that these medical records -- these
9 so-called medical records that the State has
10 proposed that we get with a Court order, number one,
11 they're protected from HIPAA. That's why we need a
12 court order to get it. And, two, the proposed
13 order, the way it was written, would send those
14 medical records to the State instead of to the
15 defense, which runs afoul of *State v. Blackwell*
16 which says the proper method of reviewing medical
17 records is for the judge to review en camera those
18 medical records and make a determination, but not
19 for the other party to see those.

20 Secondly, that written -- what they are
21 proposing doesn't address the Brady violation.
22 Actually, the e-mail that we got from the State
23 makes the Brady violation that much more glaring
24 which is why we do not consent to that. And I don't
25 know why we have to consent after they violate the

1 Brady rules anyway -- after the Brady -- they
2 committed the Brady violation anyway. I don't know
3 why we then have to compromise with them on some
4 alternative solution.

5 The e-mail says that these medical records were
6 taken at the time the warrants were read. So now
7 Officer Urbina's written statement, which said, "I
8 assisted in serving these warrants. I'm fluent in
9 Spanish. I have read these warrants to them in
10 Spanish." Now, the State's e-mail to us says that
11 there is a substantive conversation being had with
12 our clients about whether or not any injuries
13 existed.

14 So now, again, they're saying on the medical
15 reports that are written in English our clients are
16 saying that they had no injury. It again goes back
17 to what we said on Monday. It forces us to put our
18 clients on the witness stand to testify about what
19 they said when given these medical records. And
20 again, I ---

21 THE COURT: What -- what "they" said? Who's
22 they?

23 MR. NEELY: What the Alvarez brothers said when
24 speaking to law enforcement when these medical
25 reports were done.

1 THE COURT: What are you trying -- what is the
2 defense -- as I understand from the other day, the
3 defense is trying to get these medical reports and
4 everything else to show they had injuries.

5 MR. NEELY: That's correct, Your Honor.

6 THE COURT: And that's it, right? That's
7 what -- that's the sole reason that the defense is
8 trying to get that; is that correct?

9 MR. NEELY: Well, now we know that a
10 substantive conversation -- that was the -- that's
11 the original intent of getting us this body cam
12 because it would show us the injuries. They
13 provided mugshots which show solely the face of our
14 clients, but the in -- the injuries to the alleged
15 victims in this case are from the waist down.
16 So ---

17 THE COURT: So, again, though, you're trying to
18 get injuries -- or evidence of injuries of your
19 clients, correct? That's -- that's the reason,
20 correct?

21 MR. NEELY: That -- that -- that's the
22 beginning of what we're looking for, but we don't
23 know what else the body camera would contain. As we
24 know now, substantive conversations with our clients
25 are being had and we're definitely entitled to that

1 under Brady.

2 So -- and I would point out to the Court, the
3 Greenville County Sheriff's Office -- Your Honor, at
4 the very bottom of that page, Mr. Richardson says
5 it's a brand new technology. This -- the body cam
6 was activated in October 2018. As Your Honor can
7 see at the bottom of that page, the Greenville
8 County Sheriff's Office body-cam policy, that policy
9 was written, which is -- which is listed on the
10 website. It was written March of 2016, so we're
11 two-and-a-half years into having this policy which
12 details the preservation of this evidence.

13 And it's my understanding, there's no way for
14 them to delete evidence and delete body-cam footage
15 off of these cameras. So, again, we're at a point
16 where there's an officer having a substantive
17 conversation with our client, which is our first
18 opportunity to -- to actually see our clients.
19 That's the best evidence that we have to support our
20 client's position to us based on things they have
21 told us in confidence. That is the best way for us
22 to see it and we are being deprived of that.

23 And, again, what has been addressed so far in
24 this court is one Brady violation. At this point,
25 there are several that are outstanding that have not

1 been addressed by the State.

2 THE COURT: All right. Mr. Richardson.

3 MR. RICHARDSON: Your Honor, I'm not sure what
4 he's talking about regarding not addressed by the
5 State. The nine -- and I'll go categorically. The
6 911 call, Your Honor, first of all, is not
7 exculpatory. It's not a Brady violation. That is
8 something that I did not get because we're putting
9 up the witness who called 911. They'll have an
10 opportunity to cross-examine them.

11 Once, again, this goes back -- if they wanted
12 911, all they had to do was request it from me. If
13 they wanted CAD, all they wanted -- had to do was
14 request it. These are not violations of failure to
15 give things over that are in my possession.
16 Every -- that's what defense attorneys do. Can we
17 get the 911 call? They send that to me. I get the
18 911 call.

19 They do not come in at the late hour and say,
20 "Oh, well, we didn't get the 911 call." We have the
21 911 call, and I can assure you it's not exculpatory
22 in any form or fashion. And I -- and they can --
23 they can listen to it, but can I finish?

24 MR. NEELY: Sure, Doug. Go ahead.

25 THE COURT: Let's address everything up here.

1 MR. RICHARDSON: I'm sorry.

2 THE COURT: I won't have any -- I appreciate
3 your arguments from both of you, but I won't
4 address -- I won't want either one you or any of you
5 addressing each other.

6 MR. RICHARDSON: Yes, sir. I apologize to the
7 Court. I should not have done that.

8 And then once again, I go back to the bad faith
9 element of this. Unless there's bad faith, this
10 does not come down to any type of violation that
11 would be -- cause a dismissal of the case.

12 Beg the Court's indulgence. I'll cite *Arizona*
13 *v. Youngblood*, 48 U.S. 51. Participate in failure
14 to disclose material -- potential useful material to
15 a defendant is not a violation of due process.

16 THE COURT: *State v. Moses*.

17 MR. RICHARDSON: Yes, sir.

18 THE COURT: *State v. Moses*, talked about
19 *Arizona v. Youngblood* in that situation and
20 confirmed that our Courts follow *Arizona v.*
21 *Youngblood*.

22 MR. RICHARDSON: Yes, sir. So, Your Honor, at
23 this point in time, there is no Brady violation.
24 There was none before. There was none before all
25 this argument, but now even more so. I set out the

1 factors and that we -- that is a piece of -- alleged
2 piece of evidence out there that we never had. And
3 the failure of the equivocator or something of that
4 nature is not a violation of Brady.

5 THE COURT: All right. Anything else from
6 defense?

7 MR. NEELY: Yes, sir, Your Honor. First of
8 all, from Rule 5, we get Brady, we get Kyle, we go
9 the whole body of cases that discuss -- that discuss
10 discovery violations. Included in that is
11 impeachment of evidence. The failure to disclose
12 the 911 call which came in at 9 -- on 9/22 of 2018,
13 where one of the witnesses that's already testified
14 in the Biggers hearing is giving a version of events
15 which makes it -- which -- which puts her first
16 statement out there, which then is subject to
17 impeachment does make it a Brady violation to not
18 turn it over to us. And, again, that was not
19 disclosed to the defense until the second day of
20 trial.

21 Second of all, to find a Brady violation, bad
22 faith is not the standard. The Court actually said
23 in *Gibson v. State* that regardless of the good or
24 bad faith of the prosecution, that's irrelevant
25 because the Court can still find a Brady violation.

1 Here we have an incident report drafted on
2 October 15, 2018, by an officer who had a
3 substantive conversation with the defendant where he
4 said, "My body-worn camera was not activated. The
5 State did not turn over that camera. A second
6 officer who served another warrant, did not turn
7 over -- they did not turn over that body-worn
8 camera. We have a 911 call. We have an officer on
9 the witness stand Monday afternoon saying his
10 body-worn camera was activated when he took the IDs.
11 That was not made available to the defense. We
12 still do not have the Florida reports that we
13 requested Monday afternoon.

14 THE COURT: And what is -- what is it you want
15 from the Florida reports?

16 MR. NEELY: Your Honor, it is -- it is the
17 first -- that is the very first contact with the
18 defendants. This all goes back to the contact ---

19 THE COURT: Well, that's really -- that's
20 simply -- isn't that when they were going down there
21 to issue the warrants to them?

22 MR. NEELY: I don't know, Your Honor. We do
23 not have them.

24 THE COURT: But it was three weeks after the
25 incident, correct?

1 MR. NEELY: No, sir. That's incorrect. They
2 were served arrest warrants in the State of South
3 Carolina at the law enforcement center at McGee
4 Street three weeks after the incident. I cannot
5 tell you what day they were arrested, how soon after
6 this they were arrested, what condition they were
7 arrested in, or why they even knew that they were
8 located at this particular house.

9 There are incident reports that would've been
10 generated. Photographs might have been taken. Some
11 communication between the State of Florida and the
12 State of South Carolina to verify that these
13 warrants were still active according to them, but
14 that has not been turned over. The fact they
15 located them in Florida, there's an incident report
16 that said that they got a warrant for a phone
17 tracing. That hasn't been disclosed. The actual
18 contents of the phone trace have not been disclosed
19 to the defense.

20 At this point, there is a sub -- there is a
21 substantial amount that is missing that has not been
22 turned over. And the cumulative effect of that is
23 that we can't trust any verdict that a jury is going
24 to render in this trial because we are lacking so
25 much evidence that is potentially exculpatory. Good

1 faith/bad faith, that's not the standard. But at
2 this point, dismissal is the appropriate remedy.

3 THE COURT: All right. Mr. Watson.

4 MR. WATSON: Yes, Your Honor. As you know, I
5 sent in a motion -- presumed motion yesterday to the
6 Court. I want to submit an amended -- first off, if
7 I can make that a Court's exhibit. If you need
8 another copy of that, I can get that for you to make
9 it a Court's exhibit, but I have an amended motion
10 that addresses more items that came to light from
11 the testimony of the Biggers hearing, as well. If I
12 can present that to Your Honor. May I approach?

13 THE COURT: Yes.

14 MR. WATSON: Just a few things. One is, we
15 want to address the cumulative effect of multiple
16 Brady violations in their totality. First off,
17 there's one where they address that in my motion.

18 I also wanted to state that as to Cassel's
19 body-worn camera, there is a standard about the
20 apparentness of the exculpatory value as stated in
21 *Arizona v. Youngblood* and *State v. May* in South
22 Carolina, that if it's not bad faith, which we're
23 not alleging that, and bad faith is not actually an
24 element. It's bad faith shown that would be
25 sufficient. We're not showing that -- we're not

1 arguing bad faith.

2 What we are arguing is that how apparent the
3 exculpatory value of body-worn camera of Cassel
4 would be because of the translations that were
5 taking place in the hospital to multiple witnesses
6 that we would be able to use their statements more
7 at length as impeachment evidence versus the other
8 statements that they've made. So the exculpatory
9 value is actually more apparent in Cassel's missing
10 body-worn cam -- camera than it would be necessarily
11 in Urbina's camera. In Urbina's camera, we still
12 think it's apparent enough what exculpatory value
13 would be in that.

14 And, finally, just to say that these -- he's
15 attempted to cure of what our Brady violations would
16 have been. To bring them up at this juncture would
17 be setting a dangerous precedent for trials in the
18 future. Thank you.

19 THE COURT: All right. As we all know, Brady
20 requires several things. One is that the evidence
21 has to be favorable to the accused. Number two, was
22 in possession of or known to the prosecution.
23 Three, it was suppressed by the prosecution. And
24 four, it was material to guilt or punishment. Those
25 are the requirements that are set forth in Brady.

1 You have three others. The *United States v.*
2 *Taggerty*, which is a United States Supreme Court
3 case. Also.

4 THE INTERPRETER: I'm sorry, Your Honor. I'm
5 having trouble following you.

6 THE COURT: I'm sorry. I'll try to slow down.
7 The case of *Gibson v. State* also deals with the
8 categories of Brady violations. And there are three
9 categories of Brady violations. Am I talking okay?

10 THE INTERPRETER: Yes.

11 THE COURT: All right. If I start talking
12 fast, just let know again.

13 THE INTERPRETER: Okay.

14 THE COURT: One, cases that include
15 non-disclosed evidence of perjured testimony about
16 which the prosecutor knew or should've known.
17 Number two, cases in which the defendant
18 specifically requested nondisclosure evidence. And
19 three, cases in which the defendant made no request
20 or only a general request -- request for Brady
21 material. So I think this case does fit in category
22 number three, but it still requires under Brady and
23 state -- and *Gibson v. State* and our Supreme Court
24 that the four elements of Brady must be met. And
25 based on the evidence that's been produced and

1 argued upon in this case, at this time I do not find
2 a Brady violation.

3 And let me address the issue of the potential
4 evidence that was made by the defense yesterday and
5 today that what, we don't know. If there's evidence
6 out there we don't know about. And so what *Arizona*
7 *v. Youngblood* did is they addressed that issue and
8 they categorized that -- that particular Brady
9 violation issue of cases that had the potential --
10 potential -- potential useful exculpatory evidence.

11 And what *Arizona v. Youngblood* did is they went
12 a little step further to discuss that issue and
13 address that issue and potential cases or in cases
14 where potential evidence was -- was there. And, in
15 fact, as *State v. Moses* sets forth and goes through
16 *Arizona v. Youngblood* in detail.

17 In *Arizona v. Youngblood*, the court -- the
18 Supreme Court, what they did is they clarified as a
19 different analysis when the State is alleged to have
20 failed to preserve -- preserve evidence that might,
21 and it has might have exonerated the defendant.

22 And it goes on to quote in *State v. Moses* in
23 Arizona -- I mean, goes on to quote *Arizona v.*
24 *Youngblood* in this respect in cases that deal with
25 potential exculpatory evidence. It says, "We

1 therefore hold -- therefore hold that unless a
2 criminal defendant can show bad faith on the part of
3 the police, failure to preserve potentially useful
4 evidence does not constitute a denial of the due
5 process of law.

6 Our Courts have adopted *Arizona v. Youngblood*
7 and *State v. Moses* does talk about that where
8 *Arizona v. Youngblood* has been adopted. And it goes
9 on to say in the *State v. Moses* that while
10 recognizing that the State does not possess an
11 absolute duty to preserve potentially useful
12 evidence, our State Supreme Courts held a defendant
13 must demonstrate either that the State has -- or
14 that the State destroyed evidence in bad faith or
15 the State destroyed evidence that possessed an
16 exculpatory value that is apparent before the
17 evidence was destroyed and the defendant cannot
18 obtain other evidence of comparable value by other
19 means.

20 You also look at *State v. Cheese -- Cheeseboro*.
21 It goes on to state -- it reaffirms that. Although,
22 *State v. Cheeseboro*, of course, was an earlier case
23 than *State v. Moses*. *State v. Cheeseboro* states
24 that the State does not have an absolute duty to
25 preserve potentially useful evidence that might, and

1 it has that italicized, might exonerate a defendant.

2 So the cases that I believe fall in the
3 category we have of this case, I think this does not
4 fall into an *Arizona v. Youngblood* situation where
5 this point, there is no proof under Brady that the
6 evidence was favorable to the accused, that it was
7 in the possession of or known to the prosecution,
8 that potentially is met. That element potentially
9 has been met. It was suppressed by the prosecution
10 and was material to the material guilt -- was
11 material to the guilt or punishment.

12 So, although, arguably it was in possession of
13 and known to the prosecution, it does not meet the
14 other three quad -- or three -- or other three
15 elements of Brady. And I don't believe that it fits
16 in the -- under the hold of *Arizona v. Youngblood*.
17 I think *Arizona v. Youngblood*, as I stated, does
18 give a different analysis because *Arizona v.*
19 *Youngblood* does go through that analysis, but it was
20 different because it's a situation of potential
21 evidence.

22 So based on the evidence that's been presented
23 today and under the case law in South Carolina and
24 the United States Supreme Court, as to the element
25 or the documents and/or evidence that the defense

1 wanted the 911 call, the body cam from Cassel and
2 Nunez, the passport, which I understand a copy of
3 one of those was submitted to defense, and the
4 Florida paperwork regarding the transportation, I
5 find that a Brady violation has not been committed
6 in this case.

7 All right. Any additional motions?

8 MR. RICHARDSON: None from the State, Your
9 Honor.

10 THE COURT: Anything from the defense?

11 MS. GORSKI: Your Honor, the other thing we
12 also would like to address is the Biggers pretrial
13 hearing that took place on Monday, May 9th.

14 THE COURT: Yes, ma'am.

15 MS. GORSKI: That hearing that took place
16 was -- we need to understand that that was the State
17 called that hearing. During that hearing, we had
18 Officer Cassel take the stand. Officer Cassel gave
19 a rendition of events. He was asked about body-worn
20 camera. He was asked about procedurally how it
21 generally takes place, and then how did it actually
22 takes place, and he gave us all of that information.
23 Your Honor has also been passed up already the body
24 cameras, the guidance.

25 During that hearing, we also found out from two

1 independent witnesses that the affidavits that were
2 turned in and made available were handwritten by
3 Officer Cassel. I can vaguely say what I remember
4 specifically asking when I showed the affidavit to
5 Mr. Lopez. He said that was not his handwriting.
6 He didn't sign it.

7 At the same time when Ms. Solis was the stand,
8 she was also asked about it. She did not write it.
9 We know she speaks English. She also was very clear
10 when she said that what was on the affidavit not
11 necessarily is what she meant.

12 All of these things, we don't have that body
13 can now to be able to go back and compare it to, but
14 what we do have is two people who have given
15 information to an officer, no other way for us to
16 put ourselves back in time and listen to how it was
17 done, but they -- we do have out-of-court
18 identifications. And those out-of-court
19 identifications are now going to be used, but
20 unfortunately they're being used, but they were not
21 obtained in a way that we can say we understand. We
22 see them. We have something to show that's how it
23 was.

24 They're -- we don't know if it was in any way
25 suggestive. We don't know who did the translating.

1 And in one case, we believe -- we don't even believe
2 that the translating was something that was
3 necessary because she does speak English. She said
4 it up there. But these identifications can't be
5 upheld, can't be used if from the very beginning
6 they were not even on the body cam. They were
7 affidavits filled out by an officer. We understand
8 that that -- there may be circumstances when that
9 happens, but here one of them does not seems like it
10 was completely necessary to have it be done that
11 way. But we, again, don't have the body cam where
12 we were told it existed. This is how it took place.
13 We now cannot go back.

14 There is now a question as to the officer's
15 testimony. Again, another incident of body cam.
16 Another very similar to what we just spoke about
17 where now something else has come out of a hearing
18 that we cannot be sure was done properly either.
19 And that's from the officer. That's from two
20 independent witnesses. So we really do need to now
21 reevaluate that hearing.

22 The officer perjured himself. He was asked
23 specific questions about body cam, about body cam
24 procedures. He reassured us, yes, yes, it was
25 turned on. Yes, it was used. Yes, we followed

1 procedure. That's what procedure exists for so that
2 there's a guideline, so there's something to follow.
3 It was not. We know that now. But they called --
4 right, exactly, and I add that the purpose of the
5 hearing was not our hearing. This was a hearing
6 that was called by the State.

7 So it just goes to if you put either of those
8 two witnesses on the stand today, two days later,
9 they are going to be asked, "Do you see such in such
10 person?" whichever of those two names. Either one
11 of those two people can say, yes, this person or
12 this person. And they can do that easily because
13 they were already told, assured, pointed out from
14 there that it was one of these two people on Monday
15 during a hearing that we know now stands -- can't --
16 it can't -- we can't say that's okay. It's okay to
17 say whatever you want here on the stand and then
18 we'll fix it later. That's where we've had problems
19 all there up to here.

20 And now the first day of trial, pretrial, out
21 the gate, we already have a huge error. We can't
22 rely. How then can we say to a jury, we're
23 presenting a complete defense. We're going to get a
24 verdict. How can we say that verdict is a true
25 independent verdict? These are the triers of fact.

1 They decide. How if they're not given the tools,
2 especially when there's an officer who sat on that
3 witness stand, gave us all testimony. We all heard.
4 We all took into account as we gave it a value. We
5 counted on what that officer said.

6 So we asked for it because, again, here it says
7 that Officer Cassel had body-worn camera, but that
8 portion of it within 24 hours during this
9 investigation when it's at its most important
10 sensitive time, but it's not here. So we asked on
11 the stand, "Does it exist?" "Yes." Went through
12 all of that. Now we're being told, just forget it.

13 So when they were identified -- Judge, how can
14 we then stand on anything else that goes forward?
15 That goes to the hearing that the State requested.
16 That was not our witness. That was their witness.
17 So they need to be accountable for their witness,
18 because the witness was asked a question and maybe
19 that question was not answered the way it should've
20 been. We can't be held accountable or pay a
21 consequence for that. And we don't have a complete
22 defense either. That's the unfairness there.

23 THE COURT: All right. Mr. -- Ms. Holland or
24 Mr. Richardson, what about that?

25 MS. HOLLAND: I'll just address the general

1 issue first. Your Honor's already ruled on that
2 identification. I am happy to office -- I mean,
3 offer Master Deputy Cassel if he wants to address
4 the issue with the body-worn camera if Your Honor
5 would like to hear from him as to the ID themselves.

6 I'm sorry, first off, the affidavits. I have
7 no intention of admitting those affidavits. I'm
8 entering the lineups. And, of course, I never
9 brought up the affidavits. So there's no intention
10 on the State's part of those going in front of the
11 jury.

12 As to Master Deputy Cross, he said he had his
13 body camera on. He can testify about that and why
14 that potentially could have happened. Otherwise,
15 our witnesses testified that no one suggested to
16 them who they were, that the process was not
17 suggestive, that in no way anyone told them who to
18 pick. Your Honor ruled that we never even got to
19 the second prong because the process was not
20 suggestive. So I just ask that your ruling remain
21 as it was at the time.

22 THE COURT: All right. Anything else? Yes,
23 sir.

24 MR. NEELY: Yes, sir, Your Honor. I agree that
25 you have already ruled on this issue. However,

1 after you ruled, an e-mail was sent to the defense
2 and to Your Honor that said the final issue
3 outstanding I believe is the body camera for Jason
4 Cassel testified about in the *Neal v. Biggers*
5 hearing yesterday. We can replay -- I've checked
6 with the court reporter. We can replay that portion
7 of the testimony where I asked him three separate
8 times, "You followed Greenville County's body-worn
9 camera policy?"

10 And he said, "Yes."

11 "You were following it that night?"

12 "Absolutely."

13 "You follow it all the time?"

14 "A hundred percent."

15 I showed him the 11 different list -- items on
16 that list where Greenville says, "Your body-worn
17 camera is supposed to be activated."

18 And he testified, "This list isn't inclusive.
19 I always do these 11, but I also sometimes do more."

20 That was what he testified to. And he
21 testified that on the night he went to the hospital
22 to show the identifications to the two people who
23 are going to identify Juan Alvarez during trial with
24 an in-court identification, that that out-of-court
25 identification was made while his body cam was

1 activated.

2 When he took the witness stand during the
3 State's -- during close -- during the hearing that
4 the State requested, he walked to the witness stand.
5 He raised his right hand. He was placed under oath
6 and he swore to tell the truth. And what he
7 testified under oath is that he was wearing his body
8 cam.

9 And so then yesterday, we get an e-mail that
10 said that there is no body camera footage of when he
11 showed the lineup to Orlando Lopez and Angela Lo --
12 and Angela Solis. This is their lead investigator.
13 This is the person in charge of the entire
14 investigation.

15 And there's nothing else to call what he said
16 on the witness stand other than a lie because if
17 it's not the truth, it's a lie. And it calls into
18 question the entire nature of the photo
19 identification process.

20 At the time that Your Honor ruled, the defense
21 did not challenge the Biggers hearing because we had
22 no reason to believe that the process was unduly
23 suggestive. However, given the fact that their lead
24 investigator has now lied under oath, it calls into
25 question the entire validity of the entire process.

1 And the first prong of a Biggers hearing is whether
2 or not the -- the procedure is so unduly suggestive
3 as to call it into question.

4 When you have an officer lying to the Court
5 about what happened that night, you have -- and it's
6 the State's motion. So you have -- so the Court has
7 to view this evidence in the light most favorable of
8 the nonmoving party. Then it calls into question
9 the entire process.

10 And once you get to that point, you have one
11 witness who does not speak English that he testified
12 that he could not read what was in the written
13 statement that he used to make his identification.
14 And you've got another witness who testified that
15 what's in the affidavit was not what actually
16 happened at the club. She's not actually
17 identifying anybody that's in the parking lot that
18 night anyway.

19 So at this point, what is appropriate based on
20 the officer's -- office -- based on the officer's
21 perjury is to rule that any in-court identification
22 is improper based on the candid nature of the
23 out-of-court identifications.

24 THE COURT: Yes, ma'am. What about that?

25 MS. HOLLAND: Your Honor, our position is our

1 independent witness has testified that no one
2 suggested to them who to pick out of the lineup.
3 They were shown a lineup and that -- and that no one
4 suggested who they should pick. In no way the
5 process was suggestive.

6 Certainly, they can cross-examine Master Deputy
7 Cassel about what he said and him saying he had his
8 camera on. That is certainly fair game, and I think
9 that is what -- that is what he said and they can
10 cross-examine him on.

11 THE COURT: Yeah, what about that, Mr. Neely?
12 I mean, that -- I think it is a matter of
13 cross-examination and it may be really good
14 cross-examination. But both of those witnesses who
15 did testify at the Biggers hearing, I think based on
16 their testimony, I don't think it was suggestive and
17 I found yesterday it was not. But I think it is
18 something that -- something that's certainly ripe
19 for good cross-examination and you have some pretty
20 good arguments. But as far as the Biggers elements,
21 I -- I still find that it was not suggestive, but it
22 does certainly allow some good cross-examination.

23 All right. Anything else?

24 MR. RICHARDSON: Your Honor, just briefly. We
25 would ask the Court -- we're going to add Bruce

1 Evers from the Greenville County Sheriff's Office to
2 our witness list. We can address that with the jury
3 and add his name at that particular time. His name
4 has come forward due to the motions made by the
5 defense. He is the one that went down and retrieved
6 the defendants from Florida.

7 THE COURT: And who is he with?

8 MR. RICHARDSON: Greenville County Sheriff's
9 Office.

10 THE COURT: All right. Yes, ma'am.

11 MS. GORSKI: We didn't even get the name. I'm
12 sorry. Would you repeat it?

13 MR. RICHARDSON: Bruce Evers.

14 THE COURT: Bruce Evers.

15 MS. GORSKI: Thank you. And he works for the
16 Greenville Sheriff's Office?

17 MR. RICHARDSON: He is the one that went to
18 the -- Florida to pick them up. He was with Cassel.

19 MS. GORSKI: And this is information that you
20 just received yesterday?

21 MR. RICHARDSON: This is information that came
22 forward after your argument on motions.

23 MS. GORSKI: My question is, this is
24 information that ---

25 THE COURT: Address -- address it up here.

1 MS. GORSKI: I'm sorry, Your Honor. I'd like
2 to know when his name came up.

3 THE COURT: Mr. Richardson, you said Evers?

4 MR. RICHARDSON: E-v-e-r-s.

5 THE COURT: Who -- who is this guy and what's
6 the relevance of his testimony anyway?

7 MR. RICHARDSON: He is -- well, he's the one
8 that went and -- initially, what I was going to
9 simply do is put up Mr. McNeely, Sergeant McNeely.
10 He is the supervisor who would've testified that
11 they obtained the defendants out of -- I believe it
12 was Palm Beach, Florida. Mr. Bruce Evers works
13 under him and went to Florida to pick these
14 individuals up.

15 THE COURT: But Mr. McNeely, was he involved in
16 that, as well?

17 MR. RICHARDSON: He -- he. No, sir. He was --
18 he's the supervisor over that unit.

19 THE COURT: Ms. Gorski.

20 MS. GORSKI: Your Honor, I mean, we're -- we
21 have, number one, not heard this name until just
22 within the last five minutes. I understand that
23 it's a quick synopsis of who and where they work.
24 It's just being put out there.

25 But, Your Honor, at the same time, we don't

1 know if there's a report attached to this officer.
2 We had an original name of McNeely. If there was
3 body cam by that officer? Where did that officer
4 get the name, the information to go to Florida?
5 Where to go in Florida? What county? What address
6 within that county? How and what took place
7 interaction? It's almost like we're going all the
8 way around what we originally asked for, which was
9 what took place here in Greenville? So not only are
10 we going back to Florida, but we have nothing to
11 sustain whatever that ---

12 THE COURT: All right. I'm not going to allow
13 him to testify unless something comes up, but I'm
14 not going to allow him to testify. It's late
15 notice. The defense is just finding out about it.
16 And I -- I'm not going to allow it unless some
17 evidence comes up that changes my mind. But at this
18 point, I'm not going to allow it.

19 All right. Anything else?

20 MR. RICHARDSON: Nothing from the State, Your
21 Honor.

22 THE COURT: All right. Anything from the
23 defense?

24 MS. GORSKI: Nothing from Juan Alvarez.

25 THE COURT: Mr. Watson?

1 MR. WATSON: Nothing.

2 THE COURT: You have to remind me to see you
3 there.

4 All right. Anything before we bring the jury
5 in?

6 MS. HOLLAND: Your Honor, may we have a brief
7 restroom break?

8 THE COURT: All right. Just make it real
9 brief. Okay?

10 MS. HOLLAND: Okay. Thank you.

11 (From 10:04 to 10:12 a.m., a recess was had.)

12 THE COURT: All right. Everybody here?
13 Everybody ready?

14 MR. RICHARDSON: The State's ready.

15 THE COURT: All right. Bring them on in.

16 (At 10:14 a.m., jury entered the courtroom.)

17 THE COURT: All right. Good morning, ladies
18 and gentlemen. I apologize for a little bit of a
19 late start. We've actually been here since about
20 8:45. We just finished up. We had some pretrial
21 motions that we had to take care of, and it's good
22 to get those done so it makes the rest of trial go
23 forward. I know it's not -- you've been sitting
24 back there and all, but we've been working trying to
25 get it in a position that makes it more efficient

1 for y'all.

2 So we are ready to proceed. So if you would,
3 swear the jury, please.

4 THE CLERK: I will. Will you please stand and
5 raise your hand for the oath in this case? The
6 proper response is "I will."

7 You shall well and truly try the case of
8 2019-GS-23-305 and 306, the *State v. Luis Armando*
9 *Alvarez*, indicted for attempted murder and
10 possession of a weapon during the commission of a
11 violent crime and a true verdict render according to
12 the law and the evidence so help you God. I will?

13 THE JURORS: (Collectively:) I will.

14 THE CLERK: All right. For defendant no. 2,
15 please keep your hands up. Thank you.

16 You shall well and truly try the case of
17 2018-GS-23-9562 and 9563, the *State v. Juan Carlos*
18 *Alvarez* indicted for attempted murder and possession
19 of a weapon during the commission of a violent crime
20 and a true verdict render according to the law and
21 the evidence so help you God. I will?

22 THE JURORS: (Collectively:) I will.

23 THE CLERK: Thank you. Please be seated.

24 THE JURORS: (Complying.)

25 THE COURT: All right. Ladies and gentlemen,

1 let me just give you some opening instructions just
2 to kind of give you a little roadmap of what we're
3 going to be doing here for those of you, maybe all
4 of you, who've never sat on a jury before. I just
5 kind of want to give you a little opening set of
6 instructions. And, again, just to give you an idea
7 of what -- what we're going to be doing here.

8 As you have heard the indictments, I read them
9 to you yesterday, and you've just been alerted as to
10 what the indictments are here in this case. There's
11 Juan Alvarez who's been indicted for attempted
12 murder and also possession of a weapon during the
13 commission of a violent crime, as has Luis Alvarez,
14 also indicted for attempted murder and possession of
15 a weapon during the commission of a violent crime.
16 And later in this case, I will explain to you all of
17 the elements of those charges.

18 And these indictments, ladies and gentlemen,
19 are simply the charges by which the case is brought
20 into court. And it is not in any case evidence of
21 any of the allegations they contain. The defendants
22 have pled not guilty to these indictments and,
23 therefore, the State has the burden of proving each
24 of the elements of these indictments beyond a
25 reasonable doubt.

1 And it will be your duty, ladies and gentlemen,
2 to decide whether the State has met that burden.
3 Your purpose as jurors is to find and determine the
4 facts. You are the sole judges of the facts. If at
5 any time that I make any kind of comment about the
6 facts, you must disregard it. You are to determine
7 the facts from the testimony you hear from the
8 witness stand right here and any other evidence
9 which may be introduced in Court during this trial.

10 It is up to you to determine the inferences
11 which you feel may properly be drawn from the
12 evidence. It is especially important that you
13 perform your duty of determining the facts
14 diligently and conscientiously because ordinarily
15 there is no way to correct an erroneous
16 determination of the facts by a jury.

17 On the other hand and with equal emphasis, the
18 same law that makes you the judges of the facts
19 makes me the judge of the law. The law is given by
20 the Court at the end of this trial and is the only
21 law that you may consider. You must accept and
22 follow it even though you may disagree with it. I
23 cannot tell you what the facts are and you cannot
24 disagree with me about what the law is or what the
25 law should be. Your job will be to take the law as

1 I give it to you and apply it to the facts as you
2 find them from the testimony and the witness stand
3 and any other evidence that is introduced in this
4 trial.

5 After doing that, you will render your verdict,
6 a true and just verdict under the solemn oath you
7 just took as jurors. Until I advise you to begin
8 deliberations, you must not discuss the case, even
9 amongst yourselves, friends, families. I mentioned
10 to you yesterday, not until I give you the case are
11 you to discuss it. And, again, that includes going
12 on social media, looking anything up, any kind of
13 investigation is not to be done by you during this
14 trial. And even again as I told you yesterday, when
15 you get back in the jury room during breaks or lunch
16 that you are not to discuss the case at all.

17 So during this trial, please don't read any
18 newspaper articles that may be out. I don't know if
19 there are going to be any or anything on TV. But if
20 for some reason you were to see something, then you
21 must disregard it and not look at it. You must not
22 consider anything except that comes from right here
23 on this witness stand and any documents that may be
24 admitted into evidence.

25 After the case is submitted to you, you must

1 discuss it only in the jury room with your fellow
2 jurors. The attorneys and the parties in this case
3 have been advised that they are not to talk to you
4 at all during the trial. So if you see one of them
5 going in and out of the courthouse, the bathroom, or
6 you see them outside and they don't acknowledge you,
7 that is because I have told them not to do that and
8 they are not to do that, so don't take anything from
9 that. Don't feel that they are doing something
10 wrong by them not acknowledging you. They're
11 just -- it's part of the case and my instructions,
12 and they are not to have any kind of interaction
13 with you.

14 It's very important, folks, to keep an open
15 mind during this trial and not decide any issue in
16 this case until all of the evidence has been
17 presented and that the parties have made their
18 closing arguments to you at the end of trial and
19 then after I have instructed you on the law in the
20 case.

21 It is your solemn responsibility to determine
22 the guilt or innocence of these defendants. Your
23 verdict must be based solely on the evidence that is
24 presented to you in this trial and on the law as I
25 instruct you at the end of this trial.

1 In just a minute, the Solicitor will make what
2 we call an opening statement in which the Solicitor
3 would explain to you the issues in the case or at
4 least what the Solicitor thinks the issues are in
5 this case, and then the attorney for the defendants
6 or attorneys for the defendants may also make
7 opening statements at that time. What the attorneys
8 tell you in opening statements is not evidence in
9 this case. So keep that in mind. It is only their
10 contention as to what the issues are going to be in
11 the case. The evidence in this case will be
12 presented to you by the testimony of sworn witnesses
13 from the witness stand here and any exhibits that
14 may be admitted into evidence.

15 From time to time during this trial, you may
16 hear one of the lawyers object and you've probably
17 seen that on TV. There may be times where I will
18 need to excuse y'all to go back to your room because
19 I need to take those matters up with them. There
20 will be times where I can -- I'll go ahead and rule
21 on them. There may be some times where I just bring
22 them up here and talk privately up here at the
23 bench, and that way I can keep from having to send
24 you out. So we're not hiding anything from you in
25 those instances. It would be just a matter of

1 trying to get something taken care of without --
2 without having to send you out. And there may be
3 times where I need to send you out to discuss some
4 matters of law, but that's -- hopefully, we can
5 handle a lot of it without having to send you out.

6 Please be patient. This is not like you see on
7 TV. This is the real world. This is a real trial.
8 It's not -- the crime is not committed and the case
9 rendered by a jury verdict in one hour at the end of
10 the show. It is different. So please be patient.
11 It goes a little bit different in real life than a
12 TV courtroom scene. So please, I ask everyone to be
13 patient. You already have been. Because of us
14 having to deal some legal issues, you had to be back
15 there, so you all have been very patient and I
16 appreciate that.

17 The evidence in the case, as we start here in a
18 bit, will be presented to you, as I told you, by
19 sworn witnesses or exhibits. And in determining
20 what the true facts are in the case, you will hear
21 those witnesses and you must decide whether or not
22 the testimony of these witnesses that you will hear
23 is believable. It will be my responsibility to rule
24 as a matter of law as to whether certain testimony
25 is admissible at all or not. But once the testimony

1 is admitted, whether or not you believe it is solely
2 for you to determine.

3 In deciding whether to believe a witness, you
4 have the right to consider the interest of any
5 witness, the bias of any witness, the prejudice of
6 any witness, the opportunity for the witness to have
7 seen the matters and things about which this witness
8 may testify, and the way the witness acts on the
9 witness stand. You have a right to consider
10 anything that is in the record that will help you
11 evaluate the testimony of the witnesses that will be
12 put before you.

13 That means that it is your duty to pay close
14 attention to these witnesses. Observe the
15 witnesses, listen to the witnesses, and pay close
16 attention to the attorneys in this trial and the
17 Court. Don't let your thoughts wander. I know it's
18 tough to do, but please don't -- please don't do
19 that. Please give strict attention to the testimony
20 in this case, because at the end of the case and all
21 the testimony and after all the arguments and the
22 law on the case, you will then be in a better
23 position to determine what the facts are and then
24 apply the law to those facts. This is the parties'
25 day in court. This is both sides, and I ask you to

1 please give attention to both sides in the case.

2 Mr. Foreman, you will be -- as I told you
3 yesterday or Monday, you will be the spokesperson
4 for the jury. And it will also be, at the end of
5 the case, to write -- to sign the jury verdict. And
6 I'll explain that at the end of the case when we get
7 there. So please give your attention. You already
8 are. I sure do appreciate it. And I know you will
9 give your attention to this case as we go forward.

10 All right. Any exceptions from the State?

11 MR. RICHARDSON: None from the State.

12 THE COURT: All right. Anything from the
13 defense?

14 MR. NEELY: No, Your Honor.

15 MR. WATSON: No, Your Honor.

16 THE COURT: All right. The State's recognized.

17 MR. RICHARDSON: May it please the Court?

18 Welcome to the Greenville County Courthouse. My
19 name is Doug Richardson.

20 THE INTERPRETER: Your Honor, the interpreters
21 are unable to hear the opening statement.

22 THE COURT: All right. Just position yourself
23 over there now if you would. Thank you.

24 MR. RICHARDSON: So, ladies and gentlemen, as
25 you can see, this trial is going to involve

1 interpreters. So there will be translations and
2 translations back so that y'all can understand the
3 case a little better and that will be what you hear
4 and what you see here. It's kind of unique and
5 unusual that we have this circumstance, but in this
6 particular case, that is the case.

7 Once again, my name is Doug Richardson. I am
8 employed by the Thirteenth Judicial Circuit
9 Solicitor's Office. Basically, what that is, is in
10 the State of South Carolina, we have circuits
11 throughout the state and each circuit has counties.
12 In this particular case, the Thirteenth Circuit,
13 we -- our counties are Pickens County and then, of
14 course, Greenville County.

15 I am charged with the duty to prosecute certain
16 cases as they come from various law enforcement
17 agencies within Greenville County. That could be
18 cities, municipalities, towns, counties. In this
19 particular case, this is a Greenville County case as
20 you'll see as the evidence comes forward.

21 Now, ladies and gentlemen, why are you here?
22 You are here because a Grand Jury has indicted the
23 defendants for four different crimes. Now, that, as
24 the judge has explained to you, is a charging
25 document. That is a document that our Grand Jury

1 looked over to see if there was probable cause to
2 allow Doug Richardson to come in here and prosecute
3 this case.

4 The charges are two counts of attempted murder
5 on each defendant and two counts of possession of a
6 weapon during a violent offense. The law in the
7 State of South Carolina, as far as attempted murder
8 is concerned, is that it's unlawful for a person to
9 attempt to kill another person. It's real simple in
10 that -- in that sense. So I have to prove to you
11 that there was an intent to kill the victims in this
12 case.

13 And there are also two other elements of that,
14 and one is that it must be malice. Now, what is
15 malice? It's a legal term, but we also see it every
16 day. Malice is a depraved heart. It's a hatred.
17 It's meanness. That's malice.

18 The other element is aforethought. Now,
19 aforethought is kind of a strange term to tell you
20 the truth. I had never even heard of it until I
21 went to law school, but what the essence of that is,
22 is there has to be some aforethought to the crime.
23 And that's not premeditation. That's not laying in
24 wait. It's nothing like that. It can be
25 instantaneous. I'm going to commit this crime and

1 the crime is committed. That's aforethought.

2 Possession of a weapon during a violent
3 offense. I'll just tell you that if a weapon is
4 possessed in this case, and we're alleging a knife
5 was the weapon during the violent offense, then that
6 is a crime in South Carolina. South Carolina
7 defines certain offenses as violent. In this
8 particular case, it is attempted murder. Attempted
9 murder is defined by the State of South Carolina as
10 violent.

11 Now, His Honor has instructed y'all as to a
12 burden of proof. A burden of proof in the State of
13 the South Carolina, in fact, in every state in the
14 United States is, I must prove to you beyond a
15 reasonable doubt that these elements took place. I
16 will tell you, ladies and gentlemen, that that is a
17 reasonable doubt. As we go through life every day,
18 there's always some doubt out there. It is not all
19 doubt. It is something that's reasonable. And I'll
20 tell -- I'll state, ladies and gentlemen, that we
21 bring in individuals from society. All of y'all
22 have different jobs, different life experiences.
23 And to come together -- so everybody can come
24 together and look at these facts and render a
25 verdict. I'm saying that in this particular case

1 and in all cases, what we are asking you to do is
2 just use your common sense. Every day common sense
3 that you -- that you've learned and been
4 experiencing throughout your life.

5 This case took place back in September 22,
6 2018. The reason why there's two counts of
7 attempted murder is because there are two victims in
8 this case. They sit here. Mr. Javier Solis and
9 that's Mr. Orlando Colorado. They are the victims
10 in this case.

11 Javier, who is married, decided on a Friday
12 night that he and his wife were going to go out to a
13 place called Vibe. Well, Vibe's a little club
14 that's located on East North Street, kind of down by
15 Lakeview Apartments. They went there to celebrate
16 their 25th anniversary. They also went there to
17 celebrate a birthday, so other individuals were
18 there.

19 Orlando was cooking all day for a birthday
20 party, and he also later in the evening went to this
21 establishment. Now, I'll tell y'all right now,
22 these two did not know each other. They did not
23 know each other until after the night of this
24 incident. That, ladies and gentlemen, becomes very
25 important in this case.

1 The defendants were also at this club. When
2 Orlando got there, he ordered a drink and made a
3 comment about a particular song that was on the
4 radio, maybe it was a jukebox, but whatever was
5 being played. And it was a comment that the
6 defendants did not like. They said something to
7 him, and Orlando decided to leave the club.

8 What this amounts to is not now a bar fight.
9 It's an ambush. Orlando leaves the club and the two
10 defendants ambush him from behind and cut him
11 numerous times. I'm being real gentle right now.
12 The evidence will come out on the stand.

13 Javier, he's out in the -- this happens in the
14 parking lot. Javier comes out -- is out there and
15 sees this happening. And being a good Samaritan, he
16 attempts to help. And when he attempts to help, the
17 defendants turn on him. And the defendants cut him
18 numerous times.

19 Now, ladies and gentlemen, I will be presenting
20 this evidence through testimony. There will also be
21 photographs, things of that nature for your
22 consideration. As this trial goes through, and I
23 agree with the judge, it sometimes hard to keep your
24 attention with madam interpreter going on, but I
25 would respectfully ask that you keep your attention

1 and listen to the testimony of these witnesses.

2 It's greatly appreciated. Your service is
3 always appreciated. It's a great service to come in
4 here for jury duty and do this service. I think
5 it's Winston Churchill that said the greatest thing
6 you can do for your nation during peacetime is jury
7 duty. So that -- I do appreciate that.

8 I will be back up to speak to you in closing
9 arguments, ladies and gentlemen. Until then, thank
10 you for your time and attention and I would ask that
11 you just simply listen to the evidence that's
12 presented during this testimony. Thank you.

13 THE COURT: Mr. Neely.

14 MR. NEELY: Thank you, Your Honor.

15 What happened? What happened? Why did this
16 happen? Did it start inside or did it start
17 outside? These are the questions that Officer
18 Cassel asked when he arrived in the parking lot at
19 Club Vibe in the early morning hours of
20 September 22, 2018. And within about 5, 6,
21 7 minutes, he had decided what happened.

22 But what really happened, what the evidence is
23 going to show you, is on the night of September 22,
24 2018, Juan and Luis were in Club Vibe. They knew
25 the owners, Bladimir and Paula, and they went in by

1 themselves. They didn't know anybody else there.

2 Separately, Mr. Solis, Mr. Lopez, some other
3 individuals, were at this club. They don't know
4 each other. One of the brothers requested that the
5 deejay play a song from their home country of
6 Honduras. These individuals are from Columbia.
7 Doesn't seem like a big deal, but it is. A lot of
8 animosity between these people. That's when the
9 brothers asked to play a song from Honduras.
10 Orlando Lopez used as racial slur and made a comment
11 about the music, which the brothers didn't like.
12 And there's some jawing in the bar that goes back
13 and forth, and then that's it.

14 Orlando Lopez cannot let this go, so loudly he
15 announces his intention to go outside. And
16 immediately -- immediately walking out with Orlando
17 Lopez is a man named Jhefrey Colorado. Jhefrey
18 Colorado is there that night with Javier Solis.
19 Javier can't let his friend Jhefrey go outside by
20 himself, so he immediately follows him out also.
21 Javier's wife, Angela, tells him not to go outside,
22 not to go outside, but he does anyway.

23 A period of time passes and then the bar
24 closes. When the bar closes, Bladimir, the owner,
25 tells Juan and Luis that they're going to have to

1 leave. They leave as the bar is closed. And when
2 they get outside, Orlando Lopez, Jhefrey Colorado,
3 and Javier Solis are lying in wait, waiting to
4 attack Juan and Luis. That's what they were waiting
5 on.

6 Unfortunately, they picked the wrong
7 individuals to wait and attack. Unfortunately, for
8 Juan and Luis, one of them had something that they
9 could defend themselves with and they did. That's
10 what really -- that's what really happened. Now,
11 ladies and gentlemen, you cannot be the instigator
12 and the victim, but that's what they're attempting
13 to do.

14 There are two types of investigation that law
15 enforcement can do. The first is that they can go
16 to a crime scene. They can gather evidence and look
17 for clues and follow those clues to their logical
18 conclusions to figure out what happened and
19 determine who the suspect is.

20 The second type of investigation is that they
21 can determine who the suspect is, gather evidence to
22 support that assumption, and then make all the
23 evidence that they gather fit that assumption.
24 Eleven minutes into their investigation, Officer
25 Cassel is using the word "suspect." And so all of

1 the evidence that is gathered after that fits that
2 assumption.

3 When I was a small child, my granddaddy had a
4 farm up in North Carolina, and one summer I went up
5 there. And one of my favorite things to do when I
6 went to go see my grandparents was to ride a
7 four-wheeler. One day, I was doing something I
8 wasn't supposed to and I crashed that four-wheeler.
9 And I had to walk back to the house and get my
10 granddaddy to come help me pull it out because I got
11 it stuck in a ditch.

12 And he said, "Well, Paul what happened?" And I
13 said, "Well, you know, I was riding and a little
14 bunny came across the path. And I didn't want to
15 hit it, so I swerved." And he goes, "Okay." So he
16 helped me get it out.

17 That night at dinner, sitting there eating
18 dinner with my grandma and my granddad, and my
19 granddad said, "Tell your grandma what I did today."
20 And I said, "Well, I was out riding the four-wheeler
21 and this little squirrel came running out across."
22 And my granddaddy says, "Get up. You're done with
23 dinner. Go to bed." And he came back in my room
24 and he said, "Do you want to know how I know you
25 were lying? Because the truth is the truth and it

1 is the same every single time, but lies have
2 versions. They're stories."

3 What you're going to hear during this trial is
4 Mr. Lopez has already told several different
5 versions of what happened. Mr. Solis has already
6 told several different versions of what happened.
7 Ms. Solis has told several different version of what
8 happened. Jhefrey Colorado has told several
9 different versions of what happened. And I am very
10 excited to see which version we get on this witness
11 stand.

12 You cannot be the instigator and the victim and
13 call them here because law enforcement, to support
14 their assumption of who the suspect was, relied
15 heavily on these statements, these stories that have
16 changed over the last four years.

17 Everybody in this courtroom has a job to do.
18 Bailiffs in the red coat, they're here to make sure
19 that y'all are comfortable. Our officers are here
20 to make sure the courthouse is safe. The court
21 reporter is taking down everything. The judge is
22 here as a referee. The defense counsel here with me
23 is to question the State's evidence. Juan and --
24 Juan and Luis are the only two that don't have to do
25 anything. The burden of proof lies solely with the

1 State. They don't have to prove anything to you.
2 The State has to prove beyond a reasonable doubt the
3 charges that they have made. They are the chief
4 accusers for the State of South Carolina. And
5 before they can take away somebody's liberty, they
6 have to prove to you beyond a reasonable doubt the
7 allegations that they have made. The judge read to
8 you the indictments and he said this is merely a
9 statement of allegation. They have made their
10 accusations. Your job is to make sure that they
11 actually provide you evidence of these allegations.

12 So while you're sitting here during this trial,
13 think of every single question you can possibly
14 think of as you hear the testimony and make sure
15 that those two, the chief accusers for the State of
16 South Carolina, answer those questions. I'm going
17 to tell you, they can't. They have multiple
18 versions of what happened because it's not the
19 truth.

20 1,307 days, that's how long Juan and Luis have
21 been waiting for somebody to finally do a proper
22 investigation. That's why y'all are so important.
23 At the end of this trial, you're going to see that
24 the State cannot prove the accusations that they
25 have made and you're going to have no choice but to

1 find both of them not guilty.

2 THE COURT: Mr. Watson.

3 MR. WATSON: Ladies and gentlemen, I want to
4 speak briefly on reasonable doubt. I'm kind of a
5 fan of magicians. And one magician who's famous did
6 an interview recently about being asked "how do you
7 do your tricks?" Which is a question many of us
8 have about magicians. How do you do your tricks?
9 And one of the common refrain you have is a magician
10 never reveals his tricks, but being versed in
11 allusion, he did give a little hint into it saying
12 that what the eyes see and the ears hear the mind
13 believes. There are voids. There are omissions.
14 And that sometimes even in plain sight, those voids
15 and omissions are what make a trick of the hand.

16 And so he did this illustration by getting a
17 ball bat like you would get at Walmart of gumballs
18 that's probably about yea big, a gallon-size or so.
19 And he put ping-pong balls in it all the way until
20 he could not put one ping-pong ball left in it. He
21 actually overfilled it, and one of them dropped out
22 a little bit and then said, "Is this jar full?" And
23 everyone said, "Yes, it's full." And every one he
24 tried to put in there, there was some that would
25 spill out, so obviously it's full.

1 So he goes over and he gets a bag of sand and
2 he fills up all the way until no sand can go in and
3 it's falling through the cracks, the voids that are
4 in this jar. And then he asked, "Is it full now?"
5 He didn't even get a response the second time.
6 There's still a few grains of salt. "Okay. Now
7 it's full."

8 So he goes and gets a gallon of water, and
9 they're able to see the moisture -- the sand taking
10 on the moisture as it goes up and up and up, the
11 water starting to spill out. He asked, "Is it full
12 now?" He didn't get any response at that point, but
13 his illustration had been made clear that it's
14 what's in those voids that is the incomplete, the
15 answer that you think you have the answer to.

16 Those voids will become readily apparent from
17 the State presenting their case. They've got
18 ping-pong balls. There's a lot of voids that need
19 to be accounted for. And just thinking that it's
20 full from the first time the State is presenting
21 their case is not to be relied on wholesale. What
22 those voids are in between is reasonable doubt and
23 it compels a reasonable doubt.

24 THE COURT: All right. Call your first
25 witness, State.

1 MR. RICHARDSON: The State calls Orlando Lopez.

2 THE CLERK: Would you please come forward.

3 Please pause at the end of the bench. Please place
4 your left hand on the Bible and raise your right
5 hand.

6 THE WITNESS: (Complying.)

7 THE CLERK: You do solemnly swear or affirm to
8 tell the truth, the whole truth, nothing but the
9 truth so help you God?

10 (Through the interpreter:)

11 THE WITNESS: I do.

12 THE CLERK: Thank you. Please be seated.

13 THE WITNESS: (Complying.)

14 THE CLERK: Please state your name for the
15 record.

16 THE WITNESS: Orlando Antonio Messes Lopez.

17 ORLANDO LOPEZ,

18 having been produced and first duly sworn as a
19 witness on behalf of the State, then testified as
20 follows:

21 DIRECT EXAMINATION

22 BY MR. RICHARDSON:

23 Q. Mr. Lopez, how old are you?

24 A. Forty-seven.

25 Q. And are you married?

1 A. Separated.

2 Q. Okay. Do you have any children?

3 A. Yes.

4 Q. How many?

5 A. Two.

6 Q. What are their ages?

7 A. Nine and 25.

8 Q. Okay, sir. Now, are you employed?

9 A. Yes.

10 Q. Where?

11 A. I work for Wendy's.

12 Q. Okay, sir. And do you -- what do you do with
13 Wendy's?

14 A. I work in construction/maintenance.

15 Q. Okay. And are you -- are you originally from
16 the United States?

17 A. Yes. I'm a resident.

18 Q. Okay. And how long have you been a resident?

19 A. Four years.

20 Q. Okay, sir. And how long have you been in the
21 United States?

22 A. Nineteen years.

23 Q. Okay, sir. Now, let me take your memory back
24 to September the 21st and 22nd of 2018. Do you
25 recall that day?

1 A. Yes.

2 Q. Okay. And do you recall early in the day what
3 you were doing that day?

4 A. Yes. I was preparing some chicken for the
5 nephew's birthday.

6 Q. Okay, sir. And -- and when you prepare these
7 chickens, how do you do that?

8 A. I have to put spices on them and it takes me
9 the whole day.

10 Q. Okay. So is that what you did the majority of
11 that day on the 21st?

12 A. Yes. Until night.

13 Q. Okay, sir. And at some point, did you go to
14 Vibe Club?

15 A. Yes. I went to say hello to the owner who is
16 my friend.

17 Q. Okay, sir. And do you -- do you recall about
18 what time it was you got there?

19 A. Two -- 2:05 in the morning.

20 Q. Okay, sir. And the person that you went to
21 talk to, you said he's -- was he the owner of Vibe?

22 A. Yes, sir.

23 Q. Okay. Now, were you -- when you went to Vibe,
24 were you by yourself or was anybody with you?

25 A. No. I was by myself.

1 Q. When you got to Vibe, what did you do?

2 A. I sat at the bar on a chair and I asked for a
3 drink.

4 Q. Okay. And did you drink that drink?

5 A. Yes.

6 Q. And -- and how many -- what was it you were
7 drinking?

8 A. Aguardiente.

9 Q. Okay. Is that like liquere?

10 A. Yes. It's a little liquere.

11 Q. Okay. And how many of those drinks did you
12 have that night?

13 A. Two.

14 Q. Had you had anything to drink before going to
15 Vibe?

16 A. No.

17 Q. Where -- where did you sit at Vibe?

18 A. At the bar.

19 Q. Okay. And did you see the defendants at any
20 point in time?

21 A. Yes. They were knacks.

22 Q. Okay. So were they next to you?

23 A. Two chairs ahead of me.

24 Q. Okay. And when -- were the defendants already
25 there when you got there?

1 A. Yes, sir.

2 Q. While you were at the bar, what, if anything,
3 happened with the defendants?

4 A. A song was played and I told the owner, "What
5 an ugly song." And one of them came and said, "Shut
6 up your mouth you son of a bitch."

7 Q. Okay. So was it one of the defendants that
8 made that comment to you?

9 A. Yes.

10 Q. Okay. And did they ever make any mention of
11 your nationality?

12 A. Theirs or mine?

13 Q. Yours.

14 A. Yes. They -- they called me "little Colombian
15 son of a bitch."

16 Q. Okay. Now, you said they had been there prior
17 to you getting there; is that right?

18 A. Yes, sir.

19 Q. And you do not know when the defendants got to
20 that -- to Vibe?

21 A. No.

22 Q. And when they said this to you, did they appear
23 intoxicated?

24 A. Yes.

25 Q. And how -- were you able to get a good look at

1 their face at this point in time?

2 A. Yes. I did see them.

3 Q. Okay. And had you ever seen these two
4 defendants before?

5 A. No, sir.

6 Q. Now, when they made that comment to you, what
7 did you do?

8 A. I told the owner of the bar that I didn't
9 have -- I didn't want problems. I'd rather leave.

10 Q. Okay. And did you, in fact, leave?

11 A. Yes. I paid and left.

12 Q. And when you left, did you leave alone?

13 A. Yes.

14 Q. And when you left, were the defendants still in
15 the bar?

16 A. Yes.

17 Q. Once you left, where did you go?

18 A. I was going towards the car, but I did not have
19 the time to get there.

20 Q. Okay. So when you say you were going towards
21 the car, whose car?

22 A. It was to my car to go to my house.

23 Q. Okay. So you were going to your car?

24 A. Yes, sir.

25 Q. And was -- at this point in time, was Jhefrey

1 Colorado with you?

2 A. No. He was outside. I found him outside when
3 I was going towards the car.

4 Q. So you saw Jhefrey Colorado outside after you
5 left the club?

6 A. Yes. He was outside.

7 Q. And did you and -- did you know Jhefrey
8 Colorado?

9 A. No.

10 Q. Okay. Was Javier Solis outside when you left
11 the bar?

12 A. No.

13 Q. Were you, in fact, alone outside the bar when
14 you left outside the bar?

15 A. Who?

16 Q. I'm sorry? Can you repeat?

17 A. Can you repeat the question, please?

18 Q. Yes. Were you -- were you alone when you left
19 the club and outside in the parking lot?

20 A. Yes. Alone.

21 Q. What happened -- what happened after you left
22 the bar in the parking lot?

23 A. I was going towards the car and I felt someone
24 behind. I looked and it was them already attacking
25 me.

1 Q. When you say "them," who are you talking about?
2 Are you talking about the defendants?

3 A. Yes, sir.

4 Q. And were you able to see who was attacking you?

5 A. Yes. Because I looked towards the back and it
6 was them both who were in the bar.

7 Q. And when you say "them both," are you referring
8 to both defendants?

9 A. Yes, sir.

10 Q. And did they say anything to you?

11 A. I don't remember. When I turned to look, they
12 were already stabbing me with the knives and they
13 were both of them.

14 Q. Okay. And do you recall where the first stab
15 took place?

16 A. No. Because I didn't feel it.

17 Q. And did you -- when you say you didn't feel it,
18 did you know you were being stabbed?

19 A. Yes. Because I saw them both with the hand
20 like this (indicating).

21 Q. Okay. And can you just show the jury what
22 you -- like show your hand how -- how were their
23 hands?

24 A. Yes. They both were stabbing me like this
25 (indicating) with the knife.

1 Q. Okay. What happened at that point in time?

2 A. I don't remember because when they started
3 stabbing me, I lost conscious.

4 Q. Okay. So when you lost conscious, the last
5 thing you remember, were you standing or had you
6 fallen to the ground?

7 A. No. I was on the ground.

8 Q. Okay. Do you remember being on the ground?

9 A. No.

10 Q. Okay. And so your last memory was being
11 stabbed when you were standing?

12 A. Yes.

13 Q. And you have no memory of anything once you
14 were on the ground?

15 THE INTERPRETER: Can you repeat?

16 BY MR. RICHARDSON:

17 Q. I'm sorry. You have no memory of anything once
18 you had fallen to the ground?

19 A. I do not remember.

20 Q. Okay. At any time during this incident, were
21 you able to fight back?

22 A. No. They didn't give me the time.

23 Q. And in that same instance they didn't give you
24 the time, did you ever have a weapon of any type?

25 A. No.

1 Q. And -- and during this -- during the time that
2 they were stabbing you that you remember, what was
3 your thought process?

4 A. No. No. Nothing. I lost conscious
5 immediately.

6 Q. So I mentioned Javier Solis. Did you know
7 Javier Solis before this night?

8 THE INTERPRETER: I'm sorry. Can you repeat
9 the question for Javier Solis?

10 BY MR. RICHARDSON:

11 Q. Did -- did you know Javier Solis before this
12 night?

13 A. No.

14 Q. And did you ever see him out in the parking
15 lot?

16 A. No.

17 Q. And as a result -- well, let me ask you this.
18 What was your next memory after you blacked out?

19 A. After when the ambulance came for me.

20 Q. Okay, sir. And what kind of injuries did
21 you -- did you receive as a result of this?

22 A. I have nine cuts on my back.

23 Q. Were all the cuts on your back?

24 A. All of them on the back and one on the neck.

25 Q. So were there ---

1 A. Oh, and one on the stomach.

2 Q. Okay, sir. The ones -- do all nine cuts that
3 you referred to, were all nine on the back including
4 the neck?

5 A. Yes. And another one I also have under the
6 arm.

7 Q. Okay. Now, you were transported to the
8 hospital; is that right?

9 A. Yes.

10 Q. Okay. And have you reviewed photographs of
11 injuries to you at the hospital?

12 A. No.

13 Q. Okay. Let me show you what's been marked
14 State's Exhibit 1, 2, 3, 4, and 5. Do you -- do you
15 recognize those photographs?

16 MS. GORSKI: Your Honor, may we see the
17 pictures?

18 MR. RICHARDSON: I haven't put them in yet.

19 THE COURT: He hasn't put them in yet. He's
20 going to lay a foundation for them. And then before
21 he asks to admit them, then he'll show them to you.

22 MS. GORSKI: Thank you.

23 BY MR. RICHARDSON:

24 Q. Do you recognize those?

25 A. (No response.)

1 Q. It's okay. Take your time.

2 A. Okay.

3 Q. Do these photographs accurately depict injuries
4 that you had?

5 A. Yes, sir.

6 Q. And have they been changed or altered in any
7 way?

8 A. Yes. They are all the photos.

9 Q. And they have not been changed?

10 A. No.

11 MR. RICHARDSON: Your Honor, State at this time
12 would move to admit State's Exhibit 1, 2, 3, 4, 5,
13 and 6 into evidence.

14 THE COURT: All right. Any objection from the
15 defense?

16 MS. GORSKI: No. Not at this time.

17 THE COURT: Mr. Watson?

18 MR. WATSON: Not at this time, Your Honor.

19 THE COURT: All right. State's Exhibits 1, 2,
20 3, 4, 5, and 6 are admitted into evidence without
21 objection.

22 (State's Exhibit Nos. 1-6 were admitted into
23 evidence.)

24 MR. RICHARDSON: Thank you, Your Honor. Your
25 Honor, at this time I would publish the exhibits.

1 THE COURT: All right.

2 BY MR. RICHARDSON:

3 Q. Sir, I am going to refer to what's been marked
4 as State's Exhibit 1. What is that a picture of,
5 sir?

6 A. It's from here (indicating) in the back.

7 Q. Okay, sir. And State's Exhibit 2, what is
8 that?

9 A. It's also here (indicating) in the back.

10 Q. And State's Exhibit 3?

11 A. That one is here (indicating).

12 Q. State's Exhibit No. 4?

13 A. That one is the one from here (indicating).

14 Q. And do you recall, was that the -- I may have
15 asked this. Do you recall, was this the first
16 strike on you?

17 A. Yes.

18 Q. And State's Exhibit 5?

19 A. That one is around here (indicating).

20 Q. If you could ask him to stand and point to the
21 jury, please.

22 A. Yes. Around here (indicating).

23 Q. And is that also a second wound on that
24 photograph?

25 A. The second one?

1 Q. Are there two wounds on that photograph?

2 A. Yes. I had several around here, as well.

3 Q. Okay. And when you say "here," what are you
4 referring to?

5 A. Well, here on the leg.

6 Q. Yes. But at this, State's Exhibit 5 I'm
7 referring to, was on your back?

8 A. Yes.

9 Q. And then State's Exhibit 6?

10 A. That one is here (indicating) on the arm.

11 Q. Now, do those pictures show every wound to you?

12 A. Yes.

13 Q. Let me show you what's been marked State's
14 Exhibit 7 and 8. Do you recognize?

15 A. Yes.

16 Q. Okay. Are those -- do those accurately depict
17 what they portray?

18 A. Yes.

19 Q. Have they been changed in any way?

20 A. No. That's my clothing.

21 MR. RICHARDSON: Okay. Your Honor, at this
22 time we would move State's Exhibit 7 and 8 into
23 evidence.

24 THE COURT: All right. Any objection?

25 MS. GORSKI: No objection.

1 MR. NEELY: No objection, Your Honor.

2 THE COURT: All right. State's Exhibit 7 and 8
3 are admitted into evidence without objection.

4 (State's Exhibits Nos. 7-8 were admitted into
5 evidence.)

6 BY MR. RICHARDSON:

7 Q. Sir, I'm referring to State's Exhibit 7. What
8 is that?

9 A. That's my shirt.

10 Q. Okay. And are there slash marks on that shirt?

11 A. Yes.

12 Q. And is that the backside of the shirt?

13 A. Yes.

14 Q. State's Exhibit 8 I'm referring to, what is
15 that?

16 A. Those are my pants.

17 Q. And the pants you were wearing during the
18 attack?

19 A. Yes.

20 Q. Now, you stated that you went to the hospital
21 from the Vibe parking lot; is that right?

22 A. Yes, sir.

23 Q. And -- and can you tell the jury which hospital
24 it was?

25 A. No. I do not remember to which hospital I was

1 taken to.

2 Q. Okay. And did you receive medical attention
3 such as stitches?

4 A. Yes.

5 Q. And do you recall the number of stitches that
6 you received?

7 A. About 60 stitches.

8 Q. I'm sorry. Can you repeat that, madam
9 interpreter?

10 A. About 60 stiches.

11 Q. How long were you in the hospital?

12 A. Two days and a half or three.

13 Q. Okay. And did you have follow-up care with
14 doctors after your hospital stay?

15 A. Yes, sir.

16 Q. Okay. And did -- due to your injuries, did you
17 miss any work time?

18 A. Yes.

19 Q. And -- and was that because you were unable to
20 work?

21 MR. WATSON: Objection.

22 THE COURT: What's your basis?

23 MR. WATSON: Relevance.

24 THE COURT: What's the relevance?

25 MR. RICHARDSON: Your Honor, I'm attempting to

1 show part of the elements of this is an intent to
2 kill. So I'm showing the establishment of the
3 injury as it was objected out. The injury
4 establishes that he couldn't work and certainly much
5 worse than a minor injury.

6 THE COURT: I'll allow it right now, but I'm
7 not going to let you go much further. So I'll
8 overrule it for right now.

9 BY MR. RICHARDSON:

10 Q. And how long were you out of work?

11 A. Three months.

12 Q. Now, at some point in time, were you shown a
13 photographic lineup by a police officer?

14 A. Yes.

15 Q. Do you recall where that was shown to you?

16 MR. NEELY: Objection, Your Honor.

17 THE COURT: What the grounds?

18 MR. NEELY: This is based on our pretrial
19 hearings.

20 THE COURT: All right. Overruled.

21 MR. NEELY: Thank you, Your Honor.

22 THE COURT: Note your objection.

23 BY MR. RICHARDSON:

24 Q. And I'm sorry. I'm not sure he answered the
25 question. Do you recall where you were when you

1 were given a photographic lineup?

2 A. Yes. In the hospital.

3 Q. And do you recall who was there when the
4 photographic lineup was given to you?

5 A. Yes.

6 Q. And who was -- who was there? Who was present?

7 A. Two policemen.

8 Q. Now, these police officers that showed you the
9 lineup, did they suggest to you in any way on who to
10 pick out from that lineup?

11 A. No.

12 Q. Did they influence you in any way of who to
13 pick out in that lineup?

14 A. Not at all.

15 Q. Do you recall what they told you about the
16 lineup before showing it to you?

17 A. Yes. I could recognize the one that hurt me.

18 Q. Okay. And let me show you what's been marked
19 State's Exhibit 30. Do you -- do you recognize
20 that?

21 A. Yes, sir.

22 Q. And does that accurately depict what you were
23 shown back in September in the hospital?

24 A. Yes, sir.

25 MR. RICHARDSON: Your Honor, at this time we

1 would move State's Exhibit 30 into evidence.

2 MR. NEELY: Your Honor, we've already noted our
3 objection.

4 THE COURT: Mr. Watson?

5 MR. WATSON: Just joining in the objection for
6 the record.

7 THE COURT: State's Exhibit No. 30 is admitted
8 into evidence over objection.

9 MR. RICHARDSON: Thank you, Your Honor.

10 (State's Exhibit No. 30 was received into
11 evidence.)

12 BY MR. RICHARDSON:

13 Q. And I'll ask you again, was this the lineup
14 that you were shown?

15 A. Yes, sir.

16 Q. And did you make some markings on this lineup?

17 A. Yes, sir.

18 Q. And is that circle your marking or somebody
19 else's marking?

20 A. I did mark it.

21 Q. And why did you mark that particular photo?

22 A. Because he's the one that attempted to kill me.

23 Q. Sorry. Could you repeat that?

24 A. Because he's the one that attempted to kill me.

25 Q. And is that also your initials?

1 A. Yes, sir.

2 Q. That photograph, how certain are you that that
3 person was one of the two who attempted to kill you
4 that night?

5 A. He's the one that got close to me in the bar,
6 the one that stopped me.

7 Q. And the other defendant was also involved with
8 that stabbing?

9 A. Yes. Both of them had arms.

10 Q. Okay, sir. And let me ask you and tell the
11 jury, are those two individuals that stabbed you
12 that night in the parking lot, are they in this
13 courtroom today?

14 A. Yes, sir.

15 Q. And can you point out the two individuals that
16 stabbed you on that night?

17 A. Yes, sir.

18 Q. Please do so.

19 A. The two that are there (indicating). The one
20 in white and the brother, the older one.

21 Q. Okay, sir. And the other one that's not in
22 white, what color shirt does he have?

23 A. The one with the white shirt and the one with
24 the gray striped shirt.

25 MR. RICHARDSON: Your Honor, please let the

1 record reflect that the defendant -- that the victim
2 has identified both defendants as the perpetrators
3 of this crime.

4 Beg the Court's indulgence. (Counsel
5 conferring.) All right. Thank you, sir. Please
6 answer any questions defense counsel may have.

7 THE COURT: All right. Cross?

8 CROSS-EXAMINATION

9 BY MS. GORSKI:

10 Q. Good morning, Mr. Lopez.

11 A. Good morning.

12 Q. I am going to take you back a little bit to
13 some of the things that you just spoke about and
14 also to the night of September 18, 2018. Okay?

15 A. Okay.

16 Q. This is why we're here today, to make sure that
17 we know exactly what happened that night at Vibe.
18 You agree?

19 A. Yes.

20 Q. Well, first, I want to talk about one of the
21 answers that you gave Mr. Richardson to a question.
22 He asked you what was said between you and
23 Mr. Alvarez, correct?

24 A. Yes.

25 Q. Okay. And he also asked you when you got to

1 the Club Vibe, you went directly to a seat at the
2 bar; is that right?

3 A. Yes.

4 Q. And he asked you if you had entered the bar by
5 yourself, and you said yes?

6 A. Yes. I was by myself.

7 Q. Okay. You got to the bar around 2:15 in the
8 morning you said?

9 A. 2:05.

10 Q. 2:05 a.m.?

11 A. (No response.)

12 Q. When he asked you -- Mr. Richardson first asked
13 you about what was said, that is when you said that
14 Mr. Alvarez looked over at you and said, "Columbian
15 son of a bitch"; is that correct?

16 A. Yes. He said it that way.

17 Q. Okay. And this today is not the first time
18 that you have given sworn testimony about what
19 happened that night, correct?

20 A. Yes.

21 Q. On October 19, 2019, you went to a law office
22 to tell about the events. You went there
23 voluntarily? Nobody forced you?

24 A. A law office?

25 Q. Yes.

1 A. To a law office? I have not been there.

2 Q. Okay. So you have not been to a law office to
3 talk about this case in October of 2019?

4 A. Yes. Oh, yes. Yes.

5 Q. Okay. So you did. And there -- there were a
6 number of people in that office including two
7 attorneys. One of those attorneys represented you,
8 correct?

9 A. Yes.

10 Q. And you were there for the purpose of giving
11 testimony about what happened that night in
12 September, right?

13 A. Yes.

14 Q. And the owners of Club Vibe were there at that
15 office as well, Bladimir Acosta and Paula Patina,
16 correct?

17 A. Yes.

18 Q. And there was a professional translator in the
19 room with you?

20 A. Correct.

21 Q. And there was also a court reporter in that
22 room, correct?

23 A. I think so.

24 Q. And you raised your hand before you started
25 talking about what happened and you took an oath to

1 tell the truth?

2 A. I don't remember.

3 Q. You don't remember raising your hand and saying
4 that you were going to tell all the truth?

5 A. There? I don't remember.

6 Q. Okay. On that date in October, referring to
7 the office that you went to, there was a court
8 reporter in the room and there was an attorney that
9 was asking you questions, right?

10 A. I don't remember.

11 Q. I'm going to read to you what you were asked
12 and what you answered that day that you took that
13 oath to tell the truth about the events of that
14 night.

15 A. I always say the truth.

16 Q. Okay. The question you were asked: "All
17 right. As I mentioned to Mr. Solis, as you know,
18 you're under oath. As you know, you are -- you're
19 under oath and you're bound by law to answer these
20 questions truthfully."

21 "Yes," you answered.

22 Question by the attorney: "All right. Any
23 questions for me before we start?"

24 Your response was "no."

25 And then that's when the deposition started.

1 Now do you remember taking an oath?

2 A. I don't remember what they asked me. Every
3 time I'm asked, I say the truth.

4 Q. Okay. But you did give sworn testimony about
5 this case in October?

6 A. (No response.)

7 Q. Let's go back to you getting to Club Vibe.
8 Mr. Richardson asked you the question about you
9 getting to Club Vibe, walking in, and going to the
10 bar. And you said that you walked in by yourself
11 and sat down.

12 A. Yes.

13 Q. But that's not exactly what happened, is it?

14 A. So who did I go in with? I was by myself. If
15 I was by myself, how would I say I was with someone
16 else?

17 Q. But when you got to Club Vibe, you actually
18 went to the front door to go in and it was locked?

19 A. Yes.

20 Q. So you didn't go in the front door, you went in
21 the back door?

22 A. Yes.

23 Q. And there were other -- three or four other
24 men -- people also that did the same thing, and they
25 walked in at the same time you did?

1 A. Two persons, but they weren't with me.

2 Q. But everyone walked in at the same time through
3 the back door?

4 A. Yes.

5 Q. And now when Mr. Richardson asked you pretty
6 much what was said, that's where the "Columbian son
7 of a bitch" line came in?

8 A. Yes.

9 Q. But that's not really what was said, is it?

10 A. That's what he told me. He said, "Watch your
11 words, son of a bitch Colombian -- little Colombian
12 son of a bitch."

13 Q. Okay. That is similar to what you said before,
14 but now you've added the derogatory -- the bad word
15 "son of a bitch."

16 A. I've always said the same.

17 Q. Well, I'm going to take you back again to that
18 day that you gave sworn testimony, October of 2019,
19 where you swore you'd tell the truth. And you were
20 asked, "Yes. You sat in the corner?" And your
21 response was, "And it was said to me 'Columbian,
22 watch, watch what you say.'"

23 Okay. So I'm going to ask you again. You were
24 not told any bad word? You were just told to watch
25 your words, but you were not called a name?

1 A. Who says no?

2 Q. You did.

3 A. I'm saying what I was said.

4 Q. So you said something here today. You said
5 something else October 19th when you had the same
6 question. And both times you were under oath,
7 correct?

8 A. Yes.

9 Q. Now, you also said that -- and this is
10 important because you said you decided to leave.

11 A. Yes.

12 Q. And that you went outside by yourself?

13 A. By myself.

14 Q. And you immediately went to your car?

15 A. I was going towards the car.

16 Q. Okay. And you were getting ready to leave?

17 A. Yes.

18 Q. And you didn't because that's when you felt you
19 got stabbed?

20 A. Yes. They didn't let me get into the car.

21 Q. But that's not actually what happened either,
22 right?

23 A. That's what happened.

24 Q. Well, that's what you're telling us today, but
25 what actually happened was you stopped to smoke a

1 cigarette outside?

2 A. Yes.

3 Q. Right next to your car?

4 A. Yes.

5 Q. And you even were out there with Jhefrey
6 Colorado?

7 A. Uh-huh.

8 Q. But when you were asked by Mr. Richardson, you
9 said you went directly to your car and you didn't
10 leave, and you couldn't leave because you were
11 stabbed?

12 A. Yes.

13 Q. But that's not actually what happened because
14 you were out there for a little while -- 5 minutes,
15 10 minutes, 20 minutes. You even ---

16 A. No. No. Jhefrey asked me if I had a light.
17 And I was going to the car for the light, and that's
18 when they got onto me.

19 Q. Okay. But you ---

20 A. I looked for the light. And when I was going
21 to leave, they didn't let me get into the car.

22 Q. But you didn't say any of that when
23 Mr. Richardson asked you exactly what happened. You
24 didn't tell him you had stopped to smoke a
25 cigarette.

1 A. Yes.

2 Q. You didn't tell him that you were out there
3 talking to Jhefrey Colorado?

4 A. I was not talking to Jhefrey.

5 Q. Did you just tell me a minute ago that you had
6 talked about a lighter, about a cigarette?

7 A. I was going to the car.

8 Q. So you just told me one version, and you told
9 Mr. Richardson a minute ago a different version very
10 similar to another?

11 A. It's the same.

12 Q. It is not the same. It's not the same answer.

13 MR. RICHARDSON: Objection, Your Honor. That's
14 argumentative.

15 THE COURT: That's overruled.

16 BY MS. GORSKI:

17 Q. So, Mr. Lopez, you've been asked the same
18 question by Mr. Richardson here today, by myself,
19 and at a sworn deposition. And we have three
20 different answers for the same questions so far.

21 MR. RICHARDSON: Is that a question?

22 THE COURT: Hold on. Hold on.

23 MR. RICHARDSON: My objection is, is she asking
24 a question?

25 THE COURT: She did end with "correct" in the

1 interim point, so I'll overrule.

2 MR. RICHARDSON: Okay.

3 THE COURT: Make sure you don't argue.

4 BY MS. GORSKI:

5 Q. Most -- most important was we've heard
6 Mr. Richardson today ask you questions about the
7 stabbing, correct?

8 A. Uh-huh.

9 Q. You said ---

10 A. Yes.

11 Q. You said more than once, "They stabbed me."

12 A. Yes.

13 Q. And that's what your -- you answered when
14 Mr. Richardson asked you. However, you were also
15 asked that question during that deposition; do you
16 remember?

17 A. I don't remember.

18 Q. Okay. I am going to refer back to that
19 deposition, and I'm going to read what was asked and
20 what you answered. Question: "Do you remember what
21 they were using, what weapon?" Your answer was,
22 "No. I didn't see them."

23 A. I did not see their arms. They were already
24 with their hand like this (indicating). They had to
25 have knives or who did they cut me with?

1 Q. But you answered, "They stabbed me." You did
2 not say that at any point you didn't see anything
3 about a weapon or them.

4 A. If they cut me, it was not with a finger. It
5 was with arms. Those questions.

6 Q. Okay. But, Mr. Lopez, you're being asked ---
7 you're being asked the same questions, but you're
8 giving different answers. I'm going to ask you a
9 couple more questions. Okay?

10 A. Yes. But logic questions.

11 Q. You were given the chance to write a statement
12 in this case.

13 A. I did not write it. I do not know English.

14 Q. The statement that I'm referring to was written
15 by an officer.

16 A. Okay.

17 Q. And in that statement, you said that you saw
18 someone outside, talked about Jhefrey Colorado. And
19 in the statement that was written for you by the
20 officer, you said he asked you for a ride home.

21 A. No. It was a man that was outside, another
22 one.

23 Q. And that happened before you tried to leave,
24 right?

25 A. Yes.

1 Q. But when you were asked just a minute ago what
2 happened when you walked out, you didn't mention any
3 of that.

4 A. But that doesn't have nothing to do.

5 Q. When you were asked what happened, you're not
6 being completely truthful, are you?

7 A. I am saying the truth what happened. The truth
8 is that the case is about the injuries that they
9 tried to kill us. Not -- the case was not about all
10 of the ones that were in the establishment.

11 Q. Well, it's true though that you actually sued
12 Club Vibe, right?

13 A. Yes.

14 Q. And that you sued Bladimir Acosta and that you
15 sued Paula Patina, correct?

16 A. Yes.

17 Q. And that it's based on what happened in that
18 club that night?

19 A. Yes.

20 Q. So you are holding them responsible for what
21 happened to you?

22 A. Yes. Because it started there.

23 Q. You also mentioned that before they stabbed
24 you, isn't it true that they punched and kicked you?

25 A. Yes.

1 Q. Okay. Can you tell me in which of the pictures
2 that we saw, there were pictures of where you were
3 punched or kicked?

4 A. How can there be pictures of kicking? Who
5 would take the pictures to them?

6 Q. On your body where you were punched or kicked.

7 A. On the head here (indicating).

8 Q. You said a few minutes ago to Mr. Richardson
9 that you remembered you were stabbed first, correct?

10 A. Yes.

11 Q. But when you were asked that question, you
12 didn't answer that question truthfully either
13 because you have on other occasions already said
14 that you were punched and kicked first.

15 A. Never. That's a lie.

16 Q. Then those questions when they're asked of you
17 and you answer today, at the deposition, in your
18 statement, each time there's been different
19 information, correct?

20 A. No. To me that's been altered or something
21 because I've always said the same. It seems to me
22 to be weird that they got papers like that.

23 Q. You've given different answers to the same
24 questions at different times, correct?

25 A. No.

1 Q. You've given different answers to the same
2 questions about when you got to Club Vibe.

3 A. No. The same answer.

4 Q. You've answered differently to the same
5 question about the order of events happening, and
6 that's because the lawsuit is important, correct?

7 A. Uh-huh.

8 MS. GORSKI: May I have a moment, Judge?

9 THE COURT: Yes.

10 BY MS. GORSKI:

11 Q. Just a couple more questions.

12 A. But not the same.

13 Q. No. At the very beginning of Mr. Richardson
14 asking you some questions, he had asked you about
15 that day in the daytime, you said you had been home
16 cooking for your nephew's party or birthday,
17 correct?

18 A. Preparing to celebrate the birthday.

19 Q. But that's not what you were doing that day,
20 correct?

21 A. So what does she say? What do I say to her?

22 Q. Because in that same deposition that was taken
23 in October 2019, you were asked that question. And
24 in that deposition you answered that you had worked
25 the night before until 9:00 a.m. and slept the whole

1 day.

2 A. Oh, you are asking me what I did during the
3 day?

4 Q. That's right. Mr. Richardson asked you what
5 you did during the day, and you said you were
6 cooking, correct?

7 A. Yes. Preparing the meal. Preparing the meal
8 for the birthday.

9 Q. And, again, you were not preparing. You were
10 sleeping during the day; isn't that correct?

11 A. (Responding to interpreter.)

12 Q. I'm sorry. Just yes or no.

13 A. During the day, just a little bit. Ask again.

14 Q. You were sleeping during the day. That's what
15 you were doing, correct?

16 A. In the morning.

17 Q. You said you were sleeping until morning time?

18 A. I don't know until what time.

19 Q. When you were asked that question before, the
20 question was, "About what time did you wake up?"

21 A. I don't have a set time to wake up.

22 Q. Your answer was, "10:00 or 11:00 p.m." You
23 were not cooking that day, right?

24 A. No.

25 Q. You slept during the day. You slept into the

1 night, correct?

2 A. No.

3 Q. You got up around ten or eleven o'clock?

4 A. No.

5 Q. Then you left for Club Vibe at 2:00 a.m.,
6 correct?

7 A. Yes.

8 Q. Mr. Richardson asked you about what you drank,
9 and you said aguardiente?

10 A. In Vibe.

11 Q. And -- and you said you only had one or two
12 drinks, correct?

13 A. Yes.

14 Q. When you were asked that same question, your
15 answer then was whiskey and coke. And you said to
16 Mr. Richardson a couple of minutes ago, you only had
17 one to two drinks.

18 A. Two drinks.

19 Q. But you actually had more.

20 A. No.

21 Q. When you were asked that question, "Do you know
22 how many you had?" Your answer was, "Maybe three
23 drinks I believe."

24 A. Yes. Two or three.

25 Q. And that answer is different to the same

1 question that I just asked you and that
2 Mr. Richardson asked you, correct?

3 A. Okay.

4 Q. Is that right?

5 A. Yeah, two.

6 Q. But different answers to the same question.

7 A. Okay.

8 MS. GORSKI: Thank you, Mr. Lopez. I have no
9 further questions right now.

10 THE COURT: Mr. Watson, before we get into
11 this, can we just take a short restroom break? I
12 think we may need just a little quick ten-minute
13 break.

14 MR. WATSON: Understood.

15 THE COURT: Ladies and gentlemen, excuse you
16 for our morning break. Give you a short restroom
17 break. Somebody may need to take one, including
18 myself. So we'll just take a little short break.

19 (At 12:06 p.m., jury left the courtroom.)

20 THE COURT: We're going to take just a short
21 restroom break, a very short one. Sir, you are
22 still under oath and you cannot talk to anybody
23 about your testimony. It's going to be short, just
24 a short restroom break.

25 (From 12:07 to 12:20 p.m., a break was had.)

1 MR. WATSON: In full disclosure, I believe I'm
2 duty bound to bring this up, but we observed Orlando
3 speaking with others during the break, to wit, we
4 believe some of the other witnesses. And we just --
5 this is after the instruction and before we had
6 taken a break so I wanted to bring that to the
7 Court's attention.

8 THE COURT: Okay. Is that interpreted to him?

9 MR. NEELY: He didn't have his earpiece in.

10 THE COURT: Sir, have you talked to somebody
11 during the break?

12 THE WITNESS: I'm kind of short of breath, so I
13 was talking with them because they were getting me
14 some cough drops.

15 THE COURT: Who did you speak with?

16 THE WITNESS: She -- she gave me some cough
17 drops, but I wasn't talking about anything.

18 THE COURT: Did you have any conversation other
19 than that?

20 THE WITNESS: No.

21 THE COURT: Did you have any discussion about
22 your testimony?

23 THE WITNESS: No. Not at all.

24 THE COURT: Okay. Anything else?

25 MR. WATSON: Nothing further.

1 MR. RICHARDSON: Judge, as clarification, he
2 has a medical condition and he does not have his
3 inhaler, and we are giving him the mints because of
4 that.

5 THE COURT: All right. I just wanted to make
6 sure that you did not speak with anyone about your
7 testimony.

8 All right. Anything else?

9 MR. WATSON: Nothing further.

10 THE COURT: All right. Let's bring them in.

11 (At 12:25 p.m., jury entered the courtroom).

12 THE COURT: All right. Mr. Watson.

13 MR. WATSON: Thank you, Your Honor.

14 CROSS-EXAMINATION

15 BY MR. WATSON:

16 Q. Sir, you testified when Doug asked you did
17 you -- that our clients immediately came out behind
18 when you walked out in the parking lot, correct?

19 A. Yes.

20 Q. But when you were giving a deposition under
21 oath, you said that you were outside for about five
22 minutes.

23 A. Yes. I smoked a cigarette and they came out
24 from the back.

25 Q. And you testified today after testifying

1 earlier that you had one or two drinks, that you had
2 three drinks?

3 A. Yes. Today I said two. It could've been two
4 or three.

5 Q. Which is different from one?

6 A. That's why in the beginning I said two or three
7 because since I had the accident, asked a lot of
8 questions, and I said two. I drank two or three.

9 Q. And you drank those, as it says in your
10 deposition, between 20 and 30 minutes, correct?

11 A. Yes. Something like that. I don't recall how
12 long I was there. I didn't count the minutes and
13 the seconds.

14 MR. WATSON: Nothing further.

15 THE COURT: All right. Any redirect?

16 MR. RICHARDSON: Yes, Your Honor.

17 REDIRECT EXAMINATION

18 BY MR. RICHARDSON:

19 Q. Sir, I apologize. I wasn't real specific, so
20 I'm going to go back. Regarding Jhefrey, you
21 testified you saw Jhefrey when you came out of the
22 club.

23 A. Yes. He was in the parking lot.

24 Q. And then I began questioning you about what
25 happened regarding the knifing.

1 A. Yes.

2 Q. So my question now is, was Jhefrey and you
3 together during that knifing?

4 A. No. I was alone. He was alone in the parking
5 lot, and I came out and there he was.

6 Q. And once again, my mistake. Did you have a
7 conversation with Jhefrey before the knifing?

8 A. No. He was in the parking lot and he asked me
9 for a light or maybe I asked him for a light for the
10 cigarette, but from afar. He and I weren't talking.

11 Q. Okay. And -- and you left the Vibe alone? You
12 did not leave with Jhefrey?

13 A. No. I was alone.

14 Q. And you did not know Jhefrey before this night?

15 MS. GORSKI: Objection. I'm going to object.

16 THE COURT: What's your basis?

17 MS. GORSKI: Leading questions that are
18 conclusionary.

19 THE COURT: I'll sustain. Make sure you don't
20 lead.

21 MR. RICHARDSON: Okay. Your Honor, I'm on
22 redirect, so...

23 BY MR. RICHARDSON:

24 Q. Now, during these other times that you've given
25 statements, have you had other interpreters?

1 A. Yes.

2 Q. And you don't know how the interpreters are
3 telling what you said, do you?

4 A. No.

5 Q. And this deposition that was referred to, you
6 had an interpreter that is not in this courtroom
7 today?

8 A. No.

9 Q. And you stated that you do not read English; is
10 that correct?

11 A. Yes.

12 Q. And the deposition that defense counsel refers
13 to, that's in English, right?

14 A. I didn't see it. I haven't seen it.

15 Q. That's right. Did you -- did you ever read
16 that deposition?

17 A. No.

18 Q. Did you ever read that deposition to see if
19 what was interpreted was correct?

20 A. I don't know how to read English.

21 MR. RICHARDSON: Beg the Court's indulgence.
22 (Counsel conferring.) That's all the questions I
23 have.

24 THE COURT: All right. Recross?

25 MS. GORSKI: Just briefly, Your Honor. Thank

1 you.

2 RECROSS-EXAMINATION

3 BY MS. GORSKI:

4 Q. You were just asked about the deposition that
5 you gave sworn testimony to in October of 2019,
6 correct?

7 A. Could you please repeat the question?

8 Q. Mr. Richardson just asked you about the
9 deposition that you were at October 2019 where you
10 gave sworn testimony.

11 A. Yes.

12 Q. At that deposition, you did not speak English,
13 correct?

14 A. No. I don't read it.

15 Q. But there was a court certified interpreter
16 that was in the room with you, correct?

17 A. Yes.

18 Q. Your attorney, Ryan James, was in the room
19 also, correct?

20 A. Yes.

21 Q. And when you were sworn in and you were told
22 about this deposition, you were given some
23 directions about it?

24 A. I don't remember.

25 Q. You were told you could stop at any time if you

1 had a question. You were told you could also ask
2 the interpreter to slow down and your attorney was
3 there and your attorney could do the same, correct?

4 A. I don't recall.

5 Q. And you didn't stop at all during that
6 deposition, you didn't ask any questions, and you
7 did not say you didn't agree with what was being
8 taken down by the court reporter, correct?

9 A. I don't know. I don't remember what was spoken
10 there.

11 Q. Your attorney got a copy of that deposition
12 also when you talked about what happened in that
13 deposition, correct?

14 A. I don't know.

15 MS. GORSKI: No further questions.

16 THE COURT: Mr. Watson?

17 MR. WATSON: Nothing further.

18 THE COURT: All right. You may step down.

19 (Witness excused.)

20 THE COURT: All right. Call your next -- next
21 witness. And what we'll do, Mr. Richardson, we'll
22 go till probably about one o'clock and then we'll
23 take a lunch break, so let's go ahead and get
24 started.

25 MR. RICHARDSON: State would call Jhefrey

1 Colorado.

2 THE CLERK: Sir, if you'd please come forward.

3 THE WITNESS: (Approaching.)

4 THE CLERK: If you'd please pause at the end of
5 the bench. Place your left hand on the Bible.

6 Please raise your right hand.

7 THE WITNESS: (Complying.)

8 THE CLERK: You do solemnly swear or affirm to
9 tell the truth, the whole truth, and nothing but the
10 truth so help you God?

11 (Through the interpreter:)

12 THE WITNESS: Yes.

13 THE CLERK: Please be seated.

14 THE WITNESS: (Complying.)

15 THE CLERK: Please state your name for the
16 record.

17 THE WITNESS: My name is Hildaldo Jhefrey
18 Colorado Paris.

19 JHEFREY COLORADO,
20 having been produced and first duly sworn as a
21 witness on behalf of the State, testified as
22 follows:

23 DIRECT EXAMINATION

24 BY MR. RICHARDSON:

25 Q. Sir, how old are you?

1 A. Thirty-four years old.

2 Q. And are you married?

3 A. Yes, sir.

4 Q. And do you have children?

5 A. Yes, sir.

6 Q. And how long have you been married?

7 A. Four years.

8 Q. And how many children do you have?

9 A. Three.

10 Q. And what are their ages?

11 A. Fourteen, seven, and 17-months old.

12 Q. Okay, sir. Now, let me take your memory back

13 to September the 21st of 2018, also September 22,

14 2018. Did you have an occasion to go to Vibe Club

15 on that evening -- on the evening of the 21st?

16 A. Yes, sir.

17 Q. And what -- why were you going there?

18 A. At that moment, I was sharing a friend's

19 birthday.

20 Q. Okay, sir. And did you go with anybody to

21 Vibe?

22 A. At that moment, I went with a girlfriend and

23 then there we met with two friends.

24 Q. Okay, sir. And do you recall what time you got

25 to Vibe?

1 A. I think at about 10:00, 10:30.

2 Q. Okay, sir. And when you arrived at Vibe, did
3 you see the defendants there?

4 A. I don't remember well. When I got in, I saw
5 them.

6 Q. Okay. So -- I'm sorry. I didn't understand
7 your answer. Did you see the defendants in Vibe
8 when you got there or after you arrived?

9 A. Oh, at the moment I arrived, I don't remember
10 if I saw them. But then later when I went to the
11 restroom, I could see they were sitting at the bar.

12 Q. Okay. And the last part, at the bar?

13 A. Yes, sir.

14 Q. And when you saw them sitting at the bar, at
15 that time did you see Orlando in the club?

16 A. No. No.

17 Q. Now, was Javier Solis there? Do you know
18 Javier Solis?

19 A. Yes. Of course, I know him. He's the person I
20 was going to meet with at the location.

21 Q. Okay. How long have you known Javier?

22 A. I think seven or eight years.

23 Q. Did you go to Vibe with Javier or just meet him
24 there?

25 A. We met at the location.

1 Q. Okay. And prior to this night, did you know
2 Orlando?

3 A. No, sir.

4 Q. Now -- well, prior to this night, did you know
5 the defendants?

6 A. No, sir.

7 Q. At some point in time, did you notice Orlando
8 at the bar?

9 A. Yes.

10 Q. And how far were you sitting from Orlando at
11 that time?

12 A. I estimate 8, 9 feet.

13 Q. Okay. And could you also -- were the
14 defendants also at the bar?

15 A. Yes, sir.

16 Q. And, approximately, how far were they from
17 Orlando?

18 A. Due to the circumstances of the place, I would
19 say 3 feet or 4 feet.

20 Q. Three or 4 feet. Did you, at some point in
21 time, see Orlando come into the club?

22 A. Yes. I -- practically, when I was going out, I
23 saw Orlando at the location.

24 Q. Okay. And when you say you were going out or
25 when you were leaving, was that the first time you

1 saw Orlando?

2 MS. GORSKI: Objection. Leading.

3 THE COURT: Sustained.

4 BY MR. RICHARDSON:

5 Q. Did you leave the club prior to -- after
6 Orlando got there?

7 A. No.

8 Q. Did you leave the club after Orlando got there?

9 A. No.

10 Q. When I mean leave, did you go outside at some
11 point in time?

12 A. Yes. But first Orlando left.

13 Q. And then when -- did you leave just after
14 Orlando?

15 A. Yes, sir.

16 Q. And why did you leave?

17 A. As I said, I was about to leave. And then the
18 girl I was with, we had had an argument and I wanted
19 to be outside.

20 Q. Okay. And where were you outside when you
21 left?

22 A. I left and I went to the car to look for a
23 cigarette.

24 Q. Okay. And prior to your leaving, did you see
25 any interaction between Orlando and the defendants

1 at the bar?

2 A. Yes, sir.

3 Q. And what -- what did you hear or observe?

4 A. What I was able to see, they had a small
5 argument, to which I didn't pay much attention. It
6 was nothing too bad. And then later I saw Orlando
7 going out of the bar.

8 Q. How long had Orlando been there from the time
9 he got there until the time he left approximately?

10 A. I couldn't tell you in realtime, but I could
11 say not too long.

12 Q. So he was there for a very short period of
13 time?

14 A. Yes, sir.

15 Q. Now, when you were outside, did you see -- you
16 saw Orlando outside?

17 A. Yes.

18 Q. Okay. Did you also see the defendants come
19 outside?

20 A. But I first interacted with Orlando because I
21 had gone to my car for cigarettes and I didn't have
22 any, so I went to him to see if he could give me
23 one.

24 Q. One cigarette?

25 A. Yes, sir.

1 Q. And at that point in time, did you ever see the
2 defendants come outside?

3 A. At that moment, I -- I asked him if he had a
4 cigarette. He said he didn't have one. He was
5 inside the car. Then he -- then he came down and he
6 told me that we could go to find one at the gas
7 station.

8 Q. And where did Orlando go at that point in time?

9 A. We went towards my car to see if I have one.

10 Q. Okay. And -- well, I'm not sure I'm clear on
11 that. Can you -- where did Orlando go after you had
12 the conversation about the cigarette?

13 A. Initially, he was inside his car. Then he got
14 out of his car and we went to my car to see if I had
15 a cigarette. Since we didn't find any at that
16 moment, he returned to his car and I stayed in my
17 car. And that's when the persons saw Orlando and
18 started saying things to him.

19 Q. And did you hear what they said to Orlando?

20 A. Yes. They started insulting him, and the only
21 thing Orlando said is, "I don't want problems. I'm
22 not looking for problems."

23 Q. And then what happened?

24 A. Then they started attacking him without any
25 mercy.

1 Q. I'm sorry. Can you repeat?

2 A. Then they started attacking him without any
3 mercy.

4 Q. Without any mercy. And you were there with
5 Jhefrey. Was Jhefrey outside? Excuse me. Sorry.
6 Was Javier outside?

7 A. At the moment that those people started
8 attacking Orlando, at that moment I see the two
9 persons have arms. At that moment, Javier sees that
10 Orlando falls on the ground unconsciously. That's
11 the only thing he could see, that he was
12 unconscious. What Javier does is to start screaming
13 to them to stop and trying to stop him -- stop them
14 from hurting him.

15 Q. Okay. And let me just go back because you used
16 the word "arms" and that they have arms. Are you
17 referring to a body part or something else?

18 A. Can you repeat the question, please?

19 Q. Yes. When you referred to "they have arms,"
20 what are -- what are you talking about?

21 A. At that time I could identify that they had a
22 type of pocketknife weapon.

23 Q. Okay. And do you recall if both of them had it
24 or just one?

25 A. Yes, sir. Both.

1 Q. And where -- when Orlando -- the attack begins
2 on Orlando, where is Javier Solis?

3 A. When they started attacking Orlando, Javier was
4 just coming out of the club.

5 Q. And what did Javier do at that point in time?

6 A. He tried to defend Orlando because they were
7 attacking -- attacking him.

8 Q. And did you see Orlando fall to the ground?

9 A. Yes, sir.

10 Q. And were the defendants, when Orlando was on
11 the ground, were they continuing to attack him?

12 A. That's -- at that moment, that's why Javier got
13 involved because he was -- Orlando was on the ground
14 and they continued attacking him and kicking him on
15 the head.

16 Q. And ---

17 THE INTERPRETER: Your Honor, the interpreter
18 would add that the witness stated that Orlando was
19 unconscious.

20 BY MR. RICHARDSON:

21 Q. That's good because that was my next question.
22 So is -- Orlando's unconscious on the ground. How
23 many times did the defendants attack him that you
24 saw?

25 A. They attacked him multiple times. I could not

1 say a number.

2 Q. And at any time, did you see Orlando with any
3 type of weapon?

4 A. No. Not at any time.

5 Q. Was Orlando ever able to defend himself?

6 A. Not at all.

7 Q. And once Javier got involved, tell the jury
8 what happened when Javier got involved?

9 A. At the moment that Javier arrived, they were
10 attacking Orlando. He could not identify Javier
11 that they were armed. He only could scream saying
12 to stop.

13 Q. And after Javier screamed to stop, did he get
14 involved in any form?

15 A. Yes. He tried to separate them, pushing one of
16 them. And one of them fell. He was being attacked,
17 so he started attacking Javier with one of the
18 pocketknives.

19 Q. At any time did you see Javier with a weapon?

20 A. No. Not at any time.

21 Q. At any time prior to this attack, did you see
22 Javier in the club with a weapon?

23 A. No. Not at all.

24 Q. Was Javier coming to the defense of Orlando at
25 that time?

1 A. Yes, sir.

2 Q. When they started to attack Javier, were both
3 of them involved with that -- both defendants
4 involved with that?

5 A. Yes, sir. Is that -- yes.

6 Q. Once they start attacking Javier, what does
7 Javier do?

8 A. Javier, at the moment, one of these persons
9 start attacking him. Javier just tries to hold the
10 arm where he was -- in which he had his weapon. At
11 that moment, the other person came and started
12 attacking Javier on the back.

13 Q. And so at this point in time, are two people,
14 two -- both defendants attacking Javier at the same
15 time?

16 A. Yes. Yes, sir.

17 Q. And was the attack on Javier at his back?

18 A. Yes. Because Javier was trying to hold
19 strongly one of them, and the other one -- the other
20 one came on the back and attacked him.

21 Q. And when that happened, at any point did Javier
22 go to the ground or what happened to Javier?

23 A. At that moment, I -- (inaudible) -- and I tried
24 to find something to protect them with and to
25 protect myself.

1 Q. Okay. And give the jury an idea, is this a
2 very quick act or is this a prolonged act?

3 A. No. This just happened in seconds. It was too
4 fast.

5 Q. And at any point did Javier run?

6 A. No. At that moment, he didn't have a way to
7 run.

8 Q. Okay. How did the attack stop on Javier?

9 A. At that moment when I see they are attacking
10 Javier, I tried to find something to defend him
11 with.

12 Q. And did you find something?

13 A. Yes. I found -- I don't remember if it was a
14 tube or a stick. I couldn't tell what I grabbed it
15 from.

16 Q. And when you found this tube or stick, what did
17 you do?

18 A. Well, I tried to go towards the people that
19 were attacking Javier, but when they saw this, they
20 ran away.

21 Q. And when they ran away, did you follow them?

22 A. Yes. I went after them, and they tried to get
23 into a van used for work.

24 Q. Okay. And was -- do you recall what color that
25 van was?

1 A. No. I do not remember well at that moment.

2 Q. And ---

3 THE INTERPRETER: Interpreter No. 2 would like
4 to request a repetition on counsel's question.

5 BY MR. RICHARDSON:

6 Q. I asked if he knew the color of the van.

7 A. If I'm not wrong, I think it was white.

8 Q. Okay. And when they went to this white van,
9 what did they do at that time?

10 A. At that moment the van door did not open, so
11 they just crossed the road and went towards an area
12 that was like full of woods.

13 Q. And did you see where they went?

14 A. No.

15 THE INTERPRETER: The answer -- the interpreter
16 is going to clarify the question.

17 THE WITNESS: Yes. I did see the place they
18 went through, but I didn't follow them any longer.

19 BY MR. RICHARDSON:

20 Q. Okay. And that -- was that a wooded area?

21 A. Yes. The area where they went into had like
22 trees, was like -- like a woody area.

23 Q. Now, after that, did you stay present? Did the
24 police come after that?

25 A. Yes, sir.

1 Q. And you remained on scene?

2 A. Yes, sir.

3 Q. And did the -- did the defendants ever come
4 back to the scene?

5 A. No. Never again.

6 Q. And until today, have you -- have you ever --
7 have you seen the defendants before?

8 A. No.

9 Q. And were you able to get a -- a good look at
10 their faces, the two individuals that attacked both
11 Orlando and Javier?

12 A. Yes, sir.

13 Q. Are they in this courtroom today?

14 A. Yes, sir.

15 Q. Can you point them out for the Court and jury?

16 A. The sir that is there with the gray shirt and
17 the sir that is there with the white shirt.

18 MR. RICHARDSON: Please let the record reflect
19 that the witness has identified the defendants as
20 the ones that attacked Javier and Orlando.

21 Beg the Court's indulgence. (Counsel
22 conferring.) That's all the questions I have, Your
23 Honor.

24 THE COURT: All right. Ladies and gentlemen,
25 it's time to take our lunch break. So why don't we

1 do this, let's go ahead and take our lunch break.
2 We're going -- we're going to try to get started
3 back at 2:30, so maybe try to get back here about
4 2:15, and then we will keep going. I think we're in
5 a good position now to keep rolling, so I hope all
6 of you have a good lunch. And just remember, please
7 don't discuss the case and we'll start back here
8 about 2:30. But if you would, try to get here about
9 2:15. Thank you.

10 (At 1:11 p.m., jury was excused for lunch.)

11 THE COURT: All right. Before we break, is
12 there anything from the State?

13 MS. HOLLAND: Your Honor, I did want to ask
14 briefly. Just ask -- to instruct while we have the
15 interpreters available to us, that the victims and
16 the witness do not speak to anybody. They also
17 cannot speak to any other sequestered witnesses.
18 His wife and several witnesses are sequestered.

19 THE COURT: That's what I was getting ready to
20 do, but anything else from the State?

21 MS. HOLLAND: No, sir.

22 THE COURT: Anything from defense?

23 MR. NEELY: No, sir.

24 THE COURT: Sir, you are not able to speak with
25 anybody about your testimony during this break. Do

1 you understand?

2 THE WITNESS: Yes, sir.

3 THE COURT: Okay. All right. We'll be in
4 recess. Let's get back here about 2:15.

5 (From 1:12 to 2:33 p.m., lunch recess was had.)

6 THE COURT: Ready to begin? Anything from the
7 State?

8 MR. RICHARDSON: Nothing from the State.

9 THE COURT: Anything from the defense?

10 MR. NEELY: Nothing from the defense.

11 (At 2:34 p.m., jury entered the courtroom.)

12 THE COURT: All right. I hope everybody had a
13 good lunch and we are ready to proceed. Mr. Neely.

14 MR. NEELY: Thank you, Your Honor.

15 CROSS-EXAMINATION

16 BY MR. NEELY:

17 Q. Mr. Colorado, on the night this occurred, you
18 were on scene when law enforcement arrived, correct?

19 A. Yes, sir.

20 Q. And on that night, you spoke with law
21 enforcement?

22 A. Yes, sir.

23 Q. They asked you what happened?

24 A. Yes, sir.

25 Q. And you told them what happened?

1 A. Yes, sir.

2 Q. The next night, you were at the hospital?

3 A. Yes, sir.

4 Q. Law enforcement arrived while you were still at
5 the hospital?

6 A. Yes, sir.

7 Q. And y'all discussed again what happened?

8 A. Yes, sir.

9 Q. At no point in time did law enforcement ask you
10 to give a written statement?

11 A. I don't really remember well.

12 Q. You didn't give a written statement though, did
13 you?

14 A. I don't remember much.

15 Q. And at no point in time did law enforcement ask
16 you if you were hurt, did they?

17 A. Can you repeat the question?

18 Q. At no point in time did law enforcement ask you
19 if you were injured?

20 A. No.

21 Q. All right. Before lunch, Mr. Richardson was
22 asking you questions.

23 A. Yes, sir.

24 Q. And those questions from Mr. Richardson were
25 about what happened on that night, correct?

1 A. Yes. That's correct.

2 Q. And you testified that you went to Club Vibe
3 for a birthday party?

4 A. Yes, sir.

5 Q. That you were there to meet Javier and Angela?

6 A. Yes, sir.

7 Q. And that y'all arrived separately?

8 A. That's correct.

9 Q. And towards the end of the night, you went
10 outside for a cigarette?

11 A. Yes, sir.

12 Q. And Orlando Lopez was already outside?

13 A. Yes. That's correct.

14 Q. Okay. And it's your testimony that at that
15 point in time, Javier was still inside of Club Vibe?

16 A. Yes, sir.

17 Q. You asked Orlando Lopez for a cigarette?

18 A. Yes, sir.

19 Q. He looked for one, but didn't have one?

20 A. That's correct.

21 Q. Offered to take you to the gas station to get
22 one?

23 A. Yes, sir.

24 Q. But then at some point, y'all separated. He
25 went to his car; you went to your car?

1 A. That's correct.

2 Q. And Mr. Solis was still in the club at that
3 point?

4 A. That's correct.

5 Q. And then your testimony was, at that point, the
6 Alvarez brothers came outside of Club Vibe?

7 A. That's correct.

8 Q. And they had an argument with Mr. Lopez?

9 A. Yes.

10 Q. They said something to him?

11 A. Yes.

12 Q. And he said something to them?

13 A. Yes. That's correct.

14 Q. They were looking at each other?

15 A. No.

16 Q. But they had an argument?

17 A. Yes. They had an argument.

18 Q. Outside in the parking lot?

19 A. Yes.

20 Q. Then the attack started?

21 A. That's correct.

22 Q. At some point during that attack, Mr. Solis
23 came outside?

24 A. That's correct.

25 Q. Okay. And that is your testimony today about

1 what happened that night?

2 A. Yes, sir.

3 Q. That's not what you told law enforcement the
4 night that this happened?

5 A. Then what is it?

6 Q. Let me refresh your memory. Do you remember
7 talking to an officer who spoke Spanish?

8 A. Yes.

9 Q. And he asked you in Spanish what happened?

10 A. Yes. That's correct.

11 Q. And you told him what happened?

12 A. Yes, sir.

13 MR. RICHARDSON: Your Honor, at this time can
14 we approach?

15 THE COURT: Yes.

16 (Sidebar discussion.)

17 BY MR. NEELY:

18 Q. You spoke to the officer who spoke Spanish and
19 he asked you what happened. You told that officer
20 that you were all just eating, and then you were all
21 hanging out in the parking lot. And then they got
22 here, and they started stabbing for no reason. Do
23 you remember telling the officer that?

24 A. No.

25 MR. NEELY: So, Your Honor, at this time we

1 would introduce Officer Nunez or Officer Cassel's
2 body cam for purposes of impeachment.

3 THE COURT: Any objection?

4 MR. RICHARDSON: Your Honor, I'm not sure what
5 are they introducing.

6 MR. NEELY: Just a clip of his statement to
7 Officer Nunez that night where he says exactly what
8 we just got through refreshing his recollection.

9 THE COURT: All right. Any objection?

10 MR. RICHARDSON: Without objection.

11 THE COURT: All right. Without objection.

12 (Playing video.)

13 BY MR. NEELY:

14 Q. That's what you said that night to Officer
15 Nunez?

16 A. Yes.

17 Q. About ten minutes later, Officer Nunez was
18 asking you again what happened. And you testified
19 that they arrived in a white van, that they started
20 problems, and they started to bother the women, the
21 two that were there. And you also told them that
22 they began to bother ---

23 MR. RICHARDSON: Your Honor, I'm going to
24 object. First off, it's compound. Second off, he's
25 not asking a question. He's making a statement.

1 It's compound. He's got to ask specifically on each
2 and every categorical question.

3 THE COURT: Yeah, I'll sustain it. Just make
4 sure -- because that was a couple of questions.
5 Make sure you break it up a little bit. I'll
6 sustain that.

7 BY MR. NEELY:

8 Q. You told that officer that they arrived in a
9 van. Yes or no?

10 A. I -- I spoke about the -- the van -- the
11 truck -- the van.

12 Q. Okay. And you told them that they started to
13 bother the women. Yes or no?

14 A. No.

15 Q. And then you told them again, they started to
16 bother the women. Yes or no?

17 A. No.

18 Q. And then you told them that Javier Solis was
19 out there, and you told them to relax. Yes or no?

20 A. Yes.

21 Q. You did tell the officer that?

22 A. Yes.

23 Q. And then it was after that point that they
24 pulled out the knives and began to attack Mr. Solis,
25 yes or no?

1 A. No.

2 MR. NEELY: And, Your Honor, at this point we
3 would play Officer Cassel's body cam and show that
4 this conversation is what took place that night.

5 THE COURT: Any objection from the State?

6 MR. RICHARDSON: No objection.

7 (Playing video.)

8 MR. NEELY: No further questions for this
9 witness, Your Honor.

10 THE COURT: All right. Mr. Watson?

11 MR. WATSON: Nothing further.

12 THE COURT: All right. Redirect?

13 REDIRECT EXAMINATION

14 BY MR. RICHARDSON:

15 Q. So, sir, what you stated is that in the first
16 thing -- and by the way, this was four years ago; is
17 that right?

18 A. Yes. That's correct.

19 Q. And -- and you stated in there that you told
20 this jury that they came up for no reason and
21 attacked.

22 A. That's correct.

23 Q. And that the women you're referring to in that
24 video, was that -- was that the wives of Javier or
25 who were you referring to?

1 A. At the time it had happened inside the club
2 when -- that was when they had the first argument,
3 and I was referring to that.

4 Q. And -- and the women that you're referring to,
5 was that the women in the club?

6 A. Yes, sir.

7 Q. So on that night, the defendants were messing
8 with women in the club too?

9 A. Well, that night, that's when the situation
10 happened that I wasn't really -- I'm not really
11 sure, you know, what was said or what the problem
12 was at the club.

13 Q. Okay. And in the -- in the parking lot, what
14 you testified to was that they unprovoked attacked
15 Orlando and Javier?

16 A. Yes. That's correct.

17 Q. And they characterized a -- they said an
18 argument. Was Orlando arguing with the defendants?

19 A. Can you please repeat the question?

20 Q. Did Orlando -- what did Orlando say to the
21 defendants? Did he argue with them or were they
22 arguing with Orlando?

23 A. No. There wasn't any argument outside. There
24 was an argument inside the -- inside the club, but
25 not out.

1 Q. And who was that argument?

2 A. The defendants and Orlando.

3 Q. And was that over music?

4 A. No. Outside, I just saw that they were
5 talking. They were saying stuff to Orlando, and he
6 said, you know, I don't want any problems tonight
7 and all of that, and then the attack started.

8 MR. RICHARDSON: Beg the Court's indulgence.

9 (Counsel conferring.) Thank you.

10 THE COURT: Recross?

11 MR. NEELY: Yes, Your Honor.

12 RECROSS-EXAMINATION

13 BY MR. NEELY:

14 Q. When you -- when Mr. Richardson first asked you
15 what happened, your testimony was: It was a small
16 argument between Orlando and the brothers in the
17 bar, correct?

18 A. Yes.

19 Q. And at no point before lunch when
20 Mr. Richardson was asking you questions did you
21 mention anything about any problems between the
22 Alvarez brothers and those women, did you?

23 A. I didn't say that at that time, but as I
24 mentioned, this was a problem that came up and I
25 wasn't really aware of the details.

1 Q. But on the video we watched, you did tell law
2 enforcement that the problem with the women was in
3 the parking lot by your car, correct?

4 A. Correct.

5 MR. NEELY: Nothing further, Your Honor.

6 THE COURT: Anything else from the State?

7 MR. RICHARDSON: Nothing further from the
8 State.

9 THE COURT: All right. You may step down.

10 THE WITNESS: (Complying.)

11 MR. RICHARDSON: Your Honor, can he be released
12 from his subpoena?

13 THE COURT: Any objection from defense?

14 MR. NEELY: Okay. No objection, Your Honor.

15 THE COURT: All right. Mr. Watson?

16 MR. WATSON: No objection.

17 THE COURT: All right. You are be released.

18 MR. RICHARDSON: State calls Javier Lopez --
19 Solis.

20 THE WITNESS: (Approaching.)

21 THE CLERK: Sir, please place your left hand on
22 the Bible, raise your right hand.

23 THE WITNESS: (Complying.)

24 THE CLERK: You so solemnly swear or affirm to
25 tell the truth, the whole truth, and nothing but the

1 truth so help you God?

2 THE WITNESS: Yes.

3 THE CLERK: Thank you. Please be seated.

4 THE WITNESS: (Complying.)

5 THE CLERK: Please state your name for the
6 record.

7 THE WITNESS: My name is Javier Solis.

8 THE CLERK: Thank you.

9 JAVIER SOLIS,
10 having been produced and first duly sworn as a
11 witness on behalf of the State, then testified as
12 follows:

13 DIRECT EXAMINATION

14 BY MR. RICHARDSON:

15 Q. Mr. Solis, I apologize for getting your last
16 name wrong. How old are you?

17 A. I'm 56.

18 Q. And are you married?

19 A. Yes, sir.

20 Q. How long have you been married?

21 A. Twenty-eight years.

22 Q. Okay. And who are you married to?

23 A. Angela Solis.

24 Q. Okay. And where -- where did you and she meet?

25 A. We met in New York City.

1 Q. And how long have you been here with her in
2 South Carolina?

3 A. We've been here for the past ten years.

4 Q. And do you have children?

5 A. Yes. We have three children, four grandkids.
6 Actually, three. Today around one o'clock when we
7 went to lunch, we were notified that our fourth
8 grandchild was born.

9 Q. Oh, congratulations.

10 A. Thank you.

11 Q. And are you -- are you actually a citizen of
12 the United States?

13 A. Say that again.

14 Q. Are you a citizen?

15 A. Yes, sir.

16 Q. Okay. Did you go through the classes and
17 qualifications to become a citizen?

18 A. Yes, sir.

19 Q. And where are you originally from?

20 A. I'm from Columbia.

21 Q. And that would be Columbia, South America,
22 obviously?

23 A. Yes, sir.

24 Q. And you -- are you employed?

25 A. Yes, sir.

1 Q. Where are you employed?

2 A. I work for a company called ECI Groups. That's
3 based in the Atlanta area.

4 Q. Okay, sir. And how long have you been employed
5 there?

6 A. I've been with the East Coast company for two
7 years a couple of days ago. The sixth was my second
8 anniversary with the company. I've been doing my
9 same job for the past 20-plus years.

10 Q. Okay, sir. And that job that you've been doing
11 for 20 years, what -- just briefly tell the jury
12 what that entails.

13 A. Okay. I'm a service manager for an apartment
14 complex. This one is 206 units, based on the area
15 in Greenville, downtown area.

16 Q. So you're -- if I'm understanding, you're a
17 manage over several apartments?

18 A. Yes, sir. Service manager.

19 Q. Service manager. Now, let me take your memory
20 back to September the 21st, September 22, 2018. On
21 that day, what -- on that day, what -- do you
22 remember what day of the week that was?

23 A. That was a Friday.

24 Q. Okay.

25 A. That was a Friday.

1 Q. Thank you, sir. And what did you do on that
2 Friday earlier in the day?

3 A. Okay. It was a regular, my eight working
4 hours. Then we were celebrating our 25th
5 anniversary back then.

6 So at the same time, we have a couple of
7 friends, they was having his birthday on this club.
8 So we decided to go out that night to celebrate our
9 anniversary and my friend's birthday.

10 Q. Okay, sir. And the club you refer to is Vibe?

11 A. Yes. Vibe Club. Yeah, Vibe.

12 Q. Okay. Now this -- do you recall what time you
13 got off work that day?

14 A. Usually, 5:30.

15 Q. Okay. And after work, did you go home?

16 A. Yes, sir.

17 Q. Okay. And was your wife at home?

18 A. Yes, sir.

19 Q. Okay. And at some point in time that you went
20 to Vibe, do you recall about what time that was?

21 A. When we went up, it was like around 10:30ish.

22 Q. 10:30?

23 A. 10:30ish. I'm not sure.

24 Q. Okay. Yes. I understand it's been a while.

25 And when you got to Vibe, who -- who was there? Was

1 anybody there that you knew?

2 A. Yes. Actually, we walk in. Right straight out
3 from the entrance door, there was a bar. There was
4 two individuals that at the time we, I guess, mind
5 my own business. I didn't pay attention to who was
6 those two sitting there. So we -- we said "hi" to
7 them in there, Ms. Patina -- Paula Patina, the
8 owner -- the owner's wife. Bladimir, who was the
9 owner, we say hi to them. We were there waiting for
10 the rest of the party to arrive.

11 Q. Okay, sir. And did you -- did you consume any
12 alcohol?

13 A. Yes, sir. Throughout the night we were there,
14 we were taking drinks.

15 Q. Okay. And at some point -- well, let me ask
16 you, do you -- did you know Mr. Colorado?

17 A. Yes, sir.

18 Q. And how long did you know him?

19 A. I would say at this point, being like seven,
20 eight years.

21 Q. And at some point in time, did he arrive at
22 Vibe?

23 A. Yes, sir.

24 Q. And do you recall -- did you get there, you and
25 your wife get there first or did he get there first?

1 A. He got there first. There was not too many
2 people at the time when we arrived.

3 Q. Okay. And at some point in time, did you --
4 well, let me ask you this: When you got there, were
5 the defendants there?

6 A. Yes, sir. There were -- those are the two
7 people that I was speaking about at the beginning.
8 That when we walk in through the door, that were the
9 two people that was sitting right at the bar when we
10 walk in. They were there.

11 Q. And do you know -- did you know the defendants
12 before this night?

13 A. No, sir.

14 Q. And where did -- where did you and your wife
15 sit?

16 A. Okay. It has like an L-shape, the bar.

17 Q. Okay.

18 A. And then the front, we face the door. The
19 L-shape, we face the rest of the bar. And we'd be
20 towards the rest of the big room, and then we were
21 sitting right across from the bar which is going to
22 be a hallway to the restroom. So we -- we are like
23 the hallway to the restroom is between the bar and
24 where we were sitting.

25 Q. Okay. And so were you sitting at a table?

1 A. Yes, sir.

2 Q. And was it a large table?

3 A. Yes. It was like two tables put together for
4 the party.

5 Q. Okay. And at some point in the evening, did
6 you notice Orlando come into the club?

7 A. Yes, sir. It was when back then, there was a
8 curfew from the State. Actually, I think it was a
9 State curfew at twelve o'clock. So all the
10 customers was supposed to be closed at twelve
11 o'clock. So the bar was officially closed, but some
12 individuals arrived through the door and the owner
13 let them in through the back door. At that point,
14 that was when Mr. Lopez was coming in.

15 Q. Okay. And do you know who let him in the back
16 door?

17 A. The owner, Bladimir Acosta.

18 Q. And when he -- did you see where Orlando went
19 when he came in?

20 A. I -- at that point, I am the type of person
21 that I mind my own business. I -- I didn't really
22 pay attention to what or who came in at that time.
23 I knew there was some people that came in. And I
24 didn't really like count how many or don't really
25 pay attention to who it was really because there was

1 people that was really wasn't for me, for my family,
2 for my party.

3 Q. Okay. Did you see Orlando sitting at the bar?

4 A. Yes. Actually, he was sitting in the bar
5 itself.

6 Q. Okay. And was he alone?

7 A. Yes. I remember seeing him there. He was
8 sitting by himself.

9 Q. Okay. And so we're clear, before this night,
10 did you know Orlando?

11 A. In my entire life, never.

12 Q. Never seen Orlando?

13 A. Never seen Orlando.

14 Q. Now, in the night, were you able to get a good
15 look at the defendants?

16 A. Yes. Through the night, yes. We made sure
17 before I arrived there like around 10:30ish or
18 something like that. So we were sitting next to the
19 door heading to the restroom. Into the night, they
20 walk in and out of that restroom so many times that
21 it was really hard not to notice them looking in and
22 out.

23 Q. Okay. So they were going to this restroom
24 quite a bit?

25 A. Yes, sir. More than usual I would say because

1 I can hold myself. I mean, being a person 56 years
2 old, back then I was 52, can hold myself. And
3 unless you've been really drinking the whole bar
4 down, but they were, like, constantly every, I don't
5 know, two or three times an hour to the restroom.

6 Q. Okay. Now, when you arrived, were the
7 defendants already there or did they come in
8 afterwards?

9 A. They were there.

10 Q. Did you witness any interaction between the
11 defendants and Orlando at the bar?

12 A. No, sir. I didn't really see much of Orlando,
13 but my wife has been friends with the bar owner,
14 Ms. Patina. She was telling my wife about the
15 situation that they were causing, you know, some
16 kind of ---

17 MS. GORSKI: Objection, Your Honor.

18 THE COURT: What's the basis?

19 MS. GORSKI: Hearsay.

20 THE COURT: Sustained.

21 BY MR. RICHARDSON:

22 Q. Just don't tell me what your wife said. Okay.

23 A. Okay.

24 Q. All right. So -- but you personally, did you
25 witness or notice anything going on between Orlando

1 and the defendants?

2 A. No, sir.

3 Q. Okay. Now, at some point, did you -- did
4 Jhefrey -- Jhefrey was there with you?

5 A. Yes, sir. He was part of our party.

6 Q. Okay. And he didn't come with you?

7 A. No. We didn't arrive together. We were
8 supposed to meet at the bar.

9 Q. Okay. And did you see Jhefrey leave Vibe?

10 A. At the end of the -- you know, considering that
11 we arrived early before, you know, between 10:30,
12 11:00, the end of the night, after 2:00 a.m. when
13 the bar was officially closed, yes, he walked out.

14 Q. Okay. And did you see Orlando walk out?

15 A. Yes. He -- he walked out.

16 Q. Okay.

17 A. I can see through the glass door. It doesn't
18 have like a big glass door. Something similar to
19 the door, maybe a couple of inches, was a small
20 piece of glass.

21 Q. Okay. So you could see outside?

22 A. I can see outside. It was covered with blinds.

23 Q. Okay. And did Orlando and Jhefrey walk out
24 together?

25 A. No, sir.

1 Q. Now, did you also see the defendants leave
2 Vibe?

3 A. Yes, sir. They were asked to leave by Bladimir
4 asking to leave because they were causing drama
5 inside the bar.

6 Q. Okay. And did they leave?

7 A. They were -- yes, they left.

8 Q. Okay. And at some point, did you also walk
9 outside?

10 A. Yes, sir.

11 Q. Okay. And why did you walk outside?

12 A. Because I was missing one of the persons in my
13 party. It was Jhefrey. Being the person who I know
14 would be protective with the persons around me, to
15 me, he's more like family. I seen Jhefrey outside
16 when these guys walked outside. So I told them I
17 was in that position, so I decided to go out and
18 look for him.

19 Q. Okay. When you went outside, what happened?

20 A. Okay. When I went outside, I was looking for
21 my friend because, you know, these guys were causing
22 commotion inside the bar. They may be looking for
23 trouble outside, so I told my friend let's go back
24 inside. I went to look for him, and that's when the
25 two guys were attacking -- assaulting Mr. Lopez.

1 Q. Okay. Let's talk -- let's talk a little bit
2 about that. When you walked out the door, what did
3 you see? Did you see the defendants outside?

4 A. Yes. That was the reason for which I went out
5 to look for my friend because I knew they were
6 trouble. They were causing a commotion inside the
7 bar already.

8 Q. Okay. And what did you see the defendants
9 doing when you walked outside?

10 A. They were kind of arguing with the person next
11 to Jhefrey. At that point, I didn't know who was
12 it. And then when they attacked this guy, I saw
13 when he went backwards and he went like ---

14 Q. Let me stop you right there because you're
15 using a lot of pronouns when you say "he." Who are
16 you talking about went backwards?

17 A. Mr. Lopez.

18 Q. Okay. And what did you see the defendants do?

19 A. They -- they were punching. They assaulted
20 him. When he fell backwards, they start kicking him
21 on the head. So that really hit me seeing that he
22 was already knocked out, and they were kicking him
23 like it was like -- that's -- I mean, that really --
24 really hit me pretty bad seeing a human being
25 assaulting, attacking another human being knowing

1 that he's already passed out. He's already knocked
2 out and kicking him in the head like he was a
3 football or something like that. It was -- it
4 was -- it's still -- four years later, that still
5 affects me.

6 Q. And so we're clear, when you saw that part of
7 them kicking like a football, and football is a
8 soccer ball?

9 A. A soccer ball.

10 Q. Okay. In America?

11 A. Yeah.

12 Q. When you saw that, was -- where was Orlando?
13 Was he on the ground or was he standing up or what?

14 A. We was laying in the floor.

15 Q. Okay.

16 A. He was passed out. He has nothing to do for
17 his life.

18 Q. Okay. And how many times do you think you saw
19 them kick Orlando in the head?

20 A. At least twice.

21 Q. Okay.

22 A. At least.

23 Q. And were both defendants doing this?

24 A. Yes.

25 Q. Okay. And what did -- what did you think was

1 going to happen to Orlando?

2 A. Definitely, if I don't intervene, by now, he
3 would be dead. I mean, the way they were assaulting
4 him, the way they were kicking, I mean, I thought he
5 was dead already when I intervened because he was
6 already passed out. He can't defend himself. At
7 least see him moving or something so we know he was
8 still alive, but he was not defending himself at
9 all.

10 Q. Did you ever see Orlando with any weapon?

11 A. I never saw anything on him.

12 Q. And when you say -- and once again, a pronoun.
13 You said "him." Orlando?

14 A. Orlando.

15 Q. Okay. Were you able to see any weapons on the
16 defendant at that time?

17 A. No, sir.

18 Q. Okay. Tell the jury what you did when you saw
19 them kicking him on the ground, what you did
20 personally?

21 A. I don't know. It was probably something that
22 really hit me, probably adrenalin or something that
23 seen this guy in the floor passed out. I thought
24 that he was dead. Definitely, I thought he was
25 dead. And then I intervened and I try to, you know,

1 push those guys away from him -- from kicking him.

2 But he was like -- I thought -- I don't know how

3 he's still alive, Orlando. It was -- it was bad.

4 It was -- it was the worst experience of my life.

5 Q. And have you ever been involved with anything

6 like this before?

7 A. Never. And I wish no one in this room would

8 see something like that or experience something like

9 that.

10 Q. When you went over to attempt to push them off,

11 what happened at that point in time?

12 A. Well, they jump on me. They assaulted me. And

13 I don't know if you guys really want to see what

14 kind of ---

15 Q. Just answer my question, and we'll move from

16 there. Okay. They start -- just tell the jury what

17 they did to you.

18 A. They -- they started stabbing me with their

19 knives on my back. So I -- they -- I tried to

20 defend myself running. I took off running. I run

21 for my life pretty much that day.

22 Q. And did you -- do you remember Jhefrey at that

23 point in time when they were -- you were running

24 from these people?

25 A. Yeah. Jhefrey, he was standing like out there,

1 but I know it was probably adrenalin that, you know,
2 not everybody react the same way. Probably, I don't
3 know, his reaction was different than mine. That,
4 you know, he being there, he keep the cool I guess
5 to, you know, continue try to do the best he can.
6 My reaction was different, I guess, try to save this
7 guy's life if it was possible to save him at that
8 point.

9 Q. Do you recall Jhefrey with a stick of some type
10 at any point in time?

11 A. After I ran, I run towards the entrance to the
12 back to gain access to try to look for help. That's
13 when I -- I mean, at that point that was the only
14 time that I had a split second to look back because
15 the door, it was locked. When I tried to go back
16 into the bar, the door was locked.

17 Q. The front door ---

18 A. --- to the bar.

19 Q. Okay. The same door that you had come out?

20 A. Yes, sir.

21 Q. Okay. And you say that was locked?

22 A. That was locked, so there was no way, so I was
23 banging on that door to have somebody to unlock it.

24 Q. Okay. And where was your wife during all of
25 this?

1 A. She was inside the bar.

2 Q. And were there any women outside in the parking
3 lot?

4 A. The -- when all this is happening that the door
5 was locked, no, there was no women outside.

6 Q. Now, let me ask you, did you -- did you realize
7 you were being stabbed? How did it feel?

8 A. No. I agree. I never had this experience
9 before. That feels like whenever you have -- you've
10 been shot. You don't really feel anything until
11 later on when you realize that you're being hurt. I
12 didn't feel anything at that point that was a stab
13 or something. It was...

14 Q. Did you ever -- did you -- did you see the
15 defendants after this?

16 A. When they were crossing the street running away
17 from Jhefrey. I flew back and that's when I saw
18 them crossing the street running away. That's
19 when -- that's at that point when I saw the guys.

20 Q. And they were -- were they running across East
21 North Street?

22 A. Yes, sir.

23 Q. And that's a fairly large road?

24 A. It is.

25 Q. Four lanes and a median?

1 A. Four lanes. Yes, sir.

2 Q. Now ---

3 A. I would say six lanes, plus the median. Three
4 and three.

5 Q. Regardless, it's a large road?

6 A. Yes, sir.

7 Q. And did you -- were you able to see where they
8 went at that point in time?

9 A. No, sir. Not after they crossed the street.

10 Q. And did you ever -- did they ever come back to
11 the scene?

12 A. No, sir.

13 Q. At any time did you feel like, during this
14 attack, that your life was in danger?

15 A. Yes, sir. When -- when it's at the moment that
16 they were killing Mr. Lopez, I mean, I knew that
17 something bad was going to happen at that moment
18 because the way they assaulted him.

19 Q. Okay.

20 A. I was, I mean...

21 Q. Now, at some point in time after they ran, did
22 medical personnel come to the scene at Vibe?

23 A. Yes, sir.

24 Q. Okay. And did the EMS workers work on you?

25 A. Yes, sir.

1 Q. And did they work on you at the scene?

2 A. Yes, sir.

3 Q. All right. And then were you taken to a
4 hospital?

5 A. Yes, sir.

6 Q. Do you recall which hospital you went to?

7 A. Greenville Memorial.

8 Q. Okay. And do you know how many times you were
9 stabbed?

10 A. Eight times, nine.

11 Q. And do you know how many stitches you had?

12 A. Not exactly, but looking around 90,
13 90-something stitches.

14 Q. And do you recall photographs being taken at
15 the hospital?

16 A. Yes, sir.

17 Q. Let me show you what's been marked State's
18 Exhibit 9, 10, 11, 12, 13, 14, and 15. What I want
19 you to do is look at those photographs, each -- each
20 one. And I'll ask you, do you recognize those
21 photographs?

22 A. (Complying.) Yes, sir.

23 Q. Do those photographs accurately depict your
24 injuries as they were back on September 22nd of
25 2018?

1 A. Yes, sir.

2 Q. Do these photographs, have -- have they been
3 altered or changed in any form or fashion?

4 A. No, sir.

5 MR. RICHARDSON: Your Honor, at this time the
6 State would offer State's Exhibit 9, 10, 11, 12, 13,
7 14, 15 into evidence.

8 THE COURT: All right. Any objection from the
9 defense?

10 MR. NEELY: One moment, Your Honor.

11 THE COURT: Okay.

12 (Counsel conferring.)

13 THE COURT: Any objection?

14 MR. NEELY: No, Your Honor.

15 THE COURT: All right. Exhibits 9 -- State's
16 Exhibits 9 through 15 are admitted into evidence
17 without objection.

18 (State's Exhibit Nos. 9 through 15 were
19 received into evidence.)

20 BY MR. RICHARDSON:

21 Q. Referring to State's Exhibit 15, sir. Do you
22 recognize that?

23 A. Yes, sir.

24 Q. What is that?

25 A. My lower back.

1 Q. And does that indicate two knife wounds?

2 A. Yes, sir.

3 Q. And I -- I'm sorry. Where were these wounds
4 located?

5 A. Lower back. And if you move it a little bit
6 out, I can have the -- the other way. Yeah, that
7 would be better. Yes, sir.

8 Q. State's Exhibit 14, what is that?

9 A. That's more stab wounds on my back on the
10 side -- most of the side.

11 Q. Let me ask you as I'm showing these, were the
12 majority of your wounds to your back?

13 A. Yes, sir.

14 Q. State's Exhibit 13, what is that?

15 A. That's stab wounds on the side here to the
16 back.

17 Q. State's Exhibit 12.

18 A. Yes. That's my back.

19 Q. Another stab wound?

20 A. A stab wound on the back, sir.

21 Q. State's Exhibit 11.

22 A. Yes, sir.

23 Q. That's -- and what is that?

24 A. A stab wound to my back.

25 Q. State's Exhibit 10, where is that?

1 A. More stab wounds to my back.

2 Q. On your back again?

3 A. Yes, sir.

4 Q. State's Exhibit 9.

5 A. Stab wounds.

6 Q. To your back?

7 A. To my back.

8 Q. Do you still have scars from these stab wounds?

9 A. Yes, sir.

10 MR. RICHARDSON: Your Honor, at this time I
11 would ask the witness be allowed to step down to
12 show the scars to the jury.

13 MR. NEELY: Objection, Your Honor.

14 THE COURT: What's your objection?

15 MR. NEELY: May we approach?

16 (Sidebar discussion.)

17 THE COURT: That objection is sustained to that
18 degree with the caveat of what I'll allow you to do.

19 BY MR. RICHARDSON:

20 Q. Sir, State's Exhibit 9, that wound, do you have
21 a scar from that wound?

22 A. Yes, sir.

23 Q. Is that scar still present today?

24 A. Yes, sir.

25 Q. State's Exhibit 10, do you have a scar from

1 that wound?

2 A. Yes, sir.

3 Q. Is that scar still present today?

4 A. Yes, sir.

5 Q. State's Exhibit 11, do you have a scar from
6 that wound?

7 A. Yes, sir.

8 Q. And is that wound scar still present with you
9 today?

10 A. Yes, sir.

11 Q. State's Exhibit 12, that wound, once again on
12 your back, do you still have scars from that wound?

13 A. Yes, sir.

14 Q. Present today?

15 A. Yes, sir.

16 Q. State's Exhibit 13, that wound, do you still
17 have scars from that one?

18 A. Yes, sir.

19 Q. Today?

20 A. Yes, sir.

21 Q. State's Exhibit 14, that wound, do you still
22 have scars today from that wound?

23 A. Yes, sir.

24 Q. State's Exhibit 15, that wound, do you still
25 have scars today?

1 A. Yes, sir.

2 Q. And if you were -- if you -- well, strike that.
3 These scars that you have today, do you see them
4 every morning when you wake up?

5 A. Every time I take a shower. Every time ---

6 MR. NEELY: Objection, Your Honor.

7 THE COURT: What's -- what's your basis?

8 MR. NEELY: Same objection at the bench. This
9 is just going to inflame the passion of the jury.

10 THE COURT: Overruled.

11 BY MR. RICHARDSON:

12 Q. Sir, my question is: Do you -- every morning
13 when you take your clothes off, do you see those
14 scars every morning?

15 A. Yes, sir.

16 Q. And does your wife see those scars every
17 morning?

18 A. Yes, sir. And my granddaughter and my entire
19 family. I have to cover myself. I brought back my
20 mother from Columbia this past month for vacation
21 here.

22 MR. NEELY: Objection, Your Honor.

23 THE COURT: What's the basis?

24 MR. NEELY: Relevance.

25 THE COURT: Sustained.

1 BY MR. RICHARDSON:

2 Q. Okay, sir. I'm going to move on from that.

3 A. Okay.

4 Q. Let me hand you what's been marked State's
5 Exhibit 16, 17, 18, 19, and 20. Let me ask you, do
6 you recognize those photographs?

7 A. Yes, sir.

8 Q. And do these accurately depict what the picture
9 shows of your clothing on the night of September 22,
10 2018?

11 A. Yes, sir.

12 Q. Have these photographs been altered or changed
13 in any form or fashion?

14 A. No, sir.

15 MR. RICHARDSON: Your Honor, at this time the
16 State would offer 16, 17, 18, 19, and 20 into
17 evidence.

18 THE COURT: All right. Any objection?

19 MR. NEELY: One moment, Your Honor. (Counsel
20 conferring.) Nothing, Your Honor.

21 MR. WATSON: No objection.

22 THE COURT: All right. State's Exhibit 16
23 through 20 is admitted into evidence without
24 objection.

25 (State's Exhibit Nos. 16 through 20 were

1 received into evidence.)

2 BY MR. RICHARDSON:

3 Q. Sir, let me -- and I'm referring to State's
4 Exhibit 20. Do you recognize ---

5 A. Yes, sir.

6 Q. --- that? What is that?

7 A. That's the shirt I was wearing that night. The
8 shirt my wife bought me for our anniversary.

9 MR. NEELY: Objection, Your Honor. Relevance.
10 He's answered the Solicitor's question.

11 THE COURT: Overruled.

12 BY MR. RICHARDSON:

13 Q. It's the shirt that your wife bought you and
14 you wearing it that night?

15 A. Yes, sir.

16 Q. Okay. Is this -- and I'm referring to State's
17 Exhibit 19. Is this the same shirt?

18 A. Yes, sir.

19 Q. And going back to State's Exhibit 20. Do you
20 see a yellow mark -- marker on that?

21 A. Yes, sir.

22 Q. And next to that marker, what is that? Is that
23 a slash on the shirt?

24 A. That's a slash on my shirt. Yes, sir.

25 Q. And you testified that you had one side?

1 A. The side. Yes, sir.

2 Q. Okay. Is that where that ---

3 A. That's the one.

4 Q. And State's Exhibit 19.

5 A. Yes, sir.

6 Q. Is that your shirt also?

7 A. Yes, sir.

8 Q. And what does that depict? What does it show?

9 A. That's the back of the shirt.

10 Q. Okay. And do you -- on the back of the shirt,

11 are there slash marks there?

12 A. Yes, sir. Multiple.

13 Q. And State's Exhibit 18.

14 A. Yes, sir.

15 Q. What is that?

16 A. That's the same shirt on the back showing a

17 slash.

18 Q. State's Exhibit 17. Do you recognize that?

19 A. Yes, sir.

20 Q. And what is that?

21 A. That's the cut on the side, multiple cuts.

22 Q. And is this the same side wound referred to

23 before?

24 A. Yes, sir.

25 Q. And State's Exhibit 16 I'm referring to, what

1 is that?

2 A. That's the slash.

3 Q. Another one?

4 A. Both or three. Yes.

5 Q. Now, do you -- do you recall how long you
6 stayed in the hospital?

7 A. Like around 36 to 48 hours. At that point,
8 days and nights, you lose control of the time frame.

9 Q. Okay. And some point during your treatment,
10 did you -- did you receive blood infusions?

11 A. Yes. I had like two blood transfusions.

12 Q. Okay. Could you said repeat that? I
13 didn't ---

14 A. I had two -- I had two during the process while
15 I was there at the hospital.

16 Q. Okay. And how long -- did you have follow-up
17 care with doctors after this?

18 A. I have doctors' care follow-up for the
19 following weeks. I want to say two or three weeks.
20 After that, I had taken doctors' care now for the
21 post-traumatic experience that I have. I still see
22 doctors' care for that.

23 Q. For PTSD?

24 A. PTS -- yes, sir.

25 Q. And did you miss work because of this ---

1 A. Yes, sir.

2 Q. --- attack upon you?

3 A. Yes, sir.

4 Q. Now, the individuals that you saw kicking
5 Orlando in the head like a soccer ball and attacking
6 Orlando and then stabbing you, are they in this
7 courtroom today?

8 A. Yes, sir.

9 Q. Can you point them out and tell me what they're
10 wearing?

11 A. Okay. One of them is wearing a tie with a
12 white shirt. The other one is wearing a gray shirt
13 with stripes.

14 MR. RICHARDSON: Please let the record reflect
15 that the witness has identified the defendants. Beg
16 the Court's indulgence. (Counsel conferring.)
17 That's all the questions I have. Please answer any
18 questions of defense counsel.

19 THE COURT: All right. Cross-examination.

20 CROSS-EXAMINATION

21 BY MS. GORSKI:

22 Q. Good afternoon, Mr. Solis.

23 A. How are you?

24 Q. I'm good. I'm going to go back over some of
25 the things that you just spoke about.

1 A. Okay. Can you speak closer to the microphone
2 so I can hear you?

3 Q. Is that better?

4 A. Yes, ma'am.

5 Q. Okay.

6 A. Thank you.

7 Q. I'm going to take you back over some of the
8 things that you just spoke to Mr. Richardson about.
9 Okay? You were intoxicated yourself that night; is
10 that correct?

11 A. How do you refer to intoxicated?

12 Q. You had been drinking throughout the night?

13 A. I was drinking. Okay. I want to know if you
14 can determine if I was intoxicated.

15 Q. Okay.

16 A. You are assuming?

17 Q. No, no, no. And this is a "yes" or "no"
18 question.

19 A. Okay.

20 Q. I'll re-ask the question.

21 A. All right.

22 Q. You had been drinking from approximately
23 10:00 p.m. to maybe 2:00 a.m., correct?

24 A. Yes, ma'am.

25 Q. Okay. And you had been drinking Tequila

1 throughout those hours?

2 A. Yes, ma'am.

3 Q. Okay. And the drinking was in celebration,
4 correct?

5 A. Yes, ma'am.

6 Q. Okay. And you were also very good friends with
7 the owners of the bar, correct?

8 A. Yes, ma'am.

9 Q. Okay. And in being very good friends with the
10 owners of the bar, they were the ones that were
11 serving you the Tequila, correct?

12 A. Not necessarily.

13 Q. Okay. Did you come into the bar with your own
14 liquor?

15 A. No, ma'am. But, I mean, not necessarily
16 physically they serving me because when I buy a
17 bottle, I can hold the bottle on my table so I will
18 be able to serve myself. They don't have to hand it
19 out to me all the time. And now at that pace, I
20 know how much I control I have over my drinking.

21 Q. Okay. But you were drinking Tequila from the
22 time you arrived to about 2:00 a.m., correct?

23 A. I want to speak. I don't know. I may have one
24 or may have two during the night. That's something
25 to determine.

1 Q. Okay. And you also answered a few questions
2 regarding that night about where you were sitting in
3 the bar?

4 A. Yes, ma'am.

5 Q. Okay. And you said that you were sitting close
6 to the bathroom?

7 A. I was. I mean, it's different rooms. It's
8 just the way to go to the bathrooms.

9 Q. Okay. So I haven't been inside Vibe, so I'm
10 trying to ---

11 A. I'm trying to explain it to you.

12 Q. So there's tables in Vibe, correct?

13 A. Yes, ma'am.

14 Q. And there's also a bar where you can sit
15 actually -- I guess where they serve -- were there
16 bartenders on the other side, correct?

17 A. Yes, ma'am.

18 Q. Okay. And you were sitting at a table that was
19 close to the bathrooms, correct?

20 A. Okay. Don't change my words. Okay. Don't
21 change my words. What I said is I was ---

22 Q. I'm -- I'm asking a "yes" or "no" question.

23 MR. RICHARDSON: Your Honor, if he can finish
24 answers.

25 THE COURT: Mr. Solis, make sure you answer the

1 question. All right?

2 THE WITNESS: Okay.

3 BY MS. GORSKI:

4 Q. Were you sitting close to the bathroom?

5 A. Not necessarily.

6 Q. Okay. You were sitting close enough to the
7 bathroom that you could see Mr. Alvarez, the
8 gentlemen going in and out of the bathroom though?

9 A. Correct.

10 Q. Okay. And when you were sitting there that you
11 could see them going in and out of the bathroom, you
12 also could -- you said you could see that they had
13 been drinking, as well?

14 A. Yes.

15 Q. Okay. And you also were making observations of
16 them when they were sitting at the bar, as well?

17 A. Yes, ma'am.

18 Q. Okay. So when you were sitting where you are
19 and when you were watching where they were from at
20 the bar, you did not actually see any kind of
21 altercation happen inside the bar, correct?

22 A. They were causing a commotion inside the bar.

23 Q. Again, it's a "yes" or "no" question. You did
24 not observe any kind of altercation inside the bar?

25 A. I saw them causing a commotion. Yes. They ---

1 Q. Okay. I'm going to ask one more time.

2 MR. RICHARDSON: Your Honor, I'm going to --
3 I'm going to object. If she asked the question, he
4 has a right to explain it. He has answered the
5 question "yes" and he's explaining it. Now, it's to
6 the point he's asked and answered.

7 THE COURT: All right. Overruled.

8 BY MS. GORSKI:

9 Q. You did not observe any physical altercation
10 between Mr. Alvarez and anyone else inside the bar,
11 correct?

12 A. Okay. When you say "physical," you mean
13 fighting or you mean arguing?

14 Q. Physical altercation, physical body to body?

15 A. No, ma'am.

16 Q. Okay. You said you did not know either of
17 Mr. Alvarez, Mr. Juan Alvarez or Mr. Luis Alvarez,
18 before that date, correct?

19 A. Yes, ma'am.

20 Q. Okay. But you did actually have interaction
21 with them that night, didn't you?

22 A. That night, yes.

23 Q. You actually spoke with them? You went up to
24 them and spoke to them?

25 A. If -- if I recall properly, it's been four

1 years. I don't recall properly if I spoke to them
2 or not, but I remember that they were causing ---

3 Q. Oh, okay. And -- and you've answered the
4 question.

5 A. Okay.

6 Q. You not only had gone to where they were and
7 spoke to them, but you also were upset because every
8 time they went to the bathroom, they were bumping
9 into you; isn't that correct?

10 A. I can't really remember that ma'am. I don't
11 remember seeing or saying anything about that,
12 which...

13 Q. Okay. Do you remember in October of 2019, you
14 gave sworn testimony about this incident at an
15 attorney's office?

16 A. I spoke to an attorney. I can't recall the
17 dates. If you're referring to the lawsuit we had
18 against Vibe, there was several. There was Richie
19 there, and I was asked not to talk about it.

20 Q. Okay. But you -- you did give testimony
21 previously, correct?

22 A. Yes, ma'am.

23 Q. Okay. And in that testimony, you were asked
24 about ---

25 A. Ma'am, I ask again ---

1 Q. If you'll allow me to finish.

2 THE COURT: Let her ask -- let her ask the
3 question, and then you can answer. I'll let you
4 answer.

5 BY MS. GORSKI:

6 Q. Okay. In that testimony, you actually said
7 that you had gotten up and you spoke to them, to
8 Mr. Alvarez, because you could see them talking to
9 the bartender, right?

10 A. Like I say, I don't recall exactly what you're
11 referring to. If you're going to read, and then we
12 will go from there.

13 Q. I will go ahead and read it to you.

14 A. Okay.

15 Q. You were asked about the interaction that you
16 had with the two Alvarez that were sitting at the
17 bar?

18 A. Excuse me, ma'am. Will you get close to the
19 microphone?

20 Q. You were asked about the interaction that you
21 had with Mr. Alvarez. The question was: "Did you
22 hear them say anything to her?" They were referring
23 to the bartender at that moment, Ms. Patina. Your
24 answer was, "Say what?"

25 You were asked again, "What did you hear them

1 say to her?" Your answer, "Exactly, I can't tell.
2 Again, I'm on the other side of the bar. There's
3 music. I wasn't, like, putting my ear against the
4 wall to hear."

5 Question: "But could you tell it was something
6 rude?" Your answer, "Yeah. It was something, like,
7 I don't know. They were kind of -- she tried to
8 talk to them, and they just kind of -- there."

9 Question: "Okay."

10 And then you continued: "So I can see, like,
11 the gestures. They were -- you know, they were
12 talking and knowing that Mr. Acosta, -- Paula's
13 husband, right? --- you could tell knowing
14 Mr. Acosta tried before. And now seeing Ms. Paula,
15 so now you know that something is going on."

16 Question was asked to you: "So you decided to
17 say something?" And your response was, "Yes. Just
18 to ask them to calm down, to chill. There was no
19 need. We don't want -- we don't want any problems."

20 So you did speak to the Alvarez, to Mr. -- the
21 two Alvarez that night, correct?

22 A. Again, I mentioned to you it's been like four
23 years. I don't recall exactly, but if you say it is
24 there, then yes.

25 Q. And you said something to them because it upset

1 you that they were saying what you thought looked
2 like something to Ms. Paula who is a friend of
3 yours, correct?

4 A. Yes. But it's not the case like the way you're
5 putting it. You're making it sound like I was upset
6 at them for any reason.

7 Q. I didn't ---

8 A. That's the way you're supposing it.

9 Q. I'm sorry. This is your words that I read out
10 loud.

11 A. Yes.

12 Q. Okay. I'm going to take you back again. There
13 was that night and you said that when you arrived at
14 ten -- around ten o'clock that the two Alvarez
15 brothers were already at the bar?

16 A. Yes, ma'am.

17 Q. Okay. And they were there. You don't know how
18 long they had been there, correct?

19 A. Yes.

20 Q. Okay. But you did sit in a position where you
21 said they were bumping into you when they went to
22 the bathroom?

23 A. They would pass by my side every time. Not
24 necessarily they were bumping into me.

25 Q. Okay. But they did bump into you as they pass

1 to go to the bathroom, correct?

2 A. As I mentioned before, not necessarily they
3 were bumping into me.

4 Q. But they bumped into you, and you said also you
5 told Mr. Richardson that they were going to the
6 bathroom two to three times an hour; is that
7 correct?

8 A. Yes, ma'am.

9 Q. And that is a lot of times ---

10 A. Yes, ma'am.

11 Q. --- to take into account that they went to that
12 restroom and during those times they were bumping
13 into you, correct?

14 A. You put that word "bumping" in, not me.

15 Q. Again, I will take you back to where you gave
16 previous testimony. And in that testimony ---

17 A. Remember, this is a bar. There's a lot of
18 people going in and out.

19 Q. I'm not finished with my question.

20 A. Okay.

21 Q. If you'll just allow me to finish the question,
22 then that way you'll be able to give me a response.

23 You said that they had been drinking. You said
24 that they had bumped into you because you were
25 sitting close to the bathroom. You said that you

1 were sitting at the table, correct?

2 A. I'm sitting at the table. They've been
3 drinking. You say that they bump into me.

4 Q. Okay. I'm going to take you back again when
5 the question was asked to you under sworn testimony
6 before today, because today you said not really
7 bumping or that you don't know how many times, but
8 you were asked the question: "Did they bump into
9 you?" You responded, "Yeah."

10 You were asked the next question: "Okay.
11 About how many times?" You answered, "Like, I don't
12 know exactly how many times. Just things that, you
13 know, they're there. They were walking and they,
14 you know, bump into you and they just keep going. I
15 guess like I mentioned, I'm not a person that I'm
16 looking for trouble with nobody. It's just a matter
17 if they're there and they bump into me."

18 So they did bump into you more than once,
19 correct?

20 A. Can I say more than "yes, ma'am"?

21 THE COURT: Mr. Solis, you can answer the
22 question and then you can explain. Okay?

23 THE WITNESS: Okay. Yes.

24 MS. GORSKI: Okay. So they did bump into you
25 that night?

1 THE WITNESS: Yes.

2 THE COURT: You can explain.

3 THE WITNESS: Okay. When you go to a bar,
4 there's a lot of people going in and out of the
5 restroom. That's the normal. That's the normal.
6 There's nothing to cause a drama or altercation, but
7 when you go to a public place, you're going to be in
8 the position that people are going to bump into you.
9 That's nothing out of the normal. That's normal.

10 BY MS. GORSKI:

11 Q. Okay. When Mr. Richardson asked you about what
12 you saw at the door, referring to what was happening
13 outside, you said, when Mr. Richardson asked, that
14 you had seen that there was kicking and fighting
15 going on and that Mr. Lopez had been receiving these
16 kicks and these punches; is that correct? Yes?
17 That's what you just said?

18 A. Okay. But that was before or after I went out,
19 because it's not when I see it from inside the bar.
20 I went outside to find my friend Jhefrey that was in
21 there, and there was commotion that had nothing to
22 do with Mr. Alvarez or Mr. Lopez. I had nothing to
23 do with any of them, so I decided to go outside and
24 grab my friend.

25 Q. But that's not what you said to Mr. Richardson

1 a moment ago when you were asked that question.

2 A. Okay. So that's probably a -- it was a
3 miscommunication, but that's what I mean. I never
4 say that from inside I saw them fighting. I never
5 say that. Or if you understood that, that was a
6 misunderstanding.

7 Q. Okay. But it's the same question, but we're
8 getting two different answers.

9 MR. RICHARDSON: Your Honor, I'm going to
10 object to that.

11 THE COURT: That's sustained.

12 MR. RICHARDSON: Thank you.

13 BY MS. GORSKI:

14 Q. When you went outside -- when you stepped
15 outside, isn't it true that your wife told you not
16 to?

17 A. She tells me not to go outside every single
18 day. I'm sorry. It's true.

19 Q. But I'm going to take you back to that night
20 specifically.

21 A. Okay. You see it's good to be clear about the
22 question because that can be confusing.

23 Q. Okay. All of the events we're talking about at
24 least right now are about that night. So that
25 night.

1 A. Not necessarily because then you refer to the
2 other deposition I had in October. I don't know.
3 So you better be clear on what -- on what days
4 you're talking about. Are you talking about that
5 night or the events in which you're talking about
6 with the other lawyer.

7 Q. Okay. But that's ---

8 A. Okay. So it's better to be clear.

9 Q. -- why we're getting different answers for the
10 same questions. I'm going to ask you to confirm
11 this. Your wife, Angela, on September 22, 2018,
12 told you not to go outside; isn't that correct?

13 A. Yes, ma'am.

14 Q. And she told you that, and you went ahead and
15 you did go outside?

16 A. Yes, ma'am.

17 Q. Okay. And you went outside after looking
18 through the door, correct?

19 A. Yes, ma'am.

20 Q. And through the door, you are looking outside
21 from the door of Vibe to the parking lot?

22 A. Yes, ma'am.

23 Q. And from that place where you're standing, you
24 could not see everything that was going on in that
25 parking lot, could you?

1 A. No.

2 Q. Vibe is located on a corner; isn't that
3 correct?

4 A. It's a big plaza. Besides Vibe, there used to
5 be a Bi-Lo.

6 Q. Okay. My question again, there -- Vibe is on a
7 corner because there is no other business on one
8 side of it, correct?

9 A. Yes.

10 Q. So the door to Vibe from when you look out, you
11 said it was small, the glass, you said, you cannot
12 see the entire parking lot, correct?

13 A. Yes.

14 Q. So your vision from where you're standing is
15 limited?

16 A. Yes.

17 Q. And this is at 2:00 a.m.?

18 A. Yes.

19 Q. Okay. And this is without anything extra for
20 you to be able -- you didn't open the door to look
21 outside?

22 A. Not at that point.

23 Q. Okay. So when you were just inside, you could
24 not see the entire parking lot or even tell us
25 exactly what was going on, correct?

1 A. Let's go there for a second again, because, you
2 know, I can see some stuff through the window. At
3 that point, I wasn't blind.

4 Q. Okay.

5 A. I can see.

6 Q. But you cannot see the entire, let's say, front
7 row of the parking lot or even where these gentlemen
8 were already outside, correct? Your vision -- your
9 vision point?

10 A. I had partial vision, let's say that. I had
11 partial vision.

12 Q. So you did not see any stabbing going on from
13 when you were inside looking out through that
14 window?

15 A. No. Not at that point from the inside.

16 Q. Okay. And you could not see anything that
17 would make you go out because someone or something
18 is in danger, correct?

19 A. I defer than you because the reason for me to
20 go outside is because I saw Mr. Colorado. He was in
21 my party, outside standing with the other two
22 sergeants and Mr. Lopez. I was able to see that.

23 Q. Okay. You just said you just saw them standing
24 out there.

25 A. Yes. And the way they were inside causing

1 commotion inside made me think or assume that they
2 were going to cause problems outside with my friend.

3 Q. But those are your assumptions, right?

4 A. Yes, ma'am.

5 Q. That's not what you saw?

6 A. When I saw them over there, I see some kind of
7 arguing because I see the gestures and the hands
8 that they were kind of getting into something more
9 aggressive.

10 Q. Okay. And that's what you say you saw, hand
11 gestures?

12 A. Yes, ma'am.

13 Q. Okay. But you didn't see any stabbing? You
14 didn't see any kicking or punching?

15 A. No, ma'am. Not from there.

16 Q. Vibe closes at 2:00 a.m., correct?

17 A. At that point, per curfew. At that point ---

18 Q. Okay.

19 A. --- there was a curfew at the bars and clubs,
20 they're supposed to close up at 2:00 a.m.

21 Q. Okay. So when the two Alvarez gentlemen were
22 asked to leave, it's because the bar was closing?

23 It's 2:00 a.m., correct?

24 A. No, ma'am.

25 Q. Okay. But the bar closes at 2:00 a.m. At that

1 time alcohol is not to be served any longer,
2 correct?

3 A. There's a lot of rules and regulations being
4 broken over here. First of all, Vibe was supposed
5 to have security guards that they don't have at that
6 point. Second, they're not supposed to let anybody
7 in at 2:00 a.m. because that was the law. That was
8 the curfew at 2:00 a.m. All the bars should be
9 closed and locked and nobody in at that point. So
10 there's a lot of things that wasn't supposed to
11 happen that was happening.

12 Q. Okay. But Mr. Alvarez, both Alvarez, were
13 already there at the bar before you even got there,
14 correct?

15 A. Yes, ma'am.

16 Q. So they weren't trying to get into the bar ---

17 A. No, ma'am.

18 Q. --- after 2:00 a.m.?

19 A. No, ma'am. They were asked to leave because
20 they were causing commotion inside. That's what the
21 problem. They -- they tried to argue with the
22 owners, and that's why they were asked to leave,
23 nobody else.

24 Q. Okay. But if the bars closed at 2:00 a.m. ---

25 A. Legally.

1 Q. --- that means that everyone is supposed to
2 leave or there's no alcohol being served, correct?

3 A. Supposedly.

4 MS. GORSKI: Okay. One moment, please.

5 (Counsel conferring.) No more questions. Thank you
6 very much, sir.

7 THE COURT: All right. Mr. Watson.

8 MR. WATSON: Nothing further, Your Honor.

9 THE COURT: All right. Any redirect?

10 MR. RICHARDSON: Nothing further from the
11 State, Your Honor.

12 THE COURT: All right. You are excused,
13 Mr. Solis. You may step down.

14 THE WITNESS: (Complying.) Thank you.

15 THE COURT: All right. Ladies and gentlemen,
16 we're going to take our afternoon break. We'll take
17 a short break and keep going. So if you would,
18 please step back and, again, please don't discuss
19 the case. Thank you.

20 (From 4:05 to 4:18 p.m., a recess was had.)

21 THE COURT: Anything before we bring the jury
22 back in?

23 MR. RICHARDSON: Nothing from the State.

24 MR. NEELY: Nothing from the defense.

25 THE COURT: All right. Bring them on in.

1 (At 4:20 p.m., jurors entered the courtroom.)

2 THE COURT: All right. State call your next
3 witness.

4 MS. HOLLAND: Your Honor, the State calls
5 Angela Solis.

6 THE CLERK: Ma'am, if you'll please come
7 forward.

8 THE WITNESS: (Complying.)

9 THE CLERK: Please pause at the end of the
10 bench. Place your left hand on the Bible and raise
11 your right hand.

12 THE WITNESS: (Complying.)

13 THE CLERK: You do solemnly swear or affirm to
14 tell the truth, the whole truth, nothing but the
15 truth so help you God?

16 THE WITNESS: Yes, I do.

17 THE CLERK: Thank you. Please be seated.

18 THE WITNESS: (Complying.)

19 THE CLERK: And would you please state your
20 name for the record?

21 THE WITNESS: Angela Solis.

22 ANGELA SOLIS,
23 having been produced and first duly sworn as a
24 witness on behalf of the State, then testified as
25 follows:

DIRECT EXAMINATION

BY MS. HOLLAND:

Q. Are you Javier Solis' wife we've heard so much about?

A. Yes.

Q. And, Angela, where were you born?

A. I was born in New York ---

Q. Okay.

A. --- but I was raised in Columbia.

Q. Right. In Columbia the country?

A. South America. Yes, ma'am.

Q. Okay. And how long have you and Javier been together?

A. We've been together going onto 29 years.

Q. Okay. We heard about your children and your grandchildren. And a lot of people told us about what happened and I think we all know why we're here, so we're going to fast forward a bit. The night of September 22, 2018, were you at Vibe nightclub?

A. Yes, I was.

Q. Where is Vibe nightclub located?

A. It's on East North. I don't know the exact intersection, but East North right by Bi-Lo.

Q. Okay. So is that in Greenville?

1 A. Yes, it is.

2 Q. Is that in Greenville County?

3 A. I think it is. Yes.

4 Q. Okay. And why did y'all go there?

5 A. We went because there was a birthday
6 celebration for one of our friends. So we usually
7 used to meet there. Used to be the owners and
8 another two couples, and we went there to -- you
9 know, to sing happy birthday and cut a cake and take
10 him some gifts. It was just to have a good time.

11 Q. Okay. What time did y'all get there?

12 A. It should've been between 9:30ish and ten
13 o'clock.

14 Q. Okay. And when you're were there, did you see
15 the defendants, the Alvarez brothers?

16 A. Yes, I did.

17 Q. Okay. And where were they seated?

18 A. So they were at the bar. The bar is shaped
19 like an "L," so basically like this (indicating),
20 and they were sitting at that end right there
21 (indicating).

22 Q. Okay. And, Angela, were you drinking that
23 night?

24 A. I had one margarita throughout the whole night.

25 Q. Do you typically drink?

1 A. I don't drink.

2 Q. Why not?

3 A. I don't like it.

4 Q. And so that night over the whole -- all that
5 time, you just had one margarita?

6 A. Uh-huh.

7 Q. Okay. We're going to fast forward a bit to
8 about the time the bar is closing and before that.
9 When did you become aware that Orlando Lopez had
10 entered the bar?

11 A. So at that point, I think it was around that
12 time they had the curfew so the bars would be closed
13 at a certain time. I believe it was 1:30 in the
14 morning, so the owners went ahead and locked the
15 doors.

16 A little after, he stopped the music, the
17 owner, which was also the deejay. He stopped the
18 music, he answered the phone, and he opened the back
19 door. Then maybe like three or four people walked
20 in. Three of them stayed at the table in the back
21 talking to -- to the owner. And then I saw Orlando
22 walk to the bar, and then he sat.

23 So the Alvarez brothers were sitting on the two
24 back stools and Orlando sat on the very first one
25 and was talking with the owner most of the time.

1 They were just talking, chatting there.

2 Q. And the owner comes up? What's the owner's
3 name?

4 A. Bladimir.

5 Q. Okay. And what's his wife's name?

6 A. Paula.

7 Q. And what was -- what was she doing that night?

8 A. She was being the bartender because there was
9 no business, so she sent the bartender home.

10 Q. Okay. Let me stop a minute. Did you know
11 Orlando that night?

12 A. We don't -- we didn't know Orlando that night.

13 Q. You got to know him since this?

14 A. After.

15 Q. Okay. So Orlando gets there and did you notice
16 anything happening at the bar between Orlando and
17 the Alvarez's?

18 A. So at that time, normally the bar is already
19 closed, so I was tired with my heels and I sat down
20 at the table right in front of the bar so I could
21 see, you know, everybody both ways. So I was
22 sitting there and I noticed Paula -- no. First, I
23 noticed that Orlando is talking to Bladimir.

24 And then all of a sudden, he just looks that
25 way and they're looking at him and they exchange

1 some words. I couldn't hear them, but by their
2 facial expression, they weren't nice. So I -- I saw
3 Orlando like nodding his head and he gets up and
4 said something to Bladimir. He went to the
5 bathroom, came back, shook his hand, and left.

6 Q. So he shook Bladimir's hand?

7 A. Yes.

8 Q. Okay. And so at that point, it's kind of left
9 in the bar?

10 A. So at that point ---

11 THE INTERPRETER: Can the interpreter ask them
12 to go a little bit slower.

13 BY MS. HOLLAND:

14 Q. Who was left at the bar at that time?

15 A. All right. So at that point, it was the
16 defendants. It was Bladimir. His wife. It was --
17 keep in mind, he had already stepped out. So once
18 he stepped out, then it was Jhefrey and his
19 girlfriend. She was sitting me at the table. She
20 was really drunk. And then there was the other
21 three men that walked in, but then they left. I
22 don't know who they were. I don't know their names.
23 Then they left.

24 Q. Okay. And ---

25 A. And then me and my husband. I'm sorry.

1 Q. I'm sorry. I didn't let you finish. So when
2 Orlando left, what happened next?

3 A. So when Orlando left, prior to Orlando leaving
4 my bag, when he went to the bathroom, I saw Paula
5 looking at me and she started rolling her eyes at
6 the defendants. So I looked at her and we were kind
7 of close in a way, so I walked up to her because she
8 kind of signaled me to go to her. So I walk up to
9 her and I said, "Is everything okay?" And she said
10 yes. She was just ---

11 MR. WATSON: Objection.

12 THE COURT: Sustained.

13 MS. HOLLAND: I apologize. Ms. Solis, you
14 can't say anything that anyone else told you.

15 THE WITNESS: Oh, okay. Yeah, that's fine. So
16 okay, so what was the question?

17 MS. HOLLAND:

18 Q. What happened after Orlando left the bar and
19 you talked about Paula left the bar, but you can't
20 talk about ---

21 A. Gotcha. So after Orlando -- after Orlando left
22 the bar, Bladimir walked up to the defendants and
23 asked them to leave. That part, I heard. He told
24 them word by word, "I need you guys to get out and
25 leave now."

1 And they got up, both of them, and got in his
2 face and told him, "We're not leaving. If we have
3 to go, everybody has to go."

4 MR. WATSON: Objection, Your Honor. Hearsay,
5 as well.

6 MS. HOLLAND: Your Honor, that's the
7 defendant's statements.

8 THE COURT: I believe that's -- I believe
9 that's the defendant's statements; is that correct?

10 THE WITNESS: Yes.

11 MS. HOLLAND: That's the defendant's
12 statements.

13 THE COURT: Yeah, overruled.

14 THE WITNESS: So at that point, they were --
15 they were told -- can I say what they were told or
16 no?

17 MS. HOLLAND: No. But you can say anything
18 they said.

19 THE WITNESS: Okay. Anything they said. So
20 they said, "If we have to leave, everybody has to
21 go."

22 And then they proceeded to say, "Well, if
23 you're going to call the police, you can go ahead
24 and call them." And then he took out his wallet and
25 showed him, "I have a driver's license and I will be

1 out tomorrow," and then he put it back in. So then
2 at that point, they just -- they just, you know,
3 just walk out.

4 BY MS. HOLLAND:

5 Q. Okay. So they exited the bar?

6 A. They were exiting the bar; however, one of them
7 had a bottle of beer on his hand and he tried to
8 walk out with it. He had a bottle of Modelo in his
9 hand.

10 Q. Did someone take that from him?

11 A. Yes.

12 Q. And what happens then?

13 A. Then what happens is, at that point when
14 they -- okay. Let me back forward a little bit.
15 Before they were asked to leave, right, Orlando
16 walks out first. Then Jhefrey goes outside.
17 Jhefrey, to me and my husband, is kind of like a
18 son. We see him that way. So he walked outside and
19 then it happened when they were asked to leave.
20 When they -- they were asked to leave. My husband
21 saw, you know, they were getting a little bit
22 obnoxious with everyone, or, you know, wordy with
23 the owner.

24 So they -- they walk out. The beer was taken
25 away from them, and then that's when my husband

1 said, "Jhefrey's outside. Let me go bring him in."

2 Q. Okay. And at that point, was the front door
3 locked or unlocked?

4 A. At that point, Bladimir, the owner, went and
5 locked the door.

6 Q. Okay. And what did Javier do?

7 A. So I couldn't tell what he was doing. You
8 couldn't hear anything from outside to inside.

9 Q. But did he go outside?

10 A. He went outside to get Jhefrey, yes. You
11 couldn't hear anything. So I went back and I sat
12 down with Jhefrey's girlfriend.

13 And then next thing I hear is banging on the
14 door. It had not passed. It was a matter of
15 minutes if not seconds. And then I hear banging on
16 the door. And Bladimir tells me not to open the
17 door, so I told him, "It's my husband. I can't --
18 you know, I'm not going to leave him outside. I'm
19 going to open the door." So I got up and I opened
20 the door because he was yelling actually. He was
21 banging on the door. He was also yelling. He's
22 like, "Call 911. Call 911."

23 So I opened the door. When I opened the door,
24 he's standing like this (indicating) shaking his
25 hands, and I'm like, "What happened?"

1 And he started, "They killed that guy. They
2 killed that guy." I'm like, "What guy? Who killed
3 who?"

4 "They killed that guy. Call 911. Call rescue.
5 Call somebody. They killed him. They killed him.
6 He's going to die."

7 So then he turns around and he's like, "By the
8 way, I think they hit me too." So when he turns
9 around like in the front, when he turns around,
10 there's just blood gushing out.

11 THE COURT: Ma'am, if you could just slow down
12 just a little bit.

13 THE WITNESS: I'm sorry.

14 THE COURT: She's got to take down and she's
15 got to interpret.

16 BY MS. HOLLAND:

17 Q. So he turns around and you see that -- what did
18 you see?

19 A. I see blood gushing out his back.

20 Q. Okay. And at that point, did he still have on
21 his shirt?

22 A. He still had his shirt on. So what I did is, I
23 went back to the table, got my phone, and walked out
24 to call 911.

25 Q. Okay. And did you call 911?

1 A. I called 911. Yes, ma'am.

2 Q. Okay. And so what happened next? You called
3 911. Tell us what happened.

4 A. So when -- when I get out to call 911,
5 everybody proceeded to get out obviously. And at
6 that point, everybody was the owners and Jhefrey's
7 girlfriend, which she was basically asleep, and then
8 me.

9 So we walk out and my husband is just pacing
10 all over the -- the parking lot because he couldn't
11 stay still because I guess he watches too many
12 police shows. And he says that every time that
13 somebody falls asleep when they're injured, they
14 tend to die or whatever so he wanted to keep himself
15 alert.

16 So he started walking around, and then I look
17 and I see Orlando trying to stand up from the floor,
18 which was a very, you know, disturbing image because
19 of a man trying to get up, but he will fall down.
20 He will try to get on his knees. He did it like
21 three times. He will try to get up and he will fall
22 back down on the floor.

23 Within that time, rescue comes and then he --
24 when they started taking care of my husband, I see
25 the wounds on him. When rescue ---

1 Q. I'm sorry. And when you say rescue, do you
2 mean an ambulance?

3 A. Yes. The ambulance.

4 Q. Okay.

5 A. When they get -- they got -- when the ambulance
6 got there before the police if I'm not mistaken.
7 Then they're checking on my husband, and then I see
8 Orlando stands where he had his car parked and
9 someone handed him, I don't know who, but I don't
10 know where they got the shirt from, but they handed
11 him a shirt and put it on his neck.

12 Q. That was Orlando?

13 A. That's Orlando that was bleeding from his neck.

14 Q. Okay. Did Javier at any point have a knife or
15 a weapon of any kind?

16 A. Never.

17 Q. Did you ever see Orlando with a weapon?

18 A. No. Well, I didn't know.

19 Q. When you went out to the parking lot to call
20 911, did you see the Alvarez brothers?

21 A. I did not see the Alvarez brothers. What I saw
22 was Jhefrey coming back from like the further end of
23 the cars.

24 Q. Okay. He was coming back?

25 A. Uh-huh.

1 Q. Okay. And you said you're raised in Columbia,
2 right?

3 A. Yes, ma'am.

4 Q. Describe to us what people from Columbia mean
5 when they say "knife."

6 A. A knife ---

7 Q. Are there different kinds of knives?

8 A. No. So anything that cuts that's different
9 from a scissor is a knife.

10 Q. Okay. So how we differentiate between
11 different things ---

12 A. We -- we don't. We would say a knife.

13 Q. Okay. And how long was Javier in the hospital?

14 A. I believe he was there, was it -- he was there
15 that night, next day, and I think two days and one
16 night if I'm not mistaken.

17 Q. And you were there with him?

18 A. Yes, ma'am.

19 Q. Okay. And when the ambulance got there, did
20 they take Javier and Orlando to the hospital?

21 A. They took Javier and Orlando. I think it was
22 two separate ambulances. I couldn't go with them
23 because the officers asked me to stay because they
24 had dogs searching the area, and just in case I was
25 needed to, like, identify the person if they caught

1 them.

2 Q. Okay. And so you talked to law enforcement
3 then at that point?

4 A. Yes.

5 Q. Did you speak to Master Deputy Cassel later at
6 the hospital, maybe later that same day?

7 A. Yes.

8 Q. Okay. And you guys were at the hospital when
9 that happened?

10 A. Yes. Well, I spoke -- I think it -- I don't
11 want to lie. I think he was there and I might have
12 spoken with him the night of, but I don't recall if
13 it was him or not. But then he went to the
14 hospital, Mr. -- Officer Cassel. I don't know, but
15 Mr. Cassel was there.

16 Q. Did you have the opportunity to identify
17 anybody in a photo lineup?

18 A. Yes, ma'am.

19 Q. Okay. And how many people did you identify?

20 A. I identified one.

21 Q. Okay. So you guys were in a club, and I think
22 club means different things to different people, but
23 what is the lighting like in Vibe while you guys
24 were there?

25 A. So that particular night, it wasn't dimmed like

1 all the way or the way they usually had it because
2 there was not many customers. So they -- you know,
3 you could -- I could see perfectly faces.

4 Q. Okay. And when the club closed, did the
5 lighting change? Did they ever cut the lights on?

6 A. Yes.

7 Q. How close were you to the Alvarez brothers at
8 times to identify them?

9 A. I would say from here to where that officer
10 that's next to the door is.

11 Q. Okay. From that distance?

12 A. Yes. I don't know how much that is.

13 Q. And you guys were there together for several
14 hours?

15 A. Yes.

16 Q. And do you wear glasses normally? Do you have
17 good eyesight?

18 A. I have good eyesight. Yes, ma'am.

19 Q. Okay. And so I'm going to hand you what's been
20 marked at State's Exhibit 31. If you can just tell
21 us what that is.

22 A. So that is my signature and the date, and I was
23 asked to circle the person.

24 MR. NEELY: Objection, Your Honor.

25 THE COURT: What's the basis?

1 MR. NEELY: Our objection in the pretrial
2 motions.

3 THE COURT: All right. Objection is noted.
4 Overruled for both of them.

5 MS. HOLLAND: Thank you, Your Honor.

6 BY MS. HOLLAND:

7 Q. And so when you're shown that lineup, who
8 showed you that lineup?

9 A. Officer Cassel.

10 Q. Okay. And when he showed you that, did he
11 suggest to you in any way who you should select out
12 of that lineup?

13 A. Not at all.

14 Q. Okay. And when you pick someone out of that
15 lineup, who are you identifying?

16 A. I was identifying one of the people that I saw
17 at the club that was responsible for this.

18 Q. So you were identifying someone in the bar
19 because you didn't see the actual event?

20 A. Exactly.

21 Q. Okay. Thank you. And no one suggested to you
22 who you should pick?

23 A. (Nonverbal response.)

24 Q. Okay. Did you make a selection?

25 A. I did.

1 Q. Okay. And can you tell us how you made that
2 selection on there?

3 A. So I circled it and I initialled and I dated
4 it, and it was the last picture on the bottom.

5 Q. Okay. And that's the exact lineup you did that
6 on?

7 A. Yes, ma'am.

8 MS. HOLLAND: Okay. Your Honor, State would
9 ask to move State's Exhibit 31 into evidence.

10 THE COURT: All right. Any objection from the
11 defense?

12 MR. NEELY: Same objection, Your Honor.

13 MR. WATSON: Same.

14 THE COURT: All right. Subject to that
15 objection, State's Exhibit 31 is admitted over
16 objection.

17 (State's Exhibit No. 31 was received into
18 evidence.)

19 BY MS. HOLLAND:

20 Q. Angela, I'm going to take that from you. Thank
21 you. And, Angela, the two people men in the bar
22 that we've talked about, the Alvarez brothers, the
23 people who you saw in the bar that night, are they
24 in the courtroom?

25 A. Yes, they are.

1 Q. Okay. And if you could look and tell us where
2 they are and describe them for us.

3 A. So one of them is sitting right by the door.
4 He's wearing a white shirt and a tie. And the other
5 one is right across from me. He has a gray shirt.

6 MS. HOLLAND: Your Honor, we'd ask to let the
7 record reflect that she has identified Luis Alvarez
8 as the individual sitting closest to the door and
9 Juan Alvarez as the gentleman in the gray shirt.

10 THE COURT: So noted.

11 MS. HOLLAND: Thank you, Your Honor.

12 BY MS. HOLLAND:

13 Q. And so after this happens, does Vibe nightclub
14 still exist?

15 A. It does exist, but, I mean, it's not under the
16 same owners.

17 Q. Okay. So it's different now?

18 A. Yeah, but the sign is still there.

19 MS. HOLLAND: Okay. Beg the Court's indulgence
20 for just one moment. (Counsel conferring.) Angela,
21 that's all the question I have. Please answer any
22 questions the defense has for you.

23 THE COURT: All right. Cross-examination.

24 CROSS-EXAMINATION

25 BY MR. WATSON:

1 Q. Is it true that you told your husband not to go
2 outside that night?

3 A. Yes.

4 Q. You implored him not to go?

5 A. I didn't implore him not to go. I just told
6 him at that point, don't go.

7 Q. Earlier, you had testified that they were --
8 that the Alvarez brothers were the only ones there
9 at an earlier proceeding; is that correct?

10 A. When I said they were the only ones there, I
11 didn't mean they were the only people in the bar.
12 When we walked in, they were the only ones there.

13 Q. On the 911 tape, you had told law enforcement
14 that they were Honduran. That you identified the
15 Alvarez brothers as Honduran, correct?

16 A. Yes.

17 Q. And you provide -- you had a chance -- you
18 talked with Deputy Cassel at the hospital, correct?

19 A. Uh-huh.

20 Q. And he asked you to make an identification ---

21 A. Yes, sir.

22 Q. He asked you to make an identification of a
23 photo lineup?

24 A. Yes, sir.

25 Q. And you selected somebody?

1 A. Yes, sir.

2 Q. And there was some other investigation taken
3 there. Did you provide any written statement to
4 Cassel?

5 A. I was asked to write a written statement. At
6 that point, I was very shaky. I was still in shock.

7 And number two, the reason why I didn't write
8 it, you know, I told them what had happened and what
9 to write is because even though I could speak
10 English considerably well, I'm not good at writing
11 it and I'm very self-conscious about it. So that's
12 the reason why I preferred someone else to write it
13 for me.

14 Q. Did you ever follow-up?

15 A. I read it and I signed it once it was ---

16 Q. No. Did you ever follow-up to give a written
17 statement beyond your identification?

18 A. Can you rephrase that?

19 Q. Did you follow-up with law enforcement to
20 chronicle your version of events in writing?

21 A. I don't recall.

22 Q. But you went over your statement -- your
23 testimony today with the State's attorneys, correct?

24 A. Yeah.

25 Q. Okay. So you've given a version of events

1 that's very detailed?

2 A. Uh-huh.

3 Q. All right. Would you say you have a pretty
4 good attention to detail?

5 A. Very.

6 Q. Okay. And with that attention to detail,
7 you've given a detailed story of what happened?

8 A. Yes.

9 Q. And in that detailed story, you did not -- that
10 story does not include seeing what happened outside
11 during this altercation?

12 A. And I never said I saw what happened because I
13 didn't see it.

14 Q. You were at the deposition testimony of your
15 husband, correct?

16 A. Deposition? When was this?

17 Q. There was a lawsuit from your husband to Vibe.
18 Do you recall?

19 A. Yeah.

20 Q. All right. And during deposition testimony
21 where you went to a lawyer's office where there was
22 a court reporter that was taking down everything
23 everybody said. You were there?

24 A. Yes.

25 Q. So you heard everything that was said then?

1 A. Yes.

2 MR. WATSON: Okay. No further questions.

3 MR. NEELY: Nothing, Your Honor.

4 THE COURT: Any redirect?

5 MS. HOLLAND: Your Honor, we have no redirect,
6 and we would ask that Ms. Solis be released from her
7 subpoena.

8 THE COURT: All right. Any objection from the
9 defense? You may step down.

10 THE WITNESS: (Complying.) Thank you.

11 MR. NEELY: Yes, Your Honor. We object.

12 THE COURT: You object? Ms. Solis, you're
13 still under your subpoena.

14 All right. Next witness.

15 MR. RICHARDSON: State calls Pedro Vasquez.

16 THE CLERK: Sir, if you'll please come forward.

17 THE WITNESS: (Approaching.)

18 THE CLERK: If you'd please pause at the end of
19 the bench, place your left hand on the Bible, and
20 raise your right hand.

21 THE WITNESS: (Complying.)

22 THE CLERK: You do solemnly swear or affirm to
23 tell the truth, the whole truth, and nothing but the
24 truth so help you God?

25 (Through the interpreter:)

1 THE WITNESS: Yes.

2 THE COURT: Okay. Please be seated.

3 THE WITNESS: (Complying.)

4 THE CLERK: And, sir, if you'll please state
5 you name for the record.

6 THE WITNESS: Pedro Vasquez.

7 PEDRO VASQUEZ,

8 having been produced and first duly sworn as a
9 witness on behalf of the State, testified as
10 follows:

11 DIRECT EXAMINATION

12 BY MR. RICHARDSON:

13 Q. Good afternoon.

14 A. Good afternoon.

15 Q. How old are you?

16 A. Forty-four.

17 Q. Sir, are you married?

18 A. Yes, sir.

19 Q. And to whom are you married?

20 A. My wife, Miriam.

21 Q. And how long have you been married?

22 A. About 11 years.

23 Q. Do you have any children?

24 A. Yes, sir.

25 Q. How many?

- 1 A. Three.
- 2 Q. And what are their ages?
- 3 A. Three years old, 11 years old, and 18.
- 4 Q. Okay, sir. Now, are you -- are you employed?
- 5 A. Yes, I am.
- 6 Q. And in what capacity?
- 7 A. I work painting houses.
- 8 Q. Okay, sir. And do you, in fact, own your own
- 9 company?
- 10 A. Yes, I am.
- 11 Q. And part of ownership of this company, do you
- 12 also employ people to paint for you?
- 13 A. Yes.
- 14 Q. Back on -- in September, specifically September
- 15 the 21st of 2018, were the defendants working for
- 16 you?
- 17 A. Yes, they were.
- 18 Q. And were they painters for you?
- 19 A. Yes.
- 20 Q. And Juan Alvarez, how long had he worked for
- 21 you?
- 22 A. About two years.
- 23 Q. And Luis Alvarez, how long had he worked for
- 24 you?
- 25 A. He was just here and then working for us.

1 Q. Okay. So would -- was he working for you on
2 and off?

3 A. Yes.

4 Q. And specifically as to September 21st of 2018,
5 was he in your employment on that date?

6 A. Yes.

7 Q. And were the defendants doing a job for you on
8 that day, that being the 21st of September 2018?

9 A. Yes.

10 Q. And where -- where was that job?

11 A. In the Greenville area, close to Pleasantburg.

12 Q. Okay, sir. And what -- what were the work
13 hours you prescribed for them?

14 A. Usually, from 8:00 to 5:00 in the afternoon,
15 8:00 to 6:00.

16 Q. Okay. And as part of the employment, did you
17 provide them with a vehicle?

18 A. Yes.

19 Q. And was this vehicle kept in their possession
20 the entire time, even after they worked?

21 A. Yes.

22 Q. And on Friday of September, that Friday of 2018
23 they were working for you, did they have the van at
24 that time?

25 A. Yes.

1 Q. Let me show you what's been marked State's
2 Exhibit 21 and 22. I ask that you look at those
3 photos and tell me do you recognize those photos.

4 A. Yes. It's my car.

5 Q. And do these photos accurately depict that
6 vehicle as the Alvarez's had on that night -- that
7 day?

8 A. Yes, they do.

9 Q. And has any changes or alterations been made of
10 the photos?

11 A. I don't think so.

12 MR. RICHARDSON: Your Honor, at this time we
13 would enter -- move to enter State's Exhibit 21 and
14 22 into evidence.

15 THE COURT: All right. Any objection?

16 MR. WATSON: None.

17 MR. NEELY: None from us.

18 THE COURT: All right. State's Exhibits 21 and
19 22 are admitted into evidence without objection.

20 (State's Exhibit Nos. 21 and 22 were received
21 into evidence.)

22 BY MR. RICHARDSON:

23 Q. Sir, I'm going refer to State's Exhibit 21. Is
24 that the van that the defendants had that you had
25 provided them and had on the evening of February --

1 excuse me -- of September the 21st of 2018?

2 A. Yes.

3 Q. And State's Exhibit 22, is that the same van?

4 A. That's how it is.

5 Q. Now, were they -- were the defendants scheduled
6 to work after that Friday for you?

7 A. How is that? Sorry?

8 Q. Sure. Did they have another job either
9 Saturday or Monday that they were to do for you?

10 A. Yes. They finished the job on Friday, and they
11 were supposed to return either Saturday or Monday.

12 Q. And is that why you allowed them to keep the
13 van?

14 A. Yes.

15 Q. And were both defendants working those jobs?

16 A. Yes.

17 Q. And as part of painting, do you provide box
18 cutters or knives to your employees?

19 A. Yes. That's how it is.

20 Q. And what are those knives used for in a
21 painting job?

22 A. So when we have to cover floors, cut paper,
23 plastic, tape.

24 Q. And so these are sharp blades?

25 A. Yes.

1 Q. Okay, sir. Now, at some point in time, were
2 you contacted about your van?

3 A. Yes.

4 Q. Do you recall who contacted you about the van?

5 A. Yes.

6 Q. And who was that?

7 A. Oh, Juan's wife to mention that she had seen
8 the van outside of the bar.

9 MR. NEELY: Objection, Your Honor.

10 THE COURT: Sustained.

11 BY MR. RICHARDSON:

12 Q. You were contacted by Juan's wife?

13 A. Yes.

14 Q. And you had a conversation with Juan's wife
15 about the van?

16 A. Yes.

17 Q. Subsequently, were you ever contacted by either
18 one of the defendants?

19 A. Yes.

20 Q. Do you recall which defendant contacted you?

21 A. Yes, Juan.

22 Q. And do you recall when he contacted you?

23 A. Two, three days after. I don't remember
24 exactly.

25 Q. So when you say "two or three days after," are

1 you referring to two or three days after that
2 Friday/Saturday when the incident took place?

3 A. Yes.

4 Q. And how did the Defendant Juan contact you?

5 MS. GORSKI: Objection, Your Honor. Hearsay.

6 MR. RICHARDSON: I asked how the defendants
7 contacted.

8 THE COURT: Yes, defendants. It's overruled.

9 MS. GORSKI: I would then make an objection to
10 narrating.

11 THE COURT: To what?

12 MS. GORSKI: He was narrating the story.

13 THE COURT: Overruled.

14 BY MR. RICHARDSON:

15 Q. I'm sorry. I lost my train of thought. Sir,
16 were you -- you were contacted by Juan Alvarez; is
17 that correct?

18 A. Yes.

19 Q. After the incident that we're here about took
20 place?

21 A. Yes.

22 Q. And I believe you testified, it was two or
23 three days later?

24 A. Yes.

25 Q. Okay. When he contacted you, did he call you,

1 send you a letter, an e-mail? How did he contact
2 you?

3 A. It was by phone.

4 Q. And at that time, what did he want you to do?

5 A. Just to check to see if the passport was there
6 or another document that he needed.

7 Q. So was he concerned about his passport?

8 A. Yes.

9 Q. And did he want you to send it to him?

10 A. To check to see if it was there so he would
11 pick it up later.

12 Q. Okay, sir. And so he said he would pick it up
13 later?

14 A. Yes.

15 Q. And did you have a conversation about his job
16 with you?

17 A. I truly do not remember.

18 Q. Okay. Well, did you tell him at any time that
19 he had -- his job was still available to him?

20 A. Yes. But since they didn't arrive, I
21 contracted other people.

22 Q. Okay. Did you at any time during your
23 conversation about the job, did you tell him that he
24 was fired?

25 A. No.

1 Q. Was his job, in fact, still available when you
2 had that conversation for him to come back to?

3 A. Yes.

4 Q. And did either defendant ever contact you
5 again?

6 A. No. Not any more.

7 Q. Did either defendant ever show back up for
8 work?

9 A. No.

10 MR. RICHARDSON: Beg the Court's indulgence.
11 (Counsel conferring.) Thank you, sir. Answer any
12 questions the defense may have.

13 THE COURT: All right. Cross-examination.

14 CROSS-EXAMINATION

15 BY MR. NEELY:

16 Q. Afternoon, Mr. Vasquez.

17 A. Good afternoon.

18 Q. You just testified that Juan and Luis worked
19 for you?

20 A. That's how it is.

21 Q. And you testified that Juan had worked for you
22 for a period of about two years?

23 A. Yes.

24 Q. And Luis worked for you on and off?

25 A. Yes.

1 Q. And you test -- and you testified that you
2 employed them to paint for you?

3 A. Yes, I did.

4 Q. And that you provided them with a work van?

5 A. Yes.

6 Q. And that that van was always in their
7 possession?

8 A. Yes.

9 Q. You allowed them to take -- you allowed that
10 van to stay in their possession because you trusted
11 them, correct?

12 A. Yes.

13 Q. Now, that van was a work van, correct?

14 A. Yes.

15 Q. The Solicitor asked you if knives were used in
16 your job?

17 A. Yes.

18 Q. But as a work van, it was full of all kinds of
19 tools?

20 A. That's how it is.

21 Q. The Solicitor asked you about law enforcement
22 contacting you, correct?

23 A. (No response.)

24 Q. But the truth of the matter is, you actually
25 contacted law enforcement first, correct?

1 A. I truly do not remember.

2 Q. But it wasn't until about 36 hours after the
3 incident at Club Vibe that anybody from law
4 enforcement reached out to you?

5 A. Yes.

6 Q. And you testified that Juan called you on the
7 telephone?

8 A. Yes.

9 Q. And he asked you about his passport?

10 A. Yes.

11 Q. And he told you that he was going to come and
12 pick it up?

13 A. Yes.

14 Q. From you?

15 A. Yes.

16 Q. Here in Greenville?

17 A. Yes, sir.

18 Q. When law enforcement finally contacted you, you
19 provided them with a phone number for Juan Alvarez,
20 correct?

21 A. Yes.

22 Q. And you provided them with an address for Juan
23 Alvarez, correct?

24 A. The idea of where they lived by. I didn't know
25 their address exactly.

1 Q. Okay. And you also told law enforcement that
2 they were Honduran, correct?

3 A. Yes.

4 Q. But you couldn't provide law enforcement with a
5 social security number for either of the Alvarezes
6 because they're here illegally, correct?

7 A. Yes.

8 MR. NEELY: Thank you, Mr. Vasquez.

9 THE COURT: Mr. Watson, any cross?

10 MR. WATSON: Nothing further, Your Honor.

11 THE COURT: All right. Any redirect?

12 MR. RICHARDSON: No redirect.

13 THE COURT: All right. You are excused.

14 (Witness excused.)

15 THE COURT: All right. Next witness.

16 MR. RICHARDSON: Your Honor, can this witness
17 be relieved from the subpoena?

18 THE COURT: Any objection?

19 MR. NEELY: No objection, Your Honor.

20 THE COURT: Witness is relieved from the
21 subpoena.

22 MS. HOLLAND: Your Honor, may we approach about
23 scheduling?

24 THE COURT: Yes.

25 (Sidebar discussion.)

1 THE COURT: All right. Ladies and gentlemen,
2 that's going to be it for the day. The next witness
3 is going to be fairly lengthy, so I'm going to let
4 y'all go for the night. What I'm going to do is
5 have you come in at 9:00 in the morning, so we can
6 get a little bit earlier start if that's okay. So
7 why don't y'all try to get here about 8:45. I'm
8 sure Mr. Cofield will probably tell you that anyway.
9 So I'm going to go ahead and beat him to the punch.
10 So we'll try to get started at nine o'clock in the
11 morning. As I've told you, please don't discuss the
12 case until I tell you. I hope all of you have a
13 great night. Thank you.

14 (At 5:08 p.m., jury was excused for the day.)

15 THE COURT: All right. Before we adjourn,
16 anything from the State?

17 MR. RICHARDSON: Nothing further from the
18 State.

19 THE COURT: All right. Anything further from
20 the defense?

21 MS. GORSKI: Nothing, Your Honor.

22 THE COURT: All right. If anybody has any kind
23 of issues that come up overnight, if y'all would
24 please e-mail Ms. Davis. I'll come in here at seven
25 o'clock in the morning, 7:30, whatever y'all want.

1 Just let me know. Okay?

2 MS. GORSKI: Thank you.

3 THE COURT: All right. I hope y'all have a
4 good night.

5 (At 5:09 p.m., the proceedings concluded.)

6 May 12, 2022

7 THE COURT: Good morning. All right. Are we
8 ready to proceed?

9 MR. NEELY: Yes, Your Honor.

10 THE COURT: All right. Let's bring them in.

11 (At 9:09 a.m., jury entered the courtroom.)

12 THE COURT: All right. Good morning, ladies
13 and gentlemen. I hope everybody had a good night.
14 We are ready to go to the next witness. Please call
15 your next witness.

16 MS. HOLLAND: The State calls Jason Cassel.

17 THE CLERK: Sir, if you'll please come forward.
18 Please place your left hand on the Bible and raise
19 your right hand.

20 THE WITNESS: (Complying.)

21 THE CLERK: You do solemnly swear or affirm to
22 tell the truth, the whole truth, nothing but the
23 truth so help you God?

24 THE WITNESS: Absolutely. Yes, ma'am.

25 THE CLERK: Thank you. Please be seated.

1 THE WITNESS: (Complying.)

2 THE CLERK: Please state your name for the
3 record.

4 THE WITNESS: Jason Cassel.

5 THE CLERK: Thank you.

6 JASON CASSEL,
7 having been produced and first duly sworn as a
8 witness on behalf of the State, then testified as
9 follows:

10 DIRECT EXAMINATION

11 BY MS. HOLLAND:

12 Q. Deputy Cassel, please tell us where you're
13 employed.

14 A. I work for the Greenville County Sheriff's
15 Office.

16 Q. And how long have you done that?

17 A. I just started my 15th year, so a little over
18 14 years.

19 Q. What's your rank?

20 A. Master deputy.

21 Q. What do you do right now?

22 A. I currently work court security over at family
23 court.

24 Q. So it's kind of like these gentlemen in here?

25 A. Yes, ma'am.

1 Q. Okay. Back in 2018 when this incident
2 happened, what was your role at the sheriff's
3 office?

4 A. I was a master deputy in the uniform patrol
5 division.

6 Q. Okay. Tell anyone who doesn't know what the
7 uniform patrol means?

8 A. Basically, what you see on cops. We answer 911
9 calls, emergency calls. We patrol. We do traffic
10 enforcement, et cetera, et cetera. Road deputies.

11 Q. So if someone calls 911, you guys would be the
12 first people to respond?

13 A. Yes, ma'am.

14 Q. Okay. How does that compare to being in
15 investigations?

16 A. We basically -- we get the initial calls. We
17 do the basic investigation from the beginning. We
18 get the basic facts and document them in incident
19 reports.

20 And then if it's a -- if it's a more intricate
21 investigation like violent crimes or whatever, it
22 gets forwarded up to investigators based on our
23 initial report.

24 Q. Okay. And so this would qualify as a violent
25 crime, correct?

1 A. Yes.

2 Q. Okay. In this case, did you take those steps
3 or what steps did you take when you determined this
4 was a violent crime?

5 A. I was asked, "volun-told" to continue the
6 investigation. I had a trainee at the time, a new
7 deputy, and my sergeant felt like it would be a good
8 case for me to work from beginning to end.

9 Q. Okay. So you were -- you did not forward this
10 to investigations?

11 A. No, I did not.

12 Q. Okay. So you handled the investigation
13 yourself?

14 A. Yes, ma'am.

15 Q. Okay. And you're on shift that night. What
16 time would your shift have started?

17 A. We start -- we're on nightshift. We started at
18 7:00 p.m. and worked till 7:00 a.m.

19 Q. Okay. So you work a 12-hour shift?

20 A. Yes, ma'am.

21 Q. And what time did this call come in?

22 A. Roughly, 3:00 a.m.

23 Q. So you were towards the end of your shift?

24 A. Yes.

25 Q. Okay. And where did this incident happen? I

1 know we've talked about it, but tell us
2 specifically.

3 A. The address was 3795 East North Street. It's
4 at the corner of -- a little past Howell Road and
5 East North Street.

6 Q. Okay. Is that in Greenville County?

7 A. Yes. It is in Greenville County.

8 Q. Okay. And who was your trainee that was with
9 you?

10 A. Jeffrey Nunez.

11 Q. Okay. And does he speak Spanish?

12 A. Yes, he does. He's from Dominican Republic.

13 Q. Okay. Tell us, when you get the call, are you
14 two the first people out there?

15 A. We were not actually the first. I was the
16 primary officer that took the report, but there was
17 one deputy that was on scene about 30 seconds to a
18 minute before we got there.

19 Q. Okay. Describe the scene when you get there.
20 What did it look like?

21 A. Utter chaos. People were crying, upset,
22 yelling. It was pretty much pandemonium as you
23 would expect. There was blood all over the parking
24 lot. Clothing laying on the parking lot. And I had
25 two victims with numerous stab wounds and

1 lacerations and injuries to their bodies.

2 Q. Okay. And you said the victims. You mean
3 Orlando Lopez and Javier Solis?

4 A. Yes, ma'am.

5 Q. Okay. Let's start with Mr. Lopez first. Where
6 was Orlando Lopez when you arrived?

7 A. Standing in the parking lot. I think he
8 might've been talking to the initial deputy. I
9 don't recall exactly where he was.

10 Q. Okay. What about Javier?

11 A. Javier was also standing in the parking lot.

12 Q. And did you see their injuries?

13 A. Not at first because we were trying to figure
14 out what we had, make sure suspects weren't on
15 scene. But as soon as it was safe to do so, I
16 started talking to them and tried to gather as much
17 information as I could.

18 Q. Okay. And was EMS called out?

19 A. EMS, yes, they were. And I think they arrived
20 maybe 5 to 10 seconds before I did.

21 Q. Okay. So EMS was on scene when you ---

22 A. I believe so.

23 Q. Okay. Were there -- were the suspects on
24 scene? Were the defendants, who's been identified,
25 as the people who did this?

1 A. No, ma'am, they were not.

2 Q. Okay. So I know you said you were initially
3 trying to figure out what happened. Tell us what
4 you did.

5 A. Spoke to numerous witnesses, the folks you guys
6 have already heard from. Talked to the two victims.
7 Tried to gather as much information as I could. A
8 lot of people were confused about what happened and
9 why it happened. And so we were just trying to work
10 our way through all that chaos.

11 Q. Okay. Did you call out any other units for
12 assistance?

13 A. I did. Once I talked to, I believe Jeffrey, he
14 told me that he chased them with a club or a stick
15 to try to defend some of the victims as they were
16 getting assaulted, and he chased the -- the two
17 defendants across the street.

18 Once we found out they were fleeing on foot, we
19 called out a K-9 tracking dog.

20 Q. Okay. Tell us about the K-9, how that works.

21 A. Basically, they -- they can track somebody
22 that's fled the scene recently. I can't testify as
23 to exactly how they do that, but, yeah.

24 Q. Okay. And was the K -- K-9 called out and did
25 they arrive?

1 A. They did.

2 Q. Okay. What happened when they arrived?

3 A. We, myself and my trainee, Nunez, decided to
4 begin tracking with the dog. And so we -- we began
5 a track across the street where Jeffrey pointed out
6 that the defendants had just crossed over into that
7 area.

8 Q. Okay. And what is across the street?

9 A. There's a coin laundry and then an apartment
10 complex that's called Lakecrest Apartments. And in
11 between the coin laundry, which is right across the
12 street from the club, and in between the coin
13 laundry and the apartment complex is a strip of wood
14 line, some trees, and that's where Jeffrey chased
15 the defendants and that's where we began our track
16 with the dog.

17 Q. Okay. And where did the dog lead you?

18 A. We ended up following the dog. He took us down
19 to the backside of Lakecrest Apartments around the
20 H, I, and J buildings, which is at the very back
21 left and back right of the apartment complex.

22 Q. Okay. Did that track eventually terminate
23 somewhere?

24 A. Yes, ma'am. We ended up circling around the
25 back part of the H, I, J building and then worked

1 our way back up to the entrance, once again, of the
2 apartment complex. And we ended up going up East
3 North Street and then ended around Mitchell Road
4 around the elementary school.

5 Q. You didn't obtain the suspects via that dog
6 track?

7 A. We did not.

8 Q. Okay. Were you able to determine what the
9 suspects were driving that night?

10 A. Yeah. After talking to several people that
11 were on scene, they -- one person said he believed
12 they arrived in the white Econoline Ford work truck,
13 work van. And after the incident happened, the
14 defendants were trying to get back in that van, so
15 we believed that that was the vehicle that they
16 arrived in.

17 Q. Okay. Was that vehicle still on scene?

18 A. Yes, it was.

19 THE INTERPRETER: I'm sorry. Can you repeat
20 the question for the interpreter?

21 BY MS. HOLLAND:

22 Q. Was the vehicle still on scene?

23 A. Yes. The vehicle was still on scene.

24 Q. Okay. And did you guys look inside of it?

25 A. We did, just to make sure there was nobody

1 hiding in it.

2 Q. Okay. Did you find anything inside?

3 A. Yes, ma'am, we did. We were -- we planned on
4 towing the vehicle, so we had to do an inventory.
5 And the initial inventory of the vehicle, we located
6 a passport from Honduras in the front seats.

7 Q. I'm going to hand you what's been marked as
8 State's Exhibit 42. Can you look at this and tell
9 me what that is?

10 A. This is a passport from Honduras.

11 Q. Okay. And who does that passport belong to?

12 A. Defendant Juan Carlos Lopez Alvarez.

13 Q. And is that the passport you found in that
14 white van that night?

15 A. Yes, ma'am, it is.

16 MS. HOLLAND: Okay. Your Honor, the State asks
17 to move State's Exhibit 42 into evidence.

18 THE COURT: All right. Any objection?

19 MS. GORSKI: No, Your Honor.

20 MR. NEELY: No, Your Honor.

21 THE COURT: All right. States Exhibit 42 is
22 admitted into evidence without objection.

23 (State's Exhibit No. 42 was received into
24 evidence.)

25 MS. HOLLAND: Thank you, Your Honor. And, Your

1 Honor, may I publish this to the jury?

2 THE COURT: You may.

3 MS. HOLLAND: Thank you, Your Honor.

4 (State's Exhibit No. 42 was published to the
5 jury.)

6 BY MS. HOLLAND:

7 Q. So I know you have -- after you found the
8 passport, the K-9 track has ended, tell us what else
9 you do.

10 A. We -- we called forensics to seal the van.
11 Basically, we were going to have it processed more
12 thoroughly. So forensics came out there. Forensics
13 came out and kind of sealed the doors and the rear
14 compartment doors so it could not be entered until
15 we processed it.

16 Q. I'm sorry, Deputy Cassel. I didn't ask you a
17 question I meant to. At the time, where did Juan
18 Alvarez live? This is going back to the K-9 track.

19 THE INTERPRETER: I'm sorry. Can you repeat
20 that question for the interpreter?

21 BY MS. HOLLAND:

22 Q. At the time, where did Juan Alvarez live?

23 A. We determined through our investigation Juan
24 Alvarez's resident address was 3900 East North
25 Street, which is Lakecrest Apartments.

1 Q. Is that the same apartments that the K-9 led
2 you to?

3 A. Yes, ma'am.

4 Q. Thank you. And I apologize for taking that out
5 of order. So we were at the point where the K-9
6 track has ended. You've located the passport and
7 you have sealed the van. Tell us your next steps.

8 A. Basically, that was the end of my shift.
9 Immediately starting my next shift, which was the
10 next evening at 7:00 p.m., I did a follow-up at the
11 hospital where my two victims were.

12 Q. Okay. And is that where -- that's where
13 Orlando Lopez and Javier Solis are?

14 A. Yes, ma'am.

15 Q. Was Angela Solis there, as well?

16 A. She was.

17 Q. Okay. And we have had -- there are two lineups
18 in evidence. Can you tell us about those?

19 A. Yeah. I'm sorry. Prior to going to the
20 hospital, I -- I went up to Greenville County
21 records at the law enforcement center, and we have a
22 database that we utilize to create photo lineups.

23 Q. Okay. And those are -- those are in, so we
24 don't have to belabor that point.

25 THE INTERPRETER: I'm sorry. The interpreter

1 cannot follow you.

2 BY MS. HOLLAND:

3 Q. I'm sorry. We've already got the lineups in
4 evidence. You can just tell us about showing them
5 to them.

6 A. Okay. So I compiled the photo lineup and
7 presented it to Orlando and Angela.

8 Q. It's already in evidence, but they made
9 positive identifications of Juan Alvarez, correct?

10 A. They did.

11 Q. Did you make any attempt to get videos? We all
12 know that everywhere we are now, we're being taped.
13 Did you make any efforts to obtain those?

14 A. Yes, I did. I believe that I activated the
15 body camera when I was getting the photo lineups
16 shown to the victim and the witness. And I
17 activated my body cam -- well, what I believed I
18 activated my body cam.

19 Q. Okay. And at any point -- so at this point,
20 after you get the positive lineup, do you get
21 warrants on Juan Alvarez?

22 A. I did.

23 Q. Okay. And why did you get warrants on Juan
24 Alvarez?

25 A. We had probable cause definitely met. We had

1 witnesses that put him at the bar.

2 MR. NEELY: Objection, Your Honor.

3 THE COURT: What's the basis?

4 MR. NEELY: That's a legal conclusion.

5 MS. HOLLAND: Your Honor, I'm asking the basis
6 of why he got warrants.

7 THE COURT: Overruled.

8 THE WITNESS: Juan Alvarez, Defendant Juan
9 Alvarez, was ID'd as one of the suspects in this
10 case.

11 BY MS. HOLLAND:

12 Q. And at that point, had you spoken to Pedro
13 Vasquez?

14 A. Pedro -- we -- we attempted to find a phone
15 number for him, but he lived in Pickens County.
16 Couldn't find a phone number for him. He eventually
17 contacted me.

18 Q. Okay. And before we talk about Pedro Vasquez,
19 you're talking about the owner of the van?

20 A. Yes, ma'am.

21 Q. Did you ever speak to him?

22 A. I did. I met with him at the law enforcement
23 center a little bit after I met at the hospital with
24 the victims.

25 Q. Okay. And then you also had the passport on

1 Mr. Alvarez, correct?

2 A. Yes.

3 Q. Okay. After speaking with Mr. Vasquez, did you
4 receive any other information related to Luis
5 Alvarez and what was that?

6 A. Yeah. Mr. Vasquez basically provided me ---

7 MR. NEELY: Objection. It calls for hearsay,
8 Your Honor.

9 MS. HOLLAND: I'm sorry. I didn't hear what
10 Mr. Neely was saying.

11 THE COURT: Hearsay.

12 MS. HOLLAND: Hearsay?

13 THE COURT: Hearsay is his objection.

14 MS. HOLLAND: I'll just ask a different
15 question. I'll withdraw it, Your Honor.

16 MS. HOLLAND:

17 Q. Did you receive anything from forensics that --
18 about Mr. Luis Alvarez?

19 A. Sure. Forensics contacted me and told me that
20 latent prints came back on both defendants. That's
21 how I was able to identify Luis Alvarez as the
22 second suspect in this incident.

23 Q. Okay. And at that point, did you get warrants
24 on Luis Alvarez?

25 A. I did.

1 Q. Okay. Beg the Court's indulgence for just one
2 moment. (Counsel conferring.)

3 So at that point when you obtained warrants,
4 what happened? Like, I mean, do you know -- are the
5 defendants arrested immediately? Tell us what
6 happened.

7 A. Well, based on information of the
8 investigation, we believed that they had fled the
9 state. So I filed them -- they were filed in the
10 warrants division. We file them in alphabetical
11 order. They were -- based on it being a violent
12 crime, it was given to a warrant investigation team
13 called "facet," and they began -- with the provided
14 phone numbers, they began trying to locate the
15 defendants.

16 Q. Okay. Were the defendants eventually located?

17 A. They were. They were located in West Palm
18 Beach, Florida.

19 Q. Okay. So we're going to talk a little bit
20 about being a police officer in general. You go to
21 training, correct?

22 A. Yes, ma'am.

23 Q. Okay. Tell us about how you're educated to be
24 a police officer.

25 A. Umm, currently ---

1 Q. In general, just tell us.

2 A. --- there's a 21-week law enforcement academy
3 in Columbia. We have yearly training. We have
4 legal updates yearly. We're constantly taking
5 classes keeping our certification up-to-date.

6 Q. Okay. So you take classes throughout your
7 career as a police officer?

8 A. Yes, ma'am.

9 Q. Okay. And working for Greenville County, do
10 they also have policies and procedures?

11 A. They do.

12 Q. And are those in printed form?

13 A. They are.

14 Q. Okay. And what do those policies and
15 procedures tell you in general?

16 A. Gives us a general -- the military calls them
17 SOPs. We call ours general orders. It's the same
18 thing. It's basically our standard operating
19 procedure for every type of policy that you can
20 imagine.

21 Q. Okay. So kind of the standards that you're
22 supposed to follow?

23 A. Yes, ma'am.

24 Q. Okay. And we're going to talk about body-worn
25 cameras. Okay. Tell us what a body-worn camera is.

1 A. It's a small camera. Everybody's pretty much
2 seen them. They're mounted either on a uniform or a
3 cap or a shoulder. Different agencies have
4 different types. And it stays on us, in uniform
5 patrol specifically, and we have to activate it each
6 call that we get out on and turn it on.

7 Q. Okay. So now, if you turn on your blue lights,
8 would that turn on automatically?

9 A. They have -- they have recently updated the way
10 they operate. Now when we turn our blue lights on
11 or our siren, either one, they automatically
12 synchronize and they cut on automatically so we
13 don't have to worry about turning them on.

14 Q. In 2018, was that the case?

15 A. No, ma'am.

16 Q. Okay. And if you were on a field
17 investigation ---

18 THE INTERPRETER: Slow down, please.

19 BY MS. HOLLAND:

20 Q. In 2018, if you were on a field investigation
21 where there's no blue lights, what would you do?

22 A. We have to manually -- I believe that model
23 body cam, we had to manually tap it twice for a
24 certain type of tap. It couldn't be fast. It had
25 to be like "tap, tap," and then it would come on and

1 record.

2 Q. Okay. And how did you as a police officer know
3 it was recording?

4 A. They vibrate ---

5 Q. Okay.

6 A. --- and the lights would come on.

7 Q. Okay. Did you have the lights operational on
8 yours at that time?

9 A. No. There's a -- there's a mode that we can
10 put it on, especially on nightshift. We want to
11 turn the lights off. That way, if we're walking up
12 on somebody, we're not illuminating our face with
13 that light working in the dark. So I had it on
14 covert mode, so the only way I would know it was on
15 was if it vibrated.

16 Q. And did you have your body-worn camera on at
17 the scene? Did you have your body-worn camera on at
18 the scene, the night, the initial report?

19 A. Yes.

20 Q. Okay. What about when you went to show Angela
21 Solis and Orlando Lopez lineups? Did you have --
22 did you have it on you?

23 A. I was wearing it. Yes, ma'am.

24 Q. Okay. And you test -- I'm sorry. Did you
25 believe that you were recording at that time?

1 A. Yeah, I double tapped it. Obviously, I wanted
2 to capture that lineup on video, so I double tapped
3 it and thought it was on.

4 Q. Okay. And you testified in a prior hearing in
5 relation to this matter that your body camera was
6 operational and recording at that time, correct?

7 A. Yes, ma'am.

8 Q. Did you believe that you had initiated your
9 body cam?

10 A. Absolutely.

11 Q. Okay. But for some reason, it never recorded
12 on scene?

13 A. Yeah, I -- yes, ma'am.

14 Q. Okay. For some reason, it never -- so tell us
15 about how those videos go -- how are they stored?
16 Like you're recording it. What happens to that
17 video?

18 A. Okay. So normally at the end of our shift or
19 beginning of our next shift, we'll -- we'll -- we
20 have a dock at the law enforcement center and we
21 take the body cam off. We place it in the dock, and
22 it uploads the videos.

23 Q. Okay. And can that happen without you docking
24 it?

25 A. Yeah. There's certain places around the

1 county. We call them "hot spots." And it's Wi-Fi
2 basically. I think some of the courthouses and the
3 law enforcement centers, we pull in the back lot and
4 we get up under the antenna, it can submit via
5 Wi-Fi.

6 Q. Okay. But you learned that your video was not
7 actually recording when you showed those lineups, is
8 that correct, that it never actually was uploaded to
9 the server?

10 A. I don't recall when I sent -- when -- no,
11 ma'am. I don't know. I -- I thought it was
12 recording. I docked it. And when we went looking
13 for it, it wasn't there.

14 Q. And you obviously know how important those
15 things are, correct?

16 A. Oh, yes. Yes.

17 MS. HOLLAND: Beg the Court's indulgence for
18 just one moment. (Counsel briefing.)

19 Thank you, Deputy Cassel. If you could answer
20 any questions the defense may have.

21 THE COURT: All right. Cross-examination.

22 MR. NEELY: Yes, sir. If we could have -- beg
23 the Court's indulgence for just minute while we set
24 up.

25 THE COURT: Sure.

CROSS-EXAMINATION

BY MR. NEELY:

Q. Officer Cassel, you testified that you have been with the Greenville County Sheriff's Office for a little over 14 years, going into your 15th year, correct?

A. Yes, sir.

Q. All right. Were you at any other previous law enforcement agency?

A. Never.

Q. Okay. So prior to becoming a Greenville County Sheriff's deputy, like every other police officer in this state, you went to the South Carolina Criminal Justice Academy?

A. Of course.

Q. All right. And you testified that your course was a 21-week course?

A. Mine was not. It currently is a 21-week course. Mine was, I believe, 12.

Q. Okay. So you went to the Criminal Justice Academy which is located in Columbia?

A. It is.

Q. All right. And you took a 12-week course on how to become a police officer?

A. Yes.

1 Q. It's where you received your ---

2 A. Right.

3 Q. --- your training?

4 A. Yeah.

5 Q. All right. And while you were there, you took
6 several different courses?

7 A. Yes.

8 Q. All right. You -- they taught you how to shoot
9 a gun properly?

10 A. Yes.

11 Q. They taught you how to drive a patrol car?

12 A. A little bit.

13 MS. HOLLAND: I'm sorry, Your Honor, to
14 interpret. Can we please turn these screens off?
15 There're personal notes are being broadcasted to the
16 jury.

17 MR. NEELY: That comes from your camera, Your
18 Honor.

19 MS. HOLLAND: Yeah, I think they're on your ---

20 THE COURT: So what do I need to do?

21 MS. HOLLAND: We're fine. I'm fine.

22 THE COURT: This goes at the wrong time.

23 MS. HOLLAND: I think it's fine like this.

24 THE COURT: Okay. All right.

25 BY MR. NEELY:

1 Q. All right. So they taught you how to shoot a
2 gun?

3 A. Yes.

4 Q. All right. And they taught you how to drive a
5 car?

6 A. Yes.

7 Q. Maybe some self-defense, hand-to-hand?

8 A. A lot of it. Yes.

9 Q. Okay. They taught you legals?

10 A. Yes.

11 Q. All right. They taught you how to investigate
12 a case, at least the basics of it?

13 A. Not really.

14 Q. Okay. They at least taught you about evidence
15 collection?

16 A. Yes.

17 Q. All right. They taught you that when you
18 arrive at a crime scene, that you don't know what is
19 important and what isn't important?

20 A. Everything's important. Yes.

21 Q. Everything's important. They taught you the
22 importance of gathering that evidence because
23 everything's important?

24 A. Correct.

25 Q. All right. They told -- they taught you how

1 you're supposed to look for evidence?

2 A. Yes.

3 Q. And they taught you how to collect evidence?

4 A. Basics, yes.

5 Q. All right. And they taught you the basics on
6 preserving evidence, correct?

7 A. Of course.

8 Q. And they taught you the value of your
9 investigation skills, correct?

10 A. Yes.

11 Q. All right. Because it's important to figure
12 out what happened, correct?

13 A. Who, what, when, where, and why.

14 Q. Who, what, when, where, and why. It's
15 important at the time?

16 A. Uh-huh.

17 Q. It's important later, correct?

18 A. Yes.

19 Q. They taught you that when you go to the crime
20 scene, you should -- they taught you how to interact
21 with potential witnesses, correct?

22 A. Yes.

23 Q. All right. And they taught you when you get to
24 a crime scene, you should separate the witnesses as
25 early as possible, correct?

1 A. Yes.

2 Q. Because you want to get each individual
3 witnesses independent recollection of what happened,
4 correct?

5 A. Yes.

6 Q. They also taught you at the criminal justice
7 academy how to write police reports? How to write
8 incident reports?

9 A. Correct. Very little, but, yes, they tried.
10 We learn that in field training.

11 Q. Okay. So you learned it later during your
12 continuing education how to write incidents report?

13 A. Right.

14 Q. All right. And you learned the importance of
15 incident reports, correct?

16 A. Of course.

17 Q. Because people rely on these incident reports?

18 A. (No response.)

19 Q. People rely on your incident reports, don't
20 they?

21 A. Oh, yes. People do rely on our incident
22 reports.

23 Q. You rely on them to go back and -- and review
24 your case, correct?

25 A. Sure.

1 Q. The Solicitor relies on them as they're
2 preparing for trial, correct?

3 A. Yes.

4 Q. The defense attorneys rely on them as we're
5 preparing for trial, as well ---

6 A. Absolutely.

7 Q. --- is that correct?

8 A. Yes, sir.

9 Q. And God forbid if something were to happen to
10 you, somebody else would rely on that because the
11 trial would still happen, correct?

12 A. Yes, sir.

13 Q. All right. And the importance of them is that
14 memory doesn't get better with time, does it?

15 A. No. Generally, not.

16 Q. All right. So you learned when you were
17 learning how to write these incident reports that
18 you want to memorialize what happened as soon as
19 possible, correct?

20 A. Yes.

21 Q. And when you memorialize what happened, you
22 want to be thorough, correct?

23 A. Yes.

24 Q. You want to be accurate?

25 A. Uh-huh. Yes.

1 Q. And you want to write a complete report?

2 A. That's our goal.

3 Q. And through your training, you learned to write
4 these thorough, accurate, complete incident reports,
5 correct?

6 A. Yes.

7 Q. And over the years, the last 14-plus years,
8 you've written hundreds of reports?

9 A. Probably more than hundreds.

10 Q. Thousands of reports?

11 A. Yes.

12 Q. A lot of incident reports?

13 A. Yes.

14 Q. And you use your training every time, don't
15 you?

16 A. We -- we try to get better every day.

17 Q. And so every time you write one of these
18 incident reports, you write a thorough, accurate,
19 complete incident report?

20 A. To the best of my ability, yes, sir.

21 Q. And in this case, you wrote a thorough,
22 accurate, complete incident report, didn't you?

23 A. I thought so, yes. I would hope to believe
24 that is the case.

25 Q. Let's talk about this case. Okay. The night

1 of September 22, 2018, a call comes in. You
2 responded to Club Vibe. You have Officer Nunez with
3 you in the car.

4 A. Yes.

5 Q. You've testified that he's your trainee?

6 A. Correct.

7 Q. Okay. On the way to Club Vibe, you're telling
8 him the importance of sequestering witnesses,
9 correct?

10 A. I don't remember if we had that conversation.

11 Q. But what actually happened that night was, we
12 didn't sequester the witnesses, did we?

13 A. What do you mean by "sequester"?

14 Q. Did you separate the witnesses from themselves?
15 You didn't, did you?

16 A. (No response.)

17 Q. What actually ended up happening was, they were
18 all milling around the parking lot talking to each
19 other, correct?

20 A. Well, sir, yes. In situations like that, it's
21 pretty chaotic and we try to do our best to do that.
22 Yes, sir.

23 Q. Right. But you just testified that your
24 training tells you that when you get to a crime
25 scene, you're to separate the witnesses so that we

1 can get their independent recollections. That's
2 what you testified to?

3 A. When we determine who is a witness and who is
4 not.

5 Q. Well, when you arrive on the crime scene and
6 people are out there, we're not sure who the
7 witnesses are, are we?

8 A. Correct. We have to determine that.

9 Q. We're not sure who the suspects are, are we?

10 A. Correct.

11 Q. We're not sure who the victims are, are we?

12 A. Well, in this case we were, but, correct,
13 generally.

14 Q. Because we don't know what happened, do we?

15 A. Not right when we get there, no.

16 Q. But five minutes in, you're able to determine
17 who the suspects are, weren't you?

18 A. No, sir.

19 Q. All right. Again, you had your body camera on
20 the night that you responded to ---

21 A. Are you asking me -- can I have you clarify?
22 Are you asking me if we positively identified them
23 or if we knew a general description of these
24 suspects?

25 Q. You already had a suspect in mind? You

1 didn't -- you might not have had a positive ID, but
2 you had already determined that there was a suspect
3 in this case?

4 A. Information was provided by Greenville County
5 dispatch from the 911 call giving us a general
6 description of two suspects that fled the scene
7 after a stabbing. Yes, sir.

8 Q. All right. And, again, your job as an
9 independent investigator is to collect evidence,
10 sort through that evidence, and determine what
11 happened. But five minutes in, you radio that you
12 have an identification of a suspect, correct?

13 A. I -- I guess, yes.

14 Q. You either did or you didn't.

15 A. Based on information that we were provided from
16 numerous sources, yes, we believed that we had two
17 suspects and a physical description of them. Yes.

18 Q. Okay. And, again, five minutes in, you had
19 determined enough after five minutes to say that
20 somebody was a victim and somebody was a suspect
21 after five minutes, correct?

22 A. Based on what information we had, yes, sir.

23 Q. Now, you're also taught in your training that
24 when you have individuals on scene who speak a
25 different language, the importance of securing

1 interpreters, correct?

2 A. Generally, if we have a deputy that speaks
3 Spanish, we can utilize them. It's kind of hard to
4 get an interpreter to interview a chaotic scene like
5 that over the phone.

6 Q. Okay. One of the officers on scene asked you
7 if they should call Unit 28 to have an official
8 interpreter -- an official interpreter respond to the
9 scene, and you declined because as Officer Tidyman
10 told you, Officer Nunez speaks semi-Spanish,
11 correct?

12 A. I don't recall that comment.

13 MS. HOLLAND: Your Honor, I would ask to see
14 this before they put it in front of the jury. Does
15 the defense know firsthand ---

16 THE COURT: Show Ms. Holland before you put it
17 in front of them.

18 MS. HOLLAND: May we approach?

19 (Sidebar discussion.)

20 BY MR. NEELY:

21 Q. Your job as the -- as the lead investigator in
22 this case is to review all of the evidence gathered,
23 correct?

24 A. Yes.

25 Q. All right. Now, because as -- as you -- as you

1 testified to on -- on direct, you -- you are out
2 there performing a job, correct, performing your
3 job, correct?

4 A. Yes, sir.

5 Q. All right. And as this night progressed, it
6 took you into the woods to do the K-9 track,
7 correct?

8 A. Yes.

9 Q. Okay. But there were still officers on scene?

10 A. There was.

11 Q. All right. And so everybody else that's out
12 there responding with you are also doing their jobs,
13 correct?

14 A. Yes, sir.

15 Q. All right. And so you are not -- in the
16 moment, you are not aware of what everybody else is
17 doing, correct?

18 A. Correct.

19 Q. All right. But as lead investigator, who
20 ultimately is responsible for obtaining the warrants
21 in this case, you review all of the evidence to make
22 sure that you sign the warrants out on the correct
23 person, correct?

24 A. Of course.

25 Q. All right. So you've reviewed all of the body

1 cams in this case, correct?

2 A. No.

3 Q. All right. So your job as lead investigator is
4 to review all of the evidence, but you didn't watch
5 all of the body cams?

6 A. Sir, I review the evidence that's needed to
7 establish probable cause to sign a warrant.

8 Q. Okay. So without reviewing all of the evidence
9 that's gathered at the scene, you were able to make
10 a determination of what evidence is needed?

11 A. Can you rephrase that?

12 Q. Without reviewing all of the evidence gathered,
13 you know what evidence is important. That's your
14 testimony?

15 A. The level of evidence I need to gather, sir, is
16 the level of probable cause to be able to sign an
17 arrest warrant for a subject.

18 Q. Let's talk about the other evidence that
19 potentially could have been gathered, important
20 evidence. You're taught during your training to
21 gather all of the evidence because as you testified,
22 everything is important, correct? Who; what; when;
23 where; why? That's what you testified to, correct?

24 A. Yes.

25 Q. All right. Now, at no point in time did you go

1 and look for cameras at this club, did you?

2 A. Oh, no. We looked for cameras in the parking
3 lot where the incident occurred.

4 Q. Do you have a copy of your incident report
5 there?

6 A. No. Not in front of me.

7 Q. Let me see if I can find you page 1, but go
8 ahead and look through those for me.

9 A. (Complying.) So if you are going to ask me if
10 I documented or did not document that I looked for
11 video cameras, the answer is, I did not document
12 that. No, sir.

13 Q. Okay. And, again, you wrote a complete and
14 thorough accurate incident report, but nowhere in
15 those incident reports does it reflect you looking
16 for cameras at Club Vibe, correct?

17 A. That's correct.

18 Q. All right. And at no other time did you
19 actually walk down the plaza where Club Vibe is
20 located and look for cameras, did you?

21 A. Well, it's a team effort. We had numerous
22 deputies look for cameras. Obviously, we wanted
23 that evidence.

24 Q. Okay. So as the lead investigator who reviewed
25 all of the evidence in this case, which deputy wrote

1 in their incident report that they looked for
2 cameras at that plaza?

3 A. Sir, I don't know. I don't know if anybody
4 did.

5 Q. You're the lead investigator. You reviewed the
6 evidence in this case. Which deputy wrote it?

7 A. I have no idea, sir.

8 Q. Okay. I'll answer that question for you. None
9 of your deputies looked for cameras that night.
10 It's not in a single incident report.

11 You just testified on direct that Mr. Colorado
12 told you they ran by the 24-hour coin laundry. At
13 what point in time did you look for cameras at the
14 24-hour coin laundry?

15 A. I don't know if we did.

16 Q. I can answer that question, you didn't. It's
17 not in the ---

18 MS. HOLLAND: Your Honor, I have to object.
19 He's testifying.

20 THE COURT: Sustained. Rephrase the question.

21 BY MR. NEELY:

22 Q. Where in your thorough, accurate, complete
23 incident report that you testified you wrote a
24 thorough, accurate, complete incident report, where
25 in there does it say that you looked for cameras at

1 the 24-hour coin laundry?

2 A. It does not.

3 Q. It does not. What about in the other deputies
4 that were with you? Where in their reports does it
5 say it?

6 A. I don't know.

7 Q. It does not, does it?

8 A. I guess not.

9 Q. Twenty-four-hour coin laundry, which means that
10 it's open 24 hours, correct?

11 A. Yes.

12 Q. Okay. At what point in time did you go into
13 the 24-hour coin laundry to see if there were any
14 potential witnesses?

15 A. I did not.

16 Q. What about the other deputies?

17 A. I don't know.

18 Q. Which incident report reflects that they did?

19 A. I don't have them in front of me, sir.

20 Q. Again, you're the lead investigator. You
21 testified you reviewed all of this evidence, so
22 which incident report reflects it?

23 A. I don't know.

24 Q. None of them do, do they?

25 A. I guess not.

1 Q. Yesterday, when Mr. Lopez was testifying, he
2 testified that he walked into Club Vibe with two or
3 three other individuals. And when Ms. Solis
4 testified, she testified that that number was about
5 three or four. Do you recall that? You were in the
6 courtroom.

7 A. Yes.

8 Q. Okay. Now, at what point in time did you
9 collect the names of those individuals?

10 A. I did not.

11 Q. Okay. And at what point in time did you
12 collect the contact information for those
13 individuals?

14 A. I dit not.

15 Q. And at what point in time did you speak with
16 those individuals about what they may or may not
17 have seen that night?

18 A. They weren't in the parking lot, so I did not
19 speak to them.

20 Q. So the answer to "Did you ever speak with
21 them?" is "No, I did not"?

22 A. Correct.

23 Q. We've heard testimony during this trial that
24 this bar was owned by Bladimir Acosta, correct?

25 A. Yes.

1 Q. And we've heard testimony during this trial
2 that Bladimir Acosta was in the bar on the night of
3 September 22, 2018, correct?

4 A. Yes.

5 Q. And at no point in time did you ever actually
6 speak with Bladimir Acosta, did you?

7 A. I did not. The doors were locked.

8 Q. At no point in time did you ever speak with
9 Bladimir Acosta, did you?

10 A. I did not.

11 Q. And we've heard testimony during this trial
12 that his wife Paula was bartending that night,
13 correct?

14 A. Yes.

15 Q. At no point in time did you ever speak with
16 Paula either, did you?

17 A. No, sir.

18 Q. You didn't speak with them that night and you
19 didn't speak with them at any point in the last
20 three-and-a-half years, have you?

21 A. Correct.

22 Q. On the night after this when you went to the
23 hospital, you spoke with Orlando Lopez, correct?

24 A. I did.

25 Q. All right. While you were speaking with

1 Orlando Lopez, you weren't merely there to show him
2 a photo lineup, correct? That was part of what you
3 did?

4 A. That was the primary purpose, yeah. I don't
5 know of another purpose. Well, to check on his
6 welfare.

7 Q. Well, you were also there to follow-up on what
8 happened, correct?

9 A. Yes. Of course.

10 Q. Okay. And, again, you also went in there and
11 you got a written statement from Orlando Lopez as
12 well, correct?

13 A. I did.

14 Q. All right. When he gave you that written
15 statement, he told you that when he walked out into
16 the parking lot, he met with an acquaintance that he
17 had met at the bar before?

18 A. He did tell me that, yes.

19 Q. And he told you that the acquaintance asked for
20 a ride home, correct?

21 A. From what I recall, yes.

22 Q. I can show you your incident report.

23 A. That's fine. Yes.

24 Q. Okay. And yesterday when we were all sitting
25 in the courtroom listening to Mr. Lopez testify, he

1 told us that that acquaintance was somebody other
2 than Jhefrey Colorado. Do you recall him testifying
3 to that?

4 A. Yes.

5 Q. So according to his testimony, that puts
6 Mr. Lopez, Mr. Colorado, and a third person out in
7 the parking lot before either of the Alvarez
8 brothers came out there, correct?

9 A. Yes.

10 Q. Now, at what point in time -- let me rephrase
11 that. At no point in time, did you inquire of
12 Mr. Lopez who this acquaintance was, did you?

13 A. No.

14 Q. And at no point in time, did you attempt to
15 ascertain any contact information for this
16 acquaintance, did you?

17 A. Correct.

18 Q. And so at no point in time, did you ever speak
19 to a person -- to this acquaintance, did you?

20 A. No.

21 Q. We've talked a little bit about the importance
22 of these incident reports, and you testified -- you
23 told all of us that the importance of these incident
24 reports is to memorialize what happened as close to
25 the time as possible, correct?

1 A. Yes.

2 Q. In that same vein, taking witness statements is
3 equally as important, correct?

4 A. Speaking to them is important, not necessarily
5 getting a paper statement.

6 Q. Well, we want to memorialize what the witness
7 remembers as close in time to the incident as
8 possible, correct?

9 A. We try to.

10 Q. All right. And so we know Mr. Lopez gave a
11 written statement -- we know Mr. Lopez gave a
12 written statement, correct?

13 A. Yes.

14 Q. And we know Mr. Solis gave a written statement,
15 correct?

16 A. Correct.

17 Q. But at no point in time did you bother to take
18 a written statement from Jhefrey Colorado, did you?

19 A. No.

20 Q. And at no point in time did any other officer
21 attempt to obtain a written statement from Jhefrey
22 Colorado, did they?

23 A. No. We got verbal statements from him. Like I
24 said, it's not necessary to get it written on paper.
25 That's what court is for.

1 Q. That is what court is for.

2 A. Correct.

3 Q. And we are in court three-and-a-half years
4 after this incident, correct?

5 A. Right.

6 Q. And as you've already told us, memory does not
7 get better with time, does it?

8 A. No.

9 Q. But, again, nobody got a written statement from
10 Mr. Colorado close to the night of September 22,
11 2018, did they?

12 A. No. But we spoke to him and I documented it in
13 the report.

14 Q. You did?

15 A. I did.

16 Q. So you spoke with Mr. Colorado?

17 A. I did.

18 Q. You documented what he told you?

19 A. Yes.

20 Q. And what he told you back in September 22,
21 2018, which you documented in your report, was that
22 he had just left the club with Mr. Solis and two
23 female victims -- and two female witnesses?

24 A. Two females. Yes.

25 MS. HOLLAND: Your Honor, I'm going to have to

1 object. This is hearsay. It's just reiterating
2 what witnesses who already testified have said.

3 THE COURT: Yeah, I'll sustain that.

4 MR. NEELY: Your Honor, if I may be heard. I'm
5 not using it for the truth of the matter asserted.
6 I'm using it to impeach their witnesses' prior
7 testimony yesterday because it is inconsistent with
8 what he testified to.

9 MS. HOLLAND: Your Honor, that's a completely
10 separate issue. He's impeaching this officer with
11 something someone else said.

12 MR. NEELY: Your Honor, if we may approach?

13 (Sidebar discussion.)

14 BY MR. NEELY:

15 Q. At the point in time on your body cam where you
16 mentioned this must've started inside of the club,
17 do you recall that?

18 A. I mean, I don't recall it, no.

19 Q. But we've heard testimony during the trial that
20 something happened inside of Club Vibe, correct?

21 A. Yes.

22 Q. At no point in time did you ever actually go
23 inside of Club Vibe, did you?

24 A. No. The doors were locked that evening.

25 Q. When your shift started back the next night,

1 you didn't go inside of Club Vibe, did you?

2 A. No. I went to talk to my stab victims at the
3 hospital.

4 Q. And at no point in time in the last 1,300 and
5 some odd days did you ever step foot inside of Club
6 Vibe, did you?

7 A. Correct.

8 Q. We heard testimony yesterday that Orlando Lopez
9 came in through the rear entrance to Club Vibe. Do
10 you recall that?

11 A. Yes, I do.

12 Q. At no point in time did you make your way
13 around to the back of the club, did you?

14 A. Correct.

15 Q. And as a matter of fact, at no point in time
16 did any of your officers make their way to the back
17 of Club Vibe, did they?

18 A. No.

19 Q. Not on the night of September 22, 2018,
20 correct?

21 A. Correct.

22 Q. Not the next night, correct?

23 A. Correct.

24 Q. Not at any point in time in the last 1,300
25 some-odd days, correct?

1 A. Correct.

2 Q. When you arrived on scene, there was -- there
3 were several cars in the parking lot, correct?

4 A. Yes.

5 Q. We know that Mr. Lopez arrived separately from
6 Mr. Solis, correct?

7 A. Yes. Correct.

8 Q. And we know that Mr. Colorado arrived
9 separately from Mr. Solis, as well, correct?

10 A. Yes.

11 Q. And we heard from Mr. Vasquez yesterday that
12 the Alvarez brothers had a white van, correct?

13 A. Correct.

14 Q. And your testimony on direct was that you
15 looked in the white van to make sure that nobody was
16 in the van, correct?

17 A. Correct.

18 Q. And, again, on the night this happened when you
19 arrived on scene, you did not know what happened,
20 correct?

21 A. Just the basics.

22 Q. When you say "just the basics," you are talking
23 about what these individuals told you what happened,
24 correct?

25 A. No. You asked me when I arrived on scene. You

1 mean later after speaking to the people? Yes, I
2 knew the basics.

3 Q. Again, when you say "basics," this is based on
4 what these individuals told you, correct?

5 A. Correct.

6 Q. And your job as the investigator is to gather
7 evidence to make an actual determination of what
8 happened, correct?

9 A. Yes.

10 Q. All right. And, again, you searched the white
11 van to make sure nobody was in it, correct?

12 A. We didn't search. We just looked in the
13 windows.

14 Q. But at no time did you ever look in Mr. Solis'
15 car, did you?

16 A. Well, of course not. They didn't run to his
17 car.

18 Q. Again, the information you have is based on
19 what they are telling you, correct?

20 A. Correct.

21 Q. And, again, you're taking their word for it
22 because you have already determined that they're
23 victims, correct?

24 A. Well, of course. Yes.

25 Q. And you've already determined that the Alvarez

1 brothers are suspects, correct?

2 A. Correct.

3 Q. All right. You went into the woods 26 minutes
4 after arriving on scene, correct?

5 A. If you say so, yes. Twenty-six minutes, it
6 was -- it was within an hour.

7 Q. It -- it was -- it was 26 minutes. We can show
8 your body cam.

9 A. Okay. I believe you.

10 Q. All right. So you were on scene and in the
11 parking lot of Club Vibe for 26 minutes?

12 A. Yes.

13 Q. Your investigation -- you say your
14 investigation was ongoing, correct?

15 A. What do you mean?

16 Q. But in that 26 minutes, you had already
17 determined that these were your victims, correct?

18 A. Yes.

19 Q. And that these were your suspects, correct?

20 A. I didn't know them.

21 Q. That somebody was a suspect, correct?

22 A. Well, somebody had to stab them over ten times.
23 Yes.

24 Q. So you looked in the -- the van, correct?

25 A. Of course.

1 Q. And at no point did you look in Mr. Solis' car,
2 correct?

3 A. Correct.

4 Q. And at no point did you look in Mr. Lopez's
5 car, correct?

6 A. Correct.

7 Q. And at no point did you look in Mr. Colorado's
8 car, correct?

9 A. Correct.

10 Q. At some point in time while you were out there,
11 Mr. Colorado attempted to show you and Officer Nunez
12 something on his phone, correct?

13 A. I don't remember that, but there was a lot of
14 information getting passed back and forth.

15 Q. Well, at no point in time did y'all bother to
16 actually collect what Mr. Colorado was showing y'all
17 on his phone, did you?

18 A. I guess not. I don't know.

19 Q. Well, I -- I can show you your incident report
20 again. Will it help?

21 A. No. I did not collect his phone, sir, as
22 evidence, no.

23 Q. You didn't collect anything from his phone
24 either, did you?

25 A. No.

1 Q. All right. And none of your officers actually
2 collected anything from his phone, did they?

3 A. No.

4 Q. We heard testimony yesterday from Mr. Colorado
5 that at some point during this, he grabbed a metal
6 tube or a pole. Do you recall that?

7 A. Yes.

8 Q. And as a matter of fact, you actually mentioned
9 it in your incident report, correct?

10 A. Yes.

11 Q. What point in time did you attempt to locate
12 that metal pole or tube?

13 A. I did not.

14 Q. At what point in time did any of your other
15 officers attempt to locate that metal tube or pole?

16 A. I guess they did not.

17 Q. So that metal tube or pole, which is evidence,
18 was never attempted to be located, correct?

19 A. Well, it was not evidence used in the crime of
20 stabbing my two victims. It was a self-defense
21 tool.

22 Q. On your body cam, we're able to see a pack of
23 cigarettes underneath Mr. Lopez's blue truck.

24 A. Okay.

25 Q. Again, in his original statement to you, he

1 said he was just giving an acquaintance a ride home,
2 and yesterday he testified he was out there smoking.
3 At what point in time did you collect the cigarette
4 pack?

5 A. I did not.

6 Q. At what point in time did any of your officers
7 collect the cigarette pack?

8 A. We did not. There was a lot of stuff laying in
9 the parking lot we didn't collect.

10 Q. And you're able to determine immediately that
11 that was not evidence is your testimony today?

12 A. I guess. I don't recall seeing a cigarette
13 pack underneath a car, but if my body cam captured
14 it, I guess it was there. Now, if it would've been
15 a knife, I would've collected it.

16 Q. But, again, when you -- when you respond to the
17 scene and your job is to collect evidence to
18 determine what happened, your testimony to us is
19 that everything is important, correct?

20 A. Sure. Yes.

21 Q. So something that's laying in your crime scene
22 you did not collect?

23 A. Okay. I don't collect evidence. Greenville
24 County forensics collects evidence. They were
25 called to the scene, so they would have to testify

1 on why they didn't collect a cigarette box.

2 Q. You're the lead investigator, correct?

3 A. Yes, sir.

4 Q. Okay. Now, at some point in the middle of all
5 this crime scene, there's a white baggy or a little
6 corner bag filled with crystal substance, correct?

7 A. Yes.

8 Q. All right. Now, you learn in your training at
9 the Criminal Justice Academy that there is an agency
10 in this state called South Carolina Law Enforcement
11 Division, correct?

12 A. Correct.

13 Q. They're also known as SLED?

14 A. Correct.

15 Q. And Greenville County Sheriff's Office actually
16 has a forensics lab here itself. We're lucky enough
17 we're one of a few counties that actually have a
18 forensics lab here, correct?

19 A. Yes.

20 Q. All right. So you are able to send evidence
21 either to Columbia, to SLED, or to the forensics lab
22 here in Greenville for testing, correct?

23 A. Yes.

24 Q. And part of the testing that can be done is for
25 fingerprints, correct?

1 A. Yes.

2 Q. And you're also able to send substances off to
3 determine what the substance is, correct?

4 A. Correct.

5 Q. So this little corner bag filled with white
6 crystal substance, that actually was collected and
7 put into evidence, correct?

8 A. Yes.

9 Q. Now, at no point in time did that bag ever get
10 sent to forensics, either here or in Greenville or
11 in Columbia, for testing, did it?

12 A. Correct.

13 Q. It wasn't tested for the type of substance it
14 was, was it?

15 A. Right. Correct.

16 Q. And it wasn't tested for fingerprints either,
17 was it?

18 A. Correct.

19 Q. You're currently stationed over on Halton Road
20 at the courthouse?

21 A. I am.

22 Q. All right. And your -- your -- your job title
23 is still master deputy?

24 A. It is.

25 Q. All right. And your job tittle back in 2018

1 was also master deputy?

2 A. Correct.

3 Q. You are not an investigator?

4 A. Correct.

5 Q. To become an investigator -- to become an
6 investigator is a promotion, correct?

7 A. No. Actually, investigators are actually
8 master deputies. They just have a different title
9 because they're in investigations full-time.

10 Q. Okay. All right. So they get switched over to
11 investigations unit. The continuing education that
12 they take is different than what you take as a
13 master deputy, correct?

14 A. Oh, yes.

15 Q. Okay. They learn different ways to investigate
16 crimes than what you learn in your training,
17 correct?

18 A. Correct.

19 Q. They go more in depth as to how they
20 investigate. Your job is a first responder?

21 A. Correct.

22 Q. And you testified -- well, let me back up for a
23 second. Again, on the night that this happened, you
24 were a master deputy. You weren't working in
25 investigations?

1 A. Correct.

2 Q. You are not now, nor have you ever been in
3 investigations, correct?

4 A. Right.

5 Q. So you have never taken any of those
6 specialized courses in investigations, correct?

7 A. Correct.

8 Q. And you testified that if it's a more intricate
9 investigation, such as a violent crime, we forward
10 to investigations?

11 A. Yes.

12 Q. But in this case where immediately you're able
13 to determine that you have stab victims, you did
14 not ---

15 A. Yes.

16 Q. --- forward this?

17 A. I thought you were asking me a question.

18 Q. Give me one second.

19 A. All right.

20 Q. You did not forward this case to
21 investigations, did you?

22 A. Correct. I did not.

23 Q. Now, again, you testified that did -- that
24 decision didn't come from you. That came from
25 Sergeant Corey, correct?

1 A. Yes, sir, it did.

2 Q. But that decision was made?

3 A. It was.

4 Q. You testified on direct that on September 21st
5 into September 22nd, your shift was from 7:00 p.m.
6 until 7:00 a.m., correct?

7 A. Yes.

8 Q. And so -- and you just testified that at no
9 point did you call a violent crimes investigator?

10 A. Correct.

11 Q. All right. In your thorough, accurate,
12 complete incident report, you wrote, "The danger the
13 suspects pose to the public and the need to
14 apprehend them," correct?

15 A. That's what myself and my sergeant discussed.

16 Q. That there was a danger to the public and that
17 there was a need to apprehend them?

18 A. Right. Because it was the weekend.

19 Q. Okay. And so at 7:00 a.m. when your shift
20 ended, you went home?

21 A. I did.

22 Q. And you went to bed?

23 A. Yes.

24 Q. Immediately, upon receiving the call as you're
25 pulling into Club Vibe, communications radios you

1 and told you that the van came back to Pedro
2 Vasquez?

3 A. Yes.

4 Q. All right. The description that was given to
5 911, which got you out to the crime scene, said two
6 Hispanic males?

7 A. Yes.

8 Q. You don't know Pedro Vasquez, do you? You
9 didn't at the time?

10 A. Of course not.

11 Q. Yet, you waited 36 hours to speak with
12 Mr. Vasquez, correct?

13 A. Correct.

14 Q. You at no point attempted to investigate
15 Mr. Vasquez as being involved in this, did you?

16 A. No.

17 Q. Even though his van was on scene, correct?

18 A. Yes.

19 Q. And, again, that was based solely on hearing
20 from these individuals, correct?

21 A. Correct.

22 Q. I'm going to take you back to what we talked
23 about a few minutes ago about the state law
24 enforcement division and Greenville forensics.

25 A. Yes, sir.

1 Q. All right. We talked about being able to test
2 different substances.

3 A. Right.

4 Q. And we talked -- we talked about being able to
5 do fingerprint analysis, correct?

6 A. Right.

7 Q. They are also able to do blood tests. And when
8 I say blood tests, I mean do DNA testing to
9 determine who the blood might belong to, correct?

10 A. Right.

11 Q. All right. Now, when we see the crime scene,
12 we saw the pictures yesterday, and there was a lot
13 of blood. The crime scene had a lot of blood, as
14 well, correct?

15 A. It did.

16 Q. And, again, you testified that as the lead
17 investigator, you reviewed all of the evidence,
18 correct? That's what you testified to?

19 A. Yes.

20 Q. And so you are aware that then Officer Hempell,
21 who is with Greenville forensics, that there is a --
22 that he notes that there's a trail of blood going to
23 the driver's side door of the white van, correct?

24 A. Right.

25 Q. All right. So at which point in time did you

1 send blood swabs off to either of these forensic
2 labs to determine whose blood it was?

3 A. I didn't.

4 Q. All right. Your -- your testimony, if I -- if
5 I'm hearing you correctly, your testimony is that
6 these are victims because they were stabbed?

7 A. Yes. In the manner that they were, yes.

8 Q. But you didn't test the blood at the crime
9 scene to see if it came back to either of the
10 Alvarez brothers?

11 A. Well, I don't test blood, sir.

12 Q. You didn't send it off to be tested, did you?

13 A. No. Forensics would do that.

14 Q. And as the lead investigator, did you request
15 forensics to do that?

16 A. I don't recall -- I don't remember.

17 Q. Well, I mean, I can show you your incident
18 report again.

19 A. No. (Inaudible.)

20 Q. It's not in your incident report, is it?

21 A. No. No.

22 Q. If you had done it, you would've written it in
23 your incident report?

24 A. Most likely. Yes.

25 Q. You testified on direct that you left the crime

1 scene to go on a -- on a K-9 track with the K-9
2 unit, correct?

3 A. I did.

4 Q. All right. But you testified that you're not
5 sure how that actually -- what -- what the actual
6 process is because you have not been trained in
7 using a K-9, correct?

8 A. Correct.

9 Q. All right. So your training as a first
10 responder to at least do an initial investigation at
11 the crime scene, you left to go into the woods for
12 three hours, correct?

13 A. Yeah, probably three hours. Yes, sir.

14 Q. And you went to go do something that you don't
15 actually have training to do, correct?

16 A. We can follow behind a dog.

17 Q. So the dog was in charge?

18 A. Of course.

19 Q. Okay. While on scene, firefighters and EMS
20 responded out, correct?

21 A. They did.

22 Q. All right. And, again, you were only on scene
23 for about 26 minutes, but about halfway through your
24 time in the parking lot of Club Vibe, some
25 firefighter suggested to you that maybe Mr. Lopez

1 and Mr. Solis stabbed each other. Do you recall
2 that?

3 A. No. I don't recall that.

4 Q. All right. And you told them that that's
5 definitely not what happened, correct?

6 A. Well, I -- yeah, I guess so.

7 Q. Because, again, within 13 minutes, you were
8 able to make the determination of what happened
9 based off of what they told you, correct?

10 A. Correct.

11 Q. Do you speak any Spanish?

12 A. No, sir, I do not.

13 Q. A hundred percent English?

14 A. I know basic -- maybe basic Spanish words from
15 doing this for a while.

16 Q. Enough to understand what a victim is telling
17 you about what happened?

18 A. No. Of course not.

19 Q. Okay. Monday, we were in this courtroom. Do
20 you recall that?

21 A. Yes.

22 Q. Monday, we were in this courtroom. Do you
23 recall that?

24 A. Yes.

25 Q. You were sitting right where you're sitting?

1 A. Yes.

2 Q. Just like today, you walked to that witness
3 stand and you placed your hand on that Bible,
4 correct?

5 A. Yes.

6 Q. And you raised your hand, correct?

7 A. Yes, sir.

8 Q. And you swore to tell the truth, correct?

9 A. Of course.

10 Q. And on Monday, when you were sitting on that
11 witness stand, I asked you if on the night of
12 September 22nd when you went to the hospital if you
13 were wearing your body camera. Do you recall that?

14 A. Yes.

15 Q. And you testified that you were?

16 A. Correct.

17 Q. And then I asked you if your body camera was
18 on, and you said yes.

19 A. Yes.

20 Q. You said, "Absolutely. Because I always follow
21 Greenville County Sheriff's Office body cam policy,"
22 correct?

23 A. Correct.

24 Q. So under oath where you swore to tell the
25 truth, you told us on Monday that your body cam was

1 activated, correct?

2 A. Yes.

3 Q. But that was a lie, correct?

4 A. No, sir. It was not a lie.

5 Q. Well, it certainly was not ---

6 A. I've never lied under oath.

7 Q. It certainly was not the truth, was it?

8 A. We -- you asked me if it was on and if it was
9 activated. Yes, sir, it was.

10 Q. And you also testified that it was recording?

11 A. Yes.

12 Q. And it got downloaded to the server?

13 A. What I believe, is was recording. Yes, sir.

14 Q. Okay. And that is not the truth, is it?

15 A. Sir, I -- I hit record on the camera.

16 Q. All right. That was September 22nd of 2018.
17 That was three-and-a-half years ago, correct?

18 A. Yes, sir.

19 Q. At any point in time you could have gone and
20 made sure that that evidence was either there or not
21 there. But on Monday, three-and-a-half years
22 afterwards, you sat on the witness stand after you
23 swore to tell the truth and you said, "My body
24 camera was on and it was activated and it was
25 recording." That is what you said, correct?

1 A. Yes, sir.

2 Q. And that is not true, is it?

3 A. Sir, I hit record on my body cam. What I
4 believed, I hit record on my body cam.

5 Q. All right. You are the investigator who swore
6 out the warrants against these two people, correct?

7 A. Yes.

8 Q. All right. And so you just made a mistake?
9 That's your testimony?

10 A. It's possible.

11 Q. All right. So under oath, you lied and you
12 just made a mistake? And the jury wasn't present
13 for that hearing, now were they?

14 A. No.

15 MR. NEELY: Nothing further.

16 THE COURT: Mr. Watson.

17 BY MR. WATSON:

18 Q. You swore out warrants on the Vasquez brothers
19 three days after the morning of September 22nd?

20 A. Yeah.

21 Q. 9/25?

22 A. Once they were identified. I think it was the
23 25th. Yes, sir.

24 MR. WATSON: Okay. That's all I have. Nothing
25 else.

1 THE COURT: All right. Any redirect?

2 MS. HOLLAND: Your Honor, beg the Court's
3 indulgence for just one moment. (Counsel
4 conferring.) Your Honor, just very briefly.

5 REDIRECT EXAMINATION

6 BY MS. HOLLAND:

7 Q. Evidence collection, we talked about that a
8 little bit.

9 A. Yes, ma'am.

10 Q. Tell us what forensics does.

11 A. Forensics collects evidence and processes it.

12 Q. So as an officer, is that who you would call
13 out there if evidence needed to be collected?

14 A. Yes, ma'am. Absolutely.

15 Q. Is that also the person that would make the
16 decision about -- about blood being on the ground
17 and photographing that?

18 A. Yes, ma'am.

19 Q. Okay. There was some discussion about you
20 determining who the victims in this case was. Did
21 you have any doubt in your mind who the victims were
22 when you arrived?

23 A. When I arrived?

24 Q. I'm sorry. When you saw them?

25 A. No, ma'am.

1 Q. What made you determine that they were at that
2 time the victims?

3 A. I had two people walking around with severe
4 lacerations all over their entire body. That's
5 pretty evident that they're victims of a stabbing.

6 Q. Okay. That's it, Your Honor. Oh, I'm sorry.
7 Oh, and one more question. I think I hit on this.
8 I just want to make sure. About the cameras, did
9 you guys check for video in the area?

10 A. Yes, ma'am. I testified that we did check for
11 video cameras.

12 Q. It was just not in your report?

13 A. I just did not put it in my report. No, ma'am.

14 MS. HOLLAND: Okay. Just wanted to clarify
15 that. Thank you, Your Honor.

16 THE COURT: All right. Recross?

17 MR. NEELY: Nothing, Your Honor.

18 THE COURT: All right. Mr. Watson?

19 MR. WATSON: Nothing further, Your Honor.

20 THE COURT: All right. You are excused.

21 THE WITNESS: Thank you.

22 (Witness excused.)

23 THE COURT: All right. Ladies and gentlemen,
24 why don't we take our morning break here. Please
25 don't discuss the case. And we'll just take a short

1 break, a restroom break, get to stretch a little bit
2 and bring you back out.

3 (At 10:46 a.m., jury left the courtroom.)

4 THE COURT: All right. We're going to take a
5 short -- just let me get an idea from the State of
6 their -- just from a logistics standpoint as far as
7 time for the next couple of witnesses. Are they
8 lengthy? not lengthy? Obviously, it depends on
9 cross, but just generally.

10 MR. RICHARDSON: I would not characterize them
11 from my standpoint as lengthy ---

12 THE COURT: Okay.

13 MR. RICHARDSON: --- but not short either. I
14 may have one short.

15 THE COURT: I'm not going to hold y'all to any
16 of it. I'm letting y'all try your case whatever the
17 way -- however you want to do it. I'm just trying
18 to get a little in my mind time wise. I want to
19 keep this trial moving, and so everybody's doing a
20 good job of that. Let's keep doing that. But
21 just -- I just wanted to get an idea.

22 All right. Let's just take a short recess.

23 (From 10:47 to 11:04 a.m., a recess was had.)

24 THE COURT: Anything before we bring the jury
25 back in?

1 MR. RICHARDSON: Nothing from the State.

2 MR. NEELY: Nothing from the defense.

3 THE COURT: All right. Bring the jury in.

4 (At 11:07 a.m., jury entered the courtroom.)

5 THE COURT: All right. State call your next
6 witness.

7 MR. RICHARDSON: State calls James McNeely.

8 THE CLERK: Sir, if you'll please come forward.
9 Please pause at the end of the bench. Place your
10 left hand on the Bible and raise your right hand.

11 THE WITNESS: (Complying.)

12 THE CLERK: You do solemnly swear or affirm to
13 tell the truth, the whole truth, nothing but the
14 truth so help you God?

15 THE WITNESS: I do.

16 THE CLERK: Thank you. Please be seated.

17 THE WITNESS: (Complying.)

18 THE CLERK: Sir, please state your name for the
19 record.

20 THE WITNESS: It's James McNeely.

21 JAMES MCNEELY,
22 having been produced and first duly sworn as a
23 witness on behalf of the State, then testified as
24 follows:

25 DIRECT EXAMINATION

1 BY MR. RICHARDSON:

2 Q. Okay. Sir, if you could just pull yourself a
3 little closer to that microphone so we can hear you
4 better.

5 A. Is that better?

6 Q. Yes, sir.

7 A. Okay.

8 Q. Where are you employed?

9 A. I'm employed by the Greenville County Sheriff's
10 Office.

11 Q. Okay. And what did -- what do you -- how are
12 you employed by them, in what capacity?

13 A. I'm a sergeant within our warrant services
14 division. I'm technically over our extradition
15 units.

16 Q. Okay. And can you explain to the jury what the
17 extradition unit does?

18 A. Yes. Once a subject has been charged and
19 positively located and arrested in another state, my
20 unit is responsible for the paperwork and the
21 transportation of moving the subject back to South
22 Carolina.

23 Q. So in essence, is it to obtain fugitives from
24 justice ---

25 A. Yes.

1 Q. --- to bring them back here for prosecution?

2 A. Exactly.

3 Q. Okay. And did you have an occasion or did the
4 team have an occasion to take into custody the
5 defendants?

6 A. Yes.

7 Q. Okay. And do you know when that was they were
8 taken into custody by your unit?

9 A. I believe we physically took custody of them on
10 October the 12th, 2018, if my memory serves me
11 correctly. Yes. October 12th.

12 Q. And can you tell the -- can you tell the jury
13 where the task unit took them into custody?

14 A. Palm Beach County, Florida.

15 Q. Okay, sir. And they were immediately brought
16 back to South Carolina?

17 A. Yes.

18 MR. RICHARDSON: Thank you. That's all the
19 questions I have.

20 THE COURT: Cross?

21 MS. GORSKI: No questions, Your Honor.

22 MR. NEELY: No questions, Your Honor.

23 THE COURT: All right. You are excused. Thank
24 you, sir.

25 THE WITNESS: Thank you.

1 THE COURT: All right. Next witness.

2 MR. RICHARDSON: Your Honor, can he be excused
3 from his subpoena?

4 THE COURT: Any objection?

5 MR. NEELY: No objection, Your Honor.

6 THE COURT: All right. You are excused from
7 your subpoena.

8 THE WITNESS: Thank you.

9 (Witness excused.)

10 MR. RICHARDSON: Your Honor, the State would
11 call Adam Hempell to the stand.

12 THE CLERK: Sir, if you'd please come forward.
13 Please pause at the end of the bench. Place your
14 left hand on the Bible and raise your right hand.

15 THE WITNESS: (Complying.)

16 THE CLERK: You do solemnly swear or affirm to
17 tell the truth, the whole truth, and nothing but the
18 truth so help you God?

19 THE WITNESS: I do.

20 THE CLERK: Thank you. Please be seated.

21 THE WITNESS: (Complying.)

22 THE CLERK: Please state your name for the
23 record.

24 THE WITNESS: My name is Deputy Russell Adam
25 Hempell.

1 THE CLERK: Thank you.

2 DEPUTY RUSSELL ADAM HEMPELL,
3 having been produced and first duly sworn as a
4 witness on behalf of the State, then testified as
5 follows:

6 DIRECT EXAMINATION

7 BY MR. RICHARDSON:

8 Q. Sir, where are you employed?

9 A. Currently, I'm employed by the Greenville
10 County Sheriff's Office.

11 Q. And in your employment today, what are your --
12 what are your duties? What do you do?

13 A. I actually work here at the courthouse.

14 Q. Security for the ---

15 A. Security. Just like the deputies in the
16 courtroom are currently.

17 Q. Okay. Now, back in September, specifically
18 September 21st, 22nd of 2018, where were you
19 employed at that time?

20 A. I worked for the Greenville County forensics
21 division as a crime scene technician.

22 Q. Okay, sir. And can you just briefly explain to
23 the jury what your duties are as a crime scene
24 technician?

25 A. Sure. Basically, in any kind of crime, whether

1 it be auto breaking or homicide, whatever, the
2 agency inside the county, whether it be the county,
3 the city, or municipality, will call us out to
4 collect evidence and document the crime scene.

5 So we do that in several ways. So we come out
6 and we take photos. And we can do sketches of the
7 scene if it's a homicide or something like that. We
8 also will process the scene for latent fingerprints,
9 collect blood evidence, DNA evidence, or also we can
10 do the latent prints, so we will pull latent prints
11 off of vehicles or any kind of substrate that would
12 be suitable for collecting evidence.

13 Q. Okay, sir. And were you called out to Vibe on
14 September 22, 2018?

15 A. I was.

16 Q. Okay. When you arrived at Vibe, what's the
17 first thing that you do? And, generally, in your
18 duties, what's the first thing you do when you
19 arrive at a scene?

20 A. Typical -- typically, we -- we go and once we
21 arrive on scene, we meet with the investigators or
22 the deputies or whoever is on scene just to get an
23 idea of what we're dealing with so we can kind of
24 get an overall picture or scope of the -- the
25 incident.

1 Q. Okay, sir. Now, in your assessment of this
2 scene, did you notice blood in the parking lot?

3 A. Yes, sir.

4 Q. Okay. And was that -- was the blood localized
5 or was it throughout the parking lot or can you
6 describe based on your -- based upon your memory?

7 A. There were several areas. I believe the -- the
8 incident covered several areas of the parking lot.
9 It was pretty much the center of the parking lot,
10 but it was a pretty wide area from where the victims
11 or whoever was bleeding had been -- had moved.

12 Q. Okay.

13 A. So, I mean, it was somewhat centralized, but
14 there was -- in the parking lot itself, but there
15 was a large area there was blood in.

16 Q. Okay. And did you also note blood towards a
17 white van?

18 A. Yes. There were two vehicles in particular
19 that we were looking at and there was blood going to
20 both vehicles.

21 Q. Okay. And did you observe any blood on -- on
22 either one of the vehicles?

23 A. I believe there was some blood on the F-350.

24 Q. Okay. And the F-350, do you recall whose
25 vehicle that was?

1 A. It was the victim. In my report, it's victim
2 no. 1 who was Javier Solis.

3 Q. Okay. Let me hand you what's been marked as
4 State's 23 and 25.

5 A. Yes, sir.

6 Q. Do you recognize those photos?

7 A. Yes, sir.

8 Q. And did those photos -- did you take those
9 photos?

10 A. I did.

11 Q. And that's part of your duties is to take
12 photos?

13 A. Correct. To document the scene.

14 Q. Okay. And in this case, did those photos, have
15 they been changed or altered in any way from your
16 taking the photos?

17 A. No, sir. They don't appear to be.

18 Q. Did they accurately depict what you saw on that
19 night?

20 A. That's correct.

21 MR. RICHARDSON: At this time we would move
22 State's Exhibit 23 and 25 into evidence.

23 THE COURT: All right. Any objection?

24 (No response.)

25 THE COURT: Any objection.

1 MR. NEELY: No -- no objection.

2 THE COURT: All right. State's 23 and 25 are
3 admitted into evidence without objection.

4 (State's Exhibit Nos. 23 and 25 were received
5 into evidence.)

6 BY MR. RICHARDSON:

7 Q. And let me show you what's been marked State's
8 Exhibit 23. Would you tell the jury what that is?

9 A. That is suspected blood that we -- that I found
10 on the asphalt in the parking lot there outside the
11 driver's door of the victim's vehicle.

12 Q. Okay. And State's Exhibit 25.

13 A. That would be the driver's front door of the
14 victim's vehicle with suspected blood dripping down
15 the handle and then the side of the vehicle there.

16 Q. Okay, sir. Did you notice any blood -- well,
17 did you take pictures of the white van?

18 A. I did.

19 Q. I'm going to show you what's already been
20 entered into evidence as State's Exhibit 21 and 22,
21 and I'm referring to State's Exhibit 21. Is that a
22 photograph you took?

23 A. That is, sir.

24 Q. Is that the white van?

25 A. That's the white van. Yes, sir.

1 Q. Also, State's Exhibit 22. Is that a photograph
2 you took?

3 A. Yes, sir.

4 Q. And is -- does that indicate the white van that
5 you describe in your report?

6 A. Yes, sir, it is.

7 Q. And on that white van, did you notice any blood
8 or anything of that nature?

9 A. I don't believe that I found any blood on the
10 white van itself. No, sir.

11 Q. Also, as part of your duties as a forensic
12 officer, are you also charged in the duty of
13 attempting to obtain fingerprints?

14 A. Yes, sir.

15 Q. And in doing so, how do you start out? How do
16 you go about doing that?

17 A. So we do kind of the same thing. I was -- I
18 was called to process the van the next day after it
19 was towed to a tow lot. We do the same thing that
20 we kind of do on a normal scene. We take photos
21 before we start of the exterior of the van and
22 interior, and then we process the vehicle interior
23 and exterior for latent prints.

24 Q. Okay, sir. And before I get into that, did
25 you -- at some point in time, did you notice a blue

1 shirt at the scene?

2 A. I did. Yes, sir. It was described to me as
3 possibly the victim's shirt, and I did collect a
4 blue denim shirt that had -- from the crime scene.
5 Yes, sir.

6 Q. And when you collected that shirt, did you put
7 that shirt into property and evidence?

8 A. Yes, sir. I mean, I collected it. Took it
9 back to our forensics unit. I later photographed it
10 and documented any of the cuts and marks on it with
11 and without scale, and then I packaged it and placed
12 it into evidence -- property and evidence.

13 Q. Okay. And let me show you what's been
14 marked -- I'll show you one that's been marked
15 State's Exhibit 19. Is that the blue shirt that you
16 took into evidence?

17 A. Yes, sir. That's -- that's the one I actually
18 photographed it to document it back at the crime
19 scene unit.

20 Q. Yes, sir. And did you observe both sides of
21 the shirt?

22 A. I did.

23 Q. Did you observe any slash marks on the shirt?

24 A. I did.

25 Q. Where did you observe those slash marks?

1 A. I know they were on the back. I'd have to
2 refer to my report if you don't mind just to look
3 and see.

4 Q. Sure.

5 A. I observed one cut mark or slash mark on the
6 left front abdomen of the shirt and five cuts or
7 slash marks on the lower left back of the shirt. So
8 one on the front and five on the rear.

9 Q. Okay, sir. Now, back to the fingerprint. When
10 you -- how do you ascertain what you're going to
11 fingerprint?

12 A. Well, two things. You have to have a suitable
13 substrate. So you have to have a -- substrate
14 means, like, surface. So you have to have -- it's
15 got to be clean, dry, and smooth. If it's textured
16 or greasy, oily, things like that, you're not going
17 to get prints because latent prints are -- latent
18 means invisible. Latent prints are -- are left
19 behind by the oils on your skin that come out of
20 your pores. So you to have a clean, smooth, dry
21 area, so that's what you look for on a vehicle. And
22 you also look for areas where people are going to
23 touch -- doors, handles, things like that.

24 Q. Okay, sir. And in this particular case, did
25 you conduct a latent print -- attempt to get latent

1 prints from the white van that's been placed into
2 evidence?

3 A. Yes, sir.

4 Q. Okay. And when you do that, how do you do it?

5 A. We use a fingerprint -- a fingerprint brush and
6 black fingerprint powder. And, basically, we twirl
7 the brush over the surface likely and the black
8 fingerprint powder adheres to the oils on the latent
9 print and it becomes visible. And that's how we
10 identify where prints are, and then we lift them
11 from there after that.

12 Q. So you lift once you identify. Do you
13 always -- are you always able to get prints?

14 A. No, sir.

15 Q. Were you able to get -- lift latent prints in
16 this particular case?

17 A. Yes, sir. I was.

18 Q. Let me show you what's been marked as State's
19 Exhibit 33, 34, 35, 36, 37, 38, 39, 40, and 41, and
20 ask you, sir, do you recognize those?

21 A. Yes, sir. These are the latent print cards
22 that I created from the van that following day.

23 Q. Okay, sir. And there is -- right do you --
24 once you lift the print, what do you do with the
25 actual print?

1 A. So we -- we use fingerprint tape which looks
2 like glorified Scotch tape really, just a little a
3 larger. We press it on there and we pull the
4 print -- when we pull the tape off of the surface,
5 the fingerprint powder is then transferred to that
6 tape. We place it on the back of the card, and then
7 the card actually has an information area in a small
8 box for a diagram. We diagram and document where on
9 the vehicle it was taken from, both in a diagram and
10 we transcribe it on there. And it's also got the
11 date, time, and the vehicle information where we
12 took it from.

13 Q. And the information on this card, is that
14 information that you wrote?

15 A. Yes, sir. Those are blank cards. We fill them
16 out for each print.

17 Q. And these are also the prints that you
18 lifted -- identifiable prints that you lifted?

19 A. That's correct, sir. They are placed on the
20 rear of the card.

21 MR. RICHARDSON: Your Honor, at this time the
22 State would move State's Exhibit 33, 34, 35, 36, 37,
23 38, 39, 40, and 41 into evidence.

24 THE COURT: All right. Any objection?

25 MR. NEELY: No objection, Your Honor.

1 MR. WATSON: Nothing, Your Honor.

2 THE COURT: All right. State's Exhibits 33 to
3 41 are admitted into evidence without objection.

4 (State's Exhibit Nos. 33 through 41 were
5 received into evidence.)

6 BY MR. RICHARDSON:

7 Q. Okay, sir. And referring to State's
8 Exhibit 41. Where was this print obtained from?

9 A. So you can see the latent lifted front portion
10 right there in the middle says the exterior of the
11 hood. So if you're looking at the hood of the van,
12 that would've been the driver's side, front lower
13 right portion of the hood of the 2009 Ford E-250
14 with that -- carrying that tag number.

15 Q. And State's Exhibit 40?

16 A. Again, it's the exterior of the passenger front
17 door of that same vehicle.

18 Q. Of the same van?

19 A. Yeah. These were all taken from that same
20 vehicle.

21 Q. And State's Exhibit 39?

22 A. Again, exterior of the hood, but this is closer
23 to the passenger's side about halfway up the hood.

24 Q. And 38 -- State's Exhibit 38?

25 A. So this is the interior side of the left door.

1 So this was a work van, so it had like an access to
2 the back of the van on the side. And it was dual
3 doors, so this is the left door on the side entry on
4 the inside of that door, the interior of that door.

5 Q. And State's Exhibit 37?

6 A. Okay. This is, again, that same door, the side
7 door. This is the exterior of that, and it looks
8 like it was on the lower portion of the glass of
9 that door.

10 Q. And State's Exhibit 36?

11 A. Just above the door handle of the exterior of
12 the driver's side front door where you could shut
13 the door, it's where typically you find a lot of
14 fingerprints there.

15 Q. And this is kind of in your experience where
16 you look for prints?

17 A. Yes, sir. I mean, just in general, when you
18 shut the car door, you open it up, you're holding
19 onto the door, that's typically -- you know, those
20 portions there are -- a lot of times, they're loaded
21 with prints. Yes, sir.

22 Q. And State's Exhibit 35?

23 A. Again, just above the other one, the exterior
24 of the driver's first front door.

25 Q. State's Exhibit 34?

1 A. This is the other side of the vehicle, the
2 exterior of the passenger's side front door. Very
3 similar location as it's -- you know, where someone
4 would shut the door, right there on the exterior.

5 Q. And State's Exhibit 33?

6 A. Same thing, just below the last one. Exterior
7 of the passenger's side front door.

8 Q. And once you fill out the cards and put the
9 latent prints on the cards ---

10 A. Yes, sir.

11 Q. --- what do you do with it at that point?

12 A. So we place them in an envelope, take them back
13 to the crime scene office. And then what we do is,
14 we enter them into -- we have a barcode system so
15 that for evidentiary value, we barcode them and we
16 place them into a secured drop box for the latent
17 examiners to come the next morning to pick up so
18 they can go ahead and try to match -- make matches.

19 Q. And -- and so that -- you mentioned the latent
20 examiners.

21 A. Yes, sir.

22 Q. It's not your job to compare these latent
23 prints that you've lifted with other prints?

24 A. No, sir. I don't know who they belong to. I
25 just -- I just actually obtain the prints and

1 collect them.

2 MR. RICHARDSON: Okay. Beg the Court's
3 indulgence. (Counsel conferring.) Thank you, sir.
4 Please answer any questions that defense counsel may
5 have.

6 THE COURT: All right. Cross-examination?

7 CROSS-EXAMINATION

8 BY MR. WATSON:

9 Q. Good morning, Deputy Hempell.

10 A. Yes, sir.

11 Q. How long have you been an officer?

12 A. Altogether, about 17 years.

13 Q. And so you went to the academy before taking on
14 Greenville County as your first job?

15 A. Well, yes. I've been to several academies
16 actually throughout my career.

17 Q. Okay. So you've done a lot of continuing
18 training in addition to the academy?

19 A. Correct.

20 Q. And so you've got -- you've gotten multiple
21 certifications over the years as evidence of and as
22 showing that you completed this continuing
23 education?

24 A. Correct.

25 Q. Okay. And in your training from the academy

1 and in your continuing training of -- I'm sure of,
2 especially for doing forensics, a continuing theme
3 is there and, you know, reporting what you
4 collect ---

5 A. Correct.

6 Q. --- accurately and completely, and to keep a
7 thorough record of that?

8 A. Yes.

9 Q. Photographic evidence of objects on the scene.
10 We'll talk about that more specifically.

11 A. Okay.

12 Q. Or of the scene itself. Not just objects of
13 the scene, but the scene itself. That photographic
14 evidence is a link between the crime and a potential
15 suspect, correct?

16 A. It can be. Yes, sir.

17 Q. Okay. The more photographic evidence you
18 collect, the more complete your investigation,
19 correct?

20 A. I mean, possibly. Yes.

21 Q. You're trained to photograph physical evidence
22 at the scene, the scene itself, so that's part of
23 your training?

24 A. At the scene, correct. Yes, sir.

25 Q. All right. You're trained to look for objects

1 that may be evidence then to photograph, correct?

2 A. We typically observe the scene and look for
3 anything that may be of evidentiary value. Yes.

4 Q. So you're using some independent critical
5 thinking on deciding what should be photographed as
6 evidence in supporting the investigation, correct?

7 A. To an extent. We -- we also -- you know, we're
8 there at the leisure of the investigators. It's --
9 it's not necessarily our investigation, it's theirs.
10 So if they think something is of evidentiary
11 value ---

12 Q. Then they may direct?

13 A. They may. They typically do direct us what
14 they would like to be taken, collected.

15 Q. And you preserve this photographic evidence,
16 correct?

17 A. Correct.

18 Q. And you make a report of your findings?

19 A. Yes, sir.

20 Q. And you know that those reports may be
21 reviewed?

22 A. Right.

23 Q. Relied upon by your fellow officers?

24 A. Yes, sir.

25 Q. Used to connect the dots as it were in an

1 investigation potentially?

2 A. Part of the investigation. Yes, sir.

3 Q. All right. And you know jurors may see them?

4 A. Say -- I'm sorry?

5 Q. You know jurors may see this?

6 A. The documentation ---

7 Q. Yes.

8 A. --- of photos?

9 Q. Yes.

10 A. Yes, sir.

11 Q. Okay. And you know it may be used in court to
12 that end. And that it may be the difference in
13 finding the right or wrong suspect?

14 A. I -- yeah, I guess, as part of the
15 investigation. Yes.

16 Q. And the same could be said not just of
17 photographs, but also when collecting fingerprints,
18 correct?

19 A. Yes, sir.

20 Q. Is it fair to say that on your role of the
21 morning -- the early morning of the September 22,
22 2018, was to collect items and take photographs that
23 might have evidentiary value?

24 A. Yes, sir.

25 Q. Okay. And this occurred at a club, Club Vibe,

1 correct?

2 A. It -- it occurred in a parking lot of a
3 shopping plaza that I believe there's a -- there's a
4 club in the corner of. Yes, sir.

5 Q. So you understand that when you were there that
6 it likely spilled out of the club?

7 A. I mean, I don't know where it -- it start --
8 where it started.

9 Q. Okay. Some of these people were arriving
10 through different entrances at the club, correct?

11 A. I have no idea. I don't know anything about
12 that portion of it.

13 Q. Did you photograph the -- did an officer
14 communicate to you about those things?

15 A. Not necessarily, no. I don't recall anything.
16 The club, I don't recall being a focal point. I was
17 there for ---

18 Q. Did you photograph the front entrance of the
19 club?

20 A. I don't recall. I may have photographed the
21 sign possibly.

22 Q. Did you photograph the back entrance of the
23 club?

24 A. I did not.

25 Q. Did you photograph the area outside the back of

1 the club?

2 A. No, sir.

3 Q. Did you take photographs inside the club?

4 A. I did not enter the club. No, sir.

5 Q. Did you try to enter the club?

6 A. I did not.

7 Q. Not that night?

8 A. Not ever. I've never entered that club.

9 Q. Did you try to contact club management about
10 possibly following up to do that?

11 A. No, sir.

12 Q. Did you follow-up to photograph the scene when
13 it was light outside?

14 A. I did not.

15 Q. So you don't know the layout of the club?

16 A. No. The -- I don't. The incident that I was
17 out responding to was in the parking lot.

18 Q. Did you state in your report the number of
19 photographs you took?

20 A. I'd have to look to see. I don't know that I
21 actually put a number.

22 Q. Okay.

23 A. I think that we just typically say that
24 photographs were collected and downloaded and
25 entered into the database.

1 Q. So when you're writing this report that other
2 officers are going to look at to inspect -- have an
3 idea of what to look for ---

4 A. Yes.

5 Q. --- there was no mention of how many
6 photographs you took?

7 A. No. There's an ID number so that they can go
8 to that file and look. I mean, it varies. I mean,
9 I could take 5 at one scene and 500 at another
10 scene.

11 Q. And you stated that you collected prints at the
12 scene, correct?

13 A. No, sir. I collected prints the following day
14 on the van at the tow lot.

15 Q. Okay. Was this van sealed before it was towed?

16 A. It was not.

17 Q. And what does that sealing do?

18 A. Sealing typically, when we seal a vehicle, we
19 put red tape on the doors and the hood, the trunk,
20 that type of thing.

21 Q. And that wasn't done?

22 A. No, sir.

23 Q. Okay. And you said you had looked for prints
24 on that van from areas where you would expect to
25 find sort of normal use?

1 A. No. I said I collected prints from the areas
2 where we typically find them. We -- when we process
3 a vehicle, we process the whole vehicle.

4 Q. Okay.

5 A. Any suitable substrate. Any suitable surface
6 on the vehicle.

7 Q. Okay. Did you process any other vehicles from
8 that night for prints?

9 A. I did not.

10 Q. Did you happen to process a metal rod or pipe
11 that night?

12 A. I don't recall seeing or hearing about a metal
13 rod or pipe.

14 Q. Did you collect prints of a bag of clear white
15 crystal substance?

16 A. I did not.

17 Q. At that scene before going to the van
18 afterwards at the impound lot, you noted blood going
19 from -- going to this white van?

20 A. In -- in the direction of, yes, sir.

21 Q. All right. Was this blood tested?

22 A. I did document with photographs and I did
23 collect a DNA swab. I collected two -- two DNA
24 swabs of blood, and I did test it for
25 phenolphthalein test to verify that it was blood ---

1 Q. Okay.

2 A. --- and which was positive for blood.

3 Q. Did you have your body-worn camera on that
4 night?

5 A. We don't wear body-worn cameras in forensics.

6 Q. Did you interact with any of the witnesses that
7 night?

8 A. No, sir. I believe they'd all been transported
9 at that point.

10 Q. Did you have a con -- a conversation with one
11 of the witnesses, Jhefrey Colorado, when it was
12 spoken about what might've been used in this
13 altercation, one of the items?

14 A. No, sir.

15 Q. How many reports did you write in this case?

16 A. I did two, one from the night of the scene at
17 the parking lot location, and I did a secondary
18 report when I went to the tow lot.

19 Q. And when were these dated?

20 A. The primary one was 9/22 at -- I received the
21 call at 3:35 a.m., arrived on scene at 3:49, and I
22 cleared the scene at 5:40 a.m.

23 And then the following day on the 23rd, I
24 received the call for service to the tow lot at ---

25 Q. When did you sign off on these?

1 MR. RICHARDSON: Your Honor, I object. He's in
2 the middle of explaining his answer to the question.

3 MR. WATSON: Okay. Okay.

4 THE COURT: Just make sure you let him finish.

5 MR. WATSON: Understood.

6 THE WITNESS: The date on the second on the van
7 was the 23rd, so it was the following day.

8 BY MR. WATSON:

9 Q. So you signed off on these at the bottom of
10 your report on what day again?

11 A. The -- the 23rd was when the response date was.
12 When did I sign off on it?

13 Q. Yes.

14 A. Was the 8th of October.

15 Q. And from your report at Club Vibe, when was
16 that signed off on?

17 A. The 16th of October.

18 Q. Understood.

19 A. We don't do reports the day of.

20 Q. You testified just now that you did not
21 interact with any of the witnesses, correct?

22 A. Correct.

23 MR. WATSON: Court's indulgence.

24 (Playing video.)

25 BY MR. WATSON:

1 Q. Is that you in the video?

2 A. It appears to be. Yes, sir.

3 Q. All right. And you make reference to someone
4 telling you about a weapon?

5 A. I -- I don't -- I didn't hear correct. I'm
6 sorry. I heard red something. I have red box
7 cutter in my report.

8 (Playing video.)

9 THE WITNESS: Red box cutter is what I said.

10 BY MR. WATSON:

11 Q. You were pointing to somebody in reference to
12 that red box cutter supposedly?

13 A. Yeah. It sounded like -- from what I heard, it
14 sounded like I said, "He said it was a red box
15 cutter. I showed him mine, and he said it was just
16 like that but red," because I carried a knife-style
17 box cutter.

18 Q. Okay. So you did interact with a witness at
19 the scene?

20 A. Apparently, I did.

21 Q. All right.

22 A. I don't know who that was though. I didn't
23 document that in my report.

24 MR. WATSON: Nothing further.

25 THE COURT: Any cross from Ms. Gorski?

1 Mr. Neely?

2 MR. NEELY: One moment, Your Honor.

3 MS. GORSKI: Just briefly, Your Honor.

4 BY MS. GORSKI:

5 Q. Good afternoon.

6 A. How are you?

7 Q. Good. Thank you. I just want to clarify one
8 thing you did mention previously.

9 A. Okay.

10 Q. When you arrived at the crime scene, you
11 typically speak to one of the investigators, one of
12 the officers, lead officers?

13 A. Typically, someone that knows what's going on.
14 That's so they can give us an overview of kind of
15 what we're looking for so we can assess what -- what
16 the situation is.

17 Q. Okay. And you do that for the purpose of
18 having some guidance as to where you should be
19 taking pictures or taking prints or at least being
20 directed what area?

21 A. Correct.

22 Q. Okay. And that person, you rely upon their
23 information?

24 A. To a degree so we can figure out what -- where
25 to focus our energy.

1 Q. And it's safe to say that that person, being on
2 scene, makes it more helpful for your job?

3 A. Very much. Going in blind, we don't have an
4 idea until we speak to somebody. If they have
5 information, then we obviously use that to help our
6 investigation.

7 Q. So that person -- and, again, for example, lead
8 officer, would be a big resource that you would
9 depend upon?

10 A. It would be a resource, definitely, yes.

11 MS. GORSKI: Okay. Thank you. No more
12 questions.

13 THE COURT: Any redirect?

14 MR. RICHARDSON: No redirect, Your Honor.

15 THE COURT: All right. You may step down.

16 Thank you, sir.

17 THE WITNESS: Thank you.

18 MR. RICHARDSON: Your Honor, may he be excused?

19 THE COURT: Any objection?

20 MR. NEELY: None, Your Honor.

21 MR. WATSON: None.

22 THE COURT: All right. You are so excused.

23 (Witness excused.)

24 THE COURT: All right. Next witness.

25 MR. RICHARDSON: State calls Tyler Buckoltz to

1 the stand.

2 THE CLERK: Sir, if you'll come forward.
3 Please pause at the end of the bench. Place your
4 left hand on the Bible and raise your right hand.

5 THE WITNESS: (Complying.)

6 THE CLERK: You do solemnly swear or affirm to
7 tell the truth, the whole truth, nothing but the
8 truth so help you God?

9 THE WITNESS: Yes.

10 THE CLERK: Thank you. Please be seated.

11 THE WITNESS: (Complying.)

12 THE CLERK: Please state your name for the
13 record.

14 THE WITNESS: Tyler Buckoltz.

15 THE CLERK: Thank you.

16 TYLER BUCKOLTZ,
17 having been produced and first duly sworn as a
18 witness on behalf of the State, testified as
19 follows:

20 DIRECT EXAMINATION

21 BY MR. RICHARDSON:

22 Q. Sir, where are you employed?

23 A. Greenville County Department of Public Safety
24 in the forensic division.

25 Q. And what are your duties in the forensic

1 division?

2 A. I'm currently a latent print examiner.

3 Q. And how long have you been a latent print
4 examiner?

5 A. Eleven years.

6 Q. And in that time, have -- have you -- have you
7 held the same position as you do today or has that
8 changed?

9 A. I've been there 13 years total. Two years were
10 in the crime scene section, and 11 years as a latent
11 print examiner.

12 Q. And as a latent print examiner, what exactly
13 are your duties?

14 A. I receive impression evidence from crime scenes
15 such as fingerprints and footwear and compare them,
16 do analysis, and then issue reports based on my
17 findings.

18 Q. And what is your training background to do this
19 type of analysis?

20 A. I started in the crime scene unit and worked
21 there for a little over two years processing crime
22 scenes. And after that, I went to the latent print
23 section. And for a year, I did my apprentice file
24 training where everything I did was looked at and
25 reviewed by another trained examiner. And after

1 that year, I was released to independent casework,
2 once I showed proficiency in the discipline. I also
3 have attended over 500 hours of formal classroom
4 training.

5 Q. And 500 hours, is that continuing training? Do
6 you have continual training?

7 A. Yes. Usually, I attend a workshop or a
8 conference each year or a week-long class throughout
9 the year, and then I also keep up with the journal
10 of forensic identifications and other publications
11 and just stay on top of the discipline.

12 Q. Okay. And could you tell the jury how many
13 fingerprint comparisons you do annually?

14 A. I -- somewhere in the range of -- it's in the
15 tens of thousands. I've done over -- over 800,000
16 comparisons over the course of my career.

17 Q. And have you ever been qualified as an expert
18 in latent print analysis?

19 A. Yes. Ten times in State Court and once in
20 Federal Court.

21 Q. And do you hold any certifications in your --
22 in your field?

23 A. Yes. I'm certified by the International
24 Association for Identification as a latent print
25 examiner. I have been since 2015.

1 Q. And are you a member of any organizations?

2 A. Yes. I'm a member of the South Carolina
3 Chapter of the International Association for
4 Identification, and I've held offices there such as
5 treasurer, president, and chairman of the board.

6 MR. RICHARDSON: Okay, sir. Your Honor, at
7 this time the State would move to declare
8 Mr. Buckoltz an expert in the -- in the field of
9 fingerprint identification.

10 THE COURT: All right. Any voir dire or
11 objection?

12 MR. NEELY: Neither, Your Honor.

13 THE COURT: All right. I find the witness is
14 qualified as an expert in fingerprint
15 identification.

16 Ladies and gentlemen, ordinarily only expert
17 witnesses can give their opinion. Every other
18 witness is what we call a lay witness, and can only
19 testify as to what they see, heard, or smell.
20 They're not allowed to give opinions; however, the
21 rules of evidence allow someone who has been
22 qualified as an expert to give opinions. And I have
23 qualified this witness as an expert.

24 Now, his testimony is to be taken just like any
25 other testimony. You may weight it and determine

1 any credibility issues on your own, but that is why
2 he is allowed to give an opinion in this case.

3 All right. Mr. Richardson.

4 MR. RICHARDSON: Thank you, Your Honor.

5 BY MR. RICHARDSON:

6 Q. Sir, when you compare fingerprints, is there a
7 particular type of equipment that you use?

8 A. We just use a magnifier.

9 Q. Okay. And what exactly is a latent print? How
10 is it developed?

11 A. A latent print is -- we call it a latent print.
12 That means "hidden." And it's -- the source is
13 unknown. So when we go to the scene, something has
14 to be processed, whether it's a vehicle or a firearm
15 or whatever it is. The latents are immediately
16 visible, so they have to be processed with either a
17 chemical or a powder to become visible. And, again,
18 we also don't know the source of that fingerprint.

19 Q. Okay, sir. And in that light, can you explain
20 to the jury what a known print is?

21 A. A known print is a set of fingerprints that are
22 recorded at the time of -- at the time that you
23 record them. Also, record identifying information,
24 such as name, date of birth, social security number,
25 height, weight, things like that.

1 Q. So how are prints -- latent prints -- that are
2 lifted compared to known prints?

3 A. First, I look at the latent fingerprint or the
4 unknown one and see what features are present in
5 that, look at pattern type, ridge endings,
6 bifurcations. And then I look at the known prints
7 and see if those features are present in the known
8 prints.

9 Q. Can two people have the same print?

10 A. No.

11 Q. In this particular case, did you have an
12 occasion to compare latent prints to known prints?

13 A. Yes.

14 Q. And do you know who submitted those?

15 A. Officer Adam Hempell.

16 Q. Okay. And at the time he was with forensics?

17 A. Yes. He was in our crime scene unit.

18 Q. And when these prints are submitted, how do you
19 obtain custody of these latent prints?

20 A. Normally, when -- after they come back from a
21 scene, they will put a barcode on the envelope
22 containing the latent prints and drop them in a
23 locked box. There are four examiners in our office
24 who have a key to that box, and one of us will go
25 over there in the morning and collect the latents

1 from that box and bring them to another office, our
2 latent print office.

3 Q. Okay, sir. And did that happen in this case?

4 A. Yes. And whenever we collect those, the
5 barcode is scanned showing that it's being
6 transported and who transported it.

7 Q. And I will -- I'm going to show you what's
8 already been entered into evidence as State's
9 Exhibit 33 through 41. Are these the latent prints
10 that you examined?

11 A. Yes.

12 Q. And how do you know that?

13 A. Each one of these are -- I have my initials on
14 them where I compared them ---

15 Q. Okay, sir.

16 A. --- and my results.

17 Q. Okay. And when you complete your results, do
18 you put those results into a -- do you formulate it
19 into a report?

20 A. Yes.

21 Q. And I'm going to show you what's been marked
22 State's Exhibit 41. Do you recognize that?

23 A. Yes.

24 Q. What is that?

25 A. That's a latent print that was lifted and was

1 identified as being made by the left palm of Luis
2 Armando Alvarez on 9/24 ---

3 Q. And that ---

4 A. --- 18.

5 Q. --- handwriting at the bottom, is that yours?

6 A. That's mine. Yes.

7 Q. State's Exhibit 40?

8 A. That's a latent print that was identified as
9 the number four finger, which is the right ring
10 finger of Luis Armando Alvarez.

11 Q. State's Exhibit 39?

12 A. That's a latent print that was identified as
13 the right palm of Luis Armando Alvarez.

14 Q. State's Exhibit 38?

15 A. This is a latent print identified as being made
16 by the right palm of Luis Armando Alvarez.

17 Q. State's Exhibit 37?

18 A. This latent print was identified as being made
19 by the left palm of Luis Armando Alvarez.

20 Q. State's Exhibit 36?

21 A. This was identified as being made by the number
22 nine, the left ring finger of Juan Carlos Alvarez.

23 Q. State's Exhibit 35?

24 A. That was identified as being made by the number
25 eight, the right -- the left middle finger of Juan

1 Carlos Alvarez.

2 Q. State's Exhibit 34?

3 A. That was identified as being made by the number
4 four, the right ring finger of Juan Carlos Alvarez.

5 Q. And State's Exhibit 33?

6 A. That was identified as being made by the number
7 four, right ring finger of Juan Carlos Alvarez.

8 Q. So based upon your expert opinion, those prints
9 were made by the defendants?

10 A. Based on the data that's contained there, yes.
11 On the -- on the fingerprints and the known prints,
12 yes.

13 MR. RICHARDSON: Beg the Court's indulgence.
14 (Counsel conferring.) Thank you, sir. Please
15 answer any questions from the defense.

16 THE COURT: All right. Cross-examination?

17 MR. NEELY: None, Your Honor.

18 MR. WATSON: None, Your Honor.

19 THE COURT: All right. Sir, you may step down.

20 THE WITNESS: (Complying.)

21 THE COURT: All right. Next witness.

22 MR. RICHARDSON: May Mr. Buckoltz be excused?

23 THE COURT: Any objection?

24 MS. GORSKI: No, Your Honor.

25 MR. NEELY: No, Your Honor.

1 THE COURT: You are excused.

2 (Witness excused.)

3 MR. RICHARDSON: State calls Krystal Ashe to
4 the stand.

5 THE CLERK: Ma'am, if you'll please come
6 forward. Pause at the end of the bench. Please
7 place your left hand on the Bible and raise your
8 right hand.

9 THE WITNESS: (Complying.)

10 THE CLERK: You do solemnly swear or affirm to
11 tell the truth, the whole truth, nothing but the
12 truth so help you God?

13 THE WITNESS: I do.

14 THE CLERK: Thank you. Please be seated.

15 THE WITNESS: (Complying.)

16 THE CLERK: And would you please state your
17 name for the record?

18 THE WITNESS: Krystal Ashe.

19 THE CLERK: Thank you.

20 KRYSTAL ASHE,
21 having been produced and first duly sworn as a
22 witness on behalf of the State, testified as
23 follows:

24 DIRECT EXAMINATION

25 BY MR. RICHARDSON:

1 Q. Good morning, Ms. Ashe.

2 A. Good morning.

3 Q. Where are you presently employed?

4 A. For DaVita. It's a dialysis clinic on the

5 reservation in North Carolina.

6 Q. Okay. So you actually reside in Sylva, North

7 Carolina?

8 A. Yes. Uh-huh.

9 Q. Okay. And are you also in school?

10 A. Yes. For nursing.

11 Q. I'm sorry?

12 A. For nursing. Yes.

13 Q. If you'll do me -- if you'll come up just a

14 little bit.

15 A. Yes. For nursing.

16 Q. For nursing?

17 A. Yes.

18 Q. So you work in dialysis and also doing nursing?

19 A. Uh-huh.

20 Q. Okay. And where are you in school?

21 A. I'm in school at WCU and SCC.

22 Q. Okay. And that's Western Carolina University?

23 A. And Southwestern Community College.

24 Q. Okay.

25 A. Both of them.

1 Q. Both of them are there?

2 A. It's a concurrent enrollment for both, yeah.

3 Q. Now, back -- I'm going to take your memory back
4 to September of 2018. Where were you employed at
5 that time?

6 A. Greenville County EMS.

7 Q. Okay. And what were your -- in what capacity
8 were you employed with Greenville County EMS?

9 A. I was a full-time paramedic.

10 Q. Okay. And how long at that point in time had
11 you been a paramedic at Greenville County?

12 A. By that time, about a year.

13 Q. Okay.

14 A. And I was there for about two years.

15 Q. Okay. And were you employed as a paramedic in
16 any other capacity?

17 A. I took a trip to travel for a little bit before
18 I came down here.

19 Q. Okay. Now, do you recall an occasion of being
20 called out to Vibe Club on September the 22nd ---

21 A. Yes.

22 Q. --- 2018?

23 A. Yes.

24 Q. Okay. And when you -- when you respond to such
25 a location, are you by yourself or is there anybody

1 else with you?

2 A. I have a partner usually. I had an EMT basic
3 partner that night.

4 Q. Okay. And you respond as a -- in a unit
5 so-to-speak?

6 A. Yes.

7 Q. And were you full lights, siren?

8 A. Yes.

9 Q. And when you got there to Vibe, do you recall
10 what you saw?

11 A. Yes.

12 Q. And what was that?

13 A. My partner and I, we exited our vehicle, the
14 ambulance. We pulled out our stretcher and we
15 immediately seen my lieutenant at the time, Stan
16 Schultz, was backing a Hispanic gentleman toward us
17 and our stretcher. That's -- yeah, that was the
18 first impression.

19 Q. Okay. And this Hispanic gentleman, was that
20 Javier Solis?

21 A. Yes.

22 Q. Okay. And once you saw that, what did you do
23 at that point in time?

24 A. So as a paramedic, we start a first impression.
25 We started looking and seeing, like, what things

1 we're going to need to address as far as medically.
2 I immediately seen that the gentleman didn't have
3 his shirt on, and that it had been cut off and that
4 he had two very gape -- large gaping wounds on his
5 left midback area. It was approximately about where
6 the kidneys would be, one of the kidneys on the left
7 side. He had two very deep gaping wounds.

8 And as he was backing up toward our stretcher,
9 you could see how deep they were because they were,
10 like, paradoxically moving against each other like
11 flaps of skin.

12 Q. When you say paradoxically ---

13 A. Like moving back and forth across each other.

14 Q. I see.

15 A. Yeah. And then when he -- when we asked him to
16 sit on our stretcher, those two wounds ripped open
17 to form a huge gaping hole in his back.

18 Q. And did you -- you may have testified to this.
19 Were these deep lacerations?

20 A. Yes. Very deep.

21 Q. And did that concern you?

22 A. Yes. Well, obviously, the anatomical location
23 is where your kidney -- your left kidney is, and I
24 was concerned. I didn't know about the other wounds
25 yet, but I was concerned, like, he could have some

1 kind of internal damage to an organ, which is a very
2 eminent serious injury.

3 Q. Okay. So at that point, what is it that you
4 do? What is your main concern and main duties at
5 that point in time?

6 A. I'm to assess the individual to keep them
7 stable, make sure that any bleeding is controlled,
8 any life threatening -- any possible life
9 threatening wounds or medical issues are taken care
10 of to get this person to the hospital. Especially,
11 if it's a traumatic incident, then they're going to
12 need eminent surgery. It's a lot of things that
13 we're not able to fix in the field.

14 Q. Okay. And is that what you did in this
15 particular case?

16 A. Yes.

17 Q. Were you concerned for Mr. Solis' life?

18 A. Yes.

19 Q. And when you -- were you the actual driver of
20 the unit?

21 A. No. I was the paramedic. I rode in the back.

22 Q. I see. So a paramedic riding in the back with
23 Mr. Solis to the hospital?

24 A. Uh-huh.

25 Q. And were y'all full lights and siren?

1 A. Yes.

2 Q. To the hospital?

3 A. Yes.

4 Q. The entire way to the hospital?

5 A. Yes.

6 Q. And what hospital did you take him to? Do you
7 recall?

8 A. Greenville Memorial.

9 MR. RICHARDSON: Beg the Court's indulgence.
10 (Counsel conferring.) Thank you. That's all the
11 questions I have.

12 THE COURT: All right. Cross-examination?

13 CROSS-EXAMINATION

14 BY MR. WATSON:

15 Q. Ms. Ashe, you didn't see what happened in the
16 parking lot that night, correct?

17 A. No.

18 Q. And when you were rendering aid to Javier
19 Solis, you wrote that he was speaking with
20 incomprehensible words at times and it was hard to
21 understand what he was saying?

22 A. Yes.

23 Q. You also wrote that bleeding had stopped prior
24 to your arrival there, correct?

25 A. External bleeding. Yes.

1 Q. Okay. And you had written that they were
2 oriented as to event, person, and place oriented at
3 the time?

4 A. Yes.

5 Q. There were no abnormalities to their head or
6 face or to Mr. Solis' head or face?

7 A. No.

8 Q. Did you detect alcohol coming from Mr. Solis
9 when you talked to him -- when you were treating
10 him?

11 A. Yeah, I could smell it.

12 Q. And you believed that that was what caused him
13 to be incomprehensible and un -- and not be able to
14 understand what he was saying? That's what you
15 wrote, correct?

16 A. I ---

17 Q. Did you write that?

18 A. I don't have my report in front of me, but go
19 ahead.

20 Q. Okay.

21 A. Yeah, here, I'll look at it.

22 Q. It says, "Alcohol intoxication. Patient was
23 speaking incomprehensible words at times and was
24 hard to understand what he was saying."

25 A. Right. May I speak freely?

1 Q. Is that -- is that what you wrote?

2 A. Yes.

3 MR. WATSON: I have no further questions.

4 THE COURT: Ms. Gorski or Mr. Neely, anything?

5 MR. NEELY: Nothing further.

6 THE COURT: All right. Redirect?

7 REDIRECT EXAMINATION

8 BY MR. RICHARDSON:

9 Q. Okay. Well, I'm going to let you finish what
10 you wanted to explain.

11 A. Okay. So incomprehensible words ---

12 MR. WATSON: Objection. This -- this isn't a
13 question from -- this isn't even a question.

14 THE COURT: Overruled. You just asked that
15 very same question. That was your last question.
16 Overruled.

17 BY MR. RICHARDSON:

18 Q. Go ahead. You may finish.

19 A. So the -- the gentleman, I -- I -- when
20 somebody has any kind of incomprehensible words or
21 impairments, we can start thinking that maybe due to
22 many different things going on. I cannot -- I
23 cannot attest to that it was because he was impaired
24 in any way because he was still answering all of my
25 questions correctly. He was still obeying commands.

1 I cannot say that he wasn't getting tired or sleepy
2 or having slurred speech or incomprehensible words
3 because he -- because of maybe some of the injuries
4 he had sustained. So I cannot attest to whether it
5 was because of alcohol as to why he was completely,
6 you know, slightly slurring his words,
7 incomprehensible speech, or maybe even being in
8 shock -- being in shock of the traumatic event.

9 Q. And have you seen -- in your experience as a
10 paramedic, have you seen other individuals and
11 treated other individuals that went through a
12 traumatic event such as this?

13 A. Yes.

14 Q. And those individuals, would they be sometimes
15 incomprehensible?

16 A. Yes.

17 Q. Would they sometimes have slurred speech?

18 A. Yes.

19 MR. RICHARDSON: Thank you, ma'am. That's all
20 the questions I have.

21 THE COURT: All right. Any recross,
22 Mr. Watson?

23 MR. WATSON: No, Your Honor.

24 MR. NEELY: Briefly, Your Honor.

25 THE COURT: Well, I don't -- did you ask any

1 questions on cross?

2 RECROSS-EXAMINATION

3 BY MR. WATSON:

4 Q. You just stated that it could be from different
5 factors, but you wrote in your report they were
6 mostly incomprehensible "due to an alcohol
7 intoxication," correct?

8 A. Is that what I wrote?

9 Q. Is that in your report?

10 A. It was my opinion.

11 Q. And it's in your -- your opinion's in your
12 report?

13 A. Yeah, I did put that in my report.

14 MR. WATSON: Nothing further.

15 THE COURT: All right? Anything else?

16 MR. RICHARDSON: Nothing further.

17 THE COURT: All right. You may step down.

18 THE WITNESS: (Complying.)

19 MR. RICHARDSON: Your Honor, may she be
20 excused?

21 THE COURT: Any objection?

22 MR. NEELY: No objection.

23 THE COURT: All right. You are excused.
24 (Witness excused.)

25 THE COURT: All right. Next witness.